

**ROLL CALL ORDER FOR MEETING OF  
April 1, 2024**

**Resnick, Jones, Roussell, Wethal, Sprank, Farber, Cavanagh**

**Viewing and Participation Options**

The public has the option to view and participate in the meeting in City Council Chambers or virtually. The meeting will be aired live on CityChannel Dubuque (Mediacom cable channels 8 and 117.2), streamed live and archived on the City's website at [www.cityofdubuque.org/media](http://www.cityofdubuque.org/media), and streamed live on the City's Facebook page at [www.facebook.com/cityofdubuque](http://www.facebook.com/cityofdubuque).

The public can provide in-person, audio, and written input during sections of the agenda where public input is accepted. For in-person input, please reference the instructions on speaking within the Consent Items, Public Hearing, and Public Input sections.

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Please join the meeting from your computer, tablet or smartphone.

- [www.CityOfDubuque.org/VirtualMeeting](http://www.CityOfDubuque.org/VirtualMeeting)
- You can also dial in using your phone.
- United States (Toll Free): 1 877 568 4106  
United States: +1 (571) 317-3129  
Access Code: 337-661-181

Additionally, written public input can be accepted prior to or during the meeting by:

- Contacting the City Council directly from the City's webpage at [www.cityofdubuque.org/councilcontacts](http://www.cityofdubuque.org/councilcontacts)
- Through the City Clerk's Office email at [ctyclerk@cityofdubuque.org](mailto:ctyclerk@cityofdubuque.org)



**CITY OF DUBUQUE, IOWA  
CITY COUNCIL MEETING**

Historic Federal Building: 350 W. 6th Street -  
Second-Floor Council Chambers.

Virtual participation options are also available. Please  
see the information above for options.

**April 1, 2024**

Council meetings are video streamed live and archived at [www.cityofdubuque.org/media](http://www.cityofdubuque.org/media) and on Dubuque's CityChannel on the Mediacom cable system at cable channel 8 and digital 117.2

**REGULAR SESSION**

**6:30 PM**

**PLEDGE OF ALLEGIANCE**

**PROCLAMATION(S)**

1. Sexual Assault Awareness Month (April 2024)

On behalf of the Riverview Center.

**2. Community Development Week (April 1-5, 2024)**

On behalf of the Housing & Community Development Department.

**3. Junior Achievement Day (April 4, 2024)**

On behalf of Junior Achievement of the Heartland.

**4. Saint 4 Life Foundation - Fighting Saints Alumni Celebration (April 5 - 6, 2024)**

On behalf of the Saint 4 Life Foundation.

**5. Dubuque YP Days of Caring (April 26, 2024)**

On behalf of the Dubuque YP Days of Caring Board.

**CONSENT ITEMS**

The consent agenda items are considered to be routine and non-controversial and all consent items will be normally voted upon in a single motion without any separate discussion on a particular item. If you would like to discuss one of the Consent Items, please go to the microphone and be recognized by the Mayor and state the item you would like removed from the Consent Agenda for separate discussion and consideration.

**1. Minutes and Reports Submitted**

City Council Proceedings of March 18, 2024; Civil Service Commission of March 7, 2024; Equity and Human Rights Commission of February 13, 2024; Historic Preservation Commission of February 15, 2024; Housing Commission of April 25, 2023; Library Board of Trustees of March 23, 2023, April 27, 2023, May 25, 2023, June 22, 2023, July 27, 2023, August 23, 2023, August 24, 2023, September 28, 2023, October 19, 2023, October 26, 2023, and November 16, 2023; Park and Recreation Commission of February 13, 2024; Zoning Advisory Commission Draft Minutes of March 6, 2024 and March 13, 2024; Proof of Publication for City Council Proceedings of March 4, 2024 and March 7, 2024.

**Suggested Disposition: Receive and File**

**2. Notice of Claims and Suits**

Deann Bergfeld for vehicle damage.

**Suggested Disposition: Receive and File; Refer to City Attorney**

**3. Disposition of Claims**

City Attorney advising that the following claims have been referred to Public Entity Risk Services of Iowa, the agent for the Iowa Communities Assurance Pool: Deann Bergfeld for vehicle damage; Azariah Martin for vehicle damage; Kirtland Thayer for vehicle damage.

**Suggested Disposition: Receive and File; Concur**

**4. Approval of City Expenditures**

City Manager recommending City Council approval for payment of City expenditures.

**RESOLUTION** Authorizing the Chief Financial Officer/City Treasurer to make certain payments of bills that must be paid and approved for payment in accordance with City procedures

**Suggested Disposition: Receive and File; Adopt Resolution(s)**

**5. Arts & Cultural Affairs Advisory Commission Special Projects Grant Modification**

City Manager recommending City Council review and approve the modifications to the Special Projects grant program as submitted by the Arts & Cultural Affairs Advisory Commission Grants Committee to the Arts & Cultural Affairs Commission.

**Suggested Disposition: Receive and File; Approve**



**6. Resolution Approving the Acquisition of Real Estate Owned by Ace Construction-Dubuque, L.L.C. by Eminent Domain and Establishing the Fair Market Value of the Real Estate**

City Manager recommending City Council adopt the attached resolution authorizing acquisition of the property owned by Ace Construction-Dubuque, L.L.C. by eminent domain if necessary and establishing the fair market value of the property.

**RESOLUTION** Approving the acquisition of real estate owned by Ace Construction-Dubuque, L.L.C. by eminent domain and establishing the fair market value of the real estate

**Suggested Disposition: Receive and File; Adopt Resolution(s)**

**7. Greater Dubuque Development Corporation's Distinctively Dubuque Brochure**

City Manager providing a copy of Greater Dubuque Development Corporation's brochure on the Distinctively Dubuque Program.

**Suggested Disposition: Receive and File**

**8. Acceptance of a Grant of Public Utility Easement and Dedications of Right of Way across Dubuque Community School District Property as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project**

City Manager recommending City Council adopt a resolution accepting the Grant of Public Utility Easement from Dubuque Community School District and approval of the Acquisition Plats for Althausen Street Watermain and Sanitary Sewer Reconstruction project and acceptance of the dedications of said parcels for Right of Way for street and utility purposes through the adoption of the enclosed resolution.

**RESOLUTION** Accepting a Grant of Public Utility Easement and Dedications of Right of Way along Althausen Street and Eagle Street as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project, in the City of Dubuque, Iowa

**Suggested Disposition: Receive and File; Adopt Resolution(s)**

**9. 2023 Maintenance Dredging Project: Acceptance of Public Improvement Construction Contract - Project Number: 5546000001-304-67990 Harbor Area Dredging**

City Manager recommending City Council adopt the attached resolution to accept the Public Improvement Construction Contract and to authorize the payment of the contract amount of \$546,823.00 to Newt Marine Service for 2023 Maintenance Dredging Project.

**RESOLUTION** Accepting the 2023 Maintenance Dredging Project and Authorizing Final Payment to the Contractor

**Suggested Disposition: Receive and File; Adopt Resolution(s)**

**10. Acceptance of Quit Claim Deed from Iowa Department of Transportation Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition**

City Manager recommending City Council acceptance of the Quit Claim Deed from the State of Iowa, Iowa Department of Transportation (Iowa DOT) for Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition, Dubuque County, Iowa.

**RESOLUTION** Accepting Quit Claim Deed from State of Iowa, Iowa Department of Transportation for Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition, Dubuque County, Iowa

**Suggested Disposition: Receive and File; Adopt Resolution(s)**

**11. Acceptance of Quit Claim Deed from Iowa Department of Transportation Lot B ISAAC Hanna 2nd Addition**

City Manager recommending City Council acceptance of the Quit Claim Deed from the State of Iowa, Iowa Department of Transportation (Iowa DOT) for Lot B ISAAC Hanna 2nd Addition, Dubuque County, Iowa.

**RESOLUTION** Accepting Quit Claim Deed from State of Iowa, Iowa Department of Transportation for Lot B Isaac Hanna 2nd Addition, Dubuque County, Iowa

**Suggested Disposition: Receive and File; Adopt Resolution(s)**

**12. Request to post Request for Proposal to update the Unified Development Code**

City Manager recommending City Council review and approve the enclosed Request for Proposal for the update to the Unified Development Code.

**Suggested Disposition: Receive and File; Approve**

**13. Suspension of Iowa Talent Bank Pilot Program for City Boards and Commissions**

Correspondence from Kimberly Baxter, Human Rights Advocacy Chief for the Iowa Department of Health and Human Services, regarding the suspension of the Iowa Talent Bank Pilot Program for City Boards and Commissions.

**Suggested Disposition: Receive and File**

**14. Signed Contract(s)**

J&R Supply, Inc. for the Ring & Lids - Metal Supply Project; Origin Design Co. for the Kerper Boulevard Lift Station Replacement; UPS Technologies for Odor Abatement Analysis.

**Suggested Disposition: Receive and File**

**15. 3000 Jackson Dubuque Brewing and Malting Project Update**

City Manager submitting a status update on the Dubuque Brewing and Malting project at 3000 Jackson Street.

**Suggested Disposition: Receive and File**

**ITEMS SET FOR PUBLIC HEARING**

These agenda items are being scheduled for a future public hearing on the date indicated.

**1. Dubuque Racing Association Lease: Dubuque Racing Association Phase 2 Financing, Amended Leasehold Mortgage**

City Attorney recommending City Council set a public hearing for April 9, 2024, on the amendment to the lease and the consent to the amended leasehold mortgage.

**RESOLUTION** Intent to dispose of an interest in real property through an amendment to the existing lease agreement with the Dubuque Racing Association, LTD. and approving an amendment to the leasehold mortgage between the Dubuque Racing Association, LTD and MidWestOne Bank

**Suggested Disposition:**

**Receive and File; Adopt Resolution(s), Set Public Hearing for April 9, 2024**

**2. 2024 Maintenance Dredging Project No. 1: Initiate Public Improvement Bidding Process**

City Manager recommending City Council grant preliminary approval to the dredge construction plans and specifications; and establish April 15, 2024, as the date of the public hearing; and hereby authorized to advertise for bid proposals for the 2024 Maintenance Dredging Project No. 1 through adoption of the attached resolution.

**RESOLUTION** 2024 Maintenance Dredging Project No. 1: Preliminary approval of plans, specifications, form of contract, and estimated cost; setting date of public hearing on plans, specifications, form of contract, and estimated cost; and ordering the advertisement for bids

**Suggested Disposition:**

**Receive and File; Adopt Resolution(s), Set Public Hearing for April 15, 2024**

## BOARDS/COMMISSIONS

### 1. Boards and Commission Application Review

Applicants are invited to address the City Council regarding their desire to serve on the following Boards/Commissions. Applicant appointments will be made at the next City Council meeting.

#### **Mayoral selection of appointment to the Civil Service Commission to be made at this meeting**

*Iowa Code §400.1 requires publication of the name(s) of person(s) selected by the Mayor for appointment to the Civil Service Commission no less than thirty (30) days prior to a vote by the city council. Vote on appointment to occur at the May 6, 2024, city council meeting.*

#### **Civil Service Commission**

One, 4-Year term through April 6, 2028 (Expiring term of Heathcote)

Applicant:

- Carla Heathcote, 2529 Stafford St.

*This commission is subject to the State of Iowa Gender Balance Law, §69.16A.*

*3 Commissioners total; currently 2 males /0 females*

## PUBLIC HEARINGS

**Residents are invited to address the City Council regarding the following agenda items. Please come to the podium and state your name and address when the item you wish to speak to is being considered.**

### 1. Hold Public Hearing and approve the Revised Administrative Plan for the Housing Choice Voucher Program

Proof of publication on notice of public hearing to consider City Council hold a public hearing and then adopt the revised Administrative Plan for the Housing Choice Voucher Program and grant the Housing & Community Development Director permission to submit the revised Public Housing Authority Administrative plan to the U.S. Department of Housing and Urban Development (HUD) as required for final approval and adoption, and City Manager recommending approval.

**RESOLUTION** Approving the revision of the Public Housing Authority (PHA) Administrative Plan for the Housing Choice Voucher Program

**Suggested Disposition: Receive and File; Adopt Resolution(s)**

### 2. Submission of Annual Public Housing Agency (PHA) Plan – Federal Fiscal Year 2024 (PHA Fiscal Year 2025) Annual Plan

Proof of publication on notice of public hearing to consider City Council approval to submit the Federal Fiscal Year 2024 Annual PHA Plan along with the Certification for Consistency with the Consolidated Plan, and City Manager recommending approval.

**RESOLUTION** Authorizing the Mayor to execute the Certification by State or Local Office of Public Housing Agency (PHA) Plan's consistency with the Consolidated Plan and approval of the PHA 2024 Annual Plan

**Suggested Disposition: Receive and File; Adopt Resolution(s)**

### 3. Resolution Approving a Development Agreement by and between City of Dubuque and CBDC, LLC

Proof of publication on notice of public hearing to consider City Council adopt the attached resolution approving a proposed Development Agreement by and between the City of Dubuque and CBDC, LLC for the development of a childcare facility at 781 Locust Street, and City

Manager recommending approval.

**RESOLUTION** Approving a Development Agreement by and between the City of Dubuque, Iowa and CBDC, LLC, including the issuance of Urban Tax Increment Revenue Obligations

**Suggested Disposition: Receive and File; Adopt Resolution(s)**

### **PUBLIC INPUT**

At this time, anyone in the Council Chambers may address the City Council on the Action Items on the agenda or on matters under the control of the City Council. Residents are asked to approach the podium and state their name and address before proceeding with their comments. Individual remarks are limited to five minutes, and the overall Public Input period is limited to 30 minutes. Under the Iowa Open Meetings Law, the City Council can take no formal action on comments given during Public Input which do not relate to Action Items on the Agenda.

### **ACTION ITEMS**

**These are items where discussion is held by the City Council - public comments are not allowed except as authorized by the Mayor.**

**1. Canadian Pacific Kansas City Limited Railroad Request to Close 15th Street Railroad Crossing**

City Manager recommending the Mayor and City Council schedule a decision on closing the 15th Street railroad crossing for the June 3, 2024, City Council Meeting.

**Suggested Disposition: Receive and File; Council**

### **COUNCIL MEMBER REPORTS**

#### **CLOSED SESSION**

**Pending Litigation and Purchase or Sale of Real Estate – Chapter 21.5(1)(c),(j) Code of Iowa**

### **ADJOURNMENT**

The agenda with supporting documents may be accessed at [www.cityofdubuque.org](http://www.cityofdubuque.org) or at the City Clerk's Office, 50 W. 13th Street, during regular business hours.

This notice is given pursuant to Chapter 21, Code of Iowa, and applicable local regulations of the City of Dubuque, Iowa and/or governmental body holding the meeting.

Written comments regarding the above items may be submitted to the City Clerk's Office, 50 W. 13th St., Dubuque, IA 52001, before or at said time of meeting.

Individuals with limited English proficiency, vision, hearing or speech impairments or requiring special assistance should contact the City Clerk's Office as soon as feasible at (563) 589-4100, [ctyclerk@cityofdubuque.org](mailto:ctyclerk@cityofdubuque.org) . Deaf or hard-of-hearing individuals can use Relay Iowa by dialing 711 or (800) 735-2942.

## City of Dubuque City Council Meeting

### Roll Call # 0

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#### ITEM TITLE:

#### SUMMARY:

Resnick, Jones, Roussell, Wethal, Sprank, Farber, Cavanagh

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**SUGGESTED  
DISPOSITION:**

**City of Dubuque  
City Council Meeting**

**Proclamation(s) # 01.**

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**ITEM TITLE:** Sexual Assault Awareness Month (April 2024)

**SUMMARY:** On behalf of the Riverview Center.

**SUGGESTED  
DISPOSITION:**

**ATTACHMENTS:**

**Description**

Proclamation

**Type**

Supporting Documentation



# PROCLAMATION

WHEREAS, sexual assault affects women, children, and men of all racial, cultural, and economic backgrounds; and

WHEREAS, in addition to the immediate physical and emotional costs, sexual assault may also have associated consequences of post-traumatic stress disorder, substance abuse, depression, homelessness, eating disorders and suicide; and

WHEREAS, sexual assault can be devastating not only to the survivor, but also for the family, friends, and community of the survivor; and

WHEREAS, since no one person, organization, agency, or community can eliminate sexual assault on their own, we must work together to educate our entire population about what can be done to prevent sexual assault, support survivors and their significant others, and support those agencies providing services to survivors.

NOW THEREFORE, I, BRAD M. CAVANAGH, MAYOR OF THE CITY OF DUBUQUE, IOWA, ON BEHALF OF THE CITY COUNCIL, STAFF AND RESIDENTS OF DUBUQUE, DO HEREBY PROCLAIM THE MONTH OF APRIL 2024 AS

## **“Sexual Assault Awareness Month”**

IN THE CITY OF DUBUQUE, IOWA AND ENCOURAGE ALL RESIDENTS TO LEARN MORE ABOUT PREVENTING SEXUAL VIOLENCE.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Great Seal of the City of Dubuque to be affixed this 1<sup>st</sup> day of April, 2024.

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Brad M. Cavanagh, Mayor

Attest:

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Adrienne N. Breitfelder, CMC, City Clerk



2024: Submitted and accepted by Amie Buckley.

2023: Submitted by Sarah McKenzie and accepted by Sarah McKenzie with other Riverview Center Colleagues. [sarahmc@riverviewcenter.org](mailto:sarahmc@riverviewcenter.org)

2022: Submitted by Sarah McKenzie and accepted by Sarah McKenzie with other Riverview Center Colleagues. [sarahmc@riverviewcenter.org](mailto:sarahmc@riverviewcenter.org)

**City of Dubuque  
City Council Meeting**

**Proclamation(s) # 02.**

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**ITEM TITLE:** Community Development Week (April 1-5, 2024)  
**SUMMARY:** On behalf of the Housing & Community Development Department.  
**SUGGESTED  
DISPOSITION:**

**ATTACHMENTS:**

**Description**

Proclamation

**Type**

Supporting Documentation



# PROCLAMATION

WHEREAS, the week of April 1-5, 2024 has been designated as National Community Development Week to celebrate the Community Development Block Grant (CDBG) Program; and

WHEREAS, the CDBG Program provides annual funding and flexibility to local communities to provide decent, safe and affordable housing, a suitable living environment, and economic opportunities to low- and moderate-income residents; and

WHEREAS, over the past four years, our community has received a total of \$5,771,0406 in CDBG and CDBG-CV funds; and

WHEREAS, the following activities have been funded: First Time Homebuyer Program; Homeowner Rehabilitation Program; Rental Unit Rehabilitation; Lead and Healthy Homes Match Funding; Short Term Rental, Mortgage, and Utility Assistance; Microenterprise Assistance Program; Infrastructure Improvements; Neighborhood Recreation Programs; Nonprofit Support Grants; Homeless Shelter Rehabilitation; Zoning Enforcement; Vacant Building Enforcement; and activities to prevent, prepare for, and respond to COVID-19.

NOW THEREFORE, I, BRAD M. CAVANAGH, MAYOR OF THE CITY OF DUBUQUE, IOWA, ON BEHALF OF THE CITY COUNCIL, STAFF AND THE RESIDENTS OF DUBUQUE, DO HEREBY PROCLAIM THE WEEK OF APRIL 1-5, 2024 AS

## **“COMMUNITY DEVELOPMENT WEEK”**

IN THE CITY OF DUBUQUE, IOWA.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Great Seal of the City of Dubuque to be affixed this 1<sup>st</sup> day of April 2024

---

Brad M. Cavanagh, Mayor

Attest:

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Adrienne N. Breitfelder, CMC, City Clerk

2024: Submitted by Mary Bridget Corken Deutsch, Housing and Community Development. Accepted by Dwight Turner, Executive Director of St. John's Almost Home Shelter for Men and Children.

2023: Submitted by Mary Bridget Corken Deutsch, Housing and Community Development.

2022: Submitted by Maddy Haverland, Housing and Community Development,

2021: Submitted by Maddy Haverland, Housing and Community Development, and accepted by Armina Odobasic.

2019: Submitted by Kris Neyens, Housing and Community Development and accepted by CDAC CO-Chair Jerry Hamel.

**City of Dubuque  
City Council Meeting**

**Proclamation(s) # 03.**

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**ITEM TITLE:** Junior Achievement Day (April 4, 2024)  
**SUMMARY:** On behalf of Junior Achievement of the Heartland.  
**SUGGESTED  
DISPOSITION:**

**ATTACHMENTS:**

**Description**

Proclamation

**Type**

Supporting Documentation



# PROCLAMATION

WHEREAS, the City of Dubuque will observe Junior Achievement Day on April 4, 2024, as an opportunity to recognize and celebrate Junior Achievement of the Heartland for empowering our young people to own their economic success; and

WHEREAS, Junior Achievement of the Heartland's educational contribution equips our young people to become the next generation of productive employees and self-sufficient citizens to ensure the economic prosperity of Dubuque; and

WHEREAS, it is fitting for parents, educators, businesses and other members of the community to join in Junior Achievement's effort to ensure the future success and economic health of our young people and the communities in which they live.

NOW THEREFORE, I, BRAD M. CAVANAGH, MAYOR OF THE CITY OF DUBUQUE, IOWA, ON BEHALF OF THE CITY COUNCIL, STAFF AND RESIDENTS OF DUBUQUE DO HEREBY PROCLAIM THE 4<sup>TH</sup> DAY OF APRIL 2024 AS:

## **“JUNIOR ACHIEVEMENT DAY”**

IN THE CITY OF DUBUQUE, IOWA.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Great Seal of the City of Dubuque to be affixed this 1<sup>st</sup> day of April 2024.

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Brad M. Cavanagh, Mayor

Attest:

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Adrienne N. Breitfelder, CMC, City Clerk

2024: Submitted by Makenzie Morris, Marketing Manager for Junior Achievement of the Heartland and accepted by Scott Ellerbach, Senior Vice President of Community Relations.

2023: Submitted by Makenzie Morris, Marketing Manager for Junior Achievement of the Heartland and accepted by Scott Ellerbach, Senior Vice President of Community Relations.

2022: Submitted by Makenzie Morris, Digital Marketing & Communications Manager, Junior Achievement of the Heartland, Folwell Education Center for Free Enterprise, 800 12th Avenue, Moline, IL 61265, 309-277-3918 office, [www.jaheartland.org](http://www.jaheartland.org) Accepted by Scott Ellerbach, our Senior Vice President of Community Relations

2021: Submitted for signature only by Linda Sims-Keith, Operations Specialist for JA of the Heartland, 800 12<sup>th</sup> Ave., Moline, IL 61265, 309-736-1630, [linda.simskeith@ja.org](mailto:linda.simskeith@ja.org)

2020: Submitted for signature only by Linda Sims-Keith, Operations Specialist for JA of the Heartland, 800 12<sup>th</sup> Ave., Moline, IL 61265, 309-736-1630, [linda.simskeith@ja.org](mailto:linda.simskeith@ja.org).

2019: Submitted Makenzie Morris, Digital Marketing & Communications Manager, Junior Achievement of the Heartland, Folwell Education Center for Free Enterprise, 800 12th Avenue, Moline, IL 61265, 309-277-3918 office, [www.jaheartland.org](http://www.jaheartland.org); and accepted by Development Director, Scott Ellerbach, and JA Board Members.

**City of Dubuque  
City Council Meeting**

**Proclamation(s) # 04.**

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**ITEM TITLE:** Saint 4 Life Foundation - Fighting Saints Alumni Celebration (April 5 - 6, 2024)

**SUMMARY:** On behalf of the Saint 4 Life Foundation.

**SUGGESTED  
DISPOSITION:**

**ATTACHMENTS:**

**Description**

Proclamation

**Type**

Staff Memo



## PROCLAMATION

WHEREAS, the Saint 4 Life Foundation, founded in 2022, prides itself on its mission of building a vibrant alumni network, connecting former players to The Fighting Saints Organization, and supporting ice hockey for Dubuque skaters of all ages; and

WHEREAS, the Saint 4 Life Foundation's Third Annual Alumni Celebration will be held this weekend, April 5<sup>th</sup>-6<sup>th</sup>, with the kick-off Alumni Game taking place Saturday at 1 pm, at the ImOn Arena. Alumni Tributes will continue during the Dubuque Fighting Saints vs. Chicago Steel match, with the Puck dropping at 7 pm; and

WHEREAS, the Fighting Saints Alumni teams are 5 time Clark Cup Champions, beginning with its first in 1980-1981; and

WHEREAS, nationwide, there are over 800 Fighting Saints Alumni. Underscoring the impact of Dubuque's local hockey program is the continuous athletic successes of its various players and coaches. Amongst them, there are 2 Olympians, 16 current professional NHL players, over 12 collegiate and professional coaches, and over 200 recognized collegiate players; and

WHEREAS, the Saint 4 Life Foundation and its Alumni members focus on partnering within our community, providing strategic investments to The Fighting Saints Organization and to Dubuque's Youth Hockey development programs, including The Dubuque High School Saints, The Figure Skating Program, and The Learn to Skate Program; and

WHEREAS, this occasion aspires to reunite Fighting Saints Alumni and extends a warm invitation to Dubuque's Ice Hockey enthusiasts to partake in this weekend's special game and tributes.

NOW, THEREFORE, I, BRAD M. CAVANAGH, MAYOR OF THE CITY OF DUBUQUE, IOWA, ON BEHALF OF THE CITY COUNCIL, STAFF AND RESIDENTS OF DUBUQUE, DO HEREBY PROCLAIM, THE 5<sup>TH</sup> THROUGH 6<sup>TH</sup> OF APRIL 2024 AS

### **“SAINT 4 LIFE FOUNDATION – FIGHTING SAINTS ALUMNI CELEBRATION”**

IN THE CITY OF DUBUQUE, IOWA.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Great Seal of the City of Dubuque to be affixed this 1<sup>st</sup> day of April 2024.

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Brad M. Cavanagh, Mayor

Attest:

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Adrienne N. Breitfelder, CMC, City Clerk

2024: Submitted by Susan Farber. Accepted by Susan Farber and Brooks Bertsch.

**City of Dubuque  
City Council Meeting**

**Proclamation(s) # 05.**

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**ITEM TITLE:** Dubuque YP Days of Caring (April 26, 2024)  
**SUMMARY:** On behalf of the Dubuque YP Days of Caring Board.  
**SUGGESTED  
DISPOSITION:**

**ATTACHMENTS:**

**Description**

Proclamation

**Type**

Supporting Documentation



## PROCLAMATION

WHEREAS, Dubuque is a city known for its spirit of volunteerism and community pride; and

WHEREAS, Young Professionals of Dubuque is an organization in Dubuque committed to making the city a wonderful place to live, work and play; and

WHEREAS, Dubuque YP Days of Caring is a community event where more than 1,100 volunteers conduct projects at nonprofits throughout the city; and

WHEREAS, Dubuque YP Days of Caring benefits not only those nonprofits but the entire City of Dubuque.

NOW THEREFORE, I, BRAD M. CAVANAGH, MAYOR OF THE CITY OF DUBUQUE, IOWA, ON BEHALF OF THE CITY COUNCIL, STAFF AND RESIDENTS OF DUBUQUE, DO HEREBY PROCLAIM THE 26<sup>TH</sup> DAY OF APRIL, 2024 AS

### **“DUBUQUE YP DAYS OF CARING”**

IN THE CITY OF DUBUQUE, IOWA.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Great Seal of the City of Dubuque to be affixed this 1<sup>st</sup> day of April, 2024.

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Brad M. Cavanagh, Mayor

Attest:

---

Adrienne N. Breitfelder, CMC, City Clerk

- 2024: Submitted and accepted by Christopher Lester, Water Department Director, 1902 Hawthorne St, Dubuque, IA 52001. 563.589.4291 [clester@cityofdubuque.org](mailto:clester@cityofdubuque.org)
- 2023: Submitted and accepted by Nick Rossman, Director, Carnegie-Stout Public Library, 360 W 11<sup>th</sup> St, Dubuque, IA 52001. 563.589.4225. [nrossman@carnegiestout.org](mailto:nrossman@carnegiestout.org).
- 2022: Submitted and accepted by Cori Burbach, Assistant City Manager, City of Dubuque, 50 W 13 St., Dubuque, IA 52001. 563.589.4110. [cburbach@cityofdubuque.org](mailto:cburbach@cityofdubuque.org).
- 2019: Submitted and accepted by Amanda Iburg, Marketing & Customer Experience Specialist, Verena Street Coffee Co., 720 Verena Ct. Dubuque, IA 52002. 563.556.3931. [aiburg@verenastreet.com](mailto:aiburg@verenastreet.com).
- 2018: Submitted by Hannah Cox, Communications Specialist, DuTrac Community Credit Union, 3465 Asbury Road, Dubuque, IA 52001. 563.585.8583. [hcox@dutrac.org](mailto:hcox@dutrac.org). [www.dbqdaysofcaring.org](http://www.dbqdaysofcaring.org). Accepted by Jessica Ehrlich, Vice President/Office Manager, American Trust & Savings Bank, 4730 Asbury Rd., PO Box 938, Dubuque IA, 52001. 563.585.5722. [jehrlich@americantrust.com](mailto:jehrlich@americantrust.com).
- 2017: Submitted by Hannah Cox, Communications Specialist, DuTrac Community Credit Union, 3465 Asbury Road, Dubuque, IA 52001. 563.585.8583. [hcox@dutrac.org](mailto:hcox@dutrac.org). Accepted by Jessica Ehrlich, Vice President/Office Manager, American Trust & Savings Bank, 4730 Asbury Rd., PO Box 938, Dubuque IA, 52001. 563.585.5722. [jehrlich@americantrust.com](mailto:jehrlich@americantrust.com).
- 2016: Submitted and accepted by Hannah Cox, Communications Specialist, DuTrac Community Credit Union, 3465 Asbury Road, Dubuque, IA 52001. 563.585.8583. [hcox@dutrac.org](mailto:hcox@dutrac.org). [www.dbqdaysofcaring.org](http://www.dbqdaysofcaring.org)
- 2015: Submitted and accepted by Julie Kronlage, Director of Sales, Dubuque Area Convention & Visitors Bureau, 300 Main Street, Suite 120, Dubuque, IA 52001. 563.845.7698. [jkronlage@traveldubuque.com](mailto:jkronlage@traveldubuque.com).
- 2014: Submitted by Jim Winter, Digital Content Editor, TH Media, 563.588.5677, 801 Bluff Street, Dubuque, IA 5200. Accepted by Lisa Bowers, YP Professional of the Year with American Trust & Savings Bank.
- 2013: Submitted and accepted by Julie Kronlage, Director of Sales, Dubuque Convention & Visitors Bureau, 300 Main Street, Suite 200, Dubuque, IA 52001, 563.690.9207, [jkronlage@dubuquechamber.com](mailto:jkronlage@dubuquechamber.com).

## City of Dubuque City Council Meeting

### Consent Items # 01.

**ITEM TITLE:** Minutes and Reports Submitted

**SUMMARY:** City Council Proceedings of March 18, 2024; Civil Service Commission of March 7, 2024; Equity and Human Rights Commission of February 13, 2024; Historic Preservation Commission of February 15, 2024; Housing Commission of April 25, 2023; Library Board of Trustees of March 23, 2023, April 27, 2023, May 25, 2023, June 22, 2023, July 27, 2023, August 23, 2023, August 24, 2023, September 28, 2023, October 19, 2023, October 26, 2023, and November 16, 2023; Park and Recreation Commission of February 13, 2024; Zoning Advisory Commission Draft Minutes of March 6, 2024 and March 13, 2024; Proof of Publication for City Council Proceedings of March 4, 2024 and March 7, 2024.

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File

**ATTACHMENTS:**

Description	Type
Civil Service Commission Minutes	Supporting Documentation
Equity and Human Rights Commission Minutes	Supporting Documentation
Historic Preservation Commission Minutes	Supporting Documentation
Housing Commission Minutes	Supporting Documentation
Park and Recreation Commission Minutes	Supporting Documentation
Zoning Advisory Commission 3/6/24	Supporting Documentation
Zoning Advisory Commission 3/13/24	Supporting Documentation
Library_March 23, 2023	Supporting Documentation
Library_April 27, 2023	Supporting Documentation
Library_May 25, 2023	Supporting Documentation
Library_June 22, 2023	Supporting Documentation
Library_July 27, 2023	Supporting Documentation
Library_August 23, 2023	Supporting Documentation
Library_August 24, 2023	Supporting Documentation
Library_September 28, 2023	Supporting Documentation
Library_October 19, 2023	Supporting Documentation
Library_October 26, 2023	Supporting Documentation
Library_November 16, 2023	Supporting Documentation
City Council Proceedings of March 18, 2024	Supporting Documentation

Proof of Publication 3.4.24  
Proof of Publication 3.7.24

Supporting Documentation  
Supporting Documentation

## **MINUTES**

**Government Body:** CITY OF DUBUQUE CIVIL SERVICE COMMISSION  
**Date:** March 7, 2024  
**Time:** 9:15 AM  
**Place of Meeting:** City Hall – Conference Room C – 50 W 13<sup>th</sup> St.

Present: Commissioners Carla Heathcote (virtually), Dan White (virtually)  
Also present: Police Captain Scott Baxter, Chief of Police Jeremy Jensen, Fire Chief Amy Scheller, City Clerk Adrienne Breitfelder

Commissioner White called the meeting to order at 9:19 a.m.

1. Approval of minutes from the January 10, 2024 meeting. Motion by Heathcote to approve the minutes as submitted. Seconded by White. Motion carried 2-0.
2. Police and Fire Department Reports. Chief of Police Jeremy Jensen provided information on staffing numbers (more operational officers), and the success of the ongoing testing process. Fire Chief Amy Scheller reported on fire incidents and the position of Deputy Fire Chief.
3. Certify the list for the position of Police Officer. Motion by White to certify the list for the position of Police Officer. Seconded by Heathcote. Motion carried 2-0.
4. Adjournment. Motion by Heathcote to adjourn at 9:32 a.m. Seconded by White. Motion carried 2-0.

Submitted by Pamela McCarron, Permit Clerk



**EQUITY AND HUMAN RIGHTS COMMISSION MEETING MINUTES**  
**February 13, 2024**

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**DATE:** Tuesday, February 13, 2024

**TIME:** 4:30 PM

**LOCATION:** Ruby Sutton Building, 1157 Central Avenue, Dubuque, IA 52001

Commissioner Kurczek called the meeting of the Equity & Human Rights Commission to order at 4:37 p.m.

**Commissioners Present:** Michaela Freiburger, David Heiar, Theresa Sampson-Brown, Jake Kurczek, Maitha Jolet and Matthew Zanger

**Commissioners Absent:** Carla Anderson, Enoch Sanchez

**Staff Present:** Ann Marie Jannette

**Reflections:**

David Heiar discussed attending the Fall 2023 summit for Human Rights Commissions in Cedar Falls. Heiar also attended a Cultural Immersion Workshop hosted by the Rotary Club in Dubuque.

Heiar met with Gisella and Crenna to review ordinances from other communities. Waiting on a draft ordinance for review.

Freiburger had conversations with community leaders about an increase in youth bullying. Attended the most recent Cracker Barrel with state legislatures to discuss.

Kurczek is working with students in focus groups to address issues in the community. In March a speaker from one of the largest gang intervention programs will be speaking at Loras College.

**Approval of November 14, 2023, Meeting Minutes**

Heiar would like to amend the November Minutes to remove one of the motions to approve goals. Heiar suggested the goals be included as an attachment with the minutes.

Motion by Heiar to approve as amended, second by Zanger to approve the meeting minutes of November 14, 2023, as amended.

**Reports**

**Caseload Report**

Jannette provided details on report – 1 new complaint logged during the month, 16 under current investigation, 1 in mediation. Jannette provided an example of a case the department is currently addressing. A question was raised about tracking complaints against landlords from housing and police departments. It is unclear how this information would be used. Freiburger questioned if any calls have been received regarding energy companies not being allowed to enter homes for efficiency updates. Jannette indicated that none have been received.

### **Chairperson's Report**

None

### **Director's Report**

Jannette attended the Point Neighborhood Association meeting. Provided an explanation of the department and how to file a complaint. Jannette mentioned she attended the Cedar Falls diversity event and the Rotary Club events mentioned during reflections. The upcoming Diversity Summit is being held by the Chamber in Dubuque. Jannette provided a Diversity calendar with events going on locally. Jannette also provided the Monthly Diversity in Dubuque Newsletter that she created. Jannette also provided information about Culture Creators, where a topic is discussed on the all-staff City of Dubuque employee call each month. The topic for January was White privilege.

Commissioner Heiar asked for additional information to be provided at the next Commission meeting on what is being presented at the City Council Budget Meeting in March.

### **Old Business:**

- Goals Implementation

### **New Business:**

- Commissioners suggested that for the next meeting, each bring a list of organizations to partner with.
- Oath of Office for Theresa Sampson-Brown
- Attendance Policy Requirements, Jannette will include an absentee report each month.
- Participation of commissioners in other commission meetings
- Draft response to Iowa Boards and Commissions (B&C) Review Committee

Freiburger motioned to approve the response to B&C Review Committee. Jolet seconded the motion. All in favor. 6 – 0

- Proposal to have a committee to monitor current legislature, committee determines if a special meeting needs to be called.
- Request to remove reflections and add Goals Implementation Progress Update to standing items.
- Better Together from the Community Foundation of Greater Dubuque.

### **Public Input:**

None

### **Adjournment:**

Zanger motioned and Freiburger seconded to adjourn. All in favor. The meeting ended at 5:53 p.m. The next regularly scheduled meeting is Tuesday, March 12, 2024.

Minutes approved as submitted: \_\_\_\_\_

Minutes approved as corrected: Ann Marie Jannette

**MINUTES  
HISTORIC PRESERVATION COMMISSION  
REGULAR SESSION**

5:30 p.m.

Thursday, February 15, 2024

City Council Chambers, Historic Federal Building

**Commissioners Present:** Commissioners Thea Dement, Bill Doyle, Janice Esser, Christina Monk (5:37), Heidi Pettitt and Rick Stuter

**Commissioners Excused:** Chairperson Melissa Daykin Cassill, Tim Gau

**Commissioners Unexcused:** None.

**Staff Members Present:** Wally Wernimont, Travis Schrobilgen. Chris Happ Olson attended virtually.

**CALL TO ORDER:** The meeting was called to order by Vice-Chair Dement at 5:30 p.m.

**MINUTES:** Motion by Doyle, seconded by Esser, to approve the minutes of the January 18, 2024 meeting as submitted. Motion carried by the following vote: Aye – Dement, Doyle, Esser, Pettitt, and Stuter; Nay – none.

**ACTION ITEMS:**

**DEMOLITION PERMIT**

Applicant: Emmett Clair, Gronen  
Owner: Klauer Manufacturing Co.  
Address: 422 Rhomberg Avenue  
Project: Demolish Commercial Building  
District: Washington Neighborhood Conservation District

Staff Member Happ Olson presented the staff report noting the historic reviews that have been done and that the property was originally developed as a Hardee's and carwash. She stated that the demolition had already begun and that a steel frame is all that remains of the 430 Rhomberg building. She also noted that 422 Rhomberg was a vacant Hardee's restaurant. She noted that a building permit had been approved and that due to a system mapping error, the site was not flagged as 'within a conservation district'. She then described building permits that had been pulled historically and other site documentation, which helps describe the site development. She noted that the most recent survey was done for the Bee Branch Project by Wally Wernimont and the property was designated as not architecturally significant.

Emmett Clair, 900 Jackson Street, described the project noting the steel structure would remain in place for future development.

The Commission asked for confirmation that the plan was to keep the steel structure and the applicant confirmed that the plan is to keep and use the steel structure for future site development.

The commission had no further comment and found the request appropriate, due to the fact that the property was not architecturally or historically significant.

Motion by Doyle, seconded by Pettitt, to approve the application as submitted. Motion carried by the following vote: Aye – Dement, Doyle, Esser, Monk, Pettitt, and Stuter; Nay – none.

### **DESIGN REVIEW**

Applicant: Terry Koelker, Buesing & Associates Inc.  
Owner: Gk Engineering & Land Surveying LLC  
Address: 1212 Locust Street  
Project: Reconfigure alley facing landing and stairs  
District: Jackson Park Historic District

Staff Member Happ Olson presented the staff report noting that the property is treated as a residential property for design review. Happ Olson noted that the 1978-79 Kriviskey survey designated the property as supportive within a historic district, and that during the National Register Historic District designation it was evaluated as contributing, and during the 2003 Jim Jacobsen Phase IV update it was confirmed as contributing. Happ Olson then discussed the proposal, noting that the rear stairwell was rarely used, in poor condition and had failed. She said the work was halted and provided contemporary photos of the stairs and landing for the commission to review. She stated that building code requires a taller guard and handrails, and that it will have cedar lap matching the two existing side and rear porches. She stated it will have spindles at the handrail. She stated that the new layout is more prominent, on a primary façade, it is being relocated for practical use of the business.

Terry Koelker, Buesing and Associates at 1212 Locust, representing the applicant and owner, noting that the deck was in a deteriorated condition and that an employee had fallen through it. He described the proposal specifically noting that the location is in a more practical location, that it would consist of the same materials as the front porch, that it would be painted, and that the railing would be taller because of building code.

Commissioners stated that the building was a beautifully preserved structure. They asked whether the rear stairway layout was original? Mr. Koelker said that it was probably not original. Staff member Happ Olson noted that a room was added to the northeast side of the structure, and that some alterations have occurred over time including the addition of the front wrap-around porch. Commissioners then asked if

there were other changes to the building and if the applicant intended to add skirting below the landing and stairs. Mr. Koelker said no other changes were proposed and they did not want to add a skirt and cover the lower-level windows.

The commission, the applicant and staff shared some additional history on the property.

Motion by Esser, seconded by Doyle, to approve the application as submitted and with the condition that stair spindles match the front porch and the structure be painted to match the house. Motion carried by the following vote: Aye – Dement, Doyle, Esser, Monk, Pettitt, and Stuter; Nay – none.

Commissioner Stuter excused himself and left the remainder of the meeting.

### **DESIGN REVIEW**

Applicant:	Chris Martin
Owner:	11 <sup>th</sup> Street Properties LLC
Address:	605 W. 11 <sup>th</sup> Street
Project:	Replace porch windows and install new porch handrail
District:	West 11 <sup>th</sup> Street Historic District

Staff Member Happ Olson presented the staff report noting that the handrail portion of the request is required by building code. She detailed the history of the property noting a series of additions, that it was considered a supportive structure in 1979, that it is contributing to the W. 11 Street Historic District, and that it was confirmed as contributing in the 2003 Phase IV survey. She then described the proposal noting that there are three parts to the project with a fourth part needing discussion as well. The first item detailed was the northernmost windows on the west side of the converted porch. Happ Olson noted that the windows being proposed were the same size, shape, style, type, and material as the existing windows and would meet the architectural guidelines. She noted that no Commission review was required for this portion of the project. Happ Olson then described the second part of the request which included replacement of the remaining windows on the west and south side of the converted porch. She detailed the history of the porch noting the porch was originally an open porch which was then enclosed, but it is unclear what the first windows installed on this existing porch were. She noted the proposal was to modify the openings to one-over-one-over-one plate glass design, as is present on some places on the porch. She then described the proposed railing as the third part of the proposal. She noted that the railing is a requirement of the building code and that in these cases the aim is to minimize the visual impact of the railing. She concluded that review should consider the project as a design review on a residential structure.

Chris Martin, 163 Nevada Street, represented as applicant for the request, stating that he was going to attempt to ask the property owners to remove all the windows and return it to an open porch. He clarified that the front windows are currently vinyl, that they are in bad shape and noted they are a mixture of windows that don't line up.

Staff Member Olson stated that the fourth part of the request was to allow staff to sign off on additional windows on the porch as they intend to do the same treatment on the remainder of the windows over time, that being replacing inconsistently installed windows on the porch with the one-over-one-over-one design to create more continuity. Chris Martin aimed to clarify the request. He stated that he is asking for staff to have the ability to sign off on all the windows on the entire structure and said there were about 22 of them and some of them are rotted. He said the plan was to replace wood windows with aluminum clad wood windows of a similar size and design.

Planning Services Director Wally Wernimont asked for clarification on the request. He stated that his understanding is that the windows in the packet with the green and yellow borders would all be replaced with one-over-one-over-one windows and that 22 additional windows would come later but the applicant was asking if planning staff could sign off on the proposal to replace those 22 wood windows with aluminum clad windows of a similar size and design? The applicant and commission confirmed that they all agreed with that statement.

Staff member Olson noted that the railing would need review and approval as well and that the motion could be together or separate.

Commissioner Monk noted that the railing is minimized and that she was ok with the railing. Commissioner Esser concurred noting that the building code requirement was unfortunate, but the proposed treatment was acceptable.

Commissioners then noted that aluminum clad were acceptable for the remaining 22 windows and that they do not have a problem with staff signing off on those provided the windows stay a similar profile.

Motion by Pettitt, seconded by Doye, to approve the application as submitted and with the condition that staff may sign off on the remaining 22 windows with aluminum clad wood windows, provided they meet all other historical guidelines. Motion carried by the following vote: Aye – Dement, Doyle, Esser, Monk, and Pettitt; Nay – none.

#### **ITEMS FROM PUBLIC:**

Claudette Bees, 1401 Henion Street, asked the Commission what options her and her husband have and whether they could replace arched windows with rectangular windows. She noted that the dwelling has many windows and that the cost of replacement for arched windows was astronomical.

The Commissioners noted that refurbishing and fixing the existing wood windows and then installing storm windows either on the interior or exterior of the window would be as efficient as a new vinyl window and would be much cheaper.

Staff reiterated that storm windows would be a better option for cost and efficiency and added that most heat is lost through the roof of a home and suggested Claudette check the insulation of the attic space.

### **ITEMS FROM COMMISSION:**

Commissioner Doyle reminded all in attendance that Architecture Days will be coming up soon, beginning May 6.

### **ITEMS FROM STAFF:**

#### **Workplan Considerations**

Staff Member Wernimont stated that the workplan went to Council and they received feedback. The Council is requesting the HPC to consider adding a workplan item that would look at other populations and groups in Dubuque that helped shape the City. Wernimont noted that there is a history of Greek, Jewish, Hispanic, and Marshalese populations in Dubuque. Staff noted that a number of current projects would be largely complete by June 30 and that there is capacity to add other projects.

The commission discussed the request noting a number of populations that make sense and that some work has been done already which would be good resources. They said research could be done to determine which populations have all been a part of Dubuque's history. The commission consensus was in favor of updating the workplan to include the feasibility of investigating other underrepresented populations in the area of survey work.

#### **Dubuque Brewing and Malting Update**

Staff Member Wernimont provided a brief summary about the property stating there are a lot of safety issues with the structure and that the City Council receives update at their meetings regarding the site.

#### **Upcoming Award Nominations**

Staff Member Happ Olson discussed the 22<sup>nd</sup> Annual Ken Kringle Awards. She asked the commission for input on nominations for award winners and went through a list for consideration. 249 W 1<sup>st</sup> Street, 105 Locust Street, 1090 W. 3<sup>rd</sup> Street, and 2900 Jackson Street were all discussed. 84 Main Street and 1450 Iowa Street were later discussed and added to the nomination list.

#### **Growing Sustainability Conference**

Staff Member Wernimont described the conference that will take place on April 23-24 and let the commission know that the conference was available to commissioners who were interested in attending. Commissioners Dement, Monk, Pettitt, and Esser all expressed interest.

1450 Iowa Update

Staff noted that this property received some design approval previously and that the applicant is proposing to make an alteration to the north side stairway/egress. They noted that the existing stairway is all metal, that it is in poor condition and cannot be salvaged. The applicant proposes to construct a wood frame stairwell, with wood treads and railing, but would reuse the metal risers. Staff showed pictures of the existing conditions, the decorative metal risers intended for reuse, and proposed wood spindles. Staff asked whether a staff member could approve this change or if it would need to come back before the Commission.

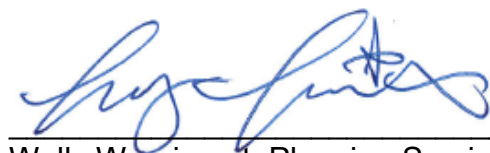
The commission discussed the proposal noting that the property looks fantastic, that the work is of high quality and thus far, meets the prior approvals. They noted that the color of the stairs stating that it will look nice whether it is painted to match the porch or painted black like the existing stairwell. They noted they had no concerns allowing staff to sign off on the work provided the applicant reuses the risers and matches the spindles to the front porch, as proposed.

The commission voted by consensus to allow the design change to be approved by staff provided the risers were reused and using the spindles as indicated by the owner.

**ADJOURNMENT:** Motion by Monk, seconded by Esser to adjourn the February 15, 2024 Commission meeting. Motion carried by the following vote: Aye – Dement, Doyle, Esser, Monk, and Pettitt; Nay – none.

The meeting adjourned at 7:45 p.m.

Respectfully submitted,



\_\_\_\_\_  
Wally Wernimont, Planning Services Director

\_\_\_\_\_  
March 21, 2024

Adopted



## MINUTES FOR HOUSING COMMISSION MEETING

**DATE:** Tuesday, April 25, 2023  
**TIME:** 4:00 p.m.  
**PLACE:** Housing and Community Development Department  
 350 West 6<sup>th</sup> Street; Dubuque, IA 52001

Chairperson Yindra Dixon called the meeting to order at 4:12 p.m. following staff assurance of compliance with Iowa Open Meeting Law.

Commissioners Present:	Rick Baumhover	Ross Janes	Renee Kehoe
	Yindra Dixon	Calvin Jones	Margie White
	Amy Eudaley	Rick Merfeld	Sam Wooden

Commissioners Absent: Cathy Dickens

Staff Present: Alexis Steger	Hollie Ohnesorge
Gina Hodgson	

Public Present: Jake Kurczek, Commissioner for Equity & Human Rights Commission

### **Oath of Office – Ross Janes**

The Oath of Office was completed by Ross Janes.

### **Oath of Office – Calvin Jones**

The Oath of Office was completed by Calvin Jones.

### **Certification of Minutes – January 31, 2023, Housing Commission Meeting**

Commissioner Rick Merfeld moved to approve the Minutes for the January 31, 2023 Housing Commission Meeting. Commissioner Margie White seconded. Nine (9) in favor. Zero (0) not in favor. Zero (0) abstained. Motion passed.

### **Correspondence/Public Input**

There was no correspondence nor public input.

### **New Business**

#### a) Goal Setting

#### 2022-2023 Successes

1. The Housing Commission set up subcommittees. The impact was the commissioners had an opportunity to engage with Housing leaders and they came up with plans and ideas for improvement and community engagement.
2. The Housing Department completed implementation of new software.
3. The number of housing inspectors on staff increased.
4. The Commission met and held all meetings over the past year. The current and new members have attended meetings, which has enabled work to be completed.
5. Tenant education remains as an important element. Although there was no forward movement, the staff kept tenant education on their priority list.
6. The public has been invited to the meetings for the Housing Commission.
7. Representatives from the Housing Commission have attended meetings for City Council and neighborhood associations.
8. The guests at the meetings are recognized when in attendance at the meetings; this enhances public participation, input, and education.
9. The providing of information to the Housing Commission on ordinances and HUD laws and being given access to Sharepoint for communication of important documents enabled the Commissioners to effectively perform duties.

## MINUTES FOR HOUSING COMMISSION MEETING

### 2023-2024 Goals

1. Increase attendance of Housing Commissioners at each of the four neighborhood association meetings.

*It was determined that a copy of the schedule for the neighborhood associations would be added to Sharepoint. The following commissioners volunteered to attend the the meeting for the respective association:*

*Downtown Neighborhood Association – Rick Merfeld & Amy Eudaley*

*Point Neighborhood Association – Rick Baumhover*

*North End Neighborhood Association – Margie White & Ross Janes*

*Langworthy Neighborhood Association – Sam Wooden*

2. Coordinate with the Office of Shared Prosperity & Neighborhood Support to obtain information from the neighborhood association meetings when Housing Commissioners are not available to attend.
3. Create a list of talking points after each Housing Commission Meeting that should be shared at the neighborhood association meetings
4. Increase landlord acceptance of Housing Choice Vouchers by 10 through enhancement of tenant education process
5. Increase lease-ups without creating a disparact impact
6. Increase public awareness to destigmatize public housing assistance for everyone in the community
7. Increase safe, affordable housing for low- and extremely low-income tenants in all under served populations
8. Continue to create community awareness of Housing Choice Voucher programs
9. Increase data from landlords on why the Housing Choice Voucher is accepted/not accepted through rental license application process

Commissioner Amy Eudaley moved to approve the 2022-2023 Successes and the 2023-2024 Goals. Commissioner Merfeld seconded. Nine (9) in favor. Zero (0) not in favor. Zero (0) abstained. Motion passed.

- b) Discuss research, outcomes and marketing for preference point process

Commissioner Yindra Dixon reported it is imperative that the audience for marketing the preference point process is understood and the marketing plan is known. It was suggested that the outcomes be created and reported if the process is implemented. Also if the audience is not being reached or has limitations, a plan should be created for the Housing Commissioners to support the marketing plan.

- c) Collaboration strategies with local utilities for program participants

Commissioner Dixon stated that currently landlords are asked to decrease rent because a tenant may need to use money from vouchers for payment of utilities. Alexis Steger, Department Director, explained tenants may receive assistance through other resources for utilities; the utilities may not be adjusted until the resource may be considered as income.

- d) Security deposits and 13-month lease payments

Commissioner Dixon asked whether resources are available for security deposits and 13-month leases that include security deposits. Steger stated HUD does not provide for that with Section 8; the Department is looking to apply for funding at the state level through Tenant Based Rental Assistance (TBRA) to assist with providing deposits. There are some non-profit partners that provide for security deposits; the funding is usually depleted early in the year.

## MINUTES FOR HOUSING COMMISSION MEETING

### Reports

a) Community Development Advisory Commission Report

Commissioner Renee Kehoe stated the Community Development Advisory Commission approved a \$135,000 grant for Catholic Charities to start on the installation of elevators at Ecumenical Towers.

b) Assisted Housing Waiting List Statistical Summary

Hollie Ohnesorge, Assisted Housing Coordinator, reported the Waiting List Summaries show were 150 applicants were randomly selected in January and February 2023. For March 2023, all 179 applicants who applied were placed on the waiting list; there was no random selection.

c) Housing Choice Voucher Participant Statistical Summary

Ohnesorge shared information on current voucher holders reported on the Housing Choice Voucher Participant Statistical Summary. There are 790 families being served; the report breaks down the information by demographics.

d) Denial/Termination Meeting Results

Ohnesorge stated there were no housing participants up for termination. Several applicants came up for denial of assistance due to criminal background; it was decided by the team that either the applicants could go on the program or had to reapply for the program at a later date.

### Information Sharing

a) The next Housing Commission Meeting will be held in July 2023.

b) Shane Hoeper, Combination Inspector, was recognized for obtaining the certification of Master Code Professional.

### Adjournment

There being no further business to come before the Commission, Commissioner Ross Janes moved to adjourn the meeting. Commissioner White seconded. Motion passed by voice vote. Meeting adjourned at 5:32 p.m.

Respectfully Submitted:



Gina Hodgson  
Assisted Housing Supervisor

**PARK AND RECREATION COMMISSION MEETING**  
**Tuesday, February 13, 2024**  
**Comiskey Park Building**  
**255 E. 24<sup>th</sup> Street Drive Dubuque IA 52001**

**PRESENT:** Jennifer Tigges, Josh Jorgenson, Robin Kennicker, and Lori Ollendick.

**ABSENT:** Ron Axtell, Jess Ochoa and Jason Henkel.

**STAFF PRESENT:** Steve Fehsal, Dan Kroger, Jared Charland and Kristen Dietz.

**CALL TO ORDER:** Kennicker called meeting to order at 4:32pm.

**MINUTES APPROVED; VOTE:**

It was moved by Tigges, seconded by Ollendick, to approve the minutes of the January 23, 2024, meeting. Unanimous.

**PUBLIC INPUT:**

Tobey Carroll 6635 Kingsley Lane Dubuque Iowa 52003. Tobey and her husband shared their disapproval of the original design for the English Ridge Concept. They were disappointed because they felt like the form was not friendly towards feedback and none of the ideas discussed were illustrated. They expressed the want for possible courts and other amenities outside of the original concept.

**REQUEST FROM THE ORDER OF THE ARROW TO WAIVE EPP ENTRANCE FEE ON MOTHER'S DAY FOR THOSE ATTENDING PANCAKE BREAKFAST:**

It was moved by Jorgenson, seconded by Tigges, to approve the request from the Order of the Arrow to waive the Eagle Point Park entrance fee on Mother's Day for those attending the pancake breakfast. Unanimous.

**ADVERTISING PROGRAM PRESENTATION (HALEY FRANCKE, BUSINESS DEVELOPMENT MANAGER):**

Park and Recreation Business Development Manager Haley Francke presented her roll out program for the Recreation Division. This was a newly created program to allow businesses to purchase a banner that will be displayed at a Leisure Services location during season with the option of renewal. Francke has reached out to businesses locally via online, emails, phone calls, and mailers.

**STAFFING UPDATE:**

Recreation Division Manager Kroger shared the numbers of applicants are very

promising and are increasing steadily. Park Division Manager Fehsal shared he and the Urban Forester Robert Wegmann attended the Kirkwood Community College to attend the job fair that connects with students who are going to a forestry degree with eight completed on-site interviews.

#### **PROJECT UPDATE:**

Project and Facilities Manager Charland shared the update of the two mini parks that went to the City Council and approved. Staff currently are reviewing the 50% plan reviews with internal city teams to continue to next steps.

#### **REVIEW OF ENGLISH RIDGE CONCEPT:**

Commissioners expressed the importance of public feedback and the needs for active community members. The commissioners were interested in the feedback that will be received this time around. It was moved by Ollendick, seconded by Tigges, to approve the English Ridge Conceptual Plan. Unanimous.

#### **MANAGER REPORTS – COMMENTS AND QUESTIONS:**

None.

#### **COMMISSION COMMUNICATIONS/QUESTIONS:**

None.

#### **ADJOURNMENT:**

It was moved by Jorgenson, seconded by Tigges, to adjourn the meeting 5:47 p.m. Unanimous.

**MINUTES  
ZONING ADVISORY COMMISSION  
REGULAR SESSION**

6:00 p.m.

Wednesday, March 6, 2024

City Council Chambers, Historic Federal Building

**Commissioners Present:** Chairperson Matt Mulligan; Commission Members Martha Christ, Carrie Lohrmann, and Rich Russell

**Commissioners Excused:** Teri Zuccaro, Pat Norton

**Commissioners Unexcused:** None.

**Staff Members Present:** Shena Moon and Travis Schrobilgen

**CALL TO ORDER:** The meeting was called to order by Chairperson Mulligan at 6:00 p.m.

**MINUTES:** Motion by Christ, seconded by Lohrman, to approve the minutes of the February 7, 2024 meeting. Motion carried by the following vote: Aye – Christ, Lohrmann, Russell, and Mulligan; Nay – none.

**ACTION ITEM / PLAT OF SURVEY:** Application of John Pechous to approve the Plat of Survey of Pechous Place.

John Pechous, 410 Raymond Street, spoke in favor of the request stating that the existing driveway located between 410 and 414 Raymond Street properties is located on the 414 property but has historically been utilized by the 410 property. He pointed out that there is an existing wood archway over the driveway that has been there for many years and that the 410 property has always used the driveway, and it has never been used by the 414 property. He said they found out that they need the parking space to stay with the 410 property in order to sell the property. He noted that he had a survey and that nothing should change for the neighborhood as it has always operated this way.

Staff Member Moon detailed the staff report noting that the property owner is seeking to adjust the property line between the two lots, which have historically been under common ownership. She stated that primary goal would be to allocate the driveway to the 410 property which has historically utilized it. She added that the lot line adjustment would also ensure that an existing AC unit and retaining wall are located on the 410 property. She stated that the proposed Lot 1 would have 37 feet of street frontage and would not meet the minimum 50 feet required by code, and therefore, a waiver of the minimum street frontage requirement is being requested for Lot 1. She further stated that a Parking Variance would also be required for the 410 Raymond Place property and recordation of

the plat should be contingent upon the applicant receiving an approval for the Parking Variance from the Zoning Board of Adjustment.

Chairperson Mulligan asked whether the property previously met the 50-foot frontage requirement. Staff Member Moon stated that the 410 property has approximately 48 feet of street frontage currently and does not meet the 50-foot requirement.

Motion by Russell, seconded by Christ, to approve the Plat of Survey of Pechous Place as submitted, subject to waiving the frontage requirement of Lot 1 and contingent on an approved Parking Variance for 414 Raymond Place. Motion carried by the following vote: Aye – Christ, Lohrmann, Russell, and Mulligan; Nay – none.

**PUBLIC HEARING/REZONING:** Application of Josh Jansen to rezone property located at 35 Locust Street from C-3 General Commercial to C-4 Downtown Commercial.

Joshua Jansen, 11368 Rock Grove Court, spoke in favor of the request noting that the rezoning would allow for reduced setbacks and additional building height for a new development. He said the project would have ground level parking and commercial spaces, with a total of 81 residential units located on 4 stories above. He shared that nearby existing surface parking lots would also be a part of the project. He said that aesthetically, the project would pay homage to Dubuque's downtown and have a brick façade and a courtyard.

Mike Sivill, 307 Jones Street, noted that he believes a larger project like this would increase the foot traffic from this neighborhood to downtown. He stated he did not oppose the project but would like to see the pedestrian crossings to downtown be improved as there is currently not a safe route.

Travis Nelson, 305 Jones Street, noted that he was initially curious about parking and that the applicant addressed his concerns when he noted the additional lot for parking. He stated he did not have any further concerns.

Mr. Jansen added that he was looking into whether one-way traffic would be an option along Locust Street, which could possibly allow for angled parking along the street near the project. Commissioner Russell questioned approximately how many parking spaces would be proposed. Mr. Jansen stated approximately 120.

Staff Member Moon detailed the staff report noting the while the applicant has a specific project in mind, the rezoning would allow for all permitted uses within the C-4 zoning district. She shared a chart providing a side-by-side list of the permitted uses allowed in the existing C-3 zoning district and in the proposed C-4 zoning district and which also highlighted the uses that are permitted in both zoning districts. She noted that the applicant has gone through a conceptual review with the City's Development Review Team and that the review will be ongoing for the project. She noted that while development of the site is anticipated to result in an increase of traffic to the neighborhood it would be primarily neighborhood traffic as the site is quite isolated. She concluded by

stating that the area is a mix of uses and zoning districts and that the proposed rezoning would be in keeping with other zoning districts in the neighborhood.

The Commission discussed the request finding it appropriate.

Motion by Lohrmann, seconded by Russell, to approve rezoning 35 Locust Street as submitted. Motion carried by the following vote: Aye – Christ, Lohrmann, Russell, and Mulligan; Nay – none.

**ITEMS FROM PUBLIC:** None.

**ITEMS FROM COMMISSION:** None.

**ITEMS FROM STAFF:** None.

**ADJOURNMENT:** Motion by Christ, seconded by Russell to adjourn the March 6, 2024 Commission meeting. Motion carried by the following vote: Aye – Christ, Lohrmann, Norton, Russell, Zuccaro, and Mulligan; Nay – none.

The meeting adjourned at 6:26 p.m.

Respectfully submitted,

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Shena Moon, Associate Planner

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Adopted



**MINUTES  
ZONING ADVISORY COMMISSION  
REGULAR SESSION**

6:00 p.m.

Wednesday, March 13, 2024

City Council Chambers, Historic Federal Building

**Commissioners Present:** Chairperson Matt Mulligan; Commission Members Martha Christ, Carrie Lohrmann, and Rich Russell.

**Commissioners Excused:** Pat Norton and Martha Christ

**Commissioners Unexcused:** None.

**Staff Members Present:** Shena Moon and Travis Schrobilgen

**CALL TO ORDER:** The meeting was called to order by Chairperson Mulligan at 6:00 p.m.

**PUBLIC HEARING/PUD AMENDMENT:** Application of Natalie Hazewinkel to amend a Planned Unit Development to allow Pet Daycare or Grooming as a Permitted Use for property located North of Radford Court and east of Radford Road.

Natalie Hazewinkel, 709 Rhomberg Avenue, spoke in favor of the request stating that she currently operates her pet grooming business from her home. She explained that she is seeking to relocate her business to 4995 Radford Court and is requesting to rezone the property in order to allow pet grooming as a permitted use at that location.

There was no public input.

Staff Member Schrobilgen discussed the request noting that the property is part of a Planned Unit Development (PUD) area that was split into two areas as a result of recent rezoning of a portion of the PUD area for a residential project. He stated that the PUD area was established in 2002 and was amended in 2004 to allow for indoor restaurant use, specifically for the Pizza Ranch. He explained that the PUD was initially intended to include uses permitted in the C-2 and CS zoning districts, along with some uses permitted in the LI zoning district. He stated that Pet Daycare or Grooming is a permitted use in the LI zoning district currently. He noted that the neighborhood is a mixed-use area, and that Radford Road is a Major Collector street, and that the proposed Pet Daycare or Grooming is anticipated to be a compatible use within the neighborhood.

The Commission discussed the request finding it appropriate.

Motion by Zuccaro, seconded by Russell, to approve the PUD amendment as submitted. Motion carried by the following vote: Aye – Lohrmann, Russell, Zuccaro, and Mulligan; Nay – none.

**ITEMS FROM PUBLIC:** None.

**ITEMS FROM COMMISSION:** None.

**ITEMS FROM STAFF:** None.

**ADJOURNMENT:** Motion by Russell, seconded by Zuccaro to adjourn the April 13, 2024 Special Commission meeting. Motion carried by the following vote: Aye - Russell, Lohrmann, Zuccaro, and Mulligan; Nay – none.

The meeting adjourned at 6:07 p.m.

Respectfully submitted,

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Shena Moon, Associate Planner

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Adopted

## **Carnegie-Stout Public Library Board of Trustees Meeting Minutes of March 23, 2023**

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Lacy Board Room at 4:00 p.m. on Thursday, March 23, 2023.

Present: President Pam Mullin, Vice President Greg Gorton (exited at 4:48 p.m.), Secretary Andrew Bland, Trustee Robert Armstrong, Trustee A. Alanda Gregory, Trustee Victor Lieberman (arrived at 4:05 p.m.), Trustee Christy Monk, and Administrative Assistant Denette Kellogg.

Electronically Present: Library Director Nick Rossman

1. President Mullin called the meeting to order at 4:01 p.m.

*"Moved to adopt the meeting agenda of March 23, 2023."*

Motion: Bland  
Second: Gorton  
Vote: Aye – 6; Nay – 0

2. Approval of Board of Trustees Meeting Minutes of February 23, 2023.

*"Moved to approve the Board Meeting Minutes of February 23, 2023."*

Motion: Bland  
Second: Monk  
Vote: Aye – 6; Nay – 0

3. Board President's Report:

- The Board reviewed the Communication with the Dubuque City Council for February 2023.

*"Moved to receive and file the Communication with the Dubuque City Council from February 2023."*

Motion: Monk  
Second: Gorton  
Vote: Aye – 6; Nay – 0

4. Motion to Receive and File Informational Items:

### A. Library Director's Report Summary and Update:

- 1) Library Financial Report Fiscal Year (FY) 2022 – Rossman reported that the

end of February marks 66% completion of the fiscal year. Expenditures expended are at 56% and revenue collected is at 65% of the projected budget.

- 2) Library Use – Rossman reported that there was a 10% increase in circulation over February 2022, a 15% increase in visitors, and a 4% increase in computer and Wi-Fi usage.

82 curbside visits in February.

Rossman reported 1,492 Hoopla downloads in February. There were 84 new users in February and 406 unique users total. Also included for review was the last three months usage comparison chart that includes cost per collection for review. (Hoopla is a web and mobile library media-streaming platform for audio books, comics, e-books, movies, music, and TV.)

- 3) Library Marketing Report – Rossman reported that in the month of February, genealogy database Heritage Quest was promoted. This resulted in a total of 218 uses in February 2023 up from an average of about 35 uses per month over the fiscal year to date. An increase of over 500%.
- 4) Library Programs, Partnerships, and Grants Report - Rossman provided the following report:

The Bridge to Reading award is a program, created by Youth Services Manager Danielle Day that was piloted in Dubuque and is now a statewide award run by the Youth Services division of the Iowa Library Association. The committee announced this year's top ten Storytime books. Twenty different local agencies will participate by reading all 10 books with approximately 2,000 Dubuque area preschool age students and having the students vote for a winner.

The library completed its budget presentation with City Council on February 27. Rossman thanked everyone that helped with the presentation and those who attended either in person, or virtually. The final City Council approval is scheduled for 6:30 p.m. on Thursday, March 23.

In a continued partnership with the Dubuque Metropolitan Area Solid Waste Agency and Dittmer Recycling, the library will be participating in a community shredding opportunity. Secure shred bins will be delivered to the library and available on the first floor to the public all open hours from March 20 through April 3.

Several Library staff participated in the Read Across America campaign on March 2. Each staff spent approximately 30 minutes in kindergarten through second grade classrooms reading the book "All Are Welcome" by Alexandra Penfold, discussing the book and distributing a coloring sheet.

The Library partnered with the Dubuque Symphony Orchestra to assist with taking photographs after their March 4 *Carnival of Animals* Spring family concert. The Library's green screen was used to create a family photo opportunity including several animals to fit their theme.

The "Historic Tales of Old Dubuque" book discussion with John Pregler has been rescheduled for April 2, 2023.

Trustee Gregory joined the meeting at 4:12 p.m.

- 5) Memorandum of Understanding with Dubuque County Library – Rossman reviewed the Memorandum of Understanding that outlines the already in practice retrieval, holding, and return of library materials, and includes the sharing of patron data section. The sharing of patron data is a feature that could be implemented now that both institutions are using the same integrated library system, KOHA. When operational, the data transfer feature would make signing up new patrons that already have a card at the other institution easier. The Dubuque County Library District Board has already agreed and approved the memo.
- 6) Discussion of Library Hours – Rossman reported he is following up on gaining consensus from the Board on possibly changing Library hours. He provided recent history of library hours, total open hours for like libraries in Iowa, and statistical information of library gate counts and circulations. The Library is accredited by the State Library of Iowa and is an H size library, requiring a minimum to be open of 61 hours per week over the course of a year to maintain accreditation at a Tier 3 level. Random closings do not factor in.

The Board reviewed the information discussing scenarios of opening later and staying open later, changing hours, increasing hours all based on the need of service to the community. The Board reached a consensus to review this again at its April meeting.

The Board requested a Patron Library Hours survey be conducted with potential survey questions to be provided for the Boards review prior to implementing the survey. The Board also requested feedback on hours from staff that includes feedback on pros and cons for review. Monk suggested that any hours change take effect to not impact already scheduled Library programs and events.

Trustee Gorton exited the meeting at 4:48 p.m.

- 7) Review of Space Needs/Use Study Request for Proposal (RFP) Draft – Rossman reviewed the draft of the RFP Space Needs Study with the Board. The Board reviewed the information including whether to do a Space Use Study or a Space Needs Study with a focus on the collection and space needs, including workflow. Suggested was to include a low, medium and

high cost in the RFP and, to have a budget maximum for consideration. The Board agreed to refer this agenda item to the Operations Committee to develop a final RFP.

Rossman reported that the Strategic Plan, individual department work plan and goals would be provided at the April meeting.

- 8) Department Updates – Rossman provided highlights of the past month for Adult, Circulation, Information Technology and Youth Services.

B. Comment Cards – No comment cards received.

*“Moved to receive and file the informational update from the Library Director including the Library Expenditures, Revenue and Budget Financial Reports; and, Library Use Report, Library Programs, Partnerships, and Grants Report; Memorandum of Understanding with Dubuque County Library District, Library Department Updates, and Comment Cards.”*

*Motion: Gorton  
Second: Lieberman  
Vote: Aye – 6; Nay – 0*

5. Action Items:

- A. Library Expenditures FY-23: February, Period 8 – The Board reviewed the detailed expenditures reports for period seven, February 2023. The revised Gift Trusts report for January and February 2023 have been delayed from the City Finance Department.

*“Moved to approve the Library expenditures for FY-23 February, period eight.”*

*Motion: Monk  
Second: Bland  
Vote: Aye – 6; Nay – 0*

- B. Develop Space Needs and/or Space Use Study Request for Proposal (RFP): The Board agreed that the Operations Committee final draft of the study be brought to the Board for review.

*“Moved to refer the Develop Space Needs and/or Space Use Study RFP to the Operations Committee for further study.”*

*Motion: Lieberman  
Second: Gregory  
Vote: Aye – 6; Nay – 0*

C. Memorandum of Understanding with Dubuque County Library District:

*"Moved to approve the Memorandum of Understanding with the Dubuque County Library District as reviewed."*

Motion: Monk  
Second: Gregory  
Vote: Aye – 6; Nay – 0

6. Library Board Adjournment – The Board adjourned at 5:20 p.m.

*"Motion to adjourn."*

Motion: Gorton  
Second: Gregory  
Vote: Aye – 6; Nay – 0

  
\_\_\_\_\_  
Andrew Bland, MD, Board Secretary

  
\_\_\_\_\_  
Date

**Carnegie-Stout Public Library  
Board of Trustees  
Meeting Minutes of April 27, 2023**

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Lacy Board Room at 4:00 p.m. on Thursday, April 27, 2023.

Present: President Pam Mullin, Vice President Greg Gorton, Secretary Andrew Bland, Trustee Robert Armstrong, Trustee, Library Director Nick Rossman, and Administrative Assistant Denette Kellogg.

Electronically Present: Trustee Christy Monk

Excused: Vice President Greg Gorton, Trustee A. Alanda Gregory, Trustee Victor Lieberman

1. President Mullin called the meeting to order at 4:02 p.m.

*"Moved to adopt the meeting agenda of April 27, 2023."*

*Motion: Armstrong  
Second: Bland  
Vote: Aye – 4; Nay – 0*

2. Approval of Board of Trustees Meeting Minutes of March 23, 2023.

*"Moved to approve the Board Meeting Minutes of March 23, 2023."*

*Motion: Armstrong  
Second: Bland  
Vote: Aye – 6; Nay – 0*

3. Board President's Report:

- The Board reviewed the Communication with the Dubuque City Council for March 2023.

*"Moved to receive and file the Communication with the Dubuque City Council from March 2023."*

*Motion: Bland  
Second: Armstrong  
Vote: Aye – 4; Nay – 0*

4. Motion to Receive and File Informational Items:

- A. Library Director's Report Summary and Update:



- 1) Library Financial Report Fiscal Year (FY) 2023 – Rossman reported that the end of March marks 75% completion of the fiscal year. Expenditures spent are at 69% and revenue is 76% collected of projected budget.
- 2) Library Use – Rossman reported there was a 10% increase in circulation over March 2022, a 17% increase in visitors and a 4% increase in computer and Wi-Fi usage.

104 curbside visits March.

Rossman reported there were 95 new users in March and 429 unique users total. Also included for review was the last three months usage comparison chart that includes cost per collection for review. (Hoopla is a web and mobile library media-streaming platform for audio books, comics, e-books, movies, music, and TV.)

- 3) Library Marketing Report – Rossman reported that in the month of March, language learning database Transparent Language was promoted. There was 139 uses in March 2023, up from an average of about 33 uses per month over the fiscal year to date. Reflecting an increase of over 400%.

Included in the packet is a summary of Dubuque Telegraph Herald Newspaper unsolicited articles mentioning the Library for the first quarter of 2023.

- 4) Library Programs, Partnerships, and Grants Report - Rossman provided the following report:

The Library participated in the Dubuque Metropolitan Area Solid Waste Agency's free shredding program. The free service was popular and investigation is taking place on continuing the service at the Library throughout the year.

The popular April and May Art @ your library® opening reception featuring Photographer Bob Felderman and Woodworker John Freitag was well attended with approximately 200 people.

Library Director Nick Rossman and Board of Trustees representative Victor Lieberman met with representatives of the 28E agreement group. This group, which is comprised of Carnegie-Stout, the Dubuque County Library District, the James Kennedy Public Library in Dyersville and the Cascade Public Library, establish a rate of service for Dubuque County incorporated cities that do not have their own public library to provide library service to their residents.

Library Director Nick Rossman presented a City Council Work Session on April 3, 2023 sharing information about the Library's new strategic plan.

Library Staff met with a leadership group at the NICC Dubuque Center Adult Literacy Program to discuss ways in which the Library and NICC could collaborate on services to reach more adult learners. Staff also met with IowaWORKS for Dubuque County to discuss ways to share resources and work together to help bridge digital literacy skills in the community.

Library Director Nick Rossman attended a State of Iowa Digital Services Townhall to gain a better understanding of the needs of Iowa residents for access to high-speed internet, digital literacy skills, affordability of internet access and internet capable devices.

The Changing Lives Through Literature program, a program that engages probationers in an activity that has been shown to reduce recidivism, has a new group of students that will be working with the Juvenile Court System and retired Library Director, Susan Henricks over a five-week span in April and May.

The Library is again participating in the Dubuque Days of Caring event set for April 28. Employees from John Deere Dubuque Works Fresh will spread new mulch in the landscaping areas outside of the Library.

- 5) Library Board of Trustees City Council Goals Setting Discussion – The Board reviewed the goal and priorities submitted to the Dubuque City Council last year, and developed a list of seven successes for 2022-2023. The request includes a list of issues or projects that the Board would like the City to address in 2023-2024. The Board developed a list of five issues or projects for the City Council to address. Two that were high priority were to consider equitable parking solutions near the Library for users and to continue working on safety initiatives for downtown Dubuque.
- 6) Discussion of Library Hours – The Board reviewed the list of possible questions for an e-mail survey for patrons about Library hours. Rossman provided the results of the staff survey regarding open hours that favored the current hours. Rossman reported that adding three to four more open hours for the public could be viable within the current budget. For the patron survey, the Board suggested getting public input in addition to the staff input.
- 7) Strategic Plan Update - Rossman reviewed the annual staff work plan, which serves as a guide for staff to reach the Strategic Plan goals and accomplishments.
- 8) Personnel Manual Addendum - Rossman reported that the City of Dubuque approved and updated the Employee Handbook to increase maximum vacation accrual hours from 240 to 340 hours for full-time employees. The City's handbook does not address vacation accrual for part-time staff. The addendum to the Library's Personnel Manual would increase the maximum accrual for benefit-eligible library staff, including part-time staff that receive

paid time off benefits based on the set numbers of work per week. Library staff that receive paid-time off benefits are what the City of Dubuque considers General Employees at the GE-25 or above classification. An addendum will provide consistency with vacation leave maximums in line with the City's Employee Handbook.

Monk exited the meeting at 4:27 p.m. per recommendation from the City Legal Department as a conflict of interest could arise if Monk's architectural firm should bid on the project. Bland objected to Monk's not participating in the Space Needs Request for Proposal discussion since this is an open meeting and any member of the public could attend.

- 9) Space Needs Request for Proposal (RFP) – Rossman reviewed the final draft of the space needs RFP with the Board.

Monk re-entered the meeting at 4:29 p.m.

- 10) Department Updates – Rossman provided highlights of the past month for Adult, Circulation, Information Technology and Youth Services.

B. Comment Cards – The Board reviewed two comments cards.

*“Moved to receive and file the informational update from the Library Director including the Library Expenditures, Revenue and Budget Financial Reports; and, Library Use Report, Marketing Report, Library Programs, Partnerships, and Grants Report; Library Board of Trustees City Council Goals Setting Discussion, Discussion of Library Hours, Strategic Plan Update, Personnel Manual Addendum Update, Space Needs Request for Proposal, Library Department Updates, and Comment Cards.”*

Motion: Armstrong  
Second: Bland  
Vote: Aye – 4; Nay – 0

Trustee Lieberman entered the meeting at 4:31 p.m.

5. Action Items:

- A. Library Expenditures FY-23: March, Period 9 – The Board reviewed the detailed expenditures reports for period nine, March 2023 including the Gift Trusts expenditure report for February and March 2023.

*“Moved to approve the Library expenditures for FY-23 March, period nine, and period eight and nine Gift Trusts expenditures for February and March, FY-23.”*

Motion: Bland

Second: Armstrong  
Vote: Aye – 5; Nay – 0

- B. Addendum to the Library Personnel Manual – The Board reviewed the City of Dubuque's Employee Handbook change to increase maximum vacation accrual hours from 240 to 340 hours for full-time employees. The proposed addendum to the Library's Personnel Manual that would increase the maximum accrual for benefit-eligible library staff, including part-time staff that receive paid time off benefits based on the set numbers of work per week. The Board agreed that the addendum would provide consistency with vacation leave maximums in line with the City's Employee Handbook.

*"Moved to adopt addendum to the Library's Personnel Manual to reflect changes to the City of Dubuque Personnel Handbook which changes the maximum vacation accrual from 6 weeks to 8.5 weeks, or 240 hours to 340 hours for full-time employees and pro-rated maximum of 8.5 weeks' vacation accrual for benefit-eligible staff based on hours worked per week."*

Motion: Armstrong  
Second: Bland  
Vote: Aye – 5; Nay – 0

6. Library Board Adjournment – The Board adjourned at 4:34 p.m.

*"Motion to adjourn."*

Motion: Armstrong  
Second: Bland  
Vote: Aye – 5; Nay – 0

  
\_\_\_\_\_  
Andrew Bland, MD, Board Secretary

5/25/23  
\_\_\_\_\_  
Date

# Carnegie-Stout Public Library Board of Trustees Meeting Minutes of May 25, 2023

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Lacy Board Room at 4:00 p.m. on Thursday, May 25, 2023.

Present: President Pam Mullin, Secretary Andrew Bland, Trustee Robert Armstrong, Trustee A. Alanda Gregory, Trustee Victor Lieberman, Trustee Christy Monk (entered 4:11 p.m.), Library Director Nick Rossman, and Administrative Assistant Denette Kellogg.

Absent: Trustee Gregory Gordon

Public Present: Rob Schmidt, Total Maintenance, Inc. (TMI), 1017 State Street, Bettendorf, Iowa

1. President Mullin called the meeting to order at 4:03 p.m.

*"Moved to adopt the meeting agenda of May 25, 2023."*

Motion: Lieberman

Second: Bland

Vote: Aye – 5; Nay – 0

2. Bid Opening for Library Heating, Ventilation and Cooling (HVAC) Request for Bid Total Maintenance Agreement – The Library Board opened the sealed bids for the Library's HVAC three year maintenance agreement bid process. The following bids were opened and the following provided:

Geisler Brothers Company, 1500 Radford Road,  
Dubuque, Iowa bid received May 23, 2023 at 11:43 a.m.

4 visits per year	
Year	Bid Amount
July 1, 2023 to June 30, 2024	\$10,080
July 1, 2024 to June 30, 2025	\$10,752
July 1, 2025 to June 30, 2026	\$11,200

Total Maintenance, Inc., 1017 State Street,  
Bettendorf, Iowa bid received May 25, 2023 at 11:04 a.m.

Primary Bid- 6 visits per year		Alternate Option 4 visits per year	
Year	Bid Amount	Year	Bid Amount
July 1, 2023 to June 30, 2024	\$21,384	July 1, 2023 to June 30, 2024	\$18,936

July 1, 2024 to June 30, 2025	\$22,344	July 1, 2024 to June 30, 2025	\$19,788
July 1, 2025 to June 30, 2026	\$23,232	July 1, 2025 to June 30, 2026	\$20,580

Rossman reported the next steps in this process is to send the bids to City Legal for review, and have the Board Operations Committee meet to review the bids and make a recommendation to award the bid to the Board at its June 2023 meeting.

President Mullin asked the public present if they that would like to provide comment on this agenda item. The Board recognized Rob Schmidt from TMI. Schmidt introduced himself and expressed gratitude in serving the Library's HVAC in past years and the opportunity to provide a bid for this project. Schmidt reported its bid as noted, covers emergency service calls parts and labor. Schmidt also stated that TMI has proven its ongoing dedication to quality service, emergency response, and competitive pricing since having the contract in previous years.

*"Moved to receive and file the bids for the Library heating, ventilation and cooling (HVAC) request for bid total maintenance agreements; and public comments received."*

*Motion: Armstrong  
Second: Bland  
Vote: Aye – 6; Nay – 0*

### 3. Approval of Board of Trustees Meeting Minutes of April 27, 2023.

*"Moved to approve the Board Meeting Minutes of April 27, 2023."*

*Motion: Bland  
Second: Lieberman  
Vote: Aye – 6; Nay – 0*

### 4. Board President's Report:

- The Board reviewed the Communication with the Dubuque City Council for April 2023.

*"Moved to receive and file the Communication with the Dubuque City Council from April 2023."*

*Motion: Bland  
Second: Lieberman  
Vote: Aye – 6; Nay – 0*

5. Motion to Receive and File Informational Items:

A. Library Director's Report Summary and Update:

- 1) Library Financial Report Fiscal Year (FY) 2023 – Rossman reported that the end of April marks 83% completion of the fiscal year. Expenditures are spent at 76% and revenue is 76% collected of projected budget.
- 2) Library Use – Rossman reported there was a four percent increase in circulation over April 2022, a 19% increase in visitors and an eight percent increase in computer and Wi-Fi usage.

91 curbside visits April.

Rossman reported there were 1,705 Hoopla downloads in April. There were 79 new users and 443 unique users downloading materials in April. Also included for review was the last three months usage comparison chart that includes cost per collection for review. (Hoopla is a web and mobile library media-streaming platform for audio books, comics, e-books, movies, music, and TV.)

Bland encouraged exploration into the artificial intelligence (AI) opportunities such as ChatGPT or AI generated art to grow library services. Rossman reported that he continues to research AI, and what other libraries are planning including the City of Dubuque.

- 3) Library Marketing Report – Rossman reported that in the month of April, investment database Morningstar was promoted. There were total of 100 uses in April 2023 up from an average of about 24 uses per month over the fiscal year to date. An increase of over 300%.

The Board reviewed a Library informational and marketing flyer that City utility billing customers received in their utility bills. Each City department can pay for this opportunity once each year.

- 4) Library Programs, Partnerships, and Grants Report - Rossman provided the following report:

Art @ your Library for June/July will feature local artists Brad Fautsch, an art educator whose works with mixed media including sculptures and ink drawings. Tom Kedzie uses his cell phone to capture images and customizes them various photo editors. The opening reception is scheduled for Friday, June 2 after hours with music provided by the Northeast Iowa School of Music.

Author Varian Johnson performed at Washington and Jefferson Middle School's as well as an evening performance at the Library on April 25.

The results from the Library Storytime options survey for patrons included feedback noting the social/emotional growth in their children, and the energy, patience, and joy exhibited by the youth staff at storytimes provided.

The Library's Volunteer Appreciation Breakfast is scheduled for Tuesday, June 27 at Convivium Urban Farmstead.

A traveling exhibit from the African American Museum of Iowa (AAMI) is scheduled for display June 1 through June 15 on the second floor of the library.

Summer Reading Program launches Monday, June 5. This year's theme for youth and teens is "Find Your Voice". The theme for adults is a variation of the popular board game Monopoly titled "Bookopoly".

The Dubuque County Reads program concluded with more than 60 participants attended in-person discussions at various locations in the County. Planning has begun for Dubuque County Reads 2024. Libraries included are Carnegie-Stout Public Library, Dubuque County, Dyersville, Clarke University, Loras College, University of Dubuque, and Divine Word Seminary in Epworth.

The Library is collaborating with Juvenile Court Services and Dubuque Community School District Summer School program this summer. Students will participate in Teen reading programs, as well Makerspace STEAM programs throughout June and July.

The Iowa Library Association Conference planning continues with an opening reception the evening of Wednesday, October 11, 2023 at the National Mississippi River Museum & Aquarium. The Library Board has approved Thursday, October 12 as the Library staff development day and when Library staff will participate in the conference.

- 5) Open Hours Update – Rossman reported a public survey on library hours was emailed to 7,000 cardholders that use the Library on a frequent or regular basis on Thursday, May 18. Over 300 responses were received to date. These cardholders are patrons that have requested the Library newsletter. The Board agreed that if the Library can have the survey link in the upcoming City Focus that the summary of the data be prepared for the August Board meeting, with reviewing Library hours at its September meeting.
- 6) HVAC Maintenance Bids Update – Rossman referred to the bid opening at this meeting, with the next steps of City Legal to review the bids and the Board Operations Committee to review and make a recommendation for bid award at its June 2023 Board meeting.



- 7) Space Needs Request for Proposal Report (RFP) – Rossman reported on while five companies showed interest submitting a proposal, two proposals were received. The Board Committee members Mullin, Gregory and Lieberman will review the proposals and make a vendor recommendation to the Board.
  - 8) Department Updates – Rossman provided highlights of the past month for Adult, Circulation, Information Technology and Youth Services.
- B. Comment Cards – The Board reviewed one comment card asking for more graphic novels and the Board concurred with the staff response to develop this collection. Three comments from patrons about various library programs and positive experiences with staff were also reviewed.

*“Moved to receive and file the informational update from the Library Director including the Library Expenditures, Revenue and Budget Financial Reports; and, Library Use Report, Marketing Report, Library Programs, Partnerships, and Grants Report; Library Open Hours Update, HVAC Maintenance Bids Update, Space Needs Request for Proposal Report, Library Department Updates, and Comment Cards.”*

*Motion: Bland  
Second: Armstrong  
Vote: Aye – 6; Nay – 0*

6. Library Board Relations Committee Report – Mullin reported that the Director’s Evaluation that included all Board members was completed and provided to the Board.

*“Moved to receive and file the Relations Committee Report.”*

*Motion: Monk  
Second: Lieberman  
Vote: Aye – 6; Nay – 0*

## 7. Action Items:

- A. Library Expenditures FY-23: April, Period 10 – The Board reviewed the detailed expenditures reports for period ten, April 2023. The monthly Gift Trusts financial report has been delayed from the City Finance Department.

*“Moved to approve the Library expenditures for FY-23 April, period ten.”*

*Motion: Monk  
Second: Armstrong  
Vote: Aye – 6; Nay – 0*

8. Library Board Adjournment – The Board adjourned at 4:48 p.m.

*"Motion to adjourn."*

Motion: Lieberman

Second: Armstrong

Vote: Aye – 6; Nay – 0

A handwritten signature in blue ink that reads "Andrew Bland". The signature is written in a cursive, flowing style.A handwritten date in blue ink that reads "6/22/23". The date is written in a simple, clear style.

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**Andrew Bland, MD, Board Secretary**

**Date**

**Carnegie-Stout Public Library  
Board of Trustees  
Meeting Minutes of June 22, 2023**

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Lacy Board Room at 4:00 p.m. on Thursday, June 22, 2023.

Present: President Pam Mullin, Vice President Greg Gorton, Secretary Andrew Bland, Trustee Robert Armstrong, Trustee A. Alanda Gregory (virtual), Trustee Victor Lieberman, Trustee Christy Monk (entered 4:11 pm), Library Director Nick Rossman, and Administrative Assistant Denette Kellogg.

Absent:

Public Present: None

1. President Mullin called the meeting to order at 4:04 p.m.

*"Moved to adopt the meeting agenda of June 22, 2023."*

Motion:       Bland  
Second:       Gorton  
Vote:           Aye – 6; Nay – 0

2. Approval of Board of Trustees Meeting Minutes of May 25, 2023.

*"Moved to approve the Board Meeting Minutes of May 25, 2023."*

Motion:       Lieberman  
Second:       Gorton  
Vote:           Aye – 6; Nay – 0

3. Board President's Report:

- The Board reviewed the Communication with the Dubuque City Council for May 2023.

*"Moved to receive and file the Communication with the Dubuque City Council from June"*

Motion:       Gorton  
Second:       Lieberman  
Vote:           Aye – 6; Nay – 0

4. Motion to Receive and File Informational Items:

- A. Library Director's Report Summary and Update:

- 1) Library Financial Report Fiscal Year (FY) 2023 – Rossman reported that he end of May marks 91% completion of the fiscal year. Some financial reports were unavailable in the City's financial system, but expenditures are estimated to be spent at 90% and revenue is 82% collected of projected budget.
- 2) Library Use – Rossman reported Circulation numbers for May were nearly identical compared to May 2022, however the library did see a 6% increase in visitors and an 27% increase in computer and Wi-Fi usage.

78 curbside visits May.

Rossman reported there were 1,832 Hoopla downloads in May. There were 79 new users and 464 unique users downloading materials in May. Also included for review was the last three months usage comparison chart that includes cost per collection for review. (Hoopla is a web and mobile library media-streaming platform for audio books, comics, e-books, movies, music, and TV.)

- 3) Library Marketing Report – Rossman reported that in the month of May, digital magazine service Flipster was promoted. We had a total of 404 uses in May 2023 up from an average of about 296 uses per month over the calendar year to date. An increase of 36%.
- 4) Library Programs, Partnerships, and Grants Report - Rossman provided the following report:

The inaugural year of the Bookwork Builders program was a success. A final report submitted to the Community Foundation of Greater Dubuque, which supplied a \$5,000 grant to support the program, informed that over 200 children registered for the program. 85 story times were provided to underserved children and over 1000 books were provided to help new "bookworms" build a collection of books for their home. This program partnered with the AmeriCorps program.

Youth and Teen Summer Reading Programs are off to a great start. In the first week, over 900 youth and over 150 teens have signed up.

The Art @ your Library opening reception for June/July was well received. Over 200 attendees enjoyed the event and fourteen pieces were sold at the opening.

Library Director Nick Rossman teamed up with Sherrie Keating, Member Outreach Representative from DuTrac to deliver Summer Reading Programs to local organizations that provided funding and/or prizes for the Summer Reading Program. One picture from Jersey Mike's is included with your packet, as a preview to eventual social media posts!

June and July Preschool Story Times will see some special guests make appearances:

- June 21: Spider-Man
- June 28: Dubuque Fire Chief, Amy Scheller
- July 5: Dubuque Police Chief, Jeremy Jensen
- July 12: Elsa and Anna from Frozen

The American Library Association is in Chicago from June 24 – 26. Staff members Nick Rossman, Haidee C., and Bailey K. will be riding a bus, provided by the Dubuque Area Library Information Consortium, to attend the conference on Saturday, June 24. The trip will leave and return the same day.

A traveling exhibit from the African American Museum of Iowa was delayed, but arrived on June 20. The museum is under renovations and several exhibits are out to libraries and other institutions throughout Iowa. Several others are in storage. The exhibit we were supposed to receive was in a storage unit, and took longer than anticipated to retrieve. A press release was sent out with details and dates for the exhibits stay.

One final reminder about the Volunteer Appreciation Breakfast will be held on Tuesday, June 27 at 9:30 am at Convivium Urban Farmstead.

*[Monk entered meeting 4:11 pm]*

- 5) Deaccessioning of Materials – Bill Butts, proprietor of Main Street Fine Books & Manuscripts of Galena, IL approached the library regarding some books from our collection. Mr. Butts put aside a collection of items he was interested in purchasing. Following precedence set from a similar inquiry in 2003, the library is interested in allowing Mr. Butts to purchase some of the items. None of the items are considered rare enough that they would have significant value and some items with local historical value will remain with the library. Issues of amount of storage space, as well as adequate conditions to store older items is also a considering factor for how many items the library can realistically keep in its collection.
- 6) Request to Open Late on Thursday, August 3, 2023 – Rossman requested the Board of Trustees to approve opening at 10 am on Thursday, August 3, so the staff could attend an emergency training led by the Dubuque Police Department.
- 7) Open Hours Update – Rossman reported that the link to the current survey was included in the June/July issue of City Focus, so the survey would remain open until the middle of July, with results hopefully ready for the July Board meeting.

- 8) HVAC Maintenance Bids Update – Operations Subcommittee has recommended award of three-year contract for HVAC maintenance to Total Maintenance, Inc. (TMI). Trustee Monk reported that TMI was the only responsive bidder who properly followed the instructions on request for bid and provided total care package as requested. Rossman reported that City legal vetted both proposals and that Geisler Bros. bid was non-responsive.
  - 9) Space Needs Request for Proposal Report (RFP) – Rossman reported that the Board Committee members Mullin, Gregory and Lieberman have reviewed both proposals submitted. The subcommittee has recommended FEH Design as the vendor to be selected by the Board of Trustees for the Space Needs Assessment. Rossman noted that the FEH Design proposal was approximately half the cost versus the Engberg-Anderson proposal. President Mullin commented that another factor included FEH Design's commitment to preserving the Historic nature of the Carnegie-Stout Public Library and Trustee Lieberman noted that Engberg-Anderson had a large collection of consultants, which seemed to add to the cost of the project, which perhaps put them too far outside of a considerable projected cost.
  - 10) Department Updates – Rossman provided highlights of the past month for Adult, Circulation, Information Technology and Youth Services.
- B. Comment Cards – The Board reviewed a picture from an outing celebrating local businesses that provided prizes for the summer reading program and a thank you from staff at Divine Word for a program and training the library provided to Divine Word students.

*“Moved to receive and file the informational update from the Library Director including the Library Expenditures, Revenue and Budget Financial Reports; and, Library Use Report, Marketing Report, Library Programs, Partnerships, and Grants Report; Library Open Hours Update, HVAC Maintenance Bids Update, Space Needs Request for Proposal Report, Library Department Updates, and Comment Cards.”*

Motion: Armstrong  
Second: Lieberman  
Vote: Aye – 7; Nay – 0

*[Bland exited 4:38 pm]*

5. Action Items:

- A. Library Expenditures FY-23: May, Period 11 – The Board reviewed the detailed expenditures reports for period eleven, May 2023. The monthly Gift Trusts financial report has been delayed from the City Finance Department.

*"Moved to approve the Library expenditures for FY-23 May, period eleven."*

Motion: Gorton  
Second: Monk  
Vote: Aye – 6; Nay – 0

*[Bland entered meeting 4:40 pm]*

B. Late Opening Request Thursday, August 3 for Staff Development

*"Moved to approve opening the Library at 10 am on Thursday, August 3 to accommodate staff training. expenditures for FY-23 May, period eleven."*

Motion: Monk  
Second: Gorton  
Vote: Aye – 7; Nay – 0

C. Library Space Needs Assessment Approval of Contract—Recommendation by Space Needs Committee

*"Moved to approve contract with FEH Design up to \$40,300 to complete a Space Needs Assessment with funds from Enrich Iowa and the General Gift fund"*

*Monk recused out of conflict of interest.*

Motion: Lieberman  
Second: Gorton  
Vote: Aye – 6; Nay – 0; Abstain -- 1

D. Heating, Ventilation, and Air Conditioning Total Maintenance Contract Award—Recommendation by Operations Committee

*"Moved to approve a contract with Total Maintenance, Inc. for a three-year HVAC maintenance contract for a cost of \$18,936 in Year 1, \$19,788 in Year 2, and \$20,580 in Year 3."*

Motion: Gorton  
Second: Monk  
Vote: Aye – 7; Nay – 0

6. Library Board Adjournment – The Board adjourned at 4:44 p.m.

*"Motion to adjourn."*

*Motion: Bland*

*Second: Lieberman*

*Vote: Aye – 7; Nay – 0*



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*Andrew Bland, MD, Board Secretary*

*9/28/23*

*Date*



**Carnegie-Stout Public Library  
Board of Trustees  
Meeting Minutes of July 27, 2023**

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Lacy Board Room at 4:00 p.m. on Thursday, July 27, 2023.

Present: President Pam Mullin, Secretary Andrew Bland, Trustee Robert Armstrong, Trustee A. Alanda Gregory, Trustee Victor Lieberman, Trustee Christy Monk, and Library Director Nick Rossman.

Absent: Vice-President Greg Gorton

Public Present: None

1. President Mullin called the meeting to order at 4:05 p.m.

*"Moved to adopt amended meeting agenda of July 22, 2023 by striking item six(6), Library Board Relations Committee Report."*

Motion:       Armstrong  
Second:       Lieberman  
Vote:           Aye – 6; Nay – 0

2. Approval of Board of Trustees Meeting Minutes of June 22, 2023.

*"Moved to approve the Board Meeting Minutes of June 22, 2023."*

Motion:       Lieberman  
Second:       Gregory  
Vote:           Aye – 6; Nay – 0

3. Board President's Report:

- A. The Board reviewed the Communication with the Dubuque City Council for June 2023.

*"Moved to receive and file the Communication with the Dubuque City Council from June"*

Motion:       Monk  
Second:       Armstrong  
Vote:           Aye – 6; Nay – 0

- B. Election of Board Officers: Mullin reviewed Board Officer Roles of President, Vice President, and Secretary as set forth in the Board of Trustees By-Laws that provides information about officers and the annual meeting elections held each year.

1) Mullin asked for nominations for Board President.

*"Moved to nominate Victor Lieberman for Board President."*

*Motion: Mullin*

*Second: Monk*

*Vote: Aye – 6; Nay – 0*

2) Mullin asked for nominations for Board Vice President.

*"Moved to nominate Alanda Gregory for Board Vice President."*

*Motion: Mullin*

*Second: Monk*

*Vote: Aye – 6; Nay – 0*

3) Mullin asked for nominations for Board Secretary.

*"Moved to nominate Andrew Bland for Board Secretary."*

*Motion: Mullin*

*Second: Armstrong*

*Vote: Aye – 6; Nay – 0*

C. Oath of Office Victor Lieberman and Pam Mullin – Lieberman and Mullin administered both the Oath of Office for a four-year period through July 1, 2027 as appointed by Dubuque Mayor and approved by the Dubuque City Council for both Lieberman and Mullin.

D. Library Board Committee Appointments – Newley elected President Lieberman reviewed the various committee appointments. The President is a standing member of each committee. Lieberman made the following appointments:

1) Relations Committee – Trustees Armstrong and Gregory

2) Operations Committee – Trustees Monk and Mullin

3) Planning Committee – Trustees Bland and Gorton

4) 28E Agency – President Victor Lieberman

5) Art Subcommittee – Trustee Armstrong

6) Library Foundation Board – President Lieberman, Trustees Gregory and Monk

*"Moved to receive and file the Communication with the Dubuque City Council from June 2022, Oath of Office for Bland and Gregory, and Library Board Committee Appointments."*

*Motion: Bland*

*Second: Mullin*

*Vote: Aye – 6; Nay – 0*

#### 4. Motion to Receive and File Informational Items:

##### A. Library Director's Report Summary and Update:

- 1) Library Financial Report Fiscal Year (FY) 2023 – Rossman reported that the end of June marks the completion of the fiscal year. Some final payments are not reflected yet in the City's financial system, but expenditures are estimated to be spent at 98% and revenue is 89% collected of projected budget.
- 2) Library Use – Rossman reported Circulation numbers for June were up 4% over June 2022, as well as a 3% increase in visitors and 29% increase in computer and Wi-Fi usage.

70 curbside visits June. The warmer months have seen a little bit of down trend in curbside usage.

Rossman reported there were 1,842 Hoopla downloads in June. There were 81 new users and 490 unique users downloading materials in June. Also included for review was the last three months usage comparison chart that includes cost per collection for review. (Hoopla is a web and mobile library media-streaming platform for audio books, comics, e-books, movies, music, and TV.)

Rossman reported on a snapshot of percentage of overdue materials throughout the year. An average of approximately 31% of all items checked out as being 'overdue' remains consistent since the library stopped collecting fines for overdue materials. A large percentage of overdue items are returned after the 'first overdue notice' which is sent out after one-week overdue.

The Bike Library was mentioned by Trustee Mullin and Rossman reported that the Bike Library usage has been retooled a little to use for outreach, as opposed to attempting to circulate materials. Reasons for this included reducing the heavy load for the bike peddler and lack of circulations during bike visits.

- 3) Library Marketing Report – Rossman reported that in the month of June, our collection of outdoor games was promoted. We had a total of thirteen checkouts in June 2023 up from four checkouts in April and three in May.

The Board of Trustees reviewed a collection of mentions of the Carnegie-Stout Public Library in the Telegraph Herald during April through June, 2023.

- 4) Library Programs, Partnerships, and Grants Report - Rossman provided the following report:

The application requesting teleconferencing pods from the Dubuque Racing Association was not approved. Over 150 applications were received and just 50 were approved. Library staff will continue brainstorm ways to connect to the DRA's mission for their granting process. No update from the McDonough Grant application yet.

The August/September Art Show will feature the work of Merlan Marting and Peggy Jo Brekke. Marting is a wood carver/sculptor and his creations focus on wild life figures and walking sticks. Brekke is a watercolor painter and sketch artists who paints with a love for color, whimsy, and nature. Reception will take place on Friday, September 1 at 5:30 pm.

Very pleased with the turnout for the Volunteer Appreciation Breakfast. The library is fortunate to have such an excellent group of volunteers and we are grateful that we are able to celebrate them with a lovely breakfast. Thanks to all our volunteers that help the library every day. A special thanks to Deb S. for planning the event, Denette K. for helping with logistics, and all other staff that helped make the morning fun.

The Iowa Library Association President, Sam Helmick led the American Library Association President, Emily Drabinski on a two-day tour of Iowa Libraries in early July. Library Director, Nick Rossman was able to provide a tour of the Carnegie-Stout Public Library and show off the Fenelon Place Elevator as well.

Library staff had a table during the Pride Block Party at the Multicultural Family Center. Hundreds of pronoun and Dubuque Pride buttons were made and enjoyed by those that visited the library's booth.

The Library partnered with the Dubuque Community School District's Juvenile Court School Liaison, Julie Kelly, to bring summer STEM and programming experiences to Summer School students. Teen and Maker Space staff set up programming with students to get them out of the classroom and get out into the community.

Staff reviewed and participated in a fire drill with staff from the Fire Department, as well as reviewed the severe weather plan.

The transaction with Mr. Butts has been completed. Next steps will be going through what we have left, then contacting Loras College, then identifying a core collection for the library to keep for display.

- 5) Space Needs Assessment – Rossman reported that a kick-off meeting was held introducing staff, some Trustees, and other stakeholders to the process planned and implemented by FEH Design. Several meetings will be held in August and September to help FEH Design gather information for potential options and a final report is projected be ready for the Board of Trustees in

October. Trustee Monk reported that a facility condition assessment as well as a space needs assessment will be completed concurrently by FEH Design. Space Needs Assessment will determine what size building is recommended based on collection size and library programming. The Facility Condition Assessment will include recommendations for urgent, required, and recommended upgrades to facility systems, as well as price points for consideration.

- 6) Open Hours – The Board of Trustees reviewed results from a survey that was emailed to library users and provided to City residents through the City Focus newsletter. 408 responses were received with overwhelmingly positive input. Trustee Bland commented that a lot of great feedback received about the staff, the collection, and enjoyment of no overdue fines. General discussion was held regarding some of the comments. Monk and Bland shared based on the comments that a lack of urgency in needing to amend the current library hours.
- 7) Patron Point – Rossman reported that the library has contracted with Patron Point to better communicate with our patrons. Patron Point is a marketing and communication software that will help us send out better circulation notices, marketing newsletters, and other fun campaigns to better digitally communicate with library users.
- 8) Department Updates – Rossman provided highlights of the past month for Adult, Circulation, Information Technology and Youth Services.

B. Comment Cards – None

*“Moved to receive and file the informational update from the Library Director including the Library Expenditures, Revenue and Budget Financial Reports; and, Library Use Report, Marketing Report, Library Programs, Partnerships, and Grants Report; Library Open Hours Update, HVAC Maintenance Bids Update, Space Needs Request for Proposal Report, Library Department Updates, and Comment Cards.”*

Motion: Mullin  
Second: Bland  
Vote: Aye – 6; Nay – 0

5. Action Items:

- A. Library Expenditures FY-23: June, Period 12 – The Board reviewed the detailed expenditures reports for period eleven, June 2023. The monthly Gift Trusts financial report has been delayed from the City Finance Department.

*“Moved to approve the Library expenditures for FY-23 June, period twelve.”*

*Motion:* Monk  
*Second:* Bland  
*Vote:* Aye – 6; Nay – 0

6. Library Board Adjournment – The Board adjourned at 5:09 p.m.

*"Motion to adjourn."*

*Motion:* Monk  
*Second:* Gregory  
*Vote:* Aye – 6; Nay – 0

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 9/28/23  
**Andrew Bland, MD, Board Secretary** **Date**

**Carnegie-Stout Public Library  
Board of Trustees  
Informational Session Minutes of August 23, 2023**

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Aigler Auditorium at 6:00 p.m. on Wednesday, August 23, 2023.

Present: President Victor Lieberman, Vice President Alanda Gregory, Trustee Pam Mullin, Trustee Christy Monk, and Library Director Nick Rossman

Excused: Secretary Andrew Bland, Trustee Greg Gorton, Trustee Robert Armstrong

Consultants Present: Kevin Eipperle, Andrew McCready and Ema Kuhlmann, FEH Design, Dubuque, Iowa.

1. President Lieberman called the meeting to order at 6:07 p.m.

*"Moved to open the meeting of August 23, 2023."*

*Motion: Mullin  
Second: Gregory  
Vote: Aye – 4; Nay – 0*

2. Space Needs Assessment presentation made by Kevin Eipperle and Christy Monk of FEH Design.

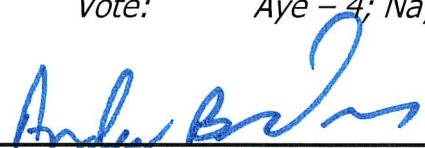
*"Moved to receive and file the facilitation by FEH Design."*

*Motion: Gregory  
Second: Mullin  
Vote: Aye – 4; Nay – 0*

3. Library Board Adjournment – The Board adjourned at 7:35 p.m.

*"Motion to adjourn."*

*Motion: Monk  
Second: Gregory  
Vote: Aye – 4; Nay – 0*

  
**Andrew Bland, MD, Board Secretary**

*10/26/23*  
**Date**

**Carnegie-Stout Public Library  
Board of Trustees  
Meeting Minutes of August 24, 2023**

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Lacy Board Room at 4:00 p.m. on Thursday, August 24, 2023.

Present: President Victor Lieberman, Vice-President Alanda Gregory (virtual), Trustee Robert Armstrong, Trustee Christy Monk, Trustee Pam Mullin, and Library Director Nick Rossman.

Absent: Secretary Andy Bland, Trustee Greg Gorton

Public Present: None

1. President Liberman called the meeting to order at 4:02 p.m.

*"Moved to adopt meeting agenda of August 24, 2023."*

Motion: Mullin  
Second: Armstrong  
Vote: Aye – 5; Nay – 0

2. Approval of Board of Trustees Meeting Minutes of July 27, 2023.

*"Moved to approve the Board Meeting Minutes of July 27, 2023."*

Motion: Monk  
Second: Mullin  
Vote: Aye – 5; Nay – 0

3. Board President's Report:

- A. The Board reviewed the Communication with the Dubuque City Council for July 2023.

*"Moved to receive and file the Communication with the Dubuque City Council from July"*

Motion: Armstrong  
Second: Monk  
Vote: Aye – 5; Nay – 0

4. Motion to Receive and File Informational Items:

- A. Library Director's Report Summary and Update:



- 1) Library Financial Report Fiscal Year (FY) 2023 – Rossman reported that the end of July kicks off Fiscal Year 2024. You will see approximately a 5% increase over Fiscal Year 2023 total budget sitting at just over \$4.2 million dollars. After the first month or 8% of the fiscal year, we have spent 6% of our available budget. Revenue is at 5% collected of budgeted funds.

Trustee Monk asked about how the increase was dispersed. Director Rossman explained that most of the increase would be attributed to rise in utility costs and cost of living salary increase for staff.

- 2) Library Use – Rossman reported Circulation numbers for July were up 5% over July 2022, as well as a 40% increase in visitors and 85% increase in computer and Wi-Fi usage. New Meraki networking devices may be responsible for such a large leap in Wi-Fi usage.

85 curbside visits July.

Rossman reported there were 2,069 Hoopla downloads in July. Also included for review was the last three months usage comparison chart that includes cost per collection for review. (Hoopla is a web and mobile library media-streaming platform for audio books, comics, e-books, movies, music, and TV.)

- 3) Library Marketing Report – Rossman reported that in the month of July, digital materials service Hoopla was promoted. We had a total of 141 new users in July 2023 up from an average of 86 new users/month January – June. There were 2,069 checkouts through Hoopla in July compared to an average of 1,654 over the previous six months.
- 4) Library Programs, Partnerships, and Grants Report - Rossman provided the following report:

The Carnegie-Stout Public Library Foundation received a check from the McDonough Foundation for \$2,000 to help fund a touch table for the youth department. The Foundation has agreed to help fund up to \$3,500 to complete the project.

A reminder that the August/September Art Show reception, featuring the work of Merlan Marting and Peggy Jo Brekke, will be on Friday, September 1 at 5:30 pm.

Youth/Teen Summer Reading Program registrations were up in 2023. Child registrations totaled 1,423 and Teen registrations totaled 260. Over 1,500 books were given to participants of the program, as well as participants in the partnership program with St. Mark Youth Enrichment. A heartwarming thank you to Dubuque Toys for Tots for providing some fantastic summer reading program prizes.

An active assailant drill was completed with library staff. Lieutenant Brendan Welsh from the Dubuque Police Department presented to library staff on Thursday, August 3.

A kick-off event was held for the Dubuque Shakespeare Project on August 13. Approximately 20 people attended to learn more about the project. The Library is partnering with Sunil Malapati, professor at Clarke University and Shakespeare enthusiast, to bring a series of discussions involving all of Shakespeare's plays over the next several years. The kick-off meeting was meant to engage other community members to consider ways that they may bring Shakespeare related activities to the community as well. A dedicated page has been established on the library's website to any community events other organizations may want to share to help the community see what is happening related to Shakespeare. Visit [Shakespeare.carnegioustout.org](http://Shakespeare.carnegioustout.org) for more information.

On July 17, Director Nick Rossman made a presentation to the Kiwanis Club of Dubuque, sharing new items in our collection, projects, and programming we have been working on shared about the upcoming Space Needs Assessment.

On August 9, Director Nick Rossman attended a reception hosted by the City of Dubuque, Dubuque County, and various local businesses welcoming staff from our federally elected representatives. This event takes place every year and is a nice opportunity to advocate for library services with local elected officials and other community stakeholders.

On Sunday, September 17 at 2 pm, Author Jon Milas will visit Carnegie-Stout and read from his new book "The Militia House", a gothic horror novel set in war-torn Afghanistan. Milas is a veteran of the United States Marines and holds both his BA and MFA in creative writing.

- 5) Space Needs Assessment – Rossman reported that there were approximately 40 people attend the first Advisory Task Force meeting. Several more meetings are scheduled through September and early October.
- 6) Department Updates – Rossman provided highlights of the past month for Adult, Circulation, Information Technology and Youth Services.

B. Comment Cards – None

*"Moved to receive and file the informational update from the Library Director including the Library Expenditures, Revenue and Budget Financial Reports; and, Library Use Report, Marketing Report, Library Programs, Partnerships, and Grants Report; Library Open Hours Update, HVAC Maintenance Bids Update, Space Needs Request for Proposal Report, Library Department Updates, and Comment Cards."*

*Motion:* Monk  
*Second:* Mullin  
*Vote:* Aye – 5; Nay – 0

5. Action Items:

- A. Library Expenditures FY-23: June, Period 12 – The Board reviewed the detailed expenditures reports for period eleven, June 2023. The monthly Gift Trusts financial report has been delayed from the City Finance Department.

*“Moved to approve the Library expenditures for FY-24 July, period one.”*

*Motion:* Mullin  
*Second:* Armstrong  
*Vote:* Aye – 5; Nay – 0

6. Library Board Adjournment – The Board adjourned at 4:39 p.m.

*“Motion to adjourn.”*

*Motion:* Armstrong  
*Second:* Mullin  
*Vote:* Aye – 5; Nay – 0

  
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**Andrew Bland, MD, Board Secretary**

  
\_\_\_\_\_  
**Date**

**Carnegie-Stout Public Library  
Board of Trustees  
Meeting Minutes of September 28, 2023**

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Lacy Board Room at 4:00 p.m. on Thursday, September 28, 2023.

Present: President Victor Lieberman, Vice-President Alanda Gregory, Secretary Andy Bland, Trustee Robert Armstrong, Trustee Christy Monk, Trustee Pam Mullin, and Library Director Nick Rossman.

Absent: Trustee Greg Gorton

Public Present: None

1. President Liberman called the meeting to order at 4:01 p.m.

*"Moved to adopt meeting agenda of September 28, 2023."*

Motion:       Bland  
Second:       Mullin  
Vote:           Aye – 5; Nay – 0

2. Approval of Board of Trustees Meeting Minutes of August 24, 2023.

*"Moved to approve the Board Meeting Minutes of August 24, 2023."*

Motion:       Armstrong  
Second:       Mullin  
Vote:           Aye – 5; Nay – 0

3. Board President's Report:

- A. The Board reviewed the Communication with the Dubuque City Council for August 2023.

*"Moved to receive and file the Communication with the Dubuque City Council from August"*

Motion:       Mullin  
Second:       Bland  
Vote:           Aye – 5; Nay – 0

4. Motion to Receive and File Informational Items (Monk entered 4:12 pm):

- A. Library Director's Report Summary and Update:

- 1) Library Financial Report Fiscal Year (FY) 2023 – Rossman reported that the end of August completes 16% of the fiscal year. 15% of our budgeted funds have been spent. Our revenue is at 11% collected of budgeted funds.
- 2) Library Use – Rossman reported circulation numbers for August were up 5% over August 2022, as well as a 40% increase in visitors and 36% increase in computer and Wi-Fi usage. This is the second consecutive month with a 5% bump in circulation and 40% bump in door count.

73 curbside visits in August.

Rossman reported there were 2,163 Hoopla downloads in August. Also included for review was the last three months usage comparison chart that includes cost per collection for review. (Hoopla is a web and mobile library media-streaming platform for audio books, comics, e-books, movies, music, and TV.)

- 3) Library Marketing Report – Rossman reported that in the month of August, our new online database, World Book Online, which is designed for youth, was our targeted promotion. The following increase in hits, sessions, views, and searches were seen from July to August.

July:	Hits:740	August:	Hits: 5680
	Sessions: 8		Sessions: 40
	Views: 29		Views: 215
	Searches: 0		Searches: 29

Some general discussion between the difference of hits, sessions, views, and searches. Each database tracks these points a bit differently, so it is challenging to understand exactly what each means, however, increases across the board were seen, due to the promotion.

- 4) Library Programs, Partnerships, and Grants Report - Rossman provided the following report:

The space where the While You Wait items were staged at the Kennedy Mall has been leased out. Director Rossman met with leasing agents for the Cafaro Company who supervises the mall. They were very interested in the library having a satellite location at the mall, which they were informed that would take some time to put together. Unfortunately, it does not appear they are interested in providing the library any space for free going forward. A quote for \$3,000 per year was received for the library to maintain an island near the Mall's information kiosk, which is where our materials return bin is located, to continue offering the While You Wait program at the mall.

Trustee Mullin has been recommending to citizens they should reach out to the mall to express their concerns with the lack of books available. Board President Lieberman thought the price point was too high for the program.

There was a nice turnout for the Iowa PBS: Iconic Iowa Traveling Photo Exhibit reception on Monday, August 7. Approximately 150 attended the reception.

There was also a nice turnout of the combined Art @ your Library and Music @ your Library event on September 1. Approximately 200 people showed up, the food was nearly all gone by the end of the event, and the time just flew by.

The October/November Art @ your Library show will feature the Plein Air Painters of Dubuque (PPODS). The opening reception will be on Friday, October 6 from 5:30-7:30 pm. The PPODS are local and regional artists who meet and paint in outdoor locations. Artists include Kim Daykin, Deb Otto, Ellen Henkels, Linda Grace, Rebecca Jayne Hennessey, Pam Hiatt, Julie Ferring, Rose Ann Derks, Alda Kaufman, Barbara Heitzman, Rita Persian, Mercedes Pfab, Kate Cooper, and Renee Mayer.

On September 7, Director Rossman and President Lieberman met with the agency libraries of the Dubuque County 28e Agreement. Much discussion was held regarding library access for citizens of incorporated towns in Dubuque County which do not provide tax support for public libraries. Current policy is that all 28e Agreement libraries do not provide library cards to those residents and after much discussion, no changes were made.

President Lieberman mentioned that staff from the Dubuque County Library District will be working on a revised informational document for library staff to give to community members the 28e agreement impacts.

Library staff participated in student engagement at two local universities. University of Dubuque held their Student Resource Fair on Tuesday, August 29, and the University of Wisconsin-Platteville held their Dubuque Community on Campus Day on Thursday, September 14. Both events were well attended and library staff experienced positive interactions with students.

The Carnegie-Stout Public Library Foundation approved up to \$1,500/year for an annual college scholarship for teens who volunteer at the Library. Staff are working on parameters for how the scholarship will work

- 5) Space Needs Assessment – Rossman reported that there were approximately 40 people attend the first Advisory Task Force meeting. Several more meetings are scheduled through September and early October.
- 6) Department Updates – Rossman provided highlights of the past month for Adult, Circulation, Information Technology and Youth Services.

A special storytime was presented to the Board of Trustees by Youth Services Manager, Danielle Day. She read the book Rainbow Sprinkles, written and illustrated by outgoing AmeriCorps staff member, Christa Palm.

B. Comment Cards – Two cards received

1. Anonymous – User would like hooks in the bathroom stalls – staff will be updating to add hooks.
2. Gary Rennison – All library staff, including custodial and tech support are doing a fantastic job.

*“Moved to receive and file the informational update from the Library Director including the Library Expenditures, Revenue and Budget Financial Reports; and, Library Use Report, Marketing Report, Library Programs, Partnerships, and Grants Report; Library Open Hours Update, HVAC Maintenance Bids Update, Space Needs Request for Proposal Report, Library Department Updates, and Comment Cards.”*

*Motion: Bland  
Second: Armstrong  
Vote: Aye – 6; Nay – 0*

5. Action Items:

- A. Library Expenditures FY-24: August, Period 2 – The Board reviewed the detailed expenditures reports for period two, August 2023. The monthly Gift Trusts financial report has been delayed from the City Finance Department.

*“Moved to approve the Library expenditures for FY-24 August, period two.”*

*Motion: Monk  
Second: Armstrong  
Vote: Aye – 6; Nay – 0*

6. Library Board Adjournment – The Board adjourned at 4:46 p.m.

*“Motion to adjourn.”*

*Motion: Armstrong  
Second: Gregory  
Vote: Aye – 6; Nay – 0*

  
**Andrew Bland, MD, Board Secretary**

**10/26/23**  
**Date**

**Carnegie-Stout Public Library  
Board of Trustees  
Meeting Minutes of October 19, 2023**

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Lacy Board Room at 12:00 p.m. on Thursday, October 19, 2023.

Present: President Victor Lieberman, Vice-President Alanda Gregory (virtual), Trustee Robert Armstrong, Trustee Greg Gorton, Trustee Christy Monk, Trustee Pam Mullin, and Library Director Nick Rossman.

Absent: Secretary Andy Bland

Public Present: Jon Kruse (Telegraph Herald), Courtney Chaffee (Queen B Radio-virtual), Advisory Task Force members: John Donovan, Gary Stoppelman (virtual), Thea Dement (virtual), Jason Duba (virtual), Natalie Droeske (virtual), Gail Chavenelle (virtual), Cori Burbach (virtual), Jane O'Neill (virtual)

1. President Lieberman called the meeting to order at 12:02 pm.

*“Moved to adopt meeting agenda of October 19, 2023.”*

Motion: Armstrong

Second: Mullin

Vote: Aye – 5; Nay – 0

2. Motion to Receive and File Presentation of Space Needs Assessment by FEH Design (Gregory joined virtually 12:04 pm).

*“Moved to receive and file a presentation of Space Needs Assessment of the Carnegie-Stout Public Library by FEH Design.”*

Motion: Armstrong

Second: Gorton

Vote: Aye – 6; Nay – 0

3. Motion to Receive and File Communication/Public Comment.

*“Moved to receive and file communications/comments from the public.”*

Motion: Gorton

Second: Armstrong

Vote: Aye – 6; Nay – 0

*Courtney Chaffee asked whether design selected by the Advisory Task Force members was available on the FEH Design website. Trustee Monk answered in the affirmative.*



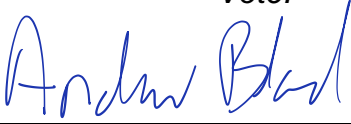
4. Library Board Adjournment – The Board adjourned at 1:06 pm.

*“Motion to adjourn.”*

*Motion: Mullin*

*Second: Armstrong*

*Vote: Aye – 6; Nay – 0*



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Andrew Bland, MD, Board Secretary

Date

**Carnegie-Stout Public Library  
Board of Trustees  
Meeting Minutes of October 26, 2023**

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Lacy Board Room at 4:00 p.m. on Thursday, October 26, 2023.

Present: President Victor Lieberman, Vice-President Alanda Gregory, Secretary Andy Bland, Trustee Robert Armstrong, Trustee Pam Mullin, and Library Director Nick Rossman.

Absent: Trustee Greg Gorton, Trustee Christy Monk

Public Present: None

1. President Liberman called the meeting to order at 4:02 p.m.

*“Moved to adopt meeting agenda of October 26, 2023.”*

*Motion:       Bland  
Second:      Armstrong  
Vote:         Aye – 5; Nay – 0*

2. Approval of Information Session Minutes of August 23, 2023

*“Moved to approve the Information Session Minutes of August 23, 2023.”*

*Motion:       Mullin  
Second:      Armstrong  
Vote:         Aye – 5; Nay – 0*

3. Approval of Board of Trustees Meeting Minutes of September 28, 2023

*“Moved to approve the Board Meeting Minutes of September 28, 2023.”*

*Motion:       Bland  
Second:      Mullin  
Vote:         Aye – 5; Nay – 0*

4. Approval of Board of Trustees Meeting Minutes of October 19, 2023.

*“Moved to approve the Board Meeting Minutes of October 19, 2023.”*

*Motion:       Mullin  
Second:      Gregory  
Vote:         Aye – 5; Nay – 0*

5. Board President's Report:

- A. The Board reviewed the Communication with the Dubuque City Council for September, 2023.

*“Moved to receive and file the Communication with the Dubuque City Council from September”*

*Motion: Armstrong*  
*Second: Bland*  
*Vote: Aye – 5; Nay – 0*

6. Motion to Receive and File Informational Items

A. Library Director’s Report Summary and Update:

- 1) Library Financial Report Fiscal Year (FY) 2023 – Rossman reported that the end of September completes 25% of the fiscal year. 25% of our budgeted funds have been spent. Our revenue is at 16% collected of budgeted funds.
- 2) Library Use – Rossman reported circulation numbers for September were up 12% over September 2022, as well as a 19% increase in visitors and 29% increase in computer and Wi-Fi usage.

90 curbside visits in September.

Rossman reported there were 1,973 Hoopla downloads in September. Also included for review was the last three months usage comparison chart that includes cost per collection for review. (Hoopla is a web and mobile library media-streaming platform for audio books, comics, e-books, movies, music, and TV.)

- 3) Library Marketing Report – Rossman reported that in the month of September, Library Card Signup Month was our targeted promotion. Staff created 389 new library cards in the month of September, compared to 271 in August, representing an increase of 43%
- 4) Library Programs, Partnerships, and Grants Report - Rossman provided the following report:

Received a donation of an Arthur Geisert print. The print is sketched in pencil and has a different sketch of a pig for each letter of the alphabet.

Several library supervisors and managers have been participating in training provided by the City of Dubuque’s Human Resources department regarding new Time and Attendance software for city staff. The new payroll system is currently scheduled to go live for the first pay period that falls in January 2024.

An assisted listening system has been added to the auditorium. Patrons with hearing needs can use provided devices to amplify the room's audio into personal headphones. Some items were used during the October movie screening with positive feedback.

Emily B, Youth Services and School Outreach, with assistance from the Maker Space, staffed a booth at Kids Expo this year.

The Friends of the Library used book sale took place September 27 – 29 in the 3<sup>rd</sup> Floor Auditorium. Dates are currently being considered for another sale toward the end of May.

First Friday events have seen nice attendance numbers recently. A joint Music @ your Library/Art @ your Library event on September 1 was well attended, as well as the October 6 Art @ your Library for the PPODS. Music @ your Library for November will feature the artist Soultru, the stage name for Davenport musician Terrance Banks. Soultru belts out soulful melodies over his acoustic guitar and writes songs influenced by hip-hop, pop and more.

The Board of Trustees expressed interest in hosting a Staff and Volunteer Appreciation reception before the December Board meeting on Thursday, December 21, from 2-4 pm.

- 5) Space Needs Assessment – Rossman reported that he had submitted a request to the City Manager for a Work Session to City Council to report on the Space Needs process. There was some general discussion brainstorming various funding sources to help fund a possible expansion, and discussion about the pros and cons regarding a phased approach.
- 6) Department Updates – Rossman provided highlights of the past month for Adult, Circulation, Information Technology and Youth Services.

#### B. Comment Cards – None

*“Moved to receive and file the informational update from the Library Director including the Library Expenditures, Revenue and Budget Financial Reports; and, Library Use Report, Marketing Report, Library Programs, Partnerships, and Grants Report; Library Open Hours Update, HVAC Maintenance Bids Update, Space Needs Request for Proposal Report, Library Department Updates, and Comment Cards.”*

*Motion: Mullin  
Second: Armstrong  
Vote: Aye – 4; Nay – 0*

[Bland exited room at 4:31 and re-entered at 4:33, missing the vote]

7. Action Items:

- A. Library Expenditures FY-24: September, Period 3 – The Board reviewed the detailed expenditures reports for period three, September 2023. The monthly Gift Trusts financial report has been delayed from the City Finance Department.

*“Moved to approve the Library expenditures for FY-24 September, period three.”*

*Motion: Mullin  
Second: Gregory  
Vote: Aye – 5; Nay – 0*

6. Library Board Adjournment – The Board adjourned at 4:36 p.m.

*“Motion to adjourn.”*

*Motion: Bland  
Second: Mullin  
Vote: Aye – 5; Nay – 0*



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**Andrew Bland, MD, Board Secretary**

**Date**

**Carnegie-Stout Public Library  
Board of Trustees  
Meeting Minutes of November 16, 2023**

The Board of Trustees of the Carnegie-Stout Public Library (C-SPL) met in the Lacy Board Room at 4:00 p.m. on Thursday, November 16, 2023.

Present: President Victor Lieberman, Vice-President Alanda Gregory, Trustee Robert Armstrong, Trustee Greg Gorton, Trustee Christy Monk, Trustee Pam Mullin, and Library Director Nick Rossman.

Absent: Secretary Andy Bland

Public Present: None

1. President Liberman called the meeting to order at 4:02 p.m.

*“Moved to adopt meeting agenda of November 16, 2023.”*

*Motion: Gorton  
Second: Mullin  
Vote: Aye – 5; Nay – 0*

2. Approval of Board of Trustee Meeting Minutes of October 26, 2023

*“Moved to approve the Information Session Minutes of October 26, 2023.”*

*Motion: Mullin  
Second: Gorton  
Vote: Aye – 5; Nay – 0*

3. Board President's Report:

- A. The Board reviewed the Communication with the Dubuque City Council for October, 2023.

*“Moved to receive and file the Communication with the Dubuque City Council from October”*

*Motion: Monk  
Second: Armstrong  
Vote: Aye – 5; Nay – 0*

4. Motion to Receive and File Informational Items

- A. Library Director's Report Summary and Update:

- 1) Library Financial Report Fiscal Year (FY) 2023 – Rossman reported that the end of October completes 33% of the fiscal year. 30% of our budgeted funds have been spent. Our revenue is at 51% collected of budgeted funds.
- 2) Library Use – Rossman reported circulation numbers for October were up 11% over October 2022, as well as a 10% increase in visitors and 104% increase in computer and Wi-Fi usage.

85 curbside visits in October.

Rossman reported there were 2,005 Hoopla downloads in October. Also included for review was the last three months usage comparison chart that includes cost per collection for review. (Hoopla is a web and mobile library media-streaming platform for audio books, comics, e-books, movies, music, and TV.)

- 3) Library Marketing Report – Rossman reported that in the month of October, financial literacy database Weiss Ratings was our targeted promotion. This database allows users to find ratings for local banks, credit unions, insurance providers, as well as financial literacy tools. 106 users used the database in October compared to 12 in August and 13 in September. A demonstration of the database was presented to the trustees.
- 4) Library Programs, Partnerships, and Grants Report - Rossman provided the following report:

The Library will be adding a new streaming platform called The Shelf, a Spanish-language streaming service. This service provides movies, television series, and recorded live performances. A brief overview was shown to the trustees during discussion.

Implementation of Patron Point is coming along. As a reminder, Patron Point is a digital marketing and communication tool that the Library is implementing. We have created email notifications, an email welcome campaign, and monthly newsletter templates are currently being designed. We are currently testing the notices with staff and will be launching elements of the service as they are ready.

The Tree Lighting Ceremony will be on Saturday, December 2 this year. The Madrigal Singers from Dubuque Senior High School will be performing again. Youth staff will be providing an arts & crafts event in the Program Room right before the tree lighting.

The December/January Art @ your Library show will be up and pieces will be available for sale during the tree lighting ceremony, however, no opening reception will take place for this show. The Winter show invites all previous year and future year artists an opportunity to display 2-3 pieces for an eclectic, colorful display.

- 5) Space Needs Assessment – Rossman reported that A request to present our process and concept book was submitted to City Council and approved at the November 6 City Council meeting. A work session has been scheduled for Tuesday, January 16 at 5:30 pm in the Council Chambers of the Historic Federal Building, 350 W. 6<sup>th</sup> Street.
- 6) Department Updates – Rossman provided highlights of the past month for Adult, Circulation, Information Technology and Youth Services.

B. Comment Cards – None

*“Moved to receive and file the informational update from the Library Director including the Library Expenditures, Revenue and Budget Financial Reports; and, Library Use Report, Marketing Report, Library Programs, Partnerships, and Grants Report; Library Open Hours Update, HVAC Maintenance Bids Update, Space Needs Request for Proposal Report, Library Department Updates, and Comment Cards.”*

*Motion: Monk*  
*Second: Gorton*  
*Vote: Aye – 6; Nay – 0*  
[Gregory entered at 4:05 pm]

5. Action Items:

- A. Library Expenditures FY-24: October, Period 4 – The Board reviewed the detailed expenditures reports for period four, October 2023. The monthly Gift Trusts financial report has been delayed from the City Finance Department.

*“Moved to approve the Library expenditures for FY-24 October, period four.”*

*Motion: Monk*  
*Second: Mullin*  
*Vote: Aye – 6; Nay – 0*

6. Library Board Adjournment – The Board adjourned at 4:39 p.m.

*“Motion to adjourn.”*

*Motion: Mullin*  
*Second: Monk*



Vote: Aye – 6; Nay – 0

A handwritten signature in black ink that reads "Andrew Bland". The signature is written in a cursive, flowing style.

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**Andrew Bland, MD, Board Secretary**

**Date**

**CITY OF DUBUQUE, IOWA  
CITY COUNCIL PROCEEDINGS  
SPECIAL SESSION**

The Dubuque City Council met in special session at 5:45 p.m. on March 18, 2024, in the second-floor Council Chambers of the Historic Federal Building, 350 W. 6th Street.

Present: Mayor Cavanagh; Council Members Farber, Jones, Resnick, Roussell, Sprank, Wethal; City Manager Van Milligen, City Attorney Brumwell.

Mayor Cavanagh stated for the record that City Clerk Breitfelder was excused from the meeting and that Assistant City Manager Cori Burbach would serve as Acting City Clerk. Mayor Cavanagh read the call and stated this is a special session of the City Council called for the purpose of conducting a work session on the Secondary Responder Model.

**WORK SESSION  
Secondary Responder Model**

Chief of Police Jeremy Jensen, Captain Steve Radloff, and Lieutenant Mike McTague presented information regarding the Secondary Responder Model. Responding to a question from the City Council, Chief Jensen stated that increased awareness of brain health has resulted in higher volumes of brain health calls for service. Chief Jensen further stated that the model would experience additional success if providers could be co-located. City Council Members expressed appreciation for the model and its communitywide impact.

There being no further business, Mayor Cavanagh declared the meeting adjourned at 6:31 p.m.

/s/Adrienne N. Breitfelder, CMC  
City Clerk

**CITY OF DUBUQUE, IOWA  
CITY COUNCIL PROCEEDINGS  
REGULAR SESSION**

The Dubuque City Council met in regular session at 6:33 p.m. on March 18, 2024, in the second-floor Council Chambers of the Historic Federal Building, 350 W. 6th Street.

Present: Mayor Cavanagh; Council Members Farber, Jones, Resnick, Roussell, Sprank, Wethal; City Manager Van Milligen, City Attorney Brumwell.

Mayor Cavanagh stated for the record that City Clerk Breitfelder was excused from the meeting and that Assistant City Manager Cori Burbach would serve as Acting City Clerk. Mayor Cavanagh read the call and stated this is a regular session of the City Council called for the purpose of conducting such business that may properly come before the City Council.

**PLEDGE OF ALLEGIANCE**

**PROCLAMATION(S)**

1. AmeriCorps Week (March 10 - 16, 2024) was accepted by AmeriCorps Assistant Sarah Berna, Community Impact Administrative Assistant Anne Marie Greenwood, and Green Iowa AmeriCorps Climate Action Activator Jessica Anderschau on behalf of the City of Dubuque AmeriCorps Program and Green Iowa AmeriCorps within the Office of Sustainability.

2. Honey Bee Day (March 27, 2024) was accepted by H.R. Cook on behalf of the Iowa Honey Producers Association and Swiss Valley Bee Club.

**CONSENT ITEMS**

Motion by Resnick to receive and file the documents, adopt the resolutions, and dispose of as indicated. Seconded by Farber. Motion carried 7-0.

1. Minutes and Reports Submitted: Cable TV Commission of January 24, 2024; City Council Proceedings of March 4 and March 7, 2024; Five Flags Civic Center Advisory Commission of December 5, 2023; Library Board of Trustees Update of February 22, 2024; Proof of Publication for City Council Proceedings of February 12 and February 19, 2024. Upon motion the documents were received and filed.

2. Notice of Claims and Suits: Latoya Eubanks for property damage; Ronald Lindblom and Catherine Dunning for property damage; Azariah Martin for vehicle damage; Kirtland Thayer for vehicle damage. Upon motion the documents were received, filed, and referred to the City Attorney.

3. Disposition of Claims: City Attorney advised that the following claims have been referred to Public Entity Risk Services of Iowa, the agent for the Iowa Communities Assurance Pool: Latoya Eubanks for property damage; Ronald Lindblom and Catherine Dunning for property damage. Upon motion the documents were received, filed, and concurred.

4. Approval of City Expenditures: Upon motion the documents were received and filed, and Resolution No. 56-24 Authorizing the Chief Financial Officer/City Treasurer to make certain

payments of bills that must be paid and approved for payment in accordance with City procedures was adopted.

5. Civil Service Commission's Certified List - Police Officer: Upon motion the documents were received, filed, and made a matter of record.

6. Letters of Support for HOME ARP Funds: City Manager recommended approval to provide a letter of support to developers of projects at 1301 Central Avenue and 1739-1763 Central Avenue for submission with their application for HOME ARP funds. Upon motion the documents were received, filed, and approved.

7. 2024 – Q1 Update on Childcare Challenges and Collaborations: Upon motion the documents were received and filed.

8. Brewing and Malting Project Update - 3000 Jackson Dubuque: Upon motion the documents were received and filed.

9. Water & Resource Recovery Center Odor Abatement Efforts Update: Upon motion the documents were received and filed.

10. First Amendment to Development Agreement by and between the City of Dubuque, Iowa, and Farley & Loetscher, LLC: Upon motion the documents were received and filed, and Resolution No. 57-24 Approving a First Amendment to Development Agreement by and Between the City of Dubuque, Iowa, and Farley & Loetscher, LLC was adopted.

11. Right of Way Platting – Merge (The Stacks) Project in the Port of Dubuque: Upon motion the documents were received and filed, and Resolution No. 58-24 Approving the Acquisition Plat of Lot 1A of Adams company's 5th Addition, in the City of Dubuque, Iowa was adopted.

12. Plat of Survey of Pechous Place, locally known as 410 and 414 Raymond Place: Upon motion the documents were received and filed, and Resolution No. 59-24 Approving the Simple Subdivision Plat of Pechous Place, Dubuque, Iowa was adopted.

13. Temporary Agreement Between the City of Dubuque and ITC Midwest, LLC to Operate an Electric Transmission System in the City of Dubuque: Upon motion the documents were received and filed, and Resolution No. 60-24 Approving an Agreement Between the City of Dubuque and ITC Midwest, LLC to Operate an Electric Transmission System in the City of Dubuque was adopted.

14. Grant Agreement with 917 Motorsport LLC for Rehabilitation of 243 W 10th Street: Upon motion the documents were received and filed, and Resolution No. 61-24 Approving a Grant Agreement by and Between the City of Dubuque, Iowa and 917 Motorsport LLC for the Redevelopment of 243 W 10th Street was adopted.

15. Tobacco Compliance Settlement Agreements for Tobacco License Holders - Fuel Express Food Mart and EZ Stop 1: Upon motion the documents were received, filed, and approved.

16. Approval of Retail Alcohol Licenses and Retail Tobacco, Alternative Nicotine, and Vapor

Product Permit Applications: Upon motion the documents were received and filed, and Resolution No. 62-24 Approving applications for retail alcohol licenses, as required by City of Dubuque Code of Ordinances Title 4 Business and License Regulations, Chapter 2 Liquor Control, Article B Liquor, Beer and Wine Licenses and Permits and Resolution No. 63-24 Approving applications for retail permits to sell Tobacco, Tobacco Products, Alternative Nicotine Products, and Vapor Products, as required by Iowa Code §453A.47A were adopted.

### **ITEMS SET FOR PUBLIC HEARING**

Motion by Roussell to receive and file the documents, adopt the resolutions, and set the public hearings as indicated. Seconded by Sprank. Motion carried 7-0.

1. Development Agreement by and between the City of Dubuque, Iowa and CBDC, LLC: Upon motion the documents were received and filed and Resolution No. 64-24 Fixing the date for a Public Hearing of the City Council of the City of Dubuque, Iowa on the proposed Development Agreement by and between the City of Dubuque, Iowa and CBDC, LLC, including the proposed issuance of Urban Renewal Tax Increment Revenue Grant Obligations to CBDC, LLC, and providing for the publication of notice thereof was adopted setting a public hearing for a meeting to commence at 6:30 p.m. on April 1, 2024 in the Historic Federal Building.

### **BOARDS/COMMISSIONS**

Appointments were made to the following boards/commissions.

1. Housing Appeals and Mediation Board: One, 3-Year Term through January 1, 2027 (Vacant term of Lenhart). Applicant: Jeff Lenhart, 1085 Main St. Motion by Jones to appoint Mr. Lenhart to the three-year term through January 1, 2027. Seconded by Wethal. Motion carried 7-0.

### **PUBLIC HEARINGS**

1. Request to Rezone Property at 35 Locust Street from C-3 General Commercial to C-4 Downtown Commercial: Motion by Jones to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Sprank. Planning Services Director Wally Wernimont provided a staff report and responded to questions from the City Council. Applicant Josh Jansen, 11368 Rock Grove Ct., described the planned façade of the proposed building and parking availability. City Council Members expressed support for the rezoning. Motion carried 7-0.

Motion by Jones for final consideration and passage of Ordinance No. 6-24 Amending Title 16 of the City of Dubuque Code of Ordinances, Unified Development Code, by reclassifying hereinafter described property from C-3 General Commercial to C-4 Downtown Commercial. Seconded by Sprank. Motion carried 7-0.

2. Request to Amend a Planned Unit Development (PUD) to Allow Pet Daycare or Grooming as a Permitted Use: Motion by Roussell to receive and file the documents and that the requirement that a proposed ordinance be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be passed be suspended. Seconded by Jones. Planning Services Director Wally Wernimont provided a staff report. Motion carried 7-0.

Motion by Roussell for final consideration and passage of Ordinance No. 7-24 Amending Title 16 of the City of Dubuque Code of Ordinances Unified Development Code by Rescinding Ordinance No. 82-04 Which Provides Regulations for the PUD Planned Unit Development District with a Planned Commercial Designation and now being amended to modify the list of permitted uses to include Pet Daycare or Grooming. Seconded by Jones. Motion carried 7-0.

3. State Revolving Fund (SRF) Loan - Environmental Review Bipartisan Infrastructure Law and State Revolving Fund (SRF) Private Lead Service Line Replacement Pilot Program and Presentation: Motion by Resnick to receive and file the documents and adopt Resolution No. 65-24 State Revolving Fund (SRF) Loan - Environmental Review Private Lead Service Line Replacement Pilot Program - Approval of an Environmental Review as Provided By SRF's Department of Natural Resources for the Private Lead Service Line Replacement Pilot Program. Seconded by Farber. Water Department Director Christopher Lester made a presentation and responded to questions from the City Council. Responding to a question from the City Council, City Manager Van Milligen summarized the forgivable and unforgivable components of the loan. Motion carried 7-0.

## **PUBLIC INPUT**

John Petco, 1983 University Ave., provided input about his challenges finding parking near his residence and requested the city consider granting assigned parking spots to residents with identified disabilities.

## **ACTION ITEMS**

1. Barry Lindahl Appointment to the Public Information Board, Iowa: Motion by Roussell to receive and file the documents. Seconded by Sprank. City Council Members congratulated Mr. Lindahl on the appointment. Motion carried 7-0.

2. Request for Ratification of Dubuque Police Protective Association (DPPA) July 1, 2024 Collective Bargaining Agreement (CBA): Motion by Jones to receive and file the documents and approve the City of Dubuque/Dubuque Police Protective Association (DPPA) Collective Bargaining Agreement to become effective on July 1, 2024. Seconded by Farber. Chief Human Resources Officer Shelley Stickfort summarized the procedure for contract recertification. Motion carried 7-0.

3. Bryan Porter, a Seasonal Employee in the City of Dubuque Parks Division Video: Motion by Resnick to receive and file the documents and view the video. Seconded by Sprank. Media Services staff showed a video featuring Bryan Porter, a seasonal employee in the City of Dubuque Parks Division. The video can be viewed at <https://youtu.be/5etUK6cArgo>. Motion carried 7-0.

## **COUNCIL MEMBER REPORTS**

Mayor Cavanagh reported on the City Council Members and City staff's recent trip to Washington, D.C. to advocate for city priorities. Mayor Cavanagh also reported on attending a Mississippi River Cities and Towns Initiative event in Washington, D.C.

Council Member Resnick also reported on the City Council's trip to Washington, D.C., and recognized Mayor Cavanagh for his partnerships.

Mr. Resnick and Mayor Cavanagh reiterated Iowa open meetings statutes to explain why the

City Council could not formally address comments given during public input.

Council Member Farber reported on attending the National League of Cities Conference in Washington, D.C.

Council Member Roussell reported on attending the Iowa League of Cities Local Leaders Day.

Council Member Sprank also reported on the City Council's trip to Washington, D.C.

Council Member Jones reported on speaking to the current Leadership Iowa class.

Council Member Wethal reported on the upcoming Dubuque Area Chamber of Commerce's Dubuque Night and the upcoming Cracker Barrel with State Legislators.

### **CLOSED SESSION**

Motion by Jones to convene in closed session at 8:02 p.m. to discuss Purchase or Sale of Real Estate – Chapter 21.5(1)(j) Code of Iowa. Seconded by Wethal. Mayor Cavanagh stated for the record that the attorney who will consult with the City Council on the issues to be discussed in the closed session is City Attorney Brumwell. Motion carried 7-0.

The City Council reconvened in open session at 9:04 p.m. stating that staff had been given proper direction.

### **ADJOURNMENT**

There being no further business, Mayor Cavanagh declared the meeting adjourned at 9:04 p.m.

/s/Adrienne N. Breitfelder, CMC  
City Clerk

**STATE OF IOWA**  
**DUBUQUE COUNTY**

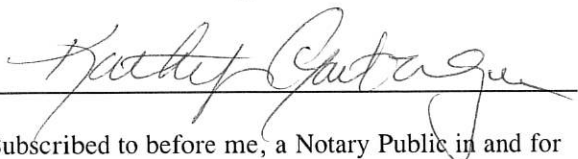
**SS:**

**CERTIFICATE OF PUBLICATION**

I, Kathy Goetzinger, a Billing Clerk for Woodward Communications, Inc., an Iowa corporation, publisher of the Telegraph Herald, a newspaper of general circulation published in the City of Dubuque, County of Dubuque and State of Iowa; hereby certify that the attached notice was published in said newspaper on the following dates:

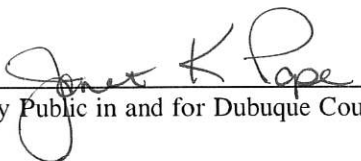
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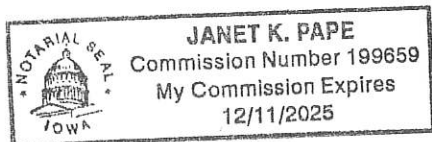
and for which the charge is 276.55



Subscribed to before me, a Notary Public in and for Dubuque County, Iowa,

this 13th day of March, 2024

  
Notary Public in and for Dubuque County, Iowa.





Ad text : CITY OF DUBUQUE, IOWA  
CITY COUNCIL PROCEEDINGS  
SPECIAL SESSION

The Dubuque City Council met in special session at 5:30 p.m. on March 4, 2024, in the second-floor Council Chambers of the Historic Federal Building, 350 W. 6th Street.

Present: Mayor Cavanagh; Council Members Farber, Jones, Resnick, Roussell, Sprank, Wethal; City Manager Van Milligen, City Attorney Brumwell.

Mayor Cavanagh read the call and stated this is a special session of the City Council called for the purpose of conducting a work session on the Sanitary Sewer Asset Management Plan.

WORK SESSION

Sanitary Sewer Asset Management Plan (SSAMP) Update on Consulting Engineering Services

Civil Engineer Maxwell OBrien presented on the Sanitary Sewer Asset Management Plan and provided City Council with an update on the status of the program, reviewed the results from the preliminary analysis performed to date, and discussed the anticipated next steps for the program. Mr. OBrien responded to questions from the City Council regarding workplace safety during implementation and incorporating the program into future budgeting. Responding to a question from the City Council Nathan Kampman with HDR Engineering summarized the use of risk-based decision making, strategy prioritization, and the various software that will be used to refine program data.

There being no further business, Mayor Cavanagh declared the meeting adjourned at 6:10 p.m.

/s/Adrienne N. Breitfelder,  
CMC City Clerk

CITY OF DUBUQUE, IOWA  
CITY COUNCIL PROCEEDINGS  
REGULAR SESSION

The Dubuque City Council met in regular session at 6:30 p.m. on March 4, 2024, in the second-floor Council Chambers of the Historic Federal Building, 350 W. 6th Street.

Present: Mayor Cavanagh; Council Members Farber, Jones, Resnick, Roussell, Sprank, Wethal; City Manager Van Milligen, City Attorney Brumwell.

Mayor Cavanagh read the call and stated this is a regular session of the City Council called for the purpose of conducting such business that may properly come before the City Council.

PLEDGE OF ALLEGIANCE

PRESENTATION(S)

1. The Public Safety Citizen Lifesaving Award Recognition: Fire Chief Amy Scheller recognized the following individuals for receiving The Public Safety Citizen Lifesaving Award: For efforts in providing immediate care to a fallen community member using CPR and the use of a Hempstead High School AED: Student Drew Lewis, Hempstead coaches Damon Rogers and Tyler Schaul, and Dubuque County Basketball Association Coach Haris Takes.

For the support of an AED program throughout the schools: Dubuque Community School District (Superintendent Amy Hawkins and her team)

A special thank you to the city responders who teamed up to assist these students and coaches which ultimately resulted in a positive outcome for one of our residents: Dispatchers

Michelle Gensrick and Jason Cox. Responding members from the fire department include Larry Ewert, Adam Feyen, Chris Grue, Bryan McDonald, Doug Merkes, Brian Pape, and Austin Schmit. PROCLAMATION(S)

1. Irish American Heritage Month (March 2024) was accepted by Vicki Leonard on behalf of the Ancient Order of Hibernians Dubuque Division #2.

#### CONSENT ITEMS

Kathy Gorman, 3005 Jackson St., requested Item No. 11 be held for separate discussion. Motion by Resnick to receive and file the documents, adopt the resolutions, and dispose of as indicated except for Item No. 11. Seconded by Farber. Motion carried 7-0.

1. Minutes and Reports Submitted: Airport Commission of January 16, 2024; Arts and Cultural Affairs Commission of December 27, 2023 and January 23, 2024; Cable Television Commission of August 29, 2023; City Council Proceedings of February 19, 2024; Historic Preservation Commission of February 15, 2024; Park and Recreation Commission of April 11, 2023; May 9, 2023; June 13, 2023; August 8, 2023; October 10, 2023; November 14, 2023; December 12, 2023; January 13, 2024; Resilient Community Advisory Commission of September 7, 2023; October 5, 2023; November 2, 2023; December 7, 2023; Transit Advisory Board of September 14, 2023; Zoning Board of Adjustment of January 25, 2024; Draft Zoning Board of Adjustment of February 22, 2024; Proof of Publication for City Council Proceedings of February 5, 2024. Upon motion the documents were received and filed.

2. Notice of Claims and Suits: Roger and Mary Rollinger for property damage; Brian Zeimet for property damage. Upon motion the documents were received, filed, and referred to the City Attorney.

3. Disposition of Claims: City Attorney advised that the following claims have been referred to Public Entity Risk Services of Iowa, the agent for the Iowa Communities Assurance Pool: Roger and Mary Rollinger for property damage; Brian Zeimet for property damage. Upon motion the documents were received, filed, and concurred.

4. Approval of City Expenditures: Upon motion the documents were received and filed, and Resolution No. 48-24 Authorizing the Chief Financial Officer/City Treasurer to make certain payments of bills that must be paid and approved for payment in accordance with City procedures was adopted.

5. Authorized Depository Institutions: Upon motion the documents were received and filed, and Resolution No. 49-24 Naming Depositories was adopted.

6. US Census Boundary and Annexation Survey: City Manager shared information and raising awareness of the annual process for the U.S. Census Bureau Boundary and Annexation Survey. Upon motion the documents were received and filed.

7. Acceptance of Grant of Easement for Storm Sewer Utility across Rabbit Hollow Nature Conservancy, Inc. Property off of Rockdale Rd. in Dubuque: Upon motion the documents were received and filed, and Resolution No. 50-24 Accepting a Grant of Easement for storm sewer utility through, under and across part of Lot 2 of Rabbit Hollow Place # 5, in the City of Dubuque, Iowa was adopted.

8. 2022 John F. Kennedy Road Sidewalk Installation Project: Upon motion the documents were received and filed, and Resolution No. 51-24 Accepting the 2022 John F. Kennedy Road

Sidewalk Installation Project - Iowa DOT Project  
TAP-U-2100-703-8I-31 and authorizing the payment of the contract amount to the contractor; and Resolution No. 52-24 Adopting the Final Assessment Schedule for the 2022 John F. Kennedy Road Sidewalk Installation Project - Iowa DOT PROJECT TAP-U-2100-703-8I-31 were adopted.

9. Seippel Road Water Main Relocation Project - Acceptance of Public Improvement Construction Contract: Upon motion the documents were received and filed, and Resolution No. 53-24 Accepting the Seippel Road Water Main Relocation Project and authorizing the payment to the contractor was adopted.

10. Dubuque Area Chamber of Commerces Air Service Survey Results and Dubuque Air Service Goals and Objectives: Upon motion the documents were received and filed.

11. 3000 Jackson Dubuque Brewing and Malting Project Update: Ms. Gorman spoke about concerns with contractor activities occurring at the site, including sidewalk removal, litter, and lack of street parking. Ms. Gorman also expressed concerns about lack of communication regarding site actions. Motion by Resnick to receive and file the documents. Seconded by Farber. Responding to questions from the City Council, Assistant Housing and Community Development Director Michael Belmont stated that contractors are responsible for notifying utilities of sidewalk removal and scheduling a time for removal. In this case the contractor did not provide notification of their intention to remove the area sidewalks. Mr. Belmont further stated that a site visit will occur before partial site deconstruction and more substantial fencing will be requested for deconstruction. The Assistant Fire Marshall is aware of the buildings demolition schedule and has identified an available fire hydrant if necessary. City Council Members thanked Ms. Gorman for providing input. City Council members acknowledged the site activities impact on the area neighborhood and the ongoing process to resolve the buildings issues. Motion carried 7-0.

12. Letter of Support for Dubuque County Energy District: City Manager shared information on the City Managers Letter of Support for the Dubuque County Energy Districts grant application to The Funders Networks (TFN) Partners for Places (P4P). Upon motion the documents were received and filed.

13. Bloombergs Youth Climate Action Grant Application Submittal: Upon motion the documents were received, filed, and approved.

14. Approval to Provide Matching Funding for a Historic Structure Report for Eagle Point Park: City Manager recommended City Council approval to provide matching funding of \$75,000 for the grant application to be filed by Heritage Works to the Jeffris Heartland Fund to develop a Historic Structures Report (HSR) for the Alfred Caldwell designed buildings at Eagle Point Park. Upon motion the documents were received, filed, and approved.

15. American Flood Coalition Membership Correspondence from the City of Dubuque to the American Flood Coalition regarding the city's decision to join the coalition. The American Flood Coalition is a nonpartisan group of political, military, business, and local leaders that have come together to drive adaptation to higher seas, stronger storms, and more frequent flooding. The coalition seeks to advance solutions that support flood-affected communities. Upon motion the documents were received and filed.

16. Letters of Support for Ham House Interior Restoration & Preservation Project: City Manager recommended City Council approval of letters of support and authorization for the Dubuque County Historical Society (DCHS) to apply for two grants for interior restoration and preservation at the Mathias Ham House. Upon motion the documents were received, filed, and approved.

17. Request for City Council Ratification of Two Amendments to current Collective Bargaining Agreements {DPPA and Teamsters (Bus Operators)}: Upon motion the documents were received, filed, and approved.

#### BOARDS/COMMISSIONS

Applications were reviewed for the following Boards and Commissions. Applicants were invited to address the City Council regarding their desire to serve on the following Boards/Commissions.

1. Housing Appeals and Mediation Board: One, 3-Year Term through January 1, 2027 (Vacant term of Lenhart). Applicant: Jeff Lenhart, 1085 Main St. Mr. Lenhart spoke in support of his application and provided a brief biography.

#### PUBLIC INPUT

Kyle Cox, 924 Arrowhead, East Dubuque, IL., provided information on the Rockdale Flood of 1876 and his goal to establish a memorial park near the site of the flood on the floods 150th anniversary of July 4, 2026. Mr. Cox shared details of upcoming events that will provide more information about the history of the flood.

#### ACTION ITEMS

1. Greater Dubuque Development Corporation's 'You Can Be Great Here' Campaign Progress Brochure: Motion by Resnick to receive and file the documents. Seconded by Jones. Rick Dickinson, President and CEO of Greater Dubuque Development Corporation (GDDC) provided an overview of GDDC's 'You Can Be Great Here' Campaign Progress Brochure that was distributed with City utility bills from February 14 through March 6, 2024. Responding to a question from the City Council, Mr. Dickinson stated that the campaigns two greatest challenges are population growth and job growth. Motion carried 7-0.

2. Prepared Live: Motion by Roussell to receive and file the documents and listen to the presentation. Seconded by Wethal. Emergency Communications Center Director Jessica George-Rethwisch shared information on a new web-based platform Prepared Live that Emergency Communications Center went live with on March 4th, 2024. Responding to questions from the City Council, Ms. George-Rethwisch stated that the system is currently used by Grant County, Wisconsin, and Jones County, Iowa. The Emergency Communications team will receive feedback on how often the system is used and additional program tiers with additional features may be considered based on the quantity of system use. Motion carried 7-0.

3. Approve Reimagine Comiskey Park-Phase 2 National Park Service Outdoor Recreation Legacy Grant Application Submission: Motion by Sprank to receive and file the documents and adopt Resolution No. 54-24 Authorizing the Mayor to execute an application for the National Park Service Outdoor Recreation Legacy Partnership Program Grant and authorizing the Leisure Services Director and the City Manager to approve the application. Seconded by Wethal. City Council Members expressed enthusiasm for Phase 2 of the project. Motion carried 7-0.

4. 2023 Dubuque Police Department Annual Report: Motion by Roussell to receive and file the documents. Seconded by Jones. Police Chief Jeremy Jensen highlighted information in the report. City Council Members praised the Police Departments professional standards, policing conduct, and collaboration with community partners. Motion carried 7-0.

5. Central Avenue and White Street Corridor Traffic Study Recommendation for Selection of Professional Consultant Services: Motion by Sprank to receive and file the documents and approve the selection of Bolton & Menk, Inc. as the first-ranked Consultant and that the City be authorized to negotiate a Professional Consultant Services Agreement to complete a corridor study for Central Avenue and White Street and the feasibility of corridor solutions based on public engagement and a holistic approach using traffic calming and urban design elements. Seconded by Farber. Responding to a question from the City Council, Traffic Engineer Justine Hull stated that the studys results are expected in November of 2024. City Council Members emphasized the need to improve the corridor and thanked community members Joe Kirk and Terry Mozena for serving on the Consultant Selection Committee. Motion carried 7-0.

#### COUNCIL MEMBER REPORTS

Council Member Roussell reported on her service on the Hawkeye Area Community Action Program (HACAP) Board of Directors and HACAPs recent hiring of an employee fluent in Marshallese.

Council Member Jones reported on the recent strategic planning session of the Dubuque Metropolitan Area Solid Waste Agency, of which Mr. Jones is a board member.

Council Members Wethal and Farber respectively reported on attending the annual United Labor Dinner. Ms. Farber remarked on a memorial statement made at the dinner in honor of the late Nick Lucy.

Mayor Cavanagh reported on conducting joint presentations with Sustainability Director Gina Bell that summarized their attendance at the United Nations Climate Change Conference (COP28). Mayor Cavanagh stated that bold action would be essential to attract the necessary resources to fulfill the citys sustainability goals.

#### CLOSED SESSION

Motion by Jones to convene in closed session at 7:56 p.m. to discuss Purchase or Sale of Real Estate Chapter 21.5(1)(j) Code of Iowa. Seconded by Sprank. Mayor Cavanagh stated for the record that the attorney who will consult with City Council on the issues to be discussed in the closed session is City Attorney Brumwell. Motion carried 7-0.

The City Council reconvened in open session at 9:19 p.m. stating that staff had been given proper direction.

#### ADJOURNMENT

There being no further business, Mayor Cavanagh declared the meeting adjourned at 9:19 p.m.

/s/Adrienne N. Breitfelder,

CMC City Clerk

1t 3/13

**STATE OF IOWA**  
**DUBUQUE COUNTY**

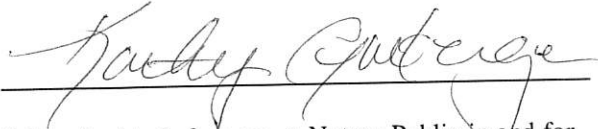
**SS:**

**CERTIFICATE OF PUBLICATION**

I, Kathy Goetzinger, a Billing Clerk for Woodward Communications, Inc., an Iowa corporation, publisher of the Telegraph Herald, a newspaper of general circulation published in the City of Dubuque, County of Dubuque and State of Iowa; hereby certify that the attached notice was published in said newspaper on the following dates:

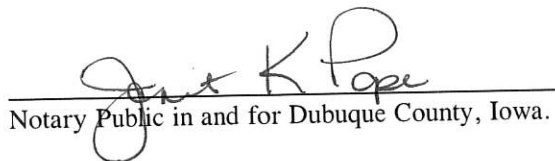
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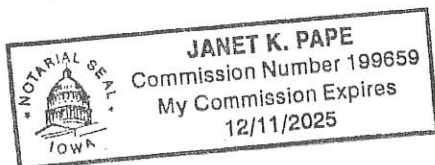
and for which the charge is 41.95



Subscribed to before me, a Notary Public in and for Dubuque County, Iowa,

this 13th day of March, 2024

  
Notary Public in and for Dubuque County, Iowa.



Ad text : CITY OF DUBUQUE, IOWA  
CITY COUNCIL PROCEEDINGS  
SPECIAL SESSION

The Dubuque City Council met in special session at 6:30 p.m. on March 7, 2024, in the second-floor Council Chambers of the Historic Federal Building, 350 W. 6th Street.

Present: Mayor Pro Tem Jones; Mayor Cavanagh (attended virtually); Council Members Farber, Roussell, Sprank, Wethal; City Manager Van Milligen, City Attorney Brumwell.

Absent: Council Member Resnick.

Mayor Pro Tem Jones read the call and stated this is a special session of the City Council called for the purpose of setting a public hearing on the proposed Fiscal Year 2025 Tax Rate and Dollars.

ITEMS SET FOR PUBLIC HEARING

1. Set Public Hearing for Proposed Fiscal Year 2025 Tax Rate and Dollars and Taxpayer Statements: Motion by Sprank to receive and file the documents and adopt Resolution No. 55-24 Setting a Public Hearing on the Proposed Fiscal Year 2025 Tax Rate and Dollars and Taxpayer Statements. Seconded by Wethal. City Manager Van Milligen made a presentation on the proposed Fiscal Year 2025 tax rate and dollars. Chief Financial Officer Jennifer Larson provided clarification on the city's reduction in taxable value due to the state legislature changing the state military credit to an exemption, therefore eliminating state funding toward it. Ms. Larson further clarified the two commercial and industrial backfills, stating that the 90% backfill will be phased out and a new backfill will be funded by the state. City Council Members thanked city staff for their work preparing the budget, expressed frustration with the current budgeting process required by state code, and stressed the increasing operational costs of city government. Responding to a question from the City Council on budgeting for cybersecurity, City Manager Van Milligen summarized multiple budget actions in support of cybersecurity, including allocating around \$600,000 to move the city's Information Technology Department to a facility in the West End; allocating \$3,000,000 to replace all police, fire, and emergency communications software systems; and adding a cybersecurity position to last year's budget. City Council Members indicated their support for the City Manager's property tax rate recommendation. Motion carried 6-0.

ADJOURNMENT

There being no further business, Mayor Pro Tem Jones declared the meeting adjourned at 7:30 p.m.

/s/Adrienne N. Breitfelder,

CMC City Clerk

1t 3/13

**City of Dubuque  
City Council Meeting**

**Consent Items # 02.**

---

**ITEM TITLE:** Notice of Claims and Suits  
**SUMMARY:** Deann Bergfeld for vehicle damage.  
**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Refer to City Attorney

**ATTACHMENTS:**

**Description**

Claim by Deann Bergfeld

**Type**

Supporting Documentation



## CLAIM AGAINST THE CITY OF DUBUQUE, IOWA

This written report constitutes your claim against the City of Dubuque, Iowa. You should complete this form in full and attach any additional information that supports your claim.

The Claim must be filed with the City Clerk at City Hall, 50 W. 13<sup>th</sup> St., Dubuque, IA 52001. It will then be referred by the City Council to the appropriate department for investigation. Once that investigation is completed, a report and recommendation will be submitted to the City Council. You will be provided with a copy of that report and recommendation.

THE FINAL DECISION ON ALL CLAIMS IS MADE BY THE CITY COUNCIL. NO EMPLOYEE OF THE CITY OF DUBUQUE HAS THE AUTHORITY TO MAKE ANY REPRESENTATION TO YOU AS TO WHETHER YOUR CLAIM WILL OR WILL NOT BE PAID.

1. Name of Claimant: Deann Bergfeld
2. Address: 17677 Bergfeld Ln  
City: Bernard State: Iowa Zip: 52032
3. Telephone Number: 563-590-6800
4. Date of Incident: December 2023 / January 2024
5. Time of Incident: Each time ramp was treated for frost/ice.
6. Location of Incident (Be specific): Locust Street Parking Ramp Space 214

7. DESCRIBE ACCIDENT OR OCCURRENCE THAT CAUSED INJURY OR DAMAGE. (Give full details upon which you base your claim. If a City employee was involved, give the employee's name.)

Liquid from the parking level above my space had been dripping on my car each time liquid treatment was applied to the ramp. It hardened to my paint/window and would not wash off.

8. What were weather conditions like? Frost + ice in the parking ramp.

9. Give name and address of any witnesses: \_\_\_\_\_

10. Did police investigate? (If so, give names of officers.)

No - This was not an incident that requires investigation.

11. Was anyone injured? (If so, give names, addresses, and extent of injuries).

No

12. Was any damage done to property? (If so, describe property and the extent of damages. Attach estimates of damages or describe basis for ascertaining extent of damage.)

Yes - See attached invoice / description of damages fixed on my car.

13. What other damages do you claim, if any? None

14. Have you been compensated for any part or all of your claim by any insurance company? (If so, give name and address of insurance company and amount paid.)

No

15. What amount do you claim from the City of Dubuque?

\$160.50

16. Why do you claim the City of Dubuque is responsible?

Yes

17. Have you made any claim against anyone else for damages as a result of this incident? (If yes, give name and address.)

No

18. If the answer to Question 17 is yes, have you received any payment from that source, and if so, in what amount?

NA

Dated at Dubuque, Iowa this 18<sup>th</sup> day of March, 2024.

Deann Bergfeld

(Signature)

Deann Bergfeld

(Print Name)

**City of Dubuque  
City Council Meeting**

**Consent Items # 03.**

---

**ITEM TITLE:**

Disposition of Claims

**SUMMARY:**

City Attorney advising that the following claims have been referred to Public Entity Risk Services of Iowa, the agent for the Iowa Communities Assurance Pool: Deann Bergfeld for vehicle damage; Azariah Martin for vehicle damage; Kirtland Thayer for vehicle damage.

**SUGGESTED  
DISPOSITION:**

Suggested Disposition: Receive and File; Concur

**ATTACHMENTS:**

**Description**

ICAP Referral

**Type**

Supporting Documentation

# MEMORANDUM

**JONI MEDINGER**  
**LEGAL ADMINISTRATIVE ASSISTANT**

**To:** Mayor Brad M. Cavanagh and  
Members of the City Council

**DATE:** 3/26/2024

**RE:** Claim Against the City of Dubuque by Deann Bergfeld

<u><b>Claimant</b></u>	<u><b>Date of Claim</b></u>	<u><b>Date of Incident</b></u>	<u><b>Nature of Claim</b></u>
Deann Bergfeld	3/18/2024	Dec. 2023/Jan. 2024	Vehicle Damage

This is a claim in which claimant alleges Claimant's vehicle has been damaged due to salt and water dripping from the ceiling above a parking spot in a City parking ramp where Claimant's vehicle parks.

This claim has been referred to the Iowa Communities Assurance Pool.

cc: Michael C. Van Milligen, City Manager  
Ryan Knuckey, Director of Transportation Services  
Deann Bergfeld



# MEMORANDUM

**JONI MEDINGER**  
**LEGAL ADMINISTRATIVE ASSISTANT**

**To:** Mayor Brad M. Cavanagh and  
Members of the City Council

**DATE:** 3/13/2024

**RE:** Claim Against the City of Dubuque by Azariah Martin

<u>Claimant</u>	<u>Date of Claim</u>	<u>Date of Incident</u>	<u>Nature of Claim</u>
Azariah Martin	3/5/2024	2/29/2024	Vehicle Damage

This is a claim in which claimant alleges Claimant's vehicle was damaged by City workers.

This claim has been referred to the Iowa Communities Assurance Pool.

cc: Michael C. Van Milligen, City Manager  
Arielle Swift, Public Works Director  
Azariah Martin

# MEMORANDUM

**JONI MEDINGER**  
**LEGAL ADMINISTRATIVE ASSISTANT**

**To:** Mayor Brad M. Cavanagh and  
Members of the City Council

**DATE:** 3/13/2024

**RE:** Claim Against the City of Dubuque by Kirtland Thayer

<u><b>Claimant</b></u>	<u><b>Date of Claim</b></u>	<u><b>Date of Incident</b></u>	<u><b>Nature of Claim</b></u>
Kirtland Thayer	3/6/2024	2/28/2024	Vehicle Damage

This is a claim in which claimant alleges Claimant's rear wheel was damaged when it fell into a large hole in the street.

This claim has been referred to the Iowa Communities Assurance Pool.

cc: Michael C. Van Milligen, City Manager  
Arielle Swift, Public Works Director  
Kirtland Thayer

**City of Dubuque  
City Council Meeting**

**Consent Items # 04.**

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**ITEM TITLE:** Approval of City Expenditures

**SUMMARY:** City Manager recommending City Council approval for payment of City expenditures.

**RESOLUTION** Authorizing the Chief Financial Officer/City Treasurer to make certain payments of bills that must be paid and approved for payment in accordance with City procedures

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Adopt Resolution(s)

**ATTACHMENTS:**

**Description**

Memo Council

Resolution

Expenditure Report

Expenditure Report - Exceptions

**Type**

City Manager Memo

Resolutions

Supporting Documentation

Supporting Documentation



**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Expenses Submitted for City Council Approval

**DATE:** March 25, 2024

Finance is submitting the following expenses to City Council for approval at the April 1, 2024 meeting. Payments on these expenses will be made April 3, 2024.

In addition, Finance is submitting expenses paid since March 20, 2024 to City Council for review. The payments for these claims were approved either by prior City Council action or meet the criteria as an exemption to prior City Council approval.

Pursuant to Iowa Code §372.13A *Payments without prior authorization of council*, all expenses are submitted to City Council for approval before payment, except if approved by prior City Council action or are exempt under City Council resolution 142.18.



## RESOLUTION NO.

### **AUTHORIZING THE CHIEF FINANCIAL OFFICER / CITY TREASURER TO MAKE CERTAIN PAYMENTS OF BILLS THAT MUST BE PAID AND APPROVED FOR PAYMENT IN ACCORDANCE WITH CITY PROCEDURES**

Whereas, Section 1-7-7(E) of the Municipal Code of the City of Dubuque provides that the Finance Director-City Treasurer shall keep an accurate account of all disbursements, money, or property, specifying date, to whom, and from what fund paid; and

Whereas, the invoices, presented by those firms and persons providing such goods and services have been pre-audited by Finance Department personnel in accordance with generally accepted internal control procedures and have been determined to have been requisitioned for a lawful municipal purpose; and

Whereas, the Chief Financial Officer-City Treasurer has provided a list of Expenditures attached hereto, and by this reference made a part hereof, to be drawn to pay for goods and services provided for City purposes; and

Whereas, the City Council of the City of Dubuque has heretofore, by Resolution 142-18 adopted May 7, 2018, authorized the Chief Financial Officer-City Treasurer to issue checks in payment of certain expenditures known as Exception Expenditures prior to City Council approval and such list is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA THAT:

Section 1. The Chief Financial Officer-City Treasurer is hereby authorized to issue payment for goods and services provided for City purposes in response to the purchase orders and contracts issued in compliance with state and municipal code requirements as requested by designated requisitioning authorities in accordance with approved budget appropriations.

Section 2. In accordance with Iowa Code Section 372.13(6), the City Clerk and Chief Financial Officer are hereby authorized and directed to provide the statement of receipts and disbursements to the City Council, and to publish a summary thereof.

Passed, approved, and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Brad M. Cavanagh, Mayor

Attest:

\_\_\_\_\_  
Adrienne N. Breitfelder, City Clerk

## COUNCIL APPROVAL

PAYDATE 04-03-24

VENDOR NAME	NET AMOUNT	INVOICE DESCRIPTION
1800TShirts	\$ 440.50	Pins for Snow Removal Volunteers
A & G ELECTRIC COMPANY	4,440.00	DBQ EV Charger Install Project
A & G ELECTRIC COMPANY	13,586.00	Wiring in New Custom Cabinets
A & G ELECTRIC COMPANY	392.00	Aid Service Tech with EV Charger
A & G ELECTRIC COMPANY	124.76	Disconnect Heat Tapes for Roofing Contractor
A & G ELECTRIC COMPANY	475.66	Motion Sensor Not Working
A & G ELECTRIC COMPANY	319.62	INSTALL RECEPTACLE IN GREENHOUSE
A & G ELECTRIC COMPANY	107.73	Finance Cubicle Wiring
ACCESS TECHNOLOGIES INC	158.47	Toner Cartridge - Order #SO351431
ACCURATE ANALYTICAL TESTING	65.00	541 Loras LHH21 Dust Wipes
ACCURATE ANALYTICAL TESTING	294.00	Dust Wipes LHH21 3/24
ACCURATE ANALYTICAL TESTING	194.00	Dust Wipes LHH21 3/24
ACCURATE CONTROLS INC	1,900.00	Service License
ACE CONCRETE PUMPING AND CONVEYING	1,107.50	Volunteer Drive sidewalk repair Telebelt rental
ADAM D DECKER	48.00	Greater IA Asphalt Conf-Des Moines, IA - Reimburse
ADAM D DECKER	103.25	Trvl Reimb - IDOT Structures Field Inspection
ADDOCO INC	1,280.00	MULCH FOR ROCKDALE, GRANDVIEW AND 32ND ST
ADVANCED AUTO PARTS	110.19	3380 LCD Inspctn TI Camera 1 each
ADVANCED AUTO PARTS	88.28	986869 Fuel/Water Separator K08845HD Fleetrunner
ADVANCED AUTO PARTS	51.99	PMD1330H Brake Pads-Prof Plat 1 Each lifetime
AGUAYO, LUIS	400.00	FOOD LICENSE REFUND
AHLERS & COONEY PC	574.00	Ahler Feb and March Services
AHLERS & COONEY PC	148.00	Ahler Feb and March Services
AHLERS & COONEY PC	30.00	Ahler Feb and March Services
AIRGAS USA LLC	4.03	Medical Oxygen for Ambulances
AIRGAS USA LLC	14.31	Medical Oxygen for Ambulances
AIRGAS USA LLC	136.00	Medical Oxygen for Ambulances
AIRGAS USA LLC	1,613.24	Liquid Oxygen - FY24
AIRGAS USA LLC	3,231.32	Liquid Oxygen - FY24
AIRGAS USA LLC	3,377.03	Liquid Oxygen - FY24
AIRGAS USA LLC	3,293.47	Liquid Oxygen - FY24
AIRGAS USA LLC	2,319.03	Liquid Oxygen - FY24
AIRGAS USA LLC	3,372.88	Liquid Oxygen - FY24
AIRGAS USA LLC	3,386.01	Liquid Oxygen - FY24
AIRGAS USA LLC	3,366.67	Liquid Oxygen - FY24
ALLIANT ENERGY	25.07	Energy Costs for Various Locations
ALLIANT ENERGY	19.07	FY24: 411 E. 15th St - Blum Site Electricity
ALLIANT ENERGY	1,384.40	Energy Costs for Various Locations
ALLIANT ENERGY	2,713.79	ELECTRIC BILLS THRU JUNE 2024
ALLIANT ENERGY	24.62	ELECTRIC BILLS THRU JUNE 2024
ALLIANT ENERGY	25.78	FY24: 2356 Washington St - Bee Branch Camera Elect
ALLIANT ENERGY	169.75	Energy Costs for Various Locations
ALLIANT ENERGY	21.66	FY24: 510 E. 22nd St Electricity
ALLIANT ENERGY	581.43	FY24: 535 E. 16th St - Pump Station Electricity
ALLIANT ENERGY	47.86	Energy Costs for Various Locations
ALLIANT ENERGY	93.85	ELECTRIC BILLS THRU JUNE 2024
ALLIANT ENERGY	32.82	FY24: 2543 White St - SCADA Flow Meter Electricity
ALLIANT ENERGY	1,229.05	UTILITY EXPENSE - ELECTRICITY
ALLIANT ENERGY	58.11	ELECTRIC BILLS THRU JUNE 2024
ALLIANT ENERGY	85.94	Energy Costs for Various Locations
ALLIANT ENERGY	26.09	FY24: 431 Rhomberg - Constr. Trailer Electricity
ALLIANT ENERGY	2,000.44	ELECTRIC BILLS THRU JUNE 2024
AMERIGROUP	1,702.15	AMBULANCE REFUND

<b>VENDOR NAME</b>	<b>NET AMOUNT</b>	<b>INVOICE DESCRIPTION</b>
AMERIGROUP (CAID HMO)	923.63	AMBULANCE REFUND
AMERIVANTAGE (CARE HMO)	404.68	AMBULANCE REFUND
ARAMARK UNIFORM SERVICES	103.09	Monthly linen, towels, dry mop supplies
ARAMARK UNIFORM SERVICES	103.09	Monthly linen, towels, dry mop supplies
ARAMARK UNIFORM SERVICES	103.09	Monthly linen, towels, dry mop supplies
ARAMARK UNIFORM SERVICES	103.09	Monthly linen, towels, dry mop supplies
ARAMARK UNIFORM SERVICES	103.09	Monthly linen, towels, dry mop supplies
ARAMARK UNIFORM SERVICES	103.09	Monthly linen, towels, dry mop supplies
AT&T Mobility National Accounts, LLC	5,928.63	AT&T Monthly First Net Charge Mar24
BALL HORTICULTURAL COMPANY	30.55	SEEDS FOR GREENHOUSE
BALL HORTICULTURAL COMPANY	117.46	SEED FOR GREENHOUSE
BALL HORTICULTURAL COMPANY	763.74	SEED FOR GREENHOUSE
Banner Fire Equipment Inc	184.16	Ribbed Handrails for New Engine 505
Bauer Built Inc	46.00	Bus Tire Repairs
Bauer Built Inc	256.00	Bus Tire Repairs
BI-COUNTY DISPOSAL INC	60.00	Transfer DMASWA scrap Steel unit to Alter 3/21/24
BILLY S DIEUJUSTE	53.09	Gas for travel from Training
BLACK HILLS/IOWA GAS UTILITY CO	36.67	FY24: 1805 Central Ave - Suite 2 Natural Gas
BLACK HILLS/IOWA GAS UTILITY CO	147.41	FY24: 1157 Central Ave - MFC Building Natural Gas
BLACK HILLS/IOWA GAS UTILITY CO	564.19	FY24: 1101 Central Ave - Colt Building Natural Gas
BLACK HILLS/IOWA GAS UTILITY CO	2,548.44	FY24: 305 W. 6th St - Federal Building Natural Gas
BLACK HILLS/IOWA GAS UTILITY CO	291.28	UTILITY EXPENSE - GAS
BLACK HILLS/IOWA GAS UTILITY CO	109.42	GAS BILLS THRU JUNE 2024
BLACK HILLS/IOWA GAS UTILITY CO	274.17	UTILITY EXPENSE - GAS
BLACK HILLS/IOWA GAS UTILITY CO	463.87	GAS BILLS THRU JUNE 2024
BLACK HILLS/IOWA GAS UTILITY CO	204.28	GAS BILLS THRU JUNE 2024
BLACK HILLS/IOWA GAS UTILITY CO	153.63	GAS BILLS THRU JUNE 2024
BUTT'S FLORIST & GREENHOUSE	55.00	FLOWER ARRANGEMENTS FOR MFC
CALSER CORPORATION	1,035.00	Calibration Service/Beam Tester
CENGAGE LEARNING INC	119.96	Large print books for adult collection
CENGAGE LEARNING INC	55.18	Large print books for adult collection
CENGAGE LEARNING INC	61.58	Large print books for adult collection
CENGAGE LEARNING INC	27.99	Large print books for adult collection
CENGAGE LEARNING INC	87.97	Large print books for adult collection
CES COMPUTERS INC	5,947.48	2-Hybrid At Home/Office Set Up for Admin Assistant
CHARLOTTE'S COFFEE HOUSE	134.48	3/22/24 HuddleUp Hour event - Catering
CHEMSEARCH	1,274.27	CHEMICALS FOR BOILER SYSTEM
CHEM-SULT INC	1,374.52	Polymer for Water Plant Treatment
CINTAS CORP	173.72	FY2024 Blanket Order - Uniforms
CINTAS CORP	191.49	Mats, Cloths, shop towels JOTC FY24
CINTAS CORP	58.53	Cleaning Supplies / Mats - Intermodal facility
CINTAS CORP	57.78	FY24: Floor Mat Services - City Hall, Annex, & Fed
CINTAS CORP	662.92	Various Maintenance - FY24
CINTAS CORP	317.03	Various Maintenance - FY24
CINTAS CORP	174.04	FY2024 Blanket Order - Uniforms
CINTAS CORP	299.23	FY2024 Blanket Order - Uniforms
CINTAS CORP	282.78	Mats, Cloths, shop towels JOTC FY24
CINTAS CORP	662.92	Various Maintenance - FY24
CINTAS CORP	617.58	Rugs/Towels for the WRRRC-FY24
CINTAS CORP	173.72	FY2024 Blanket Order - Uniforms
CINTAS CORP	317.03	Various Maintenance - FY24
CINTAS CORP	51.00	Various Maintenance - FY24
CINTAS CORP	171.77	FY2024 Blanket Order - Uniforms
CINTAS CORP	16.84	Various Maintenance - FY24
CINTAS CORP	662.92	Various Maintenance - FY24
CINTAS FIRST AID & SAFETY	614.30	FIRST AIDE CABINET RESTOCKED

<b>VENDOR NAME</b>	<b>NET AMOUNT</b>	<b>INVOICE DESCRIPTION</b>
CLEVELAND GOLF	257.04	PRO SHOP SUPPLIES
CLEVELAND GOLF	315.20	PRO SHOP SUPPLIES
COMMUNICATIONS ENGINEERING CO	380.50	JFK/Eisenhower Crosswalk Switch
COMMUNICATIONS ENGINEERING CO	2,361.40	Switches for Federal Building
COMMUNITY INCORPORATED	698.00	Advertising-City Life and Lifeguard Jobs
CONSTELLATION NEW ENERGY GAS DIV	4,137.53	FY24:50 W. 13th St - City Hall Natural Gas: Oct-Apr
CORI L BURBACH	329.75	3/12/24 DC Fly In - Cori Burbach reimbursement
Cottingham & Butler Insurance Services Inc	2,917.00	Ongoing Consulting payments 10-1-23 to 10-1-24
CRAWFORD HEATING AND COOLING CO INC	172.50	Backflow testing on 2 backflows
CROSSFIT DUBUQUE	1,100.00	8 week training program for 6 firefighters
CURT'S SIGNATURE SIGN	1,220.00	CURT'S SIGNATURE SIGN & DESIGN
DAVE'S REMODELING LLC	1,096.54	REPLACE SIDING AT BUNKER OFFICE BUILDING
DAVID M LOIS	94.76	Shirt for new Chaplain
DELTA DENTAL OF IOWA	23,672.00	FY24 Delta Dental - April 2024
Dinges Partners Group	6,900.00	Turnout Gear Inspection, Repair and Cleaning
Dinges Partners Group	4,350.00	Fire Helmets and Leather Fronts
DITTMER RECYCLING INC	2,410.24	Comingled Recycling 31JAN24
DITTMER RECYCLING INC	25.00	FY24: City Hall/Legal/Fed Bldg - Shredding Service
DITTMER RECYCLING INC	75.00	FY24: City Hall/Legal/Fed Bldg - Shredding Service
DITTMER RECYCLING INC	50.00	FY24: City Hall/Legal/Fed Bldg - Shredding Service
DUBUQUE AREA CHAMBER OF COMMERCE	5,100.00	Dubuque Nite in Des Moines Sponsorship 2024
DUBUQUE COUNTY ABSTRACT & TITLE	135.00	632 W 8th
DUBUQUE COUNTY ABSTRACT & TITLE	600.00	32887/McFadden Farm
DUBUQUE COUNTY SHERIFF	5,405.22	Feb 2024 DDTF Shared Expenses
DUBUQUE COUNTY TREASURER	815.00	1502 Washington Street/Simon, Jason/property taxes
DUBUQUE COUNTY TREASURER	274.00	1250 Jackson/Colson, Tony/Property taxes
DUBUQUE COUNTY TREASURER	240.00	1775 Washington/Herrig, Collin-Property Taxes
DUBUQUE COUNTY TREASURER	694.00	743 Louise Street/Krolick, Mark/Property Taxes
DUBUQUE COUNTY TREASURER	388.00	2140 Elm Street/Steuer, Rick/property taxes
DUBUQUE HOME BUILDERS & ASSOCIATES	100.00	2024 Membership Dues
DUBUQUE HOSE & HYDRAULICS	28.58	D1770404C Hose ID Barbed Hose splicer
DUBUQUE HOSE & HYDRAULICS	268.80	NUTS AND BOLTS FOR WELL LINE REPAIR AT WTP
DUBUQUE HOSE & HYDRAULICS	199.06	Unit4007 Hydraulic Hose replacement parts
DUBUQUE HOSE & HYDRAULICS	320.00	Eaton Aero Quip swival Socket nylon Hose Sleeve
DUBUQUE HOSE & HYDRAULICS	299.00	T2685-20 M18 Fuel 21 MM Random Orbital Unit 1843
DUBUQUE HOSE & HYDRAULICS	814.57	Bin Fill 3/13/2024 Hex nut
DUBUQUE HOSE & HYDRAULICS	216.79	Unit 407 Hydraulic Line Hose Assemble ORing
DUBUQUE HOSE & HYDRAULICS	48.76	Iron Pipe BL Bushing Paint Black
DUBUQUE HOSE & HYDRAULICS	201.70	Weather head winner Hose End Crimp Socket Unit 269
DUBUQUE HOSE & HYDRAULICS	17.20	Unit 4007 ACS30-4X6 Female OrF
DUBUQUE HOSE & HYDRAULICS	23.54	Unit 4007 Parts Bulkhead nut & Tee
DUBUQUE HOSE & HYDRAULICS	96.70	Socket Impact Extension Universal Joint
DUBUQUE HOSE & HYDRAULICS	27.47	WEC215-06LRL Eaton Hydraulic Hose 3/8" Hose Crimp
DUBUQUE HOSE & HYDRAULICS	26.99	AFF2704 Bulkhead union Bulkhead nut
DUBUQUE HOSE & HYDRAULICS	80.94	L48150 Combiclick Unitized Disc Carbide
DUBUQUE HOSE & HYDRAULICS	31.70	AGC01-8x8 Male NPTF 1/2 Hose 1/2MNPFTF LF
DUBUQUE HOSE & HYDRAULICS	73.71	HTW30840-PP Clamp Assy Twin 1/2 Pipe Unit 3250
DUBUQUE HOSE & HYDRAULICS	9.69	CB32F Ring Surface Mount 2000 lb
DUBUQUE HOSE & HYDRAULICS	64.07	AFF6502-06-06 06MORFS-06FORFSX 45 Unit 4007
DUBUQUE HOSE & HYDRAULICS	73.96	W3200X4X2 Pipe Brass Adapter Unit 3255
DUBUQUE HOSE & HYDRAULICS	33.14	Bin Fill Land fill
DUBUQUE HOSE & HYDRAULICS	27.60	T49-66-6710 Socket Impact 3/4 Dr 7 Impact exten
DUBUQUE HOSE & HYDRAULICS	141.64	Unit 2740 Pressure Full-Bore Ball valve Pipe Cap
DUBUQUE MAIN STREET LIMITED	24,052.75	FY24 Contracted POS-DMainSt
DUBUQUE MULCH COMPANY	54.00	18TH AND WASHINGTON ROW HOUSE MULCH
EASTERN IOWA ASPHALT MAINTENANCE IN	6,602.00	Clean/Reseal Pavement Joints on 3rd St Bridge

<b>VENDOR NAME</b>	<b>NET AMOUNT</b>	<b>INVOICE DESCRIPTION</b>
ECOLANE USA INC	1,500.00	SOFTWARE SMS MESSAGES
Ed Stivers Ford Inc	45,800.00	Vehicle Purchase
EIDE BAILLY LLP	12,170.00	Business Consulting For Jan and Feb
ELECTRICAL ENG & EQUIP COMPANY	1,300.00	Hawthorne St Generator Maint 20240312
ELECTRICAL ENG & EQUIP COMPANY	750.00	Huff St Generator Preventive Maint 20240312
EUROFINS ENV TESTING NORTH CENTRAL	452.28	HSW Landfill Disposal - 02/28/24
EUROFINS ENV TESTING NORTH CENTRAL	212.60	NPDES - 03/06/24
EUROFINS ENV TESTING NORTH CENTRAL	278.20	Key City Plating - 4th Qtr 2023 - 03/13/24
EUROFINS ENV TESTING NORTH CENTRAL	239.35	NPDES - 03/13/24
EVOLOGIC INC	6,120.00	Plaza 1 Lift Station Industrial Controls Work
Evora Energy LLC	675.00	Onsite inspection of 925 Kerper Ct Fuel Island
EXPRESS EMPLOYMENT PROFESSIONALS	2,025.75	Temporary HR Admin Assistants-week ending 3/24/24
FERGUSON WATER WORKS SUPPLY #2516	43,029.00	WATER SMART SOFTWARE - NEPTUNE 360 2/1/24-1/31/25
Fisher Soil Health LLC	1,453.59	DBQ County Farmer to Farmer Conference
FITZGERALD FREELANCE LLC	9,000.00	Schmitt Island Dog Track Deconstruction
FRIEDMAN INSURANCE, INC	1,095.00	821 Garfield St-Friedman Insurance (Annual Premium
FRIEDMAN INSURANCE, INC	780.00	514 Angella St - Friedman Insurance (Annual Premiu
FRONTIER PRECISION, INC.	249.00	DroneTag - Beacon - Detectable for all Air Traffic
G & R TREE SERVICE INC	6,000.00	Tree removal for sanitary project
Gary Rogers	15,000.00	981 Edison St.-Gary Rogers (First-Time Homebuyer)
GAVILON GRAIN LLC	68.71	FY2024 Unloading Salt Barges
GAVILON GRAIN LLC	139.97	FY2024 Unloading Salt Barges
GEISLER BROTHERS COMPANY	1,473.00	Intermodal compressor repairs
GEISLER BROTHERS COMPANY	1,296.00	WRRC maintenance - 08/30/23
GEISLER BROTHERS COMPANY	4,108.33	Evaporator Coil Replacement - Bld #70
GENE C ROKUSEK	457.78	Unit 1840 DwZ568 Urethane & Labor repair Window
GENE C ROKUSEK	475.00	Unit 2520 Install Custom Glass
GIESE SHEET METAL CO INC	337.50	WORK ORDER 24-0124 MAIN OFFICE VERY COLD
GIESE SHEET METAL CO INC	417.14	Exhaust Fan on Roof of MSC making noise
GIESE SHEET METAL CO INC	168.75	Heater in Parking Garage No Heat 24-0182 3.12.24
GILLIG LLC	3,849.81	82-32944-000 Radiator ASM W/E -Coa Unit 2691
GILLIG LLC	75.09	82-15549 Sensor ASM Frt ABS Unit 2695
GILLIG LLC	350.26	83-05950-000 Switch Proximity Cable unit 2680
GILLIG LLC	189.57	82-15332 Switch Arm Proximity Harness Unit 2680
GOODYEAR TIRE & RUBBER	2,381.41	FY24 GOODYEAR TIRES
GOODYEAR TIRE & RUBBER	2,298.02	FY24 GOODYEAR TIRES
GRAYMONT WESTERN LIME INC	4,824.48	FY2024 High Calcium Quicklime Blanket PO
GRAYMONT WESTERN LIME INC	4,800.56	FY2024 High Calcium Quicklime Blanket PO
GRAYMONT WESTERN LIME INC	4,872.32	FY2024 High Calcium Quicklime Blanket PO
GREATER DUBUQUE DEVELOPMENT CORP	10,500.00	FY24 Contracted POS-GDDC/Econ Dev Svcs
HANLEY AUTO BODY INC	355.00	Unit 3415 Paint new bumper pieces yellow
HAWKEYE BOAT SALES INC	222.50	Maintenance on Rescue Boat
HAWKINS INC	3,668.83	Sodium Hydroxide -(Calcium Carbonate)
HDR ENGINEERING INC	16,171.25	Sanitary Sewer Asset Mgmt Plan
HDR ENGINEERING INC	9,197.50	Sanitary Sewer Asset Mgmt Plan
HEARTLAND VIDEO SYSTEMS INC	1,395.35	Video On Demand and Livestreaming Service
HOLY FAMILY CATHOLIC SCHOOLS	240.00	Leisure Services Seasonal Employment ads
HUGH R MCCARRON	48.00	Greater IA Asphalt Conf-Des Moines, IA - Reimburse
HYGIENIC LABORATORY	1,564.00	Metals and Nitrates testing fee
IOWA DEPARTMENT OF PUBLIC SAFETY	50.00	Certification Fee
IOWA TOTAL CARE (CAID HMO)	1,696.04	AMBULANCE REFUND
J & R SUPPLY COMPANY	1,500.00	PLUGS FOR VALVE BOXES -VALVE TURNING
J & R SUPPLY COMPANY	600.00	Kaufmann Ave - Gen Sanitary Sewer
J&R RENTAL LLC	866.00	Telehandler to unload iron salts tank & skid
Jared Michael Charland	142.05	MILEAGE REIMBURSEMENT-CHARLAND
Jeffrey J Brandt	73.75	Land Surveyors Conf - Ames, IA - Reimbursement

<b>VENDOR NAME</b>	<b>NET AMOUNT</b>	<b>INVOICE DESCRIPTION</b>
Jeffrey J Brandt	103.25	Trvl Reimb - IDOT Structures Field Inspection
JEFFREY T PREGLER	364.50	Tuition Reimbursement - Spring 2024
JILL M CONNORS	197.50	jc per diem for the DC trip \$197.50.
Jon J Thill	23.06	Mileage Reimbursement - Feb 2024
JON W DIENST	119.99	Safety Boots
JUSTINE HULL	34.75	December 2022 Mileage Reimbursement
JUSTINE HULL	34.92	January 2023 Mileage Reimbursement
JUSTINE HULL	294.45	November 2022 Mileage Reimbursement
JUSTINE HULL	88.56	October 2022 Mileage Reimbursement
KELTEK INC	39,259.01	MCT for SRO Vehicles
KELTEK INC	13,873.16	MCT's for SRO Vehicles
KELTEK INC	1,842.18	Chief MCT for Police Vehicle
KENNETH J MEYER	1,011.50	Gloves for Operators and Lab Staff
KENNETH J MEYER	143.20	Gloves for Lab Staff
KEYSTONE AUTOMOTIVE INDUSTRIES INC	226.41	Stock parts GM trim panel, Fender Clips
Kieler Service Cente	232.50	Unit 3405 Bench Work Labor Steel welded cylinder
KILBURG EQUIPMENT LLC	609.57	Bolt Washer Cap & Freight Unit 3413
KILBURG EQUIPMENT LLC	1,173.69	Switch Pack Modul 12 no program needed PTO Switch
KYLE P REINERT	414.38	Tuition Reimbursement - Spring 2024
LADY EXPOS SOFTBALL ORGANIZATION LLC	80.00	REFUND FIELD RENTAL-VETS FIELD 1
LAMAR TEXAS LIMITED PARTNERSHIP	420.00	3/11-3/17/24 Seasonal Employment Recruit billboard
LAMAR TEXAS LIMITED PARTNERSHIP	1,103.00	3/18-3/24/24 Seasonal Employment Rcmt billboards
LAMAR TEXAS LIMITED PARTNERSHIP	420.00	3/25-3/31/24 Seasonal Employment Recruit billboard
LESLEIN TRUCKING	18,818.10	FY24 Blanket PO - Sludge Hauling
Luke Rupp	103.25	Trvl Reimb - IDOT Structures Field Inspection
MACQUEEN EQUIPMENT GROUP	465.71	048-7201 Pin Slide Pivot -F4000 & Shipping & Handl
MACQUEEN EQUIPMENT GROUP	4,110.20	Hose Assy Bearing Band Clamp Gasket 8" Rubber
MACQUEEN EQUIPMENT GROUP	1,554.03	Deflector Lwr Dirt Shipping & Handling
MACQUEEN EQUIPMENT GROUP	61.37	SHim - .12 T15985 Parts & Shipping & Handling
MACQUEEN EQUIPMENT GROUP	1,005.08	Angl-Lwr Clamp Unit 4007
MACQUEEN EQUIPMENT GROUP	576.79	1098168 Ang-Lower Clamp
MACQUEEN EQUIPMENT GROUP	64.23	PL-Seal Strip T015901 & Shipping & Handling
MACQUEEN EQUIPMENT GROUP	205.38	Wldt-Motor Mount 016073 Freight
Mario Gonzalez Jr	750.00	Art En Route bus stop mural-Chavanelle & Radford R
MARTIN EQUIPMENT OF IL INC	8,002.30	LANDFILL REPAIR PARTS
MARTIN EQUIPMENT OF IL INC	1,761.76	Unit 3279 ZigZag rubber Track 320MM & Freight
MARY R CORRIGAN	217.25	MR CORRIGAN PER DIEM DC FLY IN 2024
MCGOVERN HARDWARE	137.94	131-4547-03 Blade 22 inch
MCGRATH AUTOMOTIVE GROUP INC	204.52	25751134 Insulator 85667180 Spring
MCGRATH AUTOMOTIVE GROUP INC	21.17	20778492 Spring Kit Unit 2606
MEDICAL ASSOCIATES	510.07	AMBULANCE REFUND
MEDICAL ASSOCIATES	1,504.44	New Officer Medical and Psychology Coaching
MEDICAL ASSOCIATES	414.85	AMBULANCE REFUND
MEDICAL ASSOCIATES	428.71	AMBULANCE REFUND
MEDICAL ASSOCIATES	343.67	AMBULANCE REFUND
MEDICAL ASSOCIATES	421.82	AMBULANCE REFUND
MEDICAL ASSOCIATES (CARE HMO)	353.42	AMBULANCE REFUND
MICHAEL C VAN MILLIGEN	5.40	3/21/24 Business luncheon with Miquel Jackson NAAC
Micronics Engineered Filtration Group Inc	2,125.80	BELT FOR SLUDGE VACUUM FILTER
MIDWEST PATCH/HI-VIZ SAFETY	330.00	flashing amber lights traffic
MIDWEST PATCH/HI-VIZ SAFETY	352.50	Street Signs, Blanks, Supplies
MIDWEST TAPE LLC	102.71	Children's AV and Video for collection
MIKE FINNIN FORD LLC	256.68	VC Anti-Freeze
MIKE FINNIN FORD LLC	154.03	LC2Z 17626 AA Panel
MIKE FINNIN FORD LLC	379.09	Uni1801 L1MZ 3A428 Shaft Front Axle
MIKE FINNIN FORD LLC	264.73	LC3Z 13404 C Lamp Asy - Rear Unit

<b>VENDOR NAME</b>	<b>NET AMOUNT</b>	<b>INVOICE DESCRIPTION</b>
MIKE FINNIN FORD LLC	26.35	LB5Z 13A565 B Reflector Asy Unit 1819
MIKE FINNIN FORD LLC	944.10	LB5Z 78632A23 X Pad Seat Cush Spord unit 1801
MIKE FINNIN FORD LLC	86.62	BC3Z 7A191B Gasket Unit 1941
MIKE FINNIN FORD LLC	94.50	GA8Z 9D370 A Control Unit 1858
MIRACLE CAR WASH CORP	19.63	Full Service Car Wash on Vehicle 0914(Jeep)
MOLO OIL COMPANY	83,288.35	BP card @ 16th St. BP & BP on Penn Ave3/20/2024
MOLO OIL COMPANY	3,448.31	BP card @ JFK BP, Fmly Mart Central Key We3/20/24
MORRISON BROTHERS CO	55.96	Garbage Truck 1 pc 1 3/8" rd C.R. 57" no cut
MULGREW OIL COMPANY	2,014.11	#2 70/30 Diesel Blend Week of 3/11/2024 Landfill
MULGREW OIL COMPANY	852.35	#2 70/30 Diesel Blend Week of 3/11/2024 Landfill
MULGREW OIL COMPANY	1,285.65	#2 70/30 Diesel Blend Week of 3/11/2024 Landfill
MULGREW OIL COMPANY	619.44	#2 70/30 Diesel Blend Week of 3/11/2024 Landfill
MUNICIPAL COLLECTIONS OF AMERICA IN	143.44	Ambulance Collection Fees
MUNICIPAL COLLECTIONS OF AMERICA IN	8.50	Ambulance Collection Fees
MUNICIPAL COLLECTIONS OF AMERICA IN	154.16	Ambulance Collection Fees
NATHAN M STEFFEN	48.00	Greater IA Asphalt Conf-Des Moines, IA - Reimburse
NEWT MARINE SERVICE	57,458.85	2023 Maintenance Dredging Project
NICHOLAS EDWARDS, MD	3,333.33	EMS Director Yearly Salary for EMS Support
OLSON ALUMINUM CASTING LTD	7,216.50	Bracket to connect cameras to poles
O'REILLY AUTOMOTIVE INC	41.80	W32602 Tran Pan GKT Unit 1941
O'REILLY AUTOMOTIVE INC	23.84	Unit 1921 33406 Fuel/Wtr Sep
O'REILLY AUTOMOTIVE INC	7.76	4008 Copper Plug - Stock
O'REILLY AUTOMOTIVE INC	64.99	Unit 1908 AD20002G Power Inverter
O'REILLY AUTOMOTIVE INC	67.80	QC1411 Ceramic Pads
O'TOOLE OFFICE SUPPLY COMPANY	75.60	Name tags & Accountability Tags for New Hires
OVIVO USA LLC	4,510.00	Draft Tube Mixer for Digester #2
Patrick Donovan	1,442.31	EPP TOLL BOOTH WINDOW REPLACEMENT
PIGOTT INC.	6,827.30	Payroll Systems Analyst Workstation
PIGOTT INC.	390.00	Intermodal Desk Installation
PLAYGROUND GUARDIAN LLC	3,500.00	ANNUAL FEE-PLAYGROUND INSPECTION SOFTWARE
PRECISE MRM LLC	360.00	Automatic Vehicle Locator - Feb 2024
REMIX SOFTWARE INC	12,000.00	Remix Contract FY24
RILCO FLUID CARE	437.50	Def Bulk
RIVER CITY STONE	504.67	FY24 Blanket PO- Rock/Stone Fill for Water Main Re
RIVER CITY STONE	544.66	FY24 Blanket PO- Rock/Stone Fill for Water Main Re
RIVER CITY STONE	365.72	FY24 Blanket PO- Rock/Stone Fill for Water Main Re
RIVER CITY STONE	1,815.93	stone for projects
RJF INC	60.00	Art @ library sale - Fenelon Place 11X15
ROBERT D SCHIESL	1,089.27	Trvl Reimb - D.C. Fly In 2024
ROBERT D SCHIESL	48.00	Trvl Reimb - Greater IA Asphalt Conf
ROCK ISLAND ELECTRIC MOTOR REPAIR	5,385.00	ICE HARBOR NORTH MOTOR, MOTOR 2 (FLOODWALL OP)
RUSSELL N KIEFFER	73.75	Land Surveyors Conf - Ames, IA - Reimbursement
SADLER POWER TRAIN INC	822.20	350-1216HD Cargomax HD Coils Freight Unit 2614
SADLER POWER TRAIN INC	13.56	330-3036 Navistar Hub Cap Gasket 5.5"
SADLER POWER TRAIN INC	27.22	690P72 7 Way Plastic Socket Connect
SANDRY FIRE SUPPLY LLC	429.00	SCBA Tags
SECRETARY OF STATE	30.00	FY 24 Notary Renewals/New
SECRETARY OF STATE	30.00	FY 24 Notary Renewals/New
SerJon Bennett	107.82	Gas from Academy for new officers
Shive-Hattery Inc	4,300.00	Federal Building Electric Vehicle Charger
Shive-Hattery Inc	6,450.00	Federal Building Electric Vehicle Charger
SPAHN & ROSE LUMBER	523.03	ST6-Oak Interior Door, Black Knob & Deadbolt
SPAHN & ROSE LUMBER	84.98	ST6-Oak Interior Door, Black Knob & Deadbolt
State of Iowa Dept of Inspections and Appeals	280.00	City Hall Boiler Inpsctions
STEEL MART	144.12	8' 1x3x1/8 Real Angle 3 pieces
STRAND ASSOCIATES INC	1,780.00	WTP & Water Dist.Sys SCADA Upgrade

<b>VENDOR NAME</b>	<b>NET AMOUNT</b>	<b>INVOICE DESCRIPTION</b>
STRAND ASSOCIATES INC	4,109.50	WRRC Misc Service - FY21-Tsk 20-09-#1154-085
STRAND ASSOCIATES INC	3,602.24	Terminal St Pumping Station Concrete Repair
STRAND ASSOCIATES INC	4,330.50	Terminal St Pumping Station Concrete Repair
STRAND ASSOCIATES INC	2,471.89	Terminal St Pumping Station Concrete Repair
STRAND ASSOCIATES INC	6,526.83	42 inch forcemain and Terminal St. Pumping Station
STRAND ASSOCIATES INC	807.67	Terminal St Pumping Station Concrete Repair
STRAND ASSOCIATES INC	2,050.25	42 inch forcemain and Terminal St. Pumping Station
SUSTAINABLE STRATEGIES DC	6,750.00	Strategic Funding Services - Grant Writing
THE DUBUQUE ADVERTISER	360.00	FY2025 Budget Public Input Meeting
THE LOCKSMITH EXPRESS	49.00	KEY RINGS AND TAGS FOR THE PARK KEYS
THE METRIX COMPANY	189.56	FY2024 Franchise Fees
THE POINT NEIGHBORHOOD ASSOCIATION	747.93	PNA Grant - Tshirts
THEISENS INC	53.99	Tranist Uniform shoes
THOMPSON TIRE & RETREAD	1,490.00	255/60R18 108V Eagle Enforcer Police Car
THOMPSON TIRE & RETREAD	159.00	4904 LT245/75R17
THOMPSON TIRE & RETREAD	643.64	Unit 1905 11R225 Marathon Tire
THOMPSON TRUCK & TRAILER INC	92.64	FLTBM3674285 Blower Fleetrite Blower Unit 1910
THOMPSON TRUCK & TRAILER INC	1,151.80	201117539 Cooler Oil Gasket Package Oil
THOMPSON TRUCK & TRAILER INC	132.71	3770889C1 Button Horn Pad Assembly
THOMPSON TRUCK & TRAILER INC	1,033.28	201117697 5473296RX Kit EXH RCN Valve & Core
THOMPSON TRUCK & TRAILER INC	139.99	2512881C192 Horn Kit Dual Disc Horn unit 1908
THOMPSON TRUCK & TRAILER INC	443.74	2512884C91 Injector Kit HC Injector
THOMPSON TRUCK & TRAILER INC	205.25	3541113C1 Arm Steering Gear PITM
THOMPSON TRUCK & TRAILER INC	598.35	201117847 Resvoir Pow Absorber Shock Cab
THOMPSON TRUCK & TRAILER INC	786.34	201117891 Pad Kit Disc B Seal Unit 3406
THOMPSON TRUCK & TRAILER INC	200.46	201117935 Switch Turn Signal W/H
THOMPSON TRUCK & TRAILER INC	1,373.81	201117945 Valve Kit Inlet Throttle Unit4911
THOMPSON TRUCK & TRAILER INC	169.40	201117948 F W SePr Parts
THOMPSON TRUCK & TRAILER INC	29.22	201117985 Luberfiner Air Filter
THOMPSON TRUCK & TRAILER INC	109.00	R803058 Adjuster Brake Slack X201118037
THREE RIVERS FS INC	276.00	Spectra Lube Red Grease #2 Tube 3/20/2023
THREE RIVERS FS INC	139.99	ANNUAL REGULATOR TESTING-MILLER RIVERVIEW
THREE RIVERS FS INC	43.65	LP Gas 33 # Cylinder 925 Kerper court
THREE RIVERS FS INC	43.65	Propane Tank for Fork Truck
THREE RIVERS FS INC	15.08	Finance Charge 8/31/2023
THREE RIVERS FS INC	15.08	Finance Charge
THREE RIVERS FS INC	116.72	Finance Charge
THREE RIVERS FS INC	53.75	Finance Charge
THREE RIVERS FS INC	53.75	Finance Charge
TOTAL MAINTENANCE INC	2,546.00	Replace expansion tank has hole in it, test, insta
TRANSIT WORKS	447.00	BiPod(Open Clamp) & Antenna-Field Supplies
TRI CITY ELECTRIC COMPANY OF IA	10,126.36	Audio/Video Equipment for Remote Training
TSCHIGGFRIE EXCAVATING	620.00	Install Bypass pumps at Kerper Blvd Lift Station
TYLER TECHNOLOGIES, INC	35,400.00	Tyler Tech Order #157861
TYLER TECHNOLOGIES, INC	44,250.00	Tyler Tech Order #157861
TYLER TECHNOLOGIES, INC	17,700.00	Tyler Tech Order #157861
UNION HOERMANN PRESS	1,029.00	Winter Set-out Flyers
UNION HOERMANN PRESS	5,974.80	March 2024 Utility Bill Insert-PD annual report
UNITY POINT FINLEY OCCUPATIONAL HEA	99.00	Cardia Stress Test
VAN METER INDUSTRIAL INC	6,754.00	Meter panels for custom cabinets
VAN-WALL EQUIPMENT CO	229.71	Tools for cutting cups on golf course
VERIZON WIRELESS SERVICES LLC	100.12	Fixed Route Signs Data
VERIZON WIRELESS SERVICES LLC	256.06	Fixed Route Rangers Data
VERIZON WIRELESS SERVICES LLC	257.75	Fixed Route Rangers Data
Walker Consultants, Inc.	9,373.40	Smart Parking & Mobility Mngmt Plan
Walker Consultants, Inc.	3,600.00	Parking Equipment Design



<b>VENDOR NAME</b>	<b>NET AMOUNT</b>	<b>INVOICE DESCRIPTION</b>
WARTBURG THEOLOGICAL SEMINARY	586.17	FY2024 Franchise Fees
WELU PRINTING COMPANY	217.19	stationary order
WELU PRINTING COMPANY	329.86	SORRY WE MISSED YOU - LEAD SVC SOOR HANGERS
WELU PRINTING COMPANY	1,594.12	LEAD SERVICE LINE APPOINTMENT LETTERS/CONSENT FORM
WESTPHAL & COMPANY, INC	855.00	PEG Cabling for City Broadcast Servers Ref # 67334
WHKS AND COMPANY	37,632.00	EAGLE VALLEY, WESTBROOK, AND ENGLISH RIDGE CONTRAC
WIN-911 SOFTWARE	2,000.00	WIN911 Software
	<u>\$ 967,181.23</u>	

**EXCEPTIONS TO COUNCIL APPROVAL**

CHECK #	CHECK/PAYMENT DATE	VENDOR NAME	INVOICE AMOUNT	INVOICE DESCRIPTION
513080	3/27/2024	ABELN ABSTRACT	\$ 1,725.00	Forcemain - Reports
1008197	3/27/2024	ACCURATE ANALYTICAL TESTING	65.00	2515 Marywood Initial Dust Wipes
1008197	3/27/2024	ACCURATE ANALYTICAL TESTING	36.00	1695 Garfield HH Initial Dust Wipes
1008199	3/27/2024	ADB SAFEGATE AMERICAS, LLC	3,506.17	Airfield lighting parts replacement
1008192	3/27/2024	AIRGAS USA LLC	3.77	Small Acetylene, Oxygen & Nitrogen Tank Rentals
1008192	3/27/2024	AIRGAS USA LLC	1.89	Large Argon Tank Rental 2/1/24 - 2/29/2024
1008192	3/27/2024	AIRGAS USA LLC	2,639.80	FY24 Blanket PO - CO2 for Water Treatment Process
513098	3/27/2024	ALAN J STOLTZ	60.00	Alan Stoltz- basketball ref from 3/6/24-3/19/24
513107	3/27/2024	ALL STAR ENVIRONMENTAL LLC	850.00	945 Bluff Street-Inspection & Analysis of Samples
513081	3/27/2024	ALLIANT ENERGY	265.14	Energy Costs for Various Locations
513081	3/27/2024	ALLIANT ENERGY	2,982.81	Alliant 1406331000 Intermodal Ramp FY24
513081	3/27/2024	ALLIANT ENERGY	41.51	821 Garfield - Electricity bill
513081	3/27/2024	ALLIANT ENERGY	427.33	2601 Jackson - Electricity bill
513081	3/27/2024	ALLIANT ENERGY	38.07	2820 Brunswick-City Owned Property (Alliant Energy)
513081	3/27/2024	ALLIANT ENERGY	1,580.89	Electricity for JOTC Feb 24
513081	3/27/2024	ALLIANT ENERGY	921.60	Electricity for Intermodal Feb 24
513081	3/27/2024	ALLIANT ENERGY	167.08	Energy Costs for Various Locations
513081	3/27/2024	ALLIANT ENERGY	47,924.08	Energy Costs for Various Locations
513081	3/27/2024	ALLIANT ENERGY	719.79	FBO Jet Center Bld lower level
513081	3/27/2024	ALLIANT ENERGY	39.98	A Lites, T-Hangars 11 - 16 electrical service
513081	3/27/2024	ALLIANT ENERGY	248.80	Quonset Hangar Electrical
513081	3/27/2024	ALLIANT ENERGY	23.76	H lites, T-Hangars 61 - 68 electrical service
513081	3/27/2024	ALLIANT ENERGY	31.34	C Lites, T-Hangars 31 - 38 electrical service
513081	3/27/2024	ALLIANT ENERGY	221.89	Flight Ops Bld electrical service
513081	3/27/2024	ALLIANT ENERGY	147.38	Admin, Jet Center Bld electrical service
513081	3/27/2024	ALLIANT ENERGY	14.98	Self Fueler electrical service
513081	3/27/2024	ALLIANT ENERGY	79.05	Parking Lot Lites electrical service
513081	3/27/2024	ALLIANT ENERGY	113.14	SRE Bld electrical service
513081	3/27/2024	ALLIANT ENERGY	36.94	B Lites, T-Hangars 21 - 28 electrical service
513081	3/27/2024	ALLIANT ENERGY	1,267.73	ARFF Bld electrical service
513081	3/27/2024	ALLIANT ENERGY	129.66	Corp Hangar #88 electrical service
513081	3/27/2024	ALLIANT ENERGY	21.80	Old County Garage electrical service
513081	3/27/2024	ALLIANT ENERGY	14,340.21	WRRRC Lift Stations - Electricity Expense FY24
1008206	3/27/2024	Amanda Scheller	310.50	Travel Reimbursement to Attend CPSE Excellence Con
513112	3/27/2024	AT&T Mobility National Accounts, LLC	2,694.74	Public Works mobile communication service
1008160	3/27/2024	AV FUEL	42,238.69	Aviation fuel for resale
1008160	3/27/2024	AV FUEL	24,493.09	Aviation fuel for resale
1008160	3/27/2024	AV FUEL	24,292.49	Aviation fuel for resale
1008161	3/27/2024	AY MCDONALD MFG CO	12,911.53	FY2024 Franchise Fees
1008161	3/27/2024	AY MCDONALD MFG CO	1,119.13	FY2024 Franchise Fees
1008218	3/27/2024	B G BRECKE INC	1,065.37	HDO-Maintenance on Boiler at Headquarters
1008162	3/27/2024	BAKER & TAYLOR CO BOOKS	10.20	DVDs, Audio, Print, & BluRay materials for collect
1008162	3/27/2024	BAKER & TAYLOR CO BOOKS	39.04	DVDs, Audio, Print, & BluRay materials for collect
1008162	3/27/2024	BAKER & TAYLOR CO BOOKS	532.65	Continuations for Library collection
1008153	3/20/2024	BARD MATERIALS CENTRAL	1,126.50	CY2023 Various Concrete Products
1008153	3/20/2024	BARD MATERIALS CENTRAL	527.25	CY2023 Various Concrete Products
1008153	3/20/2024	BARD MATERIALS CENTRAL	164.90	CY2023 Various Concrete Products
1008153	3/20/2024	BARD MATERIALS CENTRAL	182.45	CY2023 Various Concrete Products
1008187	3/27/2024	BI-COUNTY DISPOSAL INC	120.00	Weekly transfer of LF scrap metal
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	68.61	FY24 Blanket PO-Gas Costs
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	54.32	FY24 Blanket PO-Gas Costs
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	39.34	FY24 Blanket PO-Gas Costs
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	774.58	FY24 INTERMODAL GAS UTILITIES
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	1,370.95	FY24 JOTC GAS UTILITIES
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	58.82	FY24 GAS SERVICE FOR 300 MAIN, SUITE 330
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	84.51	514 Angella St - Black Hills Energy
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	114.27	2820 Brunswick-City Owned Property (Black Hills)
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	110.42	821 Garfield - Black Hills bill
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	999.42	UTILITY EXPENSE - GAS
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	163.79	UTILITY EXPENSE - GAS
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	344.13	UTILITY EXPENSE - GAS
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	86.04	FY24 Blanket PO-Gas Costs
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	81.11	FY24 Blanket PO-Gas Costs
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	123.42	FY24 Blanket PO-Gas Costs
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	35.26	FY24 Blanket PO-Gas Costs
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	169.98	Flight Ops Bld natural gas service
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	170.37	Corp Hangar #88 natural gas service
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	325.15	SRE Bld natural gas service
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	335.02	ARFF/Maint Bld natural gas service
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	87.60	FBO Office natural gas service
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	240.39	Terminal building natural gas service
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	98.73	Admin, Jet Center Bld natural gas service
1008159	3/27/2024	BLACK HILLS/IOWA GAS UTILITY CO	385.80	FBO Hangar natural gas service
240900024	3/14/2024	BLUEFIN PAYMENT SYSTEMS LLC	774.97	Monthly Fees
240900023	3/14/2024	BLUEFIN PAYMENT SYSTEMS LLC	147.80	Monthly Fees
1008190	3/27/2024	BRIAN J LOCHNER	96.00	Des Moines, IA - Asphalt Conference
513082	3/27/2024	BUTT'S FLOREST & GREENHOUSE	55.00	FLOWER ARRANGEMENTS FOR MFC
1008158	3/20/2024	CAPITAL SANITARY	141.56	Janitorial supplies for Water Plant
1008158	3/20/2024	CAPITAL SANITARY	102.72	Janitorial Supplies
1008158	3/20/2024	CAPITAL SANITARY	258.36	Janitorial Supplies

CHECK #	CHECK/PAYMENT DATE	VENDOR NAME	INVOICE AMOUNT	INVOICE DESCRIPTION
1008158	3/20/2024	CAPITAL SANITARY	130.31	Janitorial Supplies
1008158	3/20/2024	CAPITAL SANITARY	225.92	Janitorial Supplies
1008158	3/20/2024	CAPITAL SANITARY	280.64	Janitorial Supplies
1008158	3/20/2024	CAPITAL SANITARY	72.34	Janitorial Supplies
1008158	3/20/2024	CAPITAL SANITARY	20.17	Janitorial Supplies
1008219	3/27/2024	CAPITAL SANITARY	237.71	Supplies for BHGC snack bar
1008219	3/27/2024	CAPITAL SANITARY	159.84	Straws, cups, and wax paper
1008219	3/27/2024	CAPITAL SANITARY	66.58	TP 2 ply mini jumbo
1008219	3/27/2024	CAPITAL SANITARY	124.63	HDQ-Various janitorial supplies
1008219	3/27/2024	CAPITAL SANITARY	363.57	ST4-Janitorial supplies
1008169	3/27/2024	CENGAGE LEARNING INC	28.79	Large print books for adult collection
1008169	3/27/2024	CENGAGE LEARNING INC	112.76	Large print books for adult collection
240900026	3/19/2024	CENTURY LINK	83.34	FY24 CL PHONE CHARGES
240900027	3/19/2024	CENTURY LINK	125.01	FY24 CL PHONE CHARGES
240900028	3/19/2024	CENTURY LINK	264.22	FY24 CL PHONE CHARGES
240900029	3/19/2024	CENTURY LINK	2,384.68	FY24 CL PHONE CHARGES
240900030	3/19/2024	CENTURY LINK	127.01	FY24 CL PHONE CHARGES
240900031	3/19/2024	CENTURY LINK	5,483.13	FY24 CL PHONE CHARGES
240900039	3/27/2024	CENTURY LINK	0.16	FY24 CL PHONE CHARGES
1008193	3/27/2024	CHAMBER DEVELOPMENT LLC	2,169.35	FY24 RENT FOR 300 MAIN, SUITE 330
513103	3/27/2024	CHAVENELLE STUDIO METALWORKS	198.00	Awards - Buchenau and Meyer
1008163	3/27/2024	CHEMSEARCH	994.45	Landfill fluids delivery
1008164	3/27/2024	CINTAS CORP	173.72	FY2024 Blanket Order - Uniforms
1008164	3/27/2024	CINTAS CORP	174.04	FY2024 Blanket Order - Uniforms
1008164	3/27/2024	CINTAS CORP	155.30	FY2024 Blanket Order - Uniforms
1008164	3/27/2024	CINTAS CORP	173.72	FY2024 Blanket Order - Uniforms
1008164	3/27/2024	CINTAS CORP	51.00	Various Maintenance - FY24
1008164	3/27/2024	CINTAS CORP	16.84	Various Maintenance - FY24
513083	3/27/2024	CINTAS FIRST AID & SAFETY	111.74	FY2024 Blanket PO - First Aid Supplies
1008142	3/20/2024	COMELC SERVICES INC	120.00	KDUB Tower Fees - 8 Units
1008165	3/27/2024	COMMUNICATIONS ENGINEERING CO	1,465.00	PHASE 1 OF FIREWALL AND SWITCH FOR POD MARINA
1008191	3/27/2024	CONSTELLATION NEW ENERGY GAS DIV	6,573.78	FY24 Blanket PO - Gas
1008191	3/27/2024	CONSTELLATION NEW ENERGY GAS DIV	3,458.24	JAN24 Gas Supply 2401 Central Ave
1008191	3/27/2024	CONSTELLATION NEW ENERGY GAS DIV	12,162.54	DBQ garage C&I/Gas Utility JAN24
1008191	3/27/2024	CONSTELLATION NEW ENERGY GAS DIV	5,505.20	Alternate Utility Gas Vendor
1008143	3/20/2024	CRESCENT ELECTRIC	120.20	Terminal HVAC parts replacement
1008210	3/27/2024	D & K PRODUCTS	2,735.15	Turf Chemicals
1008210	3/27/2024	D & K PRODUCTS	9,932.50	Turf Chemicals
1008210	3/27/2024	D & K PRODUCTS	1,539.45	HERBICIDES FOR GREENHOUSE
1008166	3/27/2024	DEMCO INC	330.89	Processing supplies for library collections
1008182	3/27/2024	DENISE C BLAKELEY-IHRIG	2,466.08	FY2024 Consultant Services 7/1/23 - 6/30/24
513106	3/27/2024	DIETZ ENTERPRISES LLC	143.00	2551 ELM HH Work- 2
513106	3/27/2024	DIETZ ENTERPRISES LLC	158.00	81 Gandolfo HH Invoice 3
1008183	3/27/2024	DITTMER RECYCLING INC	105.00	FY24 Blanket PO - Recycling and Trash
513097	3/27/2024	DUANE F ROLING	140.00	Duane Roling- basketball ref from 3/6/24-3/19/24
513084	3/27/2024	DUBUQUE COMMUNITY SCHOOL DIST	11,003.40	Before School Care Program
513084	3/27/2024	DUBUQUE COMMUNITY SCHOOL DIST	689.39	FY 2024 Franchise Fees
513084	3/27/2024	DUBUQUE COMMUNITY SCHOOL DIST	764.29	FY 2024 Franchise Fees
1008167	3/27/2024	DUBUQUE COUNTY HISTORICAL SOCIETY	1,305.80	FY 2024 Franchise Fees
1008167	3/27/2024	DUBUQUE COUNTY HISTORICAL SOCIETY	278.88	FY 2024 Franchise Fees
513085	3/27/2024	DUBUQUE COUNTY RECORDER	27.00	Faith Temple - Deed w/ Resolution
513085	3/27/2024	DUBUQUE COUNTY RECORDER	7.00	Dubuque County Recorder-CDBG (Blanket PO)
1008211	3/27/2024	DUBUQUE FIRE EQUIPMENT INC	294.10	Annual Fire Alarm Recharge, testing, inspection
513086	3/27/2024	DUBUQUE VISITING NURSE ASSOCIATION	1,438.68	Feb 2024 VNA LHH Invoice
513086	3/27/2024	DUBUQUE VISITING NURSE ASSOCIATION	792.66	HH Feb 2024 VNA Invoice
1008154	3/20/2024	DUBUQUELAND DOOR COMPANY	328.51	Repair/replace chain on overhead door
1008154	3/20/2024	DUBUQUELAND DOOR COMPANY	223.07	Repair/reset chain on overhead door, replace hinge
1008154	3/20/2024	DUBUQUELAND DOOR COMPANY	488.84	Door #3 Not Working
1008154	3/20/2024	DUBUQUELAND DOOR COMPANY	1,750.00	Replace HJ75 Operator for Door #1
240900022	3/14/2024	ELAVON INC	190.31	BUNKER HILL CC FEES
513109	3/27/2024	EV ENERGY GROUP	4,050.00	Port of Dbq - Electric Vehicle Software
1008186	3/27/2024	EXPRESS EMPLOYMENT PROFESSIONALS	2,551.35	HR Temp Admin Assistants for week of 3-17-24
1008186	3/27/2024	EXPRESS EMPLOYMENT PROFESSIONALS	2,611.58	C063 - Administrative Assistant payroll
513087	3/27/2024	FEDEX	50.61	Shipping of fuel quality testing tools; items for
513101	3/27/2024	FERGUSON WATER WORKS SUPPLY #2516	3,355.85	5/8" Meters For Stock
513101	3/27/2024	FERGUSON WATER WORKS SUPPLY #2516	3,355.85	5/8" Registers for Stock
513101	3/27/2024	FERGUSON WATER WORKS SUPPLY #2516	6,600.00	5/8" Registers for Stock/Meter Repairs
240900020	3/14/2024	FIRST DATA CORPORATION	87.90	First Data Mystique Charges
1008201	3/27/2024	FORCE FITTERS LLC	54.00	Force Fitters 588ETLM
1008168	3/27/2024	FRIEDMAN INSURANCE, INC	343.00	357 E. 16th St.-Friedman Insurance (Annual Premium
1008168	3/27/2024	FRIEDMAN INSURANCE, INC	607.00	2601 Jackson St.- Friedman Insurance (Annual bill)
1008168	3/27/2024	FRIEDMAN INSURANCE, INC	70.00	945 Bluff St.-Friedman Insurance (Annual Premium)
1008168	3/27/2024	FRIEDMAN INSURANCE, INC	2,895.00	Friedman Group- Rehab Housing
513088	3/27/2024	GANSEN EXCAVATING INC	5,800.00	EAGLE VALLEY DETENTION TRAIL IMPROVEMENTS
1008208	3/27/2024	Garsite Progress LLC	234.37	LL1 truck parts
513117	3/27/2024	GARTLEY, AKEYLAH K	315.53	U8 08841 409 LOCUST
513115	3/27/2024	George S Khal	120.06	Mileage reimbursement for author visit
240900005	3/27/2024	GILLIG LLC	224.80	05-70568-000 Wheel Steering 20 inch Unit 2682
513089	3/27/2024	GRAINGER INC	261.56	Pump for belt loader; ear plugs
1008179	3/27/2024	GRAYMONT WESTERN LIME INC	4,754.56	FY2024 High Calcium Quicklime Blanket PO
1008179	3/27/2024	GRAYMONT WESTERN LIME INC	4,765.60	FY2024 High Calcium Quicklime Blanket PO

CHECK #	CHECK/PAYMENT DATE	VENDOR NAME	INVOICE AMOUNT	INVOICE DESCRIPTION
1008179	3/27/2024	GRAYMONT WESTERN LIME INC	4,695.68	FY2024 High Calcium Quicklime Blanket PO
513100	3/27/2024	GRP & ASSOCIATES INC	408.00	Landfill Sharps Boxes Disposal
1008170	3/27/2024	HAWKINS INC	8,352.19	FY24 - 25 Sodium Hypochlorite(Chlorine)
513111	3/27/2024	Heartland Business Systems, LLC	1,462.50	New Phones (Five)
513102	3/27/2024	HEARTLAND VIDEO SYSTEMS INC	14,282.64	Terminal monitor replacement
1008184	3/27/2024	HILLS & DALES CHILD DEVELOPMENT	202.98	FY 2024 Franchise Fees
1008184	3/27/2024	HILLS & DALES CHILD DEVELOPMENT	386.14	FY 2024 Franchise Fees
513090	3/27/2024	HOLY FAMILY CATHOLIC SCHOOLS	96.58	FY 2024 Franchise Fees
1008198	3/27/2024	IMWCA	22,090.83	TPA Payments 2/1/24-2/29/24
1008198	3/27/2024	IMWCA	11,302.00	TPA 411 Payment - February 2024
1008189	3/27/2024	INGRAM LIBRARY SERVICES INC.	2,785.22	Library books for Adult Collection 1st/2nd qtr
1008189	3/27/2024	INGRAM LIBRARY SERVICES INC.	1,130.46	Children's Books for Library collection
1008189	3/27/2024	INGRAM LIBRARY SERVICES INC.	85.06	Teen YA Library Materials for collection
1008189	3/27/2024	INGRAM LIBRARY SERVICES INC.	3,321.77	Library books for Adult Collection 1st/2nd qtr
1008189	3/27/2024	INGRAM LIBRARY SERVICES INC.	2,045.90	Library books for Adult Collection 1st/2nd qtr
1008189	3/27/2024	INGRAM LIBRARY SERVICES INC.	793.77	Children's Books for Library collection
1008189	3/27/2024	INGRAM LIBRARY SERVICES INC.	79.11	Teen YA Library Materials for collection
513108	3/27/2024	INTEGRA FACILITY SERVICES	165.00	February 2024 Cleaning Services for Water Plant
1008207	3/27/2024	Intueor Consulting Inc	31,568.00	ERP Project Management & Support Services
513093	3/27/2024	IOWA COMMUNITIES ASSURANCE POOL	6,309.09	FY24 DAMAGE CLAIMS
513093	3/27/2024	IOWA COMMUNITIES ASSURANCE POOL	331.00	2021 Hitachi Excavator
1008172	3/27/2024	J & R SUPPLY COMPANY	630.00	TAPPING SADDLES FOR 4X2 TAPS
513114	3/27/2024	Jeffrey D Kozlatek	1,000.00	Juggling Jeff Deposit For Program in July 2024
513099	3/27/2024	KENNETH J WELTER	180.00	Ken Welter- basketball ref from 3/6/24-3/19/24
1008144	3/20/2024	KONE INC	2,474.00	Ramps Elevator Maintenance FY24
1008144	3/20/2024	KONE INC	200.00	Elevator Maintenance - FY24
1008212	3/27/2024	KONE INC	2,474.00	Ramps Elevator Maintenance FY24
1008174	3/27/2024	KRAEMERS WATER STORE INC	24.85	Bottled Water Service for the Landfill
1008196	3/27/2024	KRISTEN K DIETZ	961.50	Tuition Reimbursement - Spring 2024
1008209	3/27/2024	Laura Merrick	916.58	To finalize outstanding tasks-Arts/NEA Gra
1008209	3/27/2024	Laura Merrick	100.00	Arts Dept work-To finalize tasks - Op Grants FY25
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	1,905.56	Energy Costs
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	139.27	Energy Costs
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	89.63	Energy Costs
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	1,227.36	FY24 Blanket PO - Electricity Costs
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	615.47	FY24 Blanket PO - Electricity Costs
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	224.88	FY24 Blanket PO - Electricity Costs
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	39.90	Obstruction lite electrical
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	39.82	Obstruction lite electrical
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	87.70	Airport Ent Rd & GA Sign electrical
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	625.80	Airfield lighting electrical
1008145	3/20/2024	MAQUOKETA VALLEY ELECTRIC COOP	140.56	Electrical Svc - Airport Lift Station - FY24
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	72.95	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	42.87	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	65.05	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	125.07	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	55.25	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	56.62	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	54.05	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	42.79	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	49.94	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	336.75	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	366.24	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	50.91	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	45.37	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	43.27	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	66.58	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	67.94	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	69.39	Energy Costs
1008213	3/27/2024	MAQUOKETA VALLEY ELECTRIC COOP	5,104.41	Terminal Building electrical
1008181	3/27/2024	MARK P MURPHY	18.36	M Murphy mileage reimbursement
513110	3/27/2024	Maussco, LLC	8,365.00	754 W 8th Healthy Homes Work
1008204	3/27/2024	MAV RESTORATIONS LLC	8,850.00	1695 Garfield Healthy Homes Work
513091	3/27/2024	MCCULLOUGH CREATIVE	5,750.00	VolunteerDBQ Recruitment Campaign
513092	3/27/2024	MEDICAL ASSOCIATES	638.00	Pre-employ Phy, DS, vaccines, & Respirator exams
513092	3/27/2024	MEDICAL ASSOCIATES	660.00	Psychological testing evaluation
1008177	3/27/2024	MICHAEL C VAN MILLIGEN	19.20	3/5/24 Business luncheon with Robert Kimble
1008177	3/27/2024	MICHAEL C VAN MILLIGEN	5.40	3/7/24 Business luncheon with CM Josh Boldt
1008185	3/27/2024	MIDWEST TAPE LLC	685.32	DVD, BluRay, CD audio, and di
1008185	3/27/2024	MIDWEST TAPE LLC	808.24	DVD, BluRay, CD audio, and di
1008185	3/27/2024	MIDWEST TAPE LLC	134.93	Children's AV and Video for collection
1008149	3/20/2024	MR ROOTER PLUMBING	1,435.80	Landfill General Plumbing (Pumping)
1008215	3/27/2024	MR ROOTER PLUMBING	153.00	repair womens rest room hot water not working
513104	3/27/2024	MUNICIPAL COLLECTIONS OF AMERICA IN	670.78	Collection Fees for Utility Billing
1008146	3/20/2024	MUTUAL WHEEL COMPANY	123.84	BE13255 55PSI Switch
1008146	3/20/2024	MUTUAL WHEEL COMPANY	24.00	7403595999 Window Kit
1008188	3/27/2024	NETWORK COMPUTER SOLUTIONS	350.00	Updated the password policy on computers
1008188	3/27/2024	NETWORK COMPUTER SOLUTIONS	2,680.00	Airport server Sophos subscriptions
513113	3/27/2024	Nick Wilson	314.94	APWA WEST SNOW&ICE CONF & RODEO
1008147	3/20/2024	NORTHEAST IOWA COMMUNITY COLLEGE	280.00	AED Pads and Battery Resale
1008147	3/20/2024	NORTHEAST IOWA COMMUNITY COLLEGE	35.00	CPR/AED Certification

CHECK #	CHECK/PAYMENT DATE	VENDOR NAME	INVOICE AMOUNT	INVOICE DESCRIPTION
1008214	3/27/2024	NORTHEAST IOWA COMMUNITY COLLEGE	28.00	Basic Life Support Certification
1008214	3/27/2024	NORTHEAST IOWA COMMUNITY COLLEGE	280.00	AED pads and batteries for pools
1008176	3/27/2024	O'CONNOR & ENGLISH INSURANCE AGENCY	706.00	Marina Liquor Insurance
1008176	3/27/2024	O'CONNOR & ENGLISH INSURANCE AGENCY	31,626.38	O'Connor Blum Pollution
1008176	3/27/2024	O'CONNOR & ENGLISH INSURANCE AGENCY	1,828.10	Cyber Liability and Surplus Lines Tax Renew Policy
240900035	3/27/2024	OPENEDGE - GLOBAL PAYMENTS	3,617.17	DMASWA Monthly CC Fees
1008171	3/27/2024	ORIGIN DESIGN CO	10,117.50	PROF.SVCS CITY WIDE DIST SYS, STOR.PMPNG
1008217	3/27/2024	OVERDRIVE INC	846.22	Downloadable audio and ebooks for adult collection
1008217	3/27/2024	OVERDRIVE INC	1,594.71	Kids eBooks and Eaudio downloadable for collection
1008217	3/27/2024	OVERDRIVE INC	970.74	Downloadable audio and ebooks for adult collection
1008203	3/27/2024	PAUL J DAVIS	96.00	Des Moines, IA - Asphalt Conference
240900034	3/19/2024	PAYMENTUS GROUP INC	16.00	Online Utility Billing
1008195	3/27/2024	HELPS THE UNIFORM SPECIALISTS	45.43	Uniform cleaning for mechanic; shop towels cleanin
1008200	3/27/2024	PRECISE MRM LLC	860.00	Monthly Subscription Precise Fleet Management
1008155	3/20/2024	R.J. THOMAS MFG CO INC.	1,790.50	GRILLS FOR PARKS
1008173	3/27/2024	RACOM CORPORATION	3,571.53	Installation and Parts - Cameras at City Hall
1008173	3/27/2024	RACOM CORPORATION	312.50	Replace radio in deice truck
1008148	3/20/2024	RIVER CITY PAVING	946.96	CY2023 Hot & Cold Mix Asphalt
1008175	3/27/2024	RIVER CITY STONE	154.33	FY24 Blanket PO- Rock/Stone Fill for Water Main Re
1008194	3/27/2024	ROBERT G WRIGHT JR	16,400.00	677 W Locust LHH21 Construction Payment #2
240900035	3/25/2024	RXBENEFITS INC	72,518.47	FY24 Prescription Admin & Claims-3/2/24 to 3/15/24
1008202	3/27/2024	Save On SP, LLC	2,932.65	Savings on specialty drugs- 2/1/24 to 2/20/24
240900040	3/27/2024	SISCO	240.00	FY24 STD Insurance Premium - April 2024
1008205	3/27/2024	SPECIAL MARKETS INSURANCE CONSULTAN	2,380.90	underpaid AmeriCorps Health Insurance for January
240900038	3/27/2024	STANDARD INSURANCE CO	6.02	FY24 Life Insurance Premium Additional Amount
1008150	3/20/2024	SUPERIOR WELDING SUPPLY CO	261.23	3000004 #4 Acetylene & 3000244 Oxygen 251 CF
1008216	3/27/2024	TELEGRAPH HERALD	21.53	Public hearing notice - Jet Truck
240900037	3/27/2024	TREASURER STATE OF IOWA	14,941.08	FY24 Metro Sales Tax
240900036	3/27/2024	TREASURER STATE OF IOWA	104,474.77	FY24 UB Sales Tax
1008157	3/20/2024	TRI-STATE PORTA POTTY INC	220.00	ADA Unit w/winter fee to Landfill per Bev Wagner
1008151	3/20/2024	TRUCK COUNTRY OF IOWA INC	2,731.99	101F/DDE RA472090148 Turbo DD15 Unit 2703
1008151	3/20/2024	TRUCK COUNTRY OF IOWA INC	46,374.30	Unit 2695 Replace Long Block & labor
1008151	3/20/2024	TRUCK COUNTRY OF IOWA INC	14.49	101C/5253019 Gasket EXH Gas rcn Valve Unit 2683
1008151	3/20/2024	TRUCK COUNTRY OF IOWA INC	87.30	101F/DDE A473096280 Metal Seal Unit2703
513116	3/27/2024	Tucker W La Belle	15,000.00	890 High Bluff St.-FTHB Tucker LaBelle
513094	3/27/2024	VERIZON WIRELESS SERVICES LLC	411.46	Staff cell phones and data for surface tablets
1008178	3/27/2024	WARTBURG THEOLOGICAL SEMINARY	122.04	FY2024 Franchise Fees
513095	3/27/2024	WELDON TIRE	1,714.00	Tires for Jet 2
513095	3/27/2024	WELDON TIRE	194.70	Truck 4 tire replacement
513095	3/27/2024	WELDON TIRE	1,362.00	Tires for tractor 6
1008152	3/20/2024	WENZEL TOWING SERVICE	125.00	FY24 Wenzel Towing
513096	3/27/2024	WESTPHAL & COMPANY, INC	1,326.25	Demolition of Outdated Electric Panel
513096	3/27/2024	WESTPHAL & COMPANY, INC	311.94	Building electrical services
1008180	3/27/2024	WHKS AND COMPANY	2,533.73	JEFFERSON PARK RETAINING WALL PROJECT
1008156	3/20/2024	WOODMAN ELECTRICAL CONTRACTORS	1,293.00	Port Ramp Tech Support Program Billing
			<u>\$</u>	<u>836,669.09</u>

**City of Dubuque  
City Council Meeting**

**Consent Items # 05.**

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**ITEM TITLE:** Arts & Cultural Affairs Advisory Commission Special Projects Grant Modification

**SUMMARY:** City Manager recommending City Council review and approve the modifications to the Special Projects grant program as submitted by the Arts & Cultural Affairs Advisory Commission Grants Committee to the Arts & Cultural Affairs Commission.

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Approve

**ATTACHMENTS:**

**Description**

MVM Memo  
Memo-FY25 Special Projects Grant Application Modifications  
Special Projects Capacity Building Guidelines

**Type**

City Manager Memo  
Staff Memo  
Supporting Documentation



**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Arts & Cultural Affairs Advisory Commission Special Projects Grant Modification

**DATE:** March 26, 2024

Arts & Cultural Affairs Manager Bonnie Spurling is recommending City Council review and approve the modifications to the Special Projects grant program as submitted by the Arts & Cultural Affairs Advisory Commission Grants Committee to the Arts & Cultural Affairs Commission.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv  
Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Bonnie Spurling, Arts & Cultural Affairs Manager  
Jill Connors, Economic Development Director

**TO:** Michael C. Van Milligen, City Manager

**FROM:** Bonnie Spurling, Arts & Cultural Affairs Manager

**SUBJECT:** Arts & Cultural Affairs Advisory Commission Special Projects Grant Modification

**DATE:** March 15, 2024

## **INTRODUCTION**

The purpose of this memorandum is to provide information for review and consent regarding the Arts & Cultural Affairs Advisory Commission Grants Committee modifications to the Special Projects grant program.

## **BACKGROUND**

The Grants Committee of the Arts & Cultural Affairs Advisory Commission engages in activities that align with the Commission's Strategic Plan Priority 3 to "Continually strengthen and evaluate Arts & Culture Grant programs to maximize community impact." On October 20, 2023, the Arts & Cultural Affairs Commission provided notification that the Arts & Cultural Affairs Advisory Commission Grants Committee would be restructuring the grant programs for FY25. A survey of all past grant applicants was utilized as a data collection tool to inform the evaluation, re-envisioning, and potential revisions for the FY25 Arts & Culture annual grant programs. The intention of which was to receive constructive feedback from invited arts and culture sector organizations within the city limits of Dubuque. The Operating Support grant revisions were completed in January 2024 with the application process opening on March 1, 2024.

## **DISCUSSION**

The results of the online survey revealed the majority of applicants requested more opportunities to facilitate organizational capacity building. The collected feedback was strategically used to guide the Grants Committee in modifying the annual Arts & Culture Special Projects grant program to include capacity building to support initiatives that aim to create more sustainable and effective organizations. The intent of this shift is to prioritize relevant funding needs and support the future growth of the local arts and culture sector while remaining fiscally responsible and honoring the terms of the grant. It is the intention of the Arts & Cultural Affairs Commission to alternate bi-annually between the traditional Special Projects program and a more specific Capacity Building project, beginning with the Capacity Building program for the FY25 grant cycle.



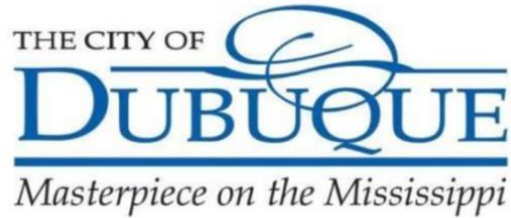
**BUDGET IMPACT**

There are no budget impacts.

**RECOMMENDATION/ACTION STEP**

I respectfully submit this notification of Special Projects Capacity Building grant modifications to the City Council for review and consent.

Cc: Jill Connors, Economic Development Director



## **ARTS & CULTURAL AFFAIRS FY25 CAPACITY BUILDING GRANT GUIDELINES**

### **PURPOSE**

The City of Dubuque Arts & Culture Capacity Building grant program provides funding to support initiatives that aim to create a more sustainable and effective organization. Eligible organizations may apply for grants of \$8,000 to support capacity-building initiatives. The organization must maintain a cash operating expense budget, exclusive of other City of Dubuque grant support, of no less than \$10,000 per year. A total of \$35,000 in funding is available.

“Capacity Building,” as defined by the National Council of Nonprofits, is “whatever is needed to bring a nonprofit to the next level of operational, programmatic, financial, or organizational maturity, so it may more effectively and efficiently advance its mission into the future. Capacity building is not a one-time effort to improve short-term effectiveness, but a continuous improvement strategy toward the creation of a sustainable and effective organization.”

Examples of capacity building initiatives:

- Planning Activities: organizational assessments, strategic planning, creating a development plan and/or fundraising strategy
- Donor Development: marketing/communications, online donor portals, donor experience improvements
- Nonprofit Training: staff nonprofit 101 training, nonprofit board member training, leadership development and review, project or program development, program management and evaluation
- Strategic Relationships: strengthening relationships with professional advisors and/or nonprofit partners
- Diversity, Equity, Accessibility, and Inclusion (DEAI) initiatives: advancements of DEAI knowledge, trainings, assessments, and evaluation
- Internal Operations: improvements to donor database/financial management systems, volunteer management, or staff-like support for affiliate growth
- Other assessment, consulting, or facilitation that improves an identified area of organizational capacity

Proposals that include a combination of strategies will be considered, so long as the applicant clearly demonstrates how multiple strategies align toward common goals.

Capacity Building grants are not intended for individuals, special projects, or programs.

The Arts & Cultural Affairs Capacity Building grant program is funded, administered, and managed by the City of Dubuque's Department of Economic Development, Office of Arts & Cultural Affairs.

## ARTS & CULTURE ORGANIZATION DEFINITION

An arts and culture organization is defined as an entity with a **primary purpose** to create, produce, present, or provide arts and culture programs, experiences, or activities for public audiences. Organizations must offer programs in an artistic discipline, operate as a museum, or provide informal learning in arts and culture disciplines.

The organization's **primary purpose** is assessed and verified by staff using the organization's website, mission, core activities, and IRS National Taxonomy of Exempt Entities (NTEE) codes. Assessment ruling(s) are final. Organizations determined by staff to be ineligible will not move forward and are specifically denied any appeals process.

## CULTURAL EQUITY STATEMENT

The City of Dubuque Arts & Culture Grants Program(s) commits to equity within the arts and culture sector by evaluating its programs and practices. The City recognizes the multiple benefits that arts and culture exploration provide, regardless of race, color, religion, age, disability, national origin, sex, sexual orientation, and gender identity/expression.

## ELIGIBLE APPLICANTS

Applicants must meet all of the following eligibility requirements:

- Applicant is an arts and culture organization as defined by grant guidelines
- Applicant is a nonprofit 501(c)(3) organization with at least two years of programming documentation and two Form 990s. *First-time applicants should contact Bonnie Spurling, Arts & Cultural Affairs Manager, at [bspurlin@cityofdubuque.org](mailto:bspurlin@cityofdubuque.org) for guidance before applying*
- Applicant's official business address is located in the city of Dubuque (P.O. Boxes will not be accepted)
- Applicant serves residents of the city of Dubuque and programming occurs within city limits
- Applicant will have a clean record of compliance and be in good standing with the City of Dubuque's Arts and Culture Grant Program(s)

## INELIGIBLE APPLICANTS

- For-profit organizations, businesses, or sole proprietors
- Educational institutions including private or public K-12 schools, colleges, universities, and community colleges
- City of Dubuque government departments or entities
- Individual artists
- Nonprofit organizations that are not arts and cultures organizations (for example, social service, nonprofits, religious institutions, athletic groups, etc.)
- Organizations with a **delinquent** City of Dubuque Arts and Culture Grant Program Final Report
- The use of a fiscal agent/sponsor is not allowed.

## GRANT AWARD

- Requests may range from \$4,000-\$8,000. Requests for less than \$4,000 will not be considered.
- Applicant must demonstrate a 1:1 cash match. **Personnel time is not eligible for cash match.**
- Projects must occur between July 1, 2024 and June 30, 2025

## INELIGIBLE COSTS

- This grant program does not support capital projects, fundraising events, deficit reduction, endowment, vehicles, furniture, ongoing operational or program delivery costs, consumable supplies, food/beverages for meetings or events, advertising or marketing campaigns, or the costs associated with filing for 501c3 status.

## ONLINE APPLICATION SUBMISSION

Applicants must submit applications via the City of Dubuque's [SlideRoom](#), an online application portal. Applications will not be accepted in any other format. Late, incomplete, or ineligible applications will not be accepted. Applicants can access the current online application requirements at:

<https://cityofdubuque.org/392/Funding-Programs>

## TIMELINE

Application Open: FY25 application available at <a href="http://www.cityofdubuque.org/artsgrants">www.cityofdubuque.org/artsgrants</a>	April 2, 2024
Informational Webinar available on the City of Dubuque website	April 2, 2024
Application Deadline:	May 10, 2024, by 11:59 PM
Grant Review Panel Meeting	June 18, 2024
Grants Subcommittee Meeting – Funding Recommendations	June 20, 2024
A&C Affairs Commission Meeting – Funding Recommendations Approval	June 25, 2024
City Council – Approval of Funding	July 8, 2024
Award Notification:	July 9, 2024
Disbursement of Funds (anticipated):	August 2024
Period of Performance:	July 1, 2024 – June 30, 2025
Final Report Due	August 31, 2025

## REVIEW PROCESS

### Department Eligibility Review

Submitted applications are reviewed by staff for completion, eligibility, and adherence to published

funding priorities and guidelines. New application information or subsequent application clarification submitted after a program deadline is not considered. Staff will also review an applicant's record of compliance and good standing with City of Dubuque's Office of Arts & Cultural Affairs. Applications or applicants determined by staff to be ineligible or incomplete will not move forward to panel review and are specifically denied any appeals process.

### **Competitive Panel Review**

Eligible applications will be referred to a competitive review by a volunteer citizen panel of regional arts and culture OR nonprofit professionals with appropriate expertise commensurate to the purpose of the grant program.

### **Funding Recommendations**

Scoring and allocation recommendations are presented, reviewed, and voted upon by the Arts and Cultural Affairs Advisory Commission before advancing to Dubuque City Council for final approval.

### **Decision Notification**

Applicants will be notified of funding decisions via email by July 9, 2024. Applicants are notified of the status of their application whether they *are* or *are not* awarded funding. Applicants will be contacted if any additional information is required and are encouraged to refrain from contacting staff for application status updates until funding decisions are made.

### **Application Questions & Scoring Rubric**

The Capacity Building Program Scoring Rubric will be used by the panel to evaluate grant applications. Application questions are provided for reference only. Applicants must review and complete application requirements in the SlideRoom portal. Each section has criteria and corresponding point values to ensure a fair review process. The rubric is on a scale of 18 points.

## **EVALUATION CRITERIA**

Our granting strategy is to fully fund awardees to allow completion of a one-year project.

Review will be based on the following criteria. These criteria consider the value of the capacity-building project to the organization and the value of the organization to the community.

**Mission:** The organization's mission and impact are valuable to the Dubuque community. High-scoring applications will demonstrate how the organization fulfills an identified community need.

**Impact of Capacity Building Project:** The organization clearly identifies the area of capacity that the project will improve and its benefit to the organization's ability to fulfill its mission. High-scoring applications will provide a clear and concise description of why the capacity-building project is necessary and illustrate the impact it will have on advancing the organization and its work.

**Priorities and Timing:** The organization will demonstrate that the capacity-building project is a timely priority. High-scoring applications will connect the project to advancing an objective in their strategic plan and illustrate that the organization is ready to undertake the capacity-building project if funded.

**Project Plan:** The capacity building project plan will clearly outline manageable and measurable objectives and outcomes. High-scoring applications will demonstrate a realistic timeline, capable project team leaders, and clearly state how they will measure success.

**Leverage:** The organization, and if applicable the capacity building project, engages and utilizes other resources such as funding sources, volunteers, and community partnerships. High-scoring applications will demonstrate that the organization is connected to the community, and that the capacity building project may improve their ability to do so.

## SCORING RUBRIC

**Criterion: Mission** - The organization's mission and impact are valuable to the Dubuque community. High-scoring applications will demonstrate how the organization fulfills an identified community need.

### Programs & Services

Provide overview of the organization and the programs and services the organization offers, including:

- How do the programs and services fulfill and advance the organization's stated mission and vision, and uphold organization's values
- How does the organization and its mission fulfill an identified community need?

### Population Served

- Provide detailed description of the target audience that the organization currently serves. Be specific, including overall demographics and the number of people the organization serves each year (e.g. patrons, visitors, students include age, gender and ethnicity/race, as well as any other important demographics you track

3	2	1
Applicant demonstrates a record of programs and services that clearly advance the organization's mission, vision, and values.  Applicant has identified a community need and target audience is clear.  Community impact is strong.	Applicant offers average programming or services that relate to its mission, vision, and values.  Applicant serves community need and target audience.  Community impact is clear.	Applicant's programs and services are limited. It is unclear how they relate to mission, vision, and values.  Community need is unidentified and target audience is unclear.  Community impact is unclear and/or inadequate.

**Criterion: Impact of Capacity Building Project** -The organization clearly identifies the area of capacity that the project will improve and its benefit to the organization's ability to fulfill its mission. High-scoring applications will provide a clear and concise description of why the

capacity-building project is necessary and illustrate the impact it will have on advancing the organization and its work.

### Project Description

Provide a detailed description of your project and how it will increase organizational capacity. Include the following:

- How will project improve the identified area of organizational capacity?
- How will this increased capacity advance your organizational mission?
- How will project advance your strategic plan?

3	2	1
Applicant clearly identifies area for capacity-building. It is evident that the project will advance the organization, mission, and strategic plan.  Impact on organization is significant.	Applicant has identified a general area for capacity-building, but it is partially clear and/or unclear how project will advance either the organization, the mission, and/or the strategic plan.  Impact on organization is average.	Applicant's area for capacity-building is not identified /or appears to be ineffectual in advancing either the organization, the mission, and/or the strategic plan.  Impact on organization unclear and/or inadequate.

**Criterion: Priorities and Timing** - The organization will demonstrate that the capacity-building project is a timely priority. High-scoring applications will connect the project to advancing an objective in their strategic plan and illustrate that the organization is ready to undertake the capacity-building project if funded.

### Priorities and Timing

Describe why this project is timely for your organization. What steps have already been taken to identify need or lay groundwork for this project?

3	2	1
Applicant identifies specific advancement of a strategic plan.  Applicant has taken intentional steps to lay groundwork for this project.  The organization is well-poised to execute the project.	Applicant has adequately described advancement of strategic plan.  Applicant has taken some steps to lay groundwork for this project.  The organization is generally prepared to execute project.	Applicant provides minimal evidence of advancement of strategic plan.  Applicant has not taken steps to lay groundwork for this project.  Applicant has not provided evidence of being ready to execute project.

**Criterion: Project Plan** - The capacity building project plan will clearly outline manageable and measurable objectives and outcomes. High-scoring applications will demonstrate a realistic timeline, capable project team leaders, and clearly state how they will evaluate to measure success.

### Project Description

Provide a detailed description of your project and how it will increase organizational capacity.

Include the following:

- Discuss objectives, outcomes, and evaluation (measure for success)
- Explain project plan and timeline
- Who are your project directors, consultants, and who else will be involved?

3	2	1
Applicant identifies specific objectives and outcomes and an intentional evaluation plan.  Project plan and timeline are clear and reasonable.  Team is strong and qualified.	Applicant's objectives and outcomes and evaluation plan are average.  Project plan and timeline are general but not unreasonable.  Team is adequate.	Applicant's objectives and outcomes and evaluation are inadequate.  Project plan and timeline are unclear, unreasonable, and/or not evident.  Team is identified but qualifications cannot be determined.

**Criterion: Leverage** - The organization, and if applicable the capacity building project, engages and utilizes other resources such as funding sources, volunteers, and community partnerships. High-scoring applications will demonstrate that the organization is connected to the community, and that the capacity building project may improve their ability to do so.

### Organizational Resources

Summarize your primary organizational sources of support. Will your capacity building project leverage any of these resources?

3	2	1
Applicant has a clear plan in place to utilize funds to achieve and or advance a strategic goal(s).	Applicant has an adequate plan in place to utilize funds to achieve and or advance a strategic goal(s).	Unclear how the grant funds will assist the applicant in achieving and or advancing a strategic goal(s).

### Overall Case for Support

The following scoring criteria reference the quality of the proposal and application as a whole and not a particular question.

3	2	1
Case for support is exemplary and merits investment from the City.	Case for support is average.	Case for support is below average and/or does not merit investment from the City.

### IMPORTANCE OF DIVERSITY, EQUITY & INCLUSION (DEI)



The City of Dubuque strives to be an equitable community of choice and prioritizes support to organizations that intentionally apply an equity lens to program access and inclusion. It is important that grantees are able to share examples of their commitment to welcoming and serving any and all Dubuque residents by presenting diverse and culturally aware experiences, representing diverse voices, and expanding access.

## **ACKNOWLEDGEMENT**

If awarded funding, the organization must acknowledge the City of Dubuque's support in appropriate communications pertaining to the grant. Recognition guidelines and logos are available for [on the City's website](#).

## **REPORTING**

Applicants must submit a performance report within 60 days of the end of the funding cycle no later than August 31, 2025. Applicant agrees to retain all financial records, reporting documents, and all other records pertinent to the City of Dubuque grant program for a period of three calendar years beyond the contract. Delinquent performance reports will impact applicant's compliance record and standing with the City of Dubuque's Arts and Culture Grant Program(s), affecting future eligibility.

## **ACCESSIBILITY AND QUESTIONS**

We are committed to making our programs and services accessible to everyone. Please contact the Office of Arts & Cultural Affairs at (563) 690-6059 or [bspurlin@cityofdubuque.org](mailto:bspurlin@cityofdubuque.org) to request any accommodations, translation, interpretation, or other assistance you need in completing this process. The applicant is solely responsible for the content and timely submission of this grant.



**City of Dubuque  
City Council Meeting**

**Consent Items # 06.**

---

**ITEM TITLE:** Resolution Approving the Acquisition of Real Estate Owned by Ace Construction-Dubuque, L.L.C. by Eminent Domain and Establishing the Fair Market Value of the Real Estate

**SUMMARY:** City Manager recommending City Council adopt the attached resolution authorizing acquisition of the property owned by Ace Construction-Dubuque, L.L.C. by eminent domain if necessary and establishing the fair market value of the property.

**RESOLUTION** Approving the acquisition of real estate owned by Ace Construction-Dubuque, L.L.C. by eminent domain and establishing the fair market value of the real estate

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Adopt Resolution(s)

**ATTACHMENTS:**

**Description**

MVM Memo

Staff Memo

Resolution

Notice of Intent

Letter to Mihalakis

**Type**

City Manager Memo

Staff Memo

Resolutions

Supporting Documentation

Supporting Documentation

**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Resolution Approving the Acquisition of Real Estate Owned by Ace Construction-Dubuque, L.L.C. by Eminent Domain and Establishing the Fair Market Value of the Real Estate

**DATE:** March 11, 2024

Ace Construction-Dubuque, L.L.C. (Ace) owns a small parcel of property off of Hawthorne Street which is adjacent to property on which is located Well No. 5, one of the City's nine water wells. The wells supply all of the potable water to the City of Dubuque. The use of the property as a construction storage site makes access to Well No. 5 for testing and repairs very inconvenient, and in the event of the need to replace the well, virtually impossible. The well is routinely tested and to date no issues have been discovered but there is concern that without control of the site, the risk of contamination does exist. Water Department Director Christopher Lester believes it is critical that the City acquire the property.

The property has been appraised at Nineteen Thousand (\$19,000), please see Attachment 7. An offer to purchase the property for the appraised value has not been accepted by the property owner.

City Attorney Crenna Brumwell is recommending that the City Council adopt the attached resolution authorizing acquisition of the property by eminent domain if necessary and establishing the fair market value of the property.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv

Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Christopher Lester, Water Department Director



# MEMORANDUM

**CRENNA M. BRUMWELL, ESQ.**  
CITY ATTORNEY

**To:** Michael C. Van Milligen  
City Manager

**DATE:** March 6, 2024

**RE:** Resolution Approving the Acquisition of Real Estate Owned by Ace Construction-Dubuque, L.L.C. by Eminent Domain and Establishing the Fair Market Value of the Real Estate

Ace Construction-Dubuque, L.L.C. (Ace) owns a small parcel of property off of Hawthorne Street which is adjacent to property on which is located Well No. 5, one of the City's nine water wells. Please see Attachments 1-4. The wells supply all of the potable water to the City of Dubuque. The use of the property as a construction storage site makes access to Well No. 5 for testing and repairs very inconvenient, and in the event of the need to replace the well, virtually impossible. The well is routinely tested and to date no issues have been discovered but there is concern that without control of the site, the risk of contamination does exist. Water Department Manager Christopher Lester believes it is critical that the City acquire the property.

As a result, it is essential for the City to have full access to the well for maintenance and/or replacement and to protect the well from potential contamination.

Attachments 5-6 show why the entire parcel is necessary for maintenance and/or replacement of the well.

In 2022, Ace agreed to grant an easement to the City for access to the well. However, Ace owner, Mr. Mihalakis has not cooperated with the City in allowing access pursuant to the easement. It is necessary for the City to acquire title to the property.

The Iowa Code requires the City Council to establish the fair market value of the property and the City may not offer less than the fair market value to purchase the property.

The property has been appraised at Nineteen Thousand (\$19,000), please see Attachment 7. An offer to purchase the property for the appraised value has not been accepted by the property owner.

It is recommended that the City Council adopt the attached resolution authorizing acquisition of the property by eminent domain if necessary and establishing the fair market value of the property.

Attachments

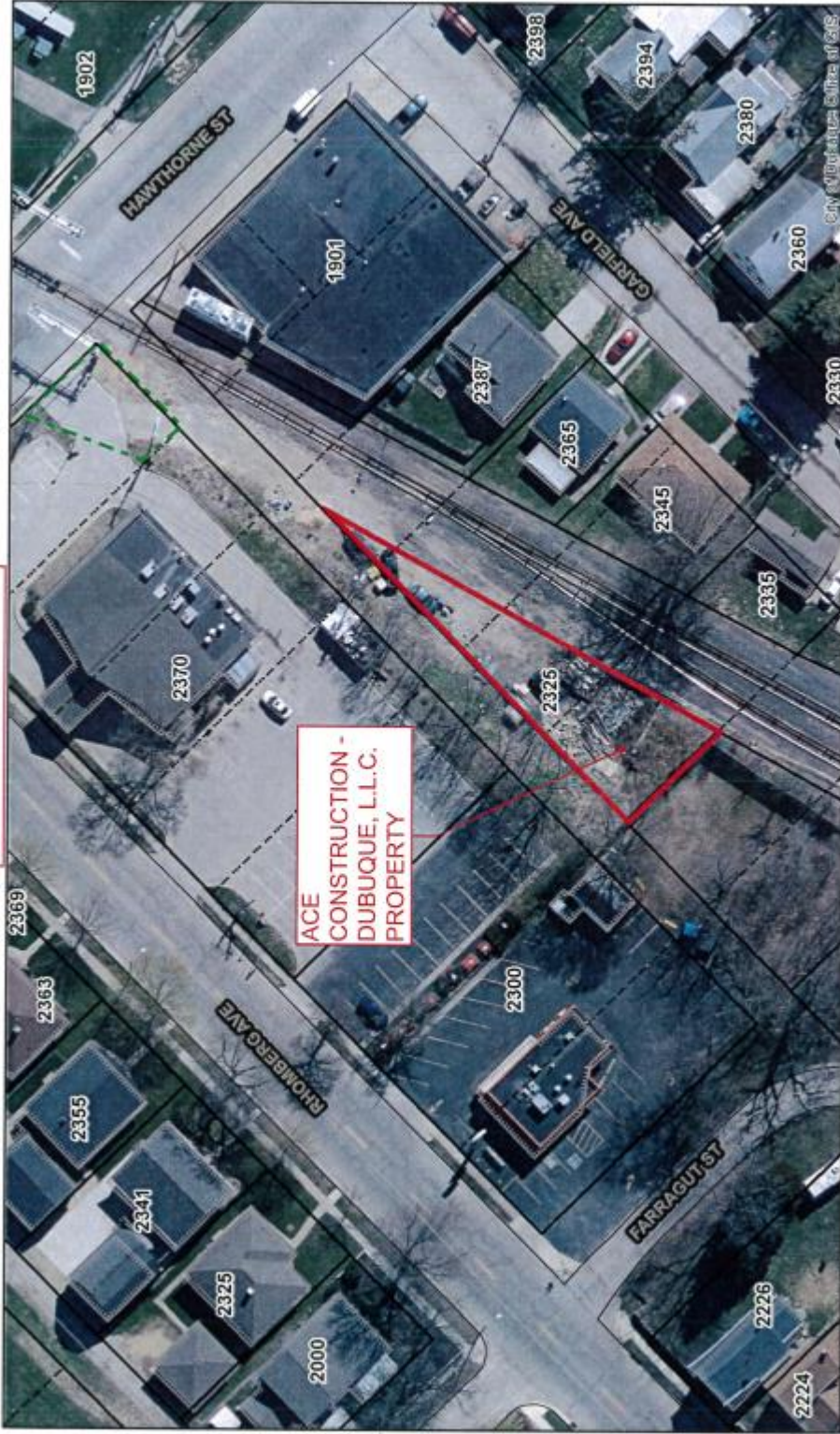
cc: Christopher Lester, Water Department Manager

## ATTACHMENT 1

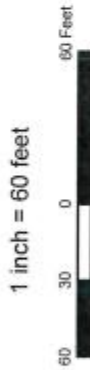


Special Achievement in GIS  
2018 Award Winner

EXHIBIT  
PROPERTY LOCATION  
MAP



DISCLAIMER: This information was compiled using the Dubuque Area Geographic Information System (GIS) data. The City of Dubuque and participating agencies warrant the accuracy of the information as of the date of compilation. The City and participating agencies do not warrant the accuracy of the information as of any date thereafter. The City and participating agencies are not responsible for any errors, omissions, or delays in the information, or for any damages, whether foreseeable or not, arising from the use of the information. The City and participating agencies are not responsible for any damages, whether foreseeable or not, arising from the use of the information.



Map Prepared by:  
City of Dubuque  
Engineering Division  
50 West 13th Street  
Dubuque, Iowa 52001  
Phone: (563) 589-4270  
Fax: (563) 589-4205

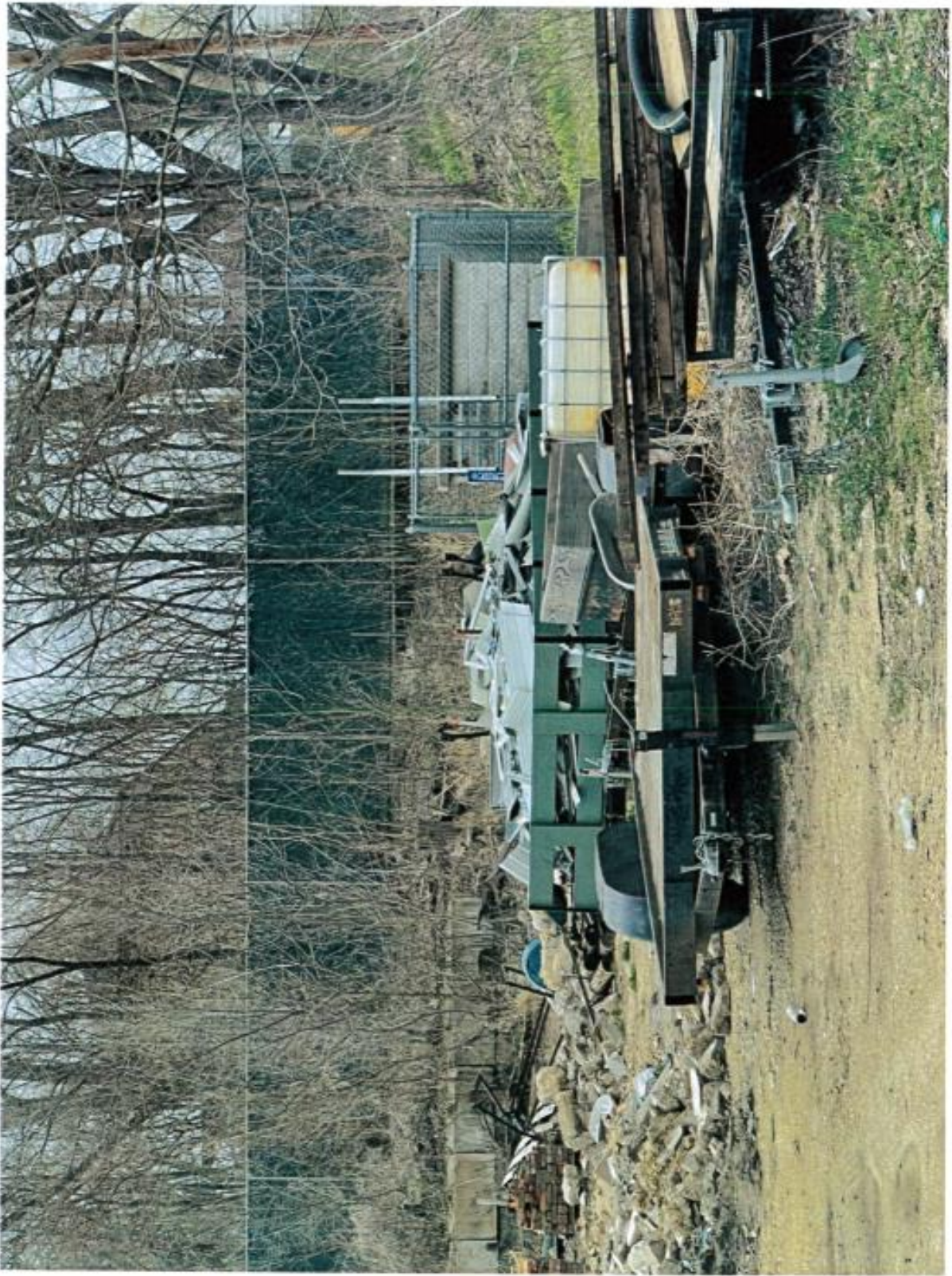


## ATTACHMENT 2



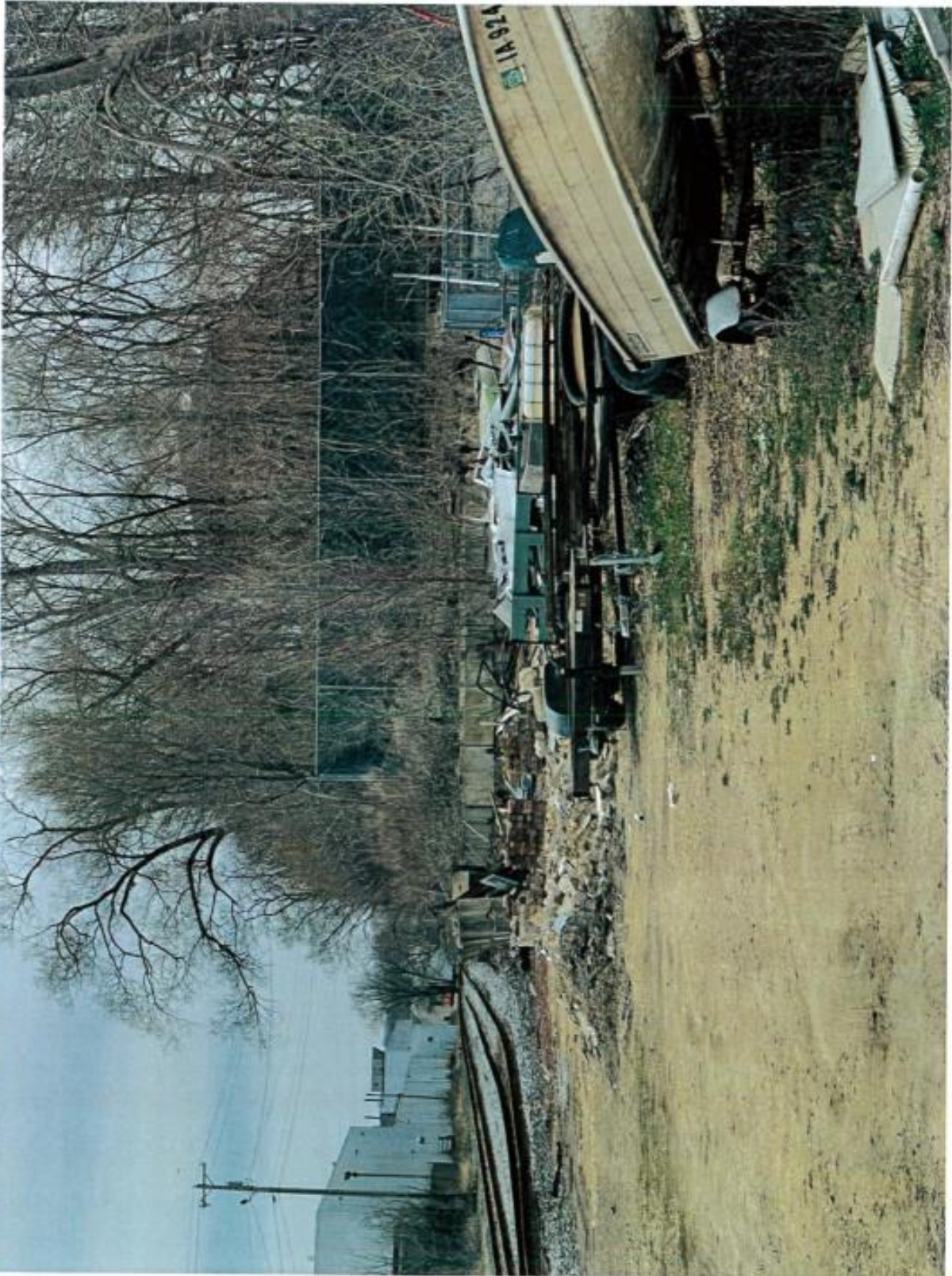
## **ATTACHMENT 3**





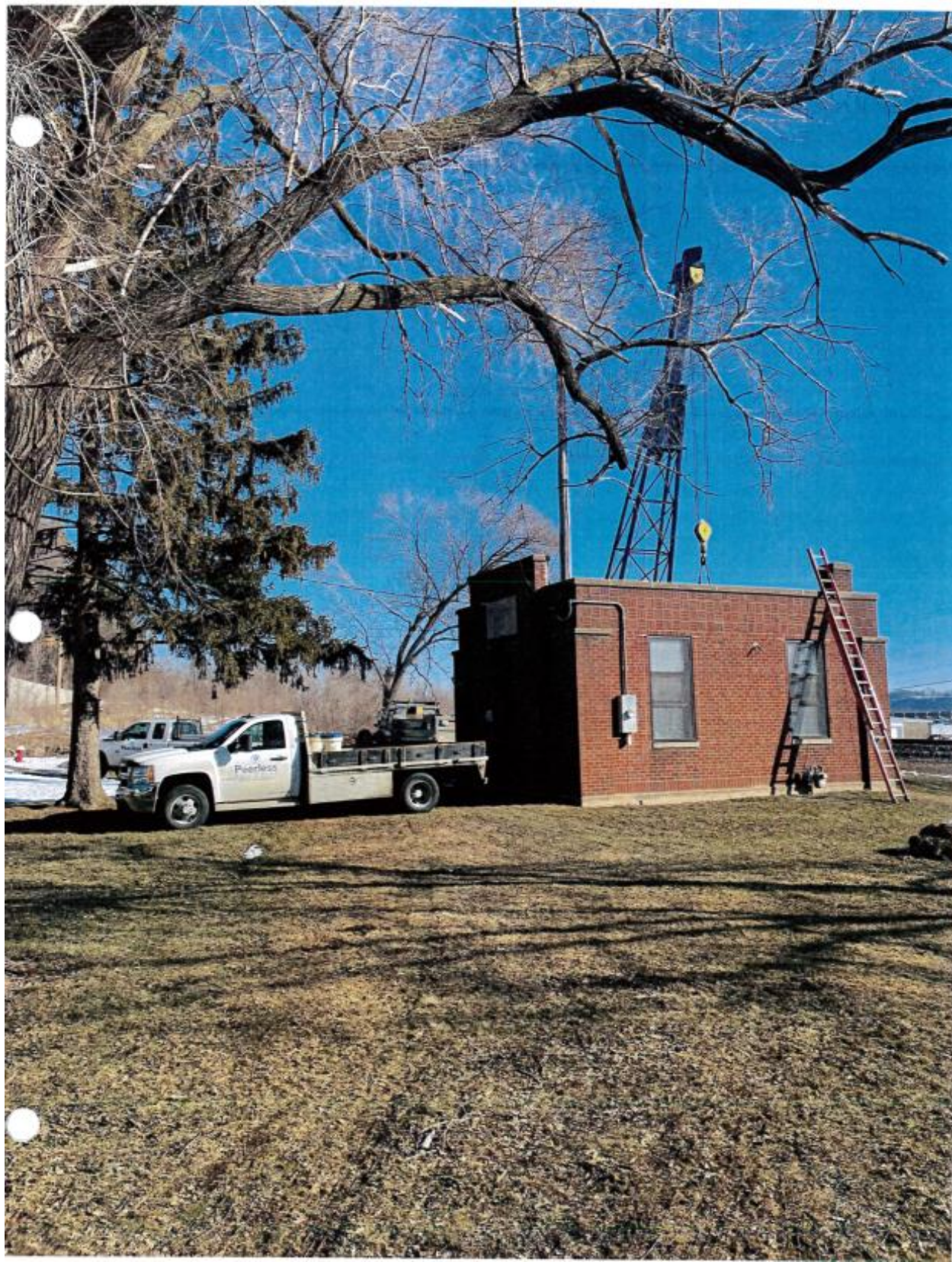
## **ATTACHMENT 4**





## **ATTACHMENT 5**







## **ATTACHMENT 6**



## **ATTACHMENT 7**

2023160

**A DETAILED NARRATIVE APPRAISAL REPORT  
FOR TOTAL ACQUISITION OF THE**

**Ace Construction - Dubuque, LLC Property  
2325 Garfield Ave  
Dubuque, IA**

As Of

**January 25, 2024**

Prepared for

**Mr. Barry Lindahl, Senior Counsel  
City of Dubuque  
300 Main Street  
Dubuque, IA 52001**

Prepared by

**Dennis G. Cronk, MAI, AI-GRS**

**Cook**  
**Appraisal**  
COMMERCIAL VALUATION  
RESEARCH GROUP  
1580 Mall Drive  
Iowa City, Iowa 52240

February 2, 2024

Mr. Barry Lindahl  
Senior Counsel  
City of Dubuque  
300 Main Street  
Dubuque, IA 52001

Subject: A Detailed Narrative Appraisal Report on the Ace Construction - Dubuque, LLC property located at 2325 Garfield Ave, Dubuque, Iowa.

Dear Mr. Lindahl:

At your request, we have completed an appraisal report on the above referenced property. The purpose of the inspection and this Detailed Narrative appraisal is to estimate the just compensation for total acquisition of the subject property as of January 25, 2024, the date of the property inspection. The intended use of this appraisal is to assist in negotiations concerning the just compensation to the property owner due to the impacts on the subject property. In this case, the property is proposed for a total acquisition.

**Property Description:** The subject property is a vacant lot totaling 5,021 square feet. It is located adjacent to the railroad, southwest of Hawthorne Street and along the southeast side of the Garfield Avenue right of way. Garfield Avenue is an unimproved alley along the subject's frontage with a 20' width.

This report was prepared for and our professional fee billed to the City of Dubuque. It should not be distributed to or relied upon by other persons or entities without our written permission. We understand the report will be shared with the property owner and maybe be offered as an exhibit in condemnation proceedings. This letter, along with related exhibits and addenda, must remain attached to the report in order for the value opinion set forth to be considered valid.

Based upon the analysis contained in this report, the estimate of just compensation is:

**\$19,000**

**Nineteen Thousand Dollars**

This appraisal is prepared in accordance with the Appraisal Operational Manual of the *Iowa Department of Transportation*, Office of Right-of-Way, and dated November 2018. The appraisal is solely for the City of Dubuque or such governmental body as they designate, and is prepared under the Jurisdictional Exception to the Uniform Standards of Professional Appraisal Practice (USPAP). This appraisal does conform with all parts of USPAP except those that are contrary to State and Federal requirements. The value opinion reported is qualified by certain definitions, limiting conditions and certifications that are set forth in the body of this report. It is our understanding that a copy of this report will be shared with the property owner.

February 2, 2024  
Mr. Lindahl  
Page 2

Sincerely,  
Cook Appraisal, LLC



Dennis G. Cronk, MAI, AI-GRS  
State of Iowa Certification #CG02311

CGC/44-2032160

**Cook**  
**Appraisal**  
COMMERCIAL VALUATION  
RESEARCH GROUP

**RESOLUTION NO. \_\_\_\_ - 24**

**APPROVING THE ACQUISITION OF REAL ESTATE OWNED BY ACE CONSTRUCTION-DUBUQUE, L.L.C. BY EMINENT DOMAIN AND ESTABLISHING THE FAIR MARKET VALUE OF THE REAL ESTATE**

**WHEREAS**, Ace Construction-Dubuque, L.L.C. (Ace), is the owner of the real estate legally described as follows:

All that part of Lots 193, 194, 195 and 196 lying North and West of Railroad, subject to Railroad Right of Way, and all in "Map of Eagle Point or Ham's Addition to the City of Dubuque 1854" (commonly known as Ham's Addition) in the City of Dubuque, Iowa, according to the recorded plat thereof (the Property).

and;

**WHEREAS**, the Property is adjacent to property on which is located one of the City's five water wells which supply potable water to the entire City of Dubuque; and

**WHEREAS**, the City must use the property to access the City's sanitary sewer system for maintenance to prevent sanitary sewer backups; and

**WHEREAS**, the use of the Property as a construction storage site makes access to the well for testing and repairs very inconvenient, and in the event of the need to replace the well, virtually impossible; and

**WHEREAS**, the use of the Property as a construction storage site makes access to the City's sanitary sewer system for maintenance and prevention work very inconvenient; and

**WHEREAS**, it is essential for the City to have full access to the well for maintenance and/or replacement; and

**WHEREAS**, it is essential for the City to have full access to the sanitary sewer for maintenance; and

**WHEREAS**, the City Council finds that it is critical for the City to acquire the Property for such public purpose; and

**WHEREAS**, Iowa law requires that the City must make a good faith effort to negotiate with Owner to purchase the Property before proceeding with condemnation; and

**WHEREAS**, City may not make an offer to purchase the Property which is less than the fair market value the City Council has established for the Property; and

**WHEREAS**, City has caused an appraisal of the Property to be made and the appraised value of the Property is Nineteen Thousand Dollars (\$19,000.00); and

**WHEREAS**, the City Council now desires to establish a fair market value of the Property and to authorize acquisition of the Property by eminent domain is necessary.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:**

1. The fair market value of the Property is hereby established to be Nineteen Thousand Dollars (\$19,000.00).
2. The City Council hereby authorizes the acquisition of the Property by eminent domain if necessary.
3. The City Attorney is hereby authorized to take such action as is necessary to acquire the Property as provided by law including acquisition of the Property by eminent domain.

Passed, approved and adopted this \_\_\_\_\_ day of April, 2024.

\_\_\_\_\_  
Brad M. Cavanagh, Mayor

Attest:

\_\_\_\_\_  
Adrienne N. Breitfelder, City Clerk



**NOTICE OF INTENT TO APPROVE ACQUISITION OF PROPERTY BY  
EMINENT DOMAIN**

To: Ace Construction-Dubuque, L.L.C.  
c/o Louis Mihalakis  
1212 Miller Road  
Dubuque, IA 52003

You are hereby notified that the City Council of the City of Dubuque, Iowa will meet on the 1<sup>st</sup> day of April, 2024, at 6:30 o'clock p.m. at the Historic Federal Building, 350 West 6th Street, Dubuque, Iowa, to consider the adoption of a resolution, a copy of which is attached hereto, authorizing the City to acquire the following property by eminent domain:

All that part of Lots 193, 194, 195 and 196 lying North and West of Railroad, subject to Railroad Right of Way, and all in "Map of Eagle Point or Ham's Addition to the City of Dubuque 1854" (commonly known as Ham's Addition) in the City of Dubuque, Iowa, according to the recorded plat thereof

You have the right to attend the meeting and to voice objection to the proposed acquisition of the property.

Just as the law grants certain entities the right to acquire private property, you as the owner of property have certain rights. You have the right to:

Receive just compensation for the taking of property. (Iowa Const., Article I, Section 18)

An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code §§ 6B.45, 6B.54)

Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency's determination of just compensation is based not less than 10 days before being contacted by the acquiring agency's acquisition agent. (Iowa Code §6B.45)

When an appraisal is required, an opportunity to accompany at least one appraiser of the acquiring agency who appraises your property. (Iowa Code § 6B.54)

Participate in good faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (Iowa Code §6B.3(1))

If you cannot agree on a purchase price with the acquiring agency, a determination of just compensation by an impartial compensation commission and the right to appeal its award to district court. (Iowa Code §§ 6B.4, 6B.7, and 6B.18)

A review by the compensation commission of the necessity for the condemnation if your property is agricultural land being condemned for industry; (Iowa Code § 6B.4A)

Payment of the agreed upon purchase price, or if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code §§ 6B.25, 6B.54(11))

Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code §§ 6B.33, 6B.54(10))

Reimbursement of certain litigation expenses: (1) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency's final offer before condemnation; and (2) if the award on appeal in court is more than the compensation commissioner's award. (Iowa Code § 6B.33)

At least 90 days written notice to vacate occupied property. (Iowa Code § 6B.54(4))

Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of payments. (Iowa Code § 316.9)

The rights set out in this Notice are not claimed to be a full and complete list or explanation of an owner's rights under the law. They are derived from Iowa Code Chapters 6A, 6B and 316. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

Dated:

---

Adrienne N. Breitfelder, City Clerk

**Crenna M. Brumwell, Esq.**  
City Attorney  
Suite 330, Harbor View Place  
300 Main Street  
Dubuque, Iowa 52001-6944  
(563) 589-4381 office  
(563) 583-1040 fax  
cbrumwel@cityofdubuque.org



March 6, 2024

Ace Construction – Dubuque, L.L.C.  
c/o Louis Mihalakis  
1212 Miller Road  
Dubuque, IA 52003

**RE: Property at 2325 Garfield Avenue**

Dear Mr. Mihalakis:

Enclosed is a proposed resolution authoring the commencement of eminent domain proceedings for the acquisition of your property at 2325 Garfield Avenue. The City is required to provide you with a copy of this proposed resolution at least fourteen (14) days prior to the date of the City Council meeting at which the proposed resolution will be considered for adoption. The City Council will be asked to adopt the resolution at the City Council meeting on April 1, 2024.

Sincerely,

A handwritten signature in purple ink that reads 'Crenna Brumwell'.

Crenna Brumwell  
City Attorney

Enclosure  
cc: Michael C. Van Milligen, City Manager

**City of Dubuque  
City Council Meeting**

**Consent Items # 07.**

---

**ITEM TITLE:** Greater Dubuque Development Corporation's Distinctively Dubuque Brochure

**SUMMARY:** City Manager providing a copy of Greater Dubuque Development Corporation's brochure on the Distinctively Dubuque Program.

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File

**ATTACHMENTS:**

**Description**

Documentation

**Type**

Supporting Documentation

# Welcome

Distinctively Dubuque is a five-night course hosted by high-energy presenters with in-depth knowledge of the Greater Dubuque region. This program is designed for individuals who are new to the Greater Dubuque area within the last five years. Thanks to the generosity of our sponsors, Distinctively Dubuque is offered free of charge.

## Through Distinctively Dubuque, you will:

- Meet new people and experience local cuisine
- Learn about arts and culture offerings, recreation, and more
- Have fun exploring venues around the city
- Participate in networking activities with community leaders and residents
- Discover how **YOU** can be great here

## 2024 SESSION DATES

Session 1: January 31 – February 28  
Session 2: March 13 – April 10  
Session 3: August 21 – September 18  
Session 4: October 2 – 30  
**Wednesdays, 5:30 – 8:30 p.m.**

“ Distinctively Dubuque offered us a great opportunity to learn about the community.

We met other newcomers, so we had something in common right away. My dad grew up here in his early years and then moved away, so I thought I knew Dubuque—but nothing like Distinctively Dubuque showed us.

**Theresia Charley**  
Senior Fulfillment Center HR Manager  
Duluth Trading Company



## Past, Present & Future >>

- Connect with other newcomers and meet local community leaders
- Learn about the history of Iowa's oldest city
- Find out what makes Dubuque a viable, livable, & equitable community



## Relate, Recreate & Really Connect >>

- Learn about recreational opportunities for both adults and youth
- Tour the National Mississippi River Museum & Aquarium



## The Economy, Equity & Engagement >>

- Get a snapshot of Dubuque's past and present economy
- Hear from leaders who are making the Greater Dubuque region a thriving and equitable community of choice
- Participate in a newcomer feedback session



## Arts, Culture, & More >>

- Tour the Dubuque Museum of Art
- Get acquainted with Dubuque's vibrant arts and culture scene
- Participate in some 'distinctively Dubuque' traditions



## YOU can be great here. >>

- Explore the Historic Millwork District
- Discover the region's strong public and private partnerships
- Meet the community leaders who support Distinctively Dubuque



## 2024 SESSION DATES

Session 1: January 31 – February 28

Session 2: March 13 – April 10

Session 3: August 21 – September 18

Session 4: October 2 – 30

The program consists of five Wednesday evening sessions that meet from 5:30 – 8:30 p.m. and includes a catered meal. Thanks to the generosity of our sponsors, Distinctively Dubuque is offered free of charge to all participants.

# Register Today

Participation is **FREE** and sessions fill quickly!



Contact **Mandi Dolson**, Director of Workforce Recruitment & Retention for Greater Dubuque Development Corporation, at **563-557-9049** or **mandid@greaterdubuque.org**.

*Distinctively Dubuque is offered through a partnership between:*



Funded by the City of Dubuque,  
Q Casino/Dubuque Racing Association and the  
Dubuque County Board of Supervisors.



For more newcomer resources, visit

**YOU** can be great here.com



Schmid Innovation Center  
900 Jackson St., Suite 109, Dubuque, Iowa 52001  
563-557-9049 | gddc@greaterdubuque.org  
**greaterdubuque.org | youcanbegreathere.com**

**YOU** can be great here.

# Distinctively DUBUQUE

**City of Dubuque  
City Council Meeting**

**Consent Items # 08.**

---

**ITEM TITLE:** Acceptance of a Grant of Public Utility Easement and Dedications of Right of Way across Dubuque Community School District Property as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project

**SUMMARY:** City Manager recommending City Council adopt a resolution accepting the Grant of Public Utility Easement from Dubuque Community School District and approval of the Acquisition Plats for Althausen Street Watermain and Sanitary Sewer Reconstruction project and acceptance of the dedications of said parcels for Right of Way for street and utility purposes through the adoption of the enclosed resolution.

**RESOLUTION** Accepting a Grant of Public Utility Easement and Dedications of Right of Way along Althausen Street and Eagle Street as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project, in the City of Dubuque, Iowa

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Adopt Resolution(s)

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
MVM Memo	City Manager Memo
Staff Memo	Staff Memo
Resolution	Resolutions
ROW ded 1	Supporting Documentation
ROW ded 2	Supporting Documentation
Althausen Easement	Supporting Documentation
CC approval res	Supporting Documentation



**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Acceptance of a Grant of Public Utility Easement and Dedications of Right of Way across Dubuque Community School District Property as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project

**DATE:** March 26, 2024

City Engineer Gus Psihoyos is recommending City Council adopt a resolution accepting the Grant of Public Utility Easement from Dubuque Community School District and approval of the Acquisition Plats for Althausen Street Watermain and Sanitary Sewer Reconstruction project and acceptance of the dedications of said parcels for Right of Way for street and utility purposes through the adoption of the enclosed resolution.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv  
Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Gus Psihoyos, City Engineer  
Nate Kieffer, PE/PLS



**TO:** Michael C. Van Milligen, City Manager

**FROM:** Gus Psihoyos, City Engineer

**SUBJECT:** Acceptance of a Grant of Public Utility Easement and Dedications of Right of Way across Dubuque Community School District Property as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project

**DATE:** March 21, 2024

### **INTRODUCTION**

The purpose of this memorandum is to seek acceptance of a grant of easement for public utilities and dedications of right of way from Dubuque Community School District (DCSD) related to the proposed Althausen Street Watermain and Sanitary Sewer Reconstruction project.

### **BACKGROUND**

The existing water main on Althausen Street near Jefferson Middle School was constructed in 1922. The water main on this section of street has had a significant number of water main breaks in recent years. The water main is an old cast iron main that is at the end of its useful life. Additionally, public works staff televised the sanitary sewer main in the area. This pipe was constructed in 1924 and is also at the end of its useful life. Sewer camera video shows multiple sags and breaks in the sewer main.

### **DISCUSSION**

The Althausen Street Watermain and Sanitary Sewer Reconstruction Project includes the reconstruction of an existing 6" clay sanitary sewer with 8" PVC sanitary sewer. The project also includes the reconstruction of an existing 6" cast iron water main with 6" DR-14 PVC watermain. New fire hydrants and associated main line valves will be replaced. Lead water services will be replaced from the main to the house with new copper services. Sanitary Sewer laterals will be replaced from the main to the right of way line. As a result of the utility replacement in the street, extensive street pavement, curb and gutter and some sidewalk will be replaced. ADA ramps at Althausen Street and Eagle Street and Althausen Street and Merz Street will be replaced.

The construction is planned to occur in the summer of 2024 and be complete prior to school starting that fall. The project is adjacent to Jefferson middle School on the east side of the school. Engineering and Water Department staff are coordinating with the school district and adjacent property owners.

Because some of the existing and proposed public utilities in the project area are located within property owned by DCSD, certain easements and right of way acquisitions are necessary for construction and long-term ownership and maintenance of said utilities. In addition to this, several existing and proposed public sidewalks and associated curb ramps in the project area are located within DCSD private property and should be located within a public street right of way. The Purchase Agreement provides for the acquisition of easements and rights of way to address these issues.

Per Resolution 2-24, the City approved a Purchase Agreement with DCSD for the right of way and easement acquisitions associated with the project.

The attached Grant of Public Utility Easement shows the location of the easement across DCSD property. DCSD has executed the grant of easement.

MSA has prepared the acquisition plats to provide the right of way areas. The areas being platted will be dedicated by DCSD to the public for street and utility purposes. DCSD has executed the dedication plats.

### **RECOMMENDATION**

I recommend accepting the Grant of Public Utility Easement through, under and across Part of Lot 6 of Althausers Subdivision of Lot 2 of Lot 1 and Part of Lot 1 of Lot 1 of Mineral Lot Number 474, Located in the Northeast Quarter of the Southeast Quarter of Section 13, Township 89 North, Range 2 East of the 5th Principal Meridian, City of Dubuque, Dubuque County, Iowa, as shown on attached Grant of Easement.

I recommend that the City Council approve the attached Acquisition Plat of Parcel 1-F Being a Part of Lot 1 of Althausers Subdivision and Part of the Alley Vacated in Book A2, Page 552 and Part of Lot 2 of the Subdivision of Mineral Lot Number 472 and Part of Lot 33 of Taylor and Cooley's Subdivision of a Part of Mineral Lot No. 472, in the City of Dubuque, Iowa and the attached Acquisition Plat of Parcel 2-F Being a Part of Lots 1-9 of Althausers Subdivision, in the City of Dubuque, Iowa, which provide additional right of way needed for the Althausers Street Watermain and Sanitary Sewer Reconstruction project.

### **ACTION TO BE TAKEN**

I respectfully request acceptance of the Grant of Public Utility Easement from DCSD through the adoption of the enclosed resolution.

I respectfully request approval of the Acquisition Plats for Althausers Street Watermain and Sanitary Sewer Reconstruction project and acceptance of the dedications of said parcels for Right of Way for street and utility purposes through the adoption of the enclosed resolution.

Attach.

Prepared by: Nate Kieffer, PE/PLS

cc: Bob Schiesl, Assistant City Engineer  
Jon Dienst, CE II

Prepared by: Nate Kieffer, City of Dubuque, 50 W. 13<sup>th</sup> Street, Dubuque, IA 52001 (563) 589-4270  
Return to: Nate Kieffer, City of Dubuque, 50 W. 13<sup>th</sup> Street, Dubuque, IA 52001 (563) 589-4270

---

## **RESOLUTION NO. -24**

### **ACCEPTING A GRANT OF PUBLIC UTILITY EASEMENT AND DEDICATIONS OF RIGHT OF WAY ALONG ALTHAUSER STREET AND EAGLE STREET AS PART OF THE ALTHAUSER STREET WATERMAIN AND SANITARY SEWER RECONSTRUCTION PROJECT, IN THE CITY OF DUBUQUE, IOWA**

**WHEREAS**, as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project, certain rights of way and easement acquisitions are necessary for the future ownership and maintenance of the existing and proposed public utilities along Althausen Street and Eagle Street; and

**WHEREAS**, certain areas of existing public sidewalk and associated curb ramps in the project area are located within property owned by Dubuque Community School District along Althausen Street and Eagle Street and by City standards should be located within a public street right of way; and

**WHEREAS**, the City of Dubuque (City) and the Dubuque Community School District (DCSD) have agreed that the right of way and easement acquisitions are necessary for the construction project, long-term maintenance of the public utilities, and to ensure that the public sidewalks are located within public street rights of way; and

**WHEREAS**, per Resolution 2-24, the City approved a Purchase Agreement, with DCSD for the right of way and easement acquisitions associated with the project; and

**WHEREAS**, DCSD has executed a Grant of Public Utility Easement through, under and across Part of Lot 6 of Althausen's Subdivision of Lot 2 of Lot 1 and Part of Lot 1 of Lot 1 of Mineral Lot Number 474, Located in the Northeast Quarter of the Southeast Quarter of Section 13, Township 89 North, Range 2 East of the 5th Principal Meridian, City of Dubuque, Dubuque County, Iowa; and

**WHEREAS**, there has been presented to the City Council of the City of Dubuque, Iowa, Acquisition Plats dated February 15, 2024 prepared by MSA

describing Parcel 1-F Being a Part of Lot 1 of Althausers Subdivision and Part of the Alley Vacated in Book A2, Page 552 and Part of Lot 2 of the Subdivision of Mineral Lot Number 472 and Part of Lot 33 of Taylor and Cooley's Subdivision of a Part of Mineral Lot No. 472, in the City of Dubuque, Iowa and describing Parcel 2-F Being a Part of Lots 1-9 of Althausers Subdivision, in the City of Dubuque, Iowa; and

**WHEREAS**, said plats conform to the laws and statutes pertaining thereto; and

**WHEREAS**, upon said plats appear Parcels 1-F and 2-F, which DCSD by said plat has dedicated to the public forever.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:

Section 1. The City Council of the City of Dubuque, Iowa, hereby approves of, accepts and consents to the Grant of Public Utility Easement through, under and across Part of Lot 6 of Althausers Subdivision of Lot 2 of Lot 1 and Part of Lot 1 of Lot 1 of Mineral Lot Number 474, Located in the Northeast Quarter of the Southeast Quarter of Section 13, Township 89 North, Range 2 East of the 5th Principal Meridian, City of Dubuque, Dubuque County, Iowa from DCSD, a copy of which is attached hereto.

Section 2. That the plats dated February 15, 2024 prepared by MSA and describing Parcels 1-F and 2-F, relative to the real estate hereinabove described be and the same are hereby approved, and the Mayor and City Clerk be and they are hereby authorized and directed to execute said plats and on behalf of the City of Dubuque, Iowa.

Section 3. That the dedications of said Parcels 1-F and 2-F, of Right of Way for street and utility purposes, as appears on said Acquisition Plats, be and the same are hereby accepted.

Section 4. The Mayor is hereby authorized and directed to execute and acknowledge on behalf of the City of Dubuque any instruments in connection herewith.

Section 4. That the City Clerk be and is hereby authorized and directed to file said easement and plats and certified copy of this resolution in the office of the Recorder, in and for Dubuque County, Iowa.

Passed, approved and adopted this 1st of April 2024.

---

Brad M. Cavanagh, Mayor

Attest:

---

Adrienne N. Breitfelder, City Clerk

INDEX LEGEND

LOCATION: LOT 1 OF ALTHAUSER'S SUBDIVISION; LOT 2 OF THE SUBDIVISION OF MINERAL LOT NUMBER 472; LOT 33 OF TAYLOR & COOLEY'S SUBDIVISION AND THE ALLEY IN ALTHAUSER'S SUBDIVISION VACATED IN BOOK A2, PAGE 552; ALL LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 89 NORTH, RANGE 2 EAST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF DUBUQUE, DUBUQUE COUNTY, IOWA

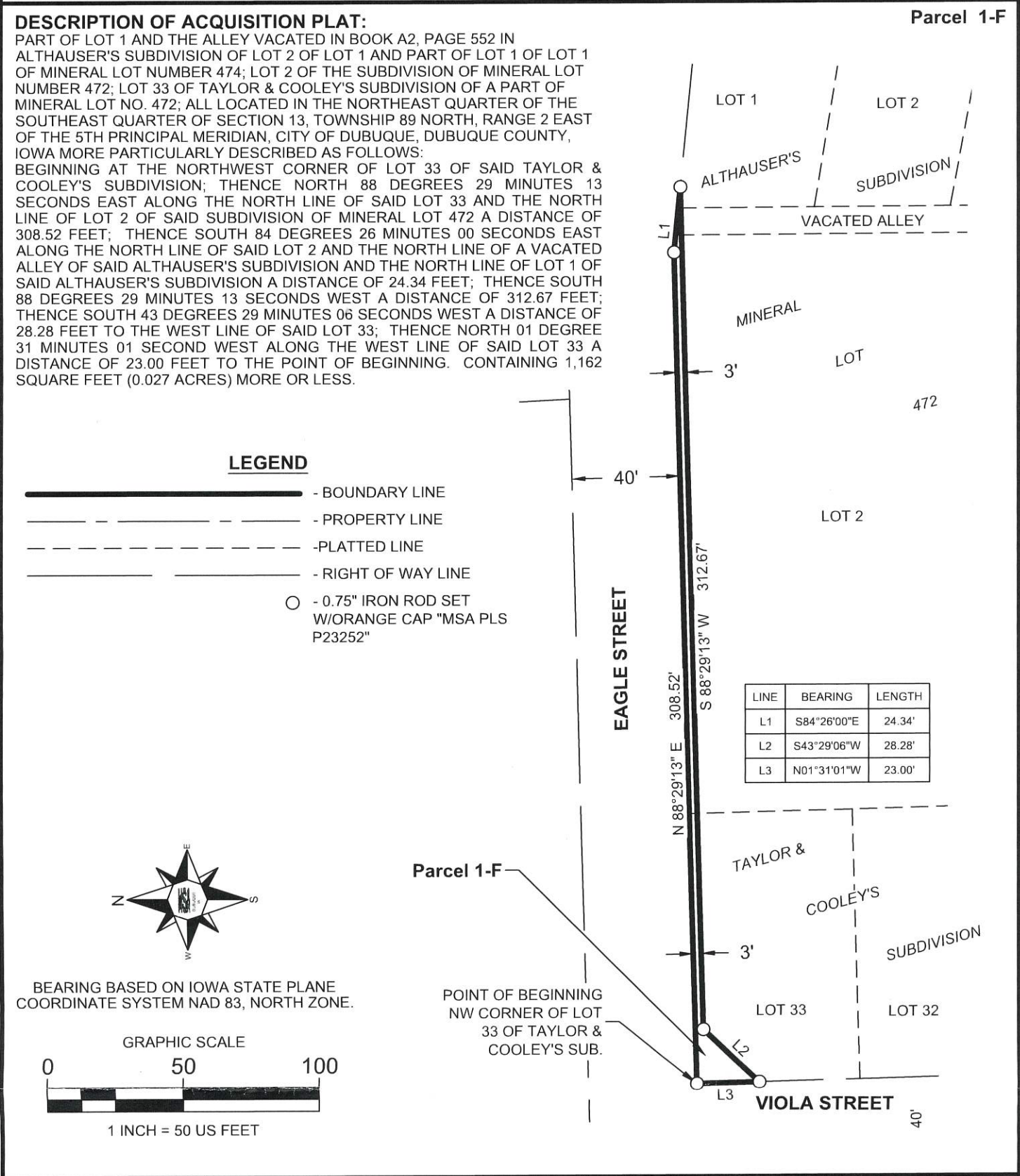
REQUESTOR: CITY OF DUBUQUE, IOWA, 50 W 13TH ST, DUBUQUE, IA 52001

PROPRIETOR: DUBUQUE COMMUNITY SCHOOL DISTRICT  
(JEFFERSON JUNIOR HIGH), 2300 CHANEY RD,  
DUBUQUE, IA 52001

SURVEYOR COMPANY: MSA PROFESSIONAL SERVICES INC., 400 ICE  
HARBOR DRIVE, SUITE 110, DUBUQUE, IA 52001

RETURN TO: JOHN DEWEY, MSA PROFESSIONAL SERVICES INC., 400  
ICE HARBOR DRIVE, SUITE 110, DUBUQUE, IA, 52001

FOR RECORDER USE



ACQUISITION PLAT

ALTHAUSER AND EAGLE STS. WATERMAIN  
CITY OF DUBUQUE  
DUBUQUE COUNTY, IOWA

1 OF 1

PROJECT NO.: 00492098

F.B.: FILE

PROJECT DATE: 1/18/23

PLOT DATE: 2/2/24

DRAWN BY: SRS

CHECKED BY: EJS

MSA

LICENSED LAND SURVEYOR

JOHN DEWEY

23252

IOWA

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

JOHN DEWEY

LICENSE NO. 23252

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2023

PAGES OR SHEETS COVERED BY THIS SEAL: 1 OF 1

2/15/24

DATE

SHEET 1 OF 4

**OWNER'S CONSENT**

Dubuque, Iowa

\_\_\_\_\_, 2024

The foregoing acquisition plat of **Parcel 1-F Being a Part Of Lot 1 of Althausers Subdivision And Part of The Alley Vacated In Book A2, Page 552 and Part of Lot 2 Of The Subdivision Of Mineral Lot Number 472 and Part of Lot 33 Of Taylor & Cooley's Subdivision Of A Part Of Mineral Lot No. 472, in the City of Dubuque, Iowa**, is made with the free consent and in accordance with the desires of the undersigned owners and proprietors of said real estate. We hereby dedicate said Parcel 1-F to the public for street and utility purposes.

Dubuque Community School District

By: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Position

**UNIVERSAL NOTARY CERTIFICATE**

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_ to me personally known, OR \_\_\_\_\_ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) acted, executed the instrument.

(Notary Seal)

\_\_\_\_\_  
(Sign in blue ink)

\_\_\_\_\_  
(Print/type name)  
Notary Public in and for State of Iowa

**CAPACITY CLAIMED BY SIGNER**

\_\_\_\_ INDIVIDUAL

\_\_\_\_ CORPORATE OFFICER(S)

\_\_\_\_ (Title)

**(CORP SEAL)**

\_\_\_\_ AFFIXED

\_\_\_\_ NO SEAL PROCURED

\_\_\_\_ PARTNER(S) \_\_\_\_ LIMITED \_\_\_\_ GENERAL

\_\_\_\_ ATTORNEY-IN-FACT

\_\_\_\_ TRUSTEE(S)

\_\_\_\_ GUARDIAN/CONSERVATOR

\_\_\_\_ OTHER

**SIGNER IS REPRESENTING**

\_\_\_\_\_



**PLANNING SERVICES**

Dubuque, Iowa \_\_\_\_\_, 2024

The foregoing acquisition plat **Parcel 1-F Being a Part Of Lot 1 of Althausers Subdivision And Part of The Alley Vacated In Book A2, Page 552 and Part of Lot 2 Of The Subdivision Of Mineral Lot Number 472 and Part of Lot 33 Of Taylor & Cooley's Subdivision Of A Part Of Mineral Lot No. 472, in the City of Dubuque, Iowa**, in the City of Dubuque or within the two-mile jurisdiction of the City of Dubuque, Iowa, as defined under Section 354 of the Code of Iowa, has been reviewed by the City Planner, (or designee) of the City of Dubuque in accordance with Chapter 42 of the City of Dubuque Code of Ordinances, and said approval has been endorsed herein on the date first written above.

\_\_\_\_\_  
Wally Wernimont, Manager  
Planning Services  
City of Dubuque, Iowa

**CITY OF DUBUQUE, IOWA**

Dubuque, Iowa \_\_\_\_\_, 2024

The undersigned, Brad M. Cavanagh, Mayor and Adrienne N. Breitfelder, Clerk of the City of Dubuque, Iowa, do hereby certify that the foregoing acquisition plat of **Parcel 1-F Being a Part Of Lot 1 of Althausers Subdivision And Part of The Alley Vacated In Book A2, Page 552 and Part of Lot 2 Of The Subdivision Of Mineral Lot Number 472 and Part of Lot 33 Of Taylor & Cooley's Subdivision Of A Part Of Mineral Lot No. 472, in the City of Dubuque, Iowa** to the public for street and utility purposes, as appears heretofore has been filed on \_\_\_\_\_ day of \_\_\_\_\_, 2024 as Resolution # \_\_\_\_\_ in the office of the City Clerk of Dubuque, Iowa and that the City Council of the City of Dubuque, Iowa approves said plat.

\_\_\_\_\_  
Mayor of the City of Dubuque, IA

\_\_\_\_\_  
Clerk of the City of Dubuque, IA

**COUNTY AUDITOR**

Dubuque, Iowa \_\_\_\_\_, 2024

The foregoing acquisition plat of **Parcel 1-F Being a Part Of Lot 1 of Althausers Subdivision And Part of The Alley Vacated In Book A2, Page 552 and Part of Lot 2 Of The Subdivision Of Mineral Lot Number 472 and Part of Lot 33 Of Taylor & Cooley's Subdivision Of A Part Of Mineral Lot No. 472, in the City of Dubuque, Iowa** was entered of record in the office of the Dubuque County Auditor this \_\_\_\_\_ of \_\_\_\_\_, 2024. We approve the subdivision name or title shown hereon to be recorded.

\_\_\_\_\_  
Kevin Dragotto  
Dubuque County Auditor

CITY ASSESSOR

Dubuque, Iowa \_\_\_\_\_, 2024

The foregoing acquisition plat of **Parcel 1-F Being a Part Of Lot 1 of Althausen's Subdivision And Part of The Alley Vacated In Book A2, Page 552 and Part of Lot 2 Of The Subdivision Of Mineral Lot Number 472 and Part of Lot 33 Of Taylor & Cooley's Subdivision Of A Part Of Mineral Lot No. 472, in the City of Dubuque, Iowa** was entered of record in the office of the Dubuque County Assessor this \_\_\_\_\_ of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Troy Patzner  
Dubuque City Assessor

RECORDER'S CERTIFICATE

Dubuque, Iowa \_\_\_\_\_, 2024

The foregoing acquisition plat of **Parcel 1-F Being a Part Of Lot 1 of Althausen's Subdivision And Part of The Alley Vacated In Book A2, Page 552 and Part of Lot 2 Of The Subdivision Of Mineral Lot Number 472 and Part of Lot 33 Of Taylor & Cooley's Subdivision Of A Part Of Mineral Lot No. 472, in the City of Dubuque, Iowa** has been reviewed by the Dubuque County Recorder.

\_\_\_\_\_  
John Murphy  
Recorder of Dubuque County



INDEX LEGEND

LOCATION: LOTS 1-9, OF ALTHAUSER'S SUBDIVISION OF LOT 2 OF LOT 1 AND PART OF LOT 1 OF LOT 1 OF MINERAL LOT NUMBER 474, LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 89 NORTH, RANGE 2 EAST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF DUBUQUE, DUBUQUE COUNTY, IOWA

REQUESTOR: CITY OF DUBUQUE, IOWA, 50 W 13TH ST, DUBUQUE, IA 52001

PROPRIETOR: DUBUQUE COMMUNITY SCHOOL DISTRICT (JEFFERSON JUNIOR HIGH), 2300 CHANEY RD, DUBUQUE, IA 52001

SURVEYOR COMPANY: MSA PROFESSIONAL SERVICES INC., 400 ICE HARBOR DRIVE, SUITE 110, DUBUQUE, IA 52001

RETURN TO: JOHN DEWEY, MSA PROFESSIONAL SERVICES INC., 400 ICE HARBOR DRIVE, SUITE 110, DUBUQUE, IA, 52001

FOR RECORDER USE

DESCRIPTION OF ACQUISITION PLAT:  
PART OF LOTS 1-9 OF ALTHAUSER'S SUBDIVISION OF LOT 2 OF LOT 1 AND PART OF LOT 1 OF LOT 1 OF MINERAL LOT NUMBER 474, LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 89 NORTH, RANGE 2 EAST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF DUBUQUE, DUBUQUE COUNTY, IOWA MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHEAST CORNER OF LOT 1 OF SAID ALTHAUSER'S SUBDIVISION; THENCE SOUTH 00 DEGREES 16 MINUTES 01 SECOND EAST ALONG THE EAST LINE OF LOTS 1-4 OF SAID ALTHAUSER'S SUBDIVISION A DISTANCE OF 163.68 FEET; THENCE SOUTH 08 DEGREES 17 MINUTES 19 SECONDS WEST ALONG THE EAST LINE OF LOTS 4-9 OF SAID ALTHAUSER'S SUBDIVISION A DISTANCE OF 290.90 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9; THENCE NORTH 81 DEGREES 42 MINUTES 33 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 9 A DISTANCE OF 37.00 FEET; THENCE NORTH 53 DEGREES 17 MINUTES 23 SECONDS EAST A DISTANCE OF 28.28 FEET; THENCE NORTH 08 DEGREES 17 MINUTES 19 SECONDS EAST PARALLEL WITH THE EAST LINE OF SAID LOTS 4-9 A DISTANCE OF 240.00 FEET; THENCE NORTH 77 DEGREES 19 MINUTES 01 SECOND EAST A DISTANCE OF 16.06 FEET; THENCE NORTH 08 DEGREES 17 MINUTES 19 SECONDS EAST PARALLEL WITH THE EAST LINE OF SAID LOTS 4-9 A DISTANCE OF 240.00 FEET; THENCE NORTH 42 DEGREES 07 MINUTES 44 SECONDS WEST A DISTANCE OF 37.25 FEET TO THE NORTH LINE OF SAID LOT 1; THENCE SOUTH 84 DEGREES 26 MINUTES 00 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 27.00 FEET TO THE POINT OF BEGINNING. CONTAINING 5,365 SQUARE FEET (0.123 ACRES) MORE OR LESS.

LEGEND

- BOUNDARY LINE

- PROPERTY LINE

- PLATTED LINE

- RIGHT OF WAY LINE

- 1" IRON ROD FOUND

- CAPPED IRON ROD FOUND

- SQUARE IRON ROD FOUND

- 1.0" IRON PIPE FOUND

- 0.75" IRON ROD SET W/ORANGE CAP "MSA PLS P23252"

N

W

E

S

MSA

BEARING BASED ON IOWA STATE PLANE COORDINATE SYSTEM NAD 83, NORTH ZONE.

GRAPHIC SCALE

0

60

120

1 INCH = 60 US FEET

LINE	BEARING	LENGTH
L4	N81°42'33"W	37.00'
L5	N53°17'23"E	28.28'
L6	N77°19'01"E	16.06'
L7	N08°17'19"E	25.00'
L8	N42°07'44"W	37.25'
L9	S84°26'00"E	27.00'

EAGLE STREET

LOT 1

POINT OF BEGINNING NORTHEAST CORNER OF LOT 1 OF ALTHAUSER'S SUB.

LOT 2

LOT 3

ALTHAUSER'S

LOT 4

LOT 5

LOT 6

LOT 7

LOT 8

SUBDIVISION

LOT 9

MERZ STREET

Parcel 2-F

ALTHAUSER STREET

40'

2'

138.68'

163.68'

40'

2'

17'

240.00'

40'

17'

290.90'

40'

17'

40'

ACQUISITION PLAT

ALTHAUSER AND EAGLE STS. WATERMAIN  
CITY OF DUBUQUE  
DUBUQUE COUNTY, IOWA

1 OF 1

PROJECT NO.: 00492098

F.B.: FILE

PROJECT DATE: 1/18/23

PLOT DATE: 2/2/24

DRAWN BY: SRS

CHECKED BY: EJS

LICENSED LAND SURVEYOR

JOHN DEWEY

23252

IOWA

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

JOHN DEWEY

LICENSE NO. 23252

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2023

PAGES OR SHEETS COVERED BY THIS SEAL: 1 OF 1

SHEET 1 OF 4

2/15/24

DATE

**OWNER'S CONSENT**

Dubuque, Iowa \_\_\_\_\_, 2024

The foregoing acquisition plat of **Parcel 2-F Being a Part Of Lots 1-9 of Althausen's Subdivision, in the City of Dubuque, Iowa**, is made with the free consent and in accordance with the desires of the undersigned owners and proprietors of said real estate. We hereby dedicate said Parcel 2-F to the public for street and utility purposes.

Dubuque Community School District

By: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Position

**UNIVERSAL NOTARY CERTIFICATE**

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_ to me personally known, OR \_\_\_\_\_ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) acted, executed the instrument.

(Notary Seal)

\_\_\_\_\_  
(Sign in blue ink)

\_\_\_\_\_  
(Print/type name)  
Notary Public in and for State of Iowa

**CAPACITY CLAIMED BY SIGNER**

\_\_\_\_ INDIVIDUAL

\_\_\_\_ CORPORATE OFFICER(S)

\_\_\_\_\_  
(Title)

**(CORP SEAL)**

\_\_\_\_ AFFIXED

\_\_\_\_ NO SEAL PROCURED

\_\_\_\_ PARTNER(S) \_\_\_\_ LIMITED \_\_\_\_ GENERAL

\_\_\_\_ ATTORNEY-IN-FACT

\_\_\_\_ TRUSTEE(S)

\_\_\_\_ GUARDIAN/CONSERVATOR

\_\_\_\_ OTHER

**SIGNER IS REPRESENTING**

\_\_\_\_\_

**PLANNING SERVICES**

Dubuque, Iowa \_\_\_\_\_, 2024

The foregoing acquisition plat **Parcel 2-F Being a Part of Lots 1-9 of Althausers Subdivision,, in the City of Dubuque, Iowa**, in the City of Dubuque or within the two-mile jurisdiction of the City of Dubuque, Iowa, as defined under Section 354 of the Code of Iowa, has been reviewed by the City Planner, (or designee) of the City of Dubuque in accordance with Chapter 42 of the City of Dubuque Code of Ordinances, and said approval has been endorsed herein on the date first written above.

\_\_\_\_\_  
Wally Wernimont, Manager  
Planning Services  
City of Dubuque, Iowa

**CITY OF DUBUQUE, IOWA**

Dubuque, Iowa \_\_\_\_\_, 2024

The undersigned, Brad M. Cavanagh, Mayor and Adrienne N. Breitfelder, Clerk of the City of Dubuque, Iowa, do hereby certify that the foregoing acquisition plat of **Parcel 2-F Being a Part of Lots 1-9 of Althausers Subdivision,, in the City of Dubuque, Iowa** to the public for street and utility purposes, as appears heretofore has been filed on \_\_\_\_\_ day of \_\_\_\_\_, 2024 as Resolution # \_\_\_\_\_ in the office of the City Clerk of Dubuque, Iowa and that the City Council of the City of Dubuque, Iowa approves said plat.

\_\_\_\_\_  
Mayor of the City of Dubuque, IA

\_\_\_\_\_  
Clerk of the City of Dubuque, IA

**COUNTY AUDITOR**

Dubuque, Iowa \_\_\_\_\_, 2024

The foregoing acquisition plat of **Parcel 2-F Being a Part of Lots 1-9 of Althausers Subdivision, in the City of Dubuque, Iowa** was entered of record in the office of the Dubuque County Auditor this \_\_\_\_\_ of \_\_\_\_\_, 2024. We approve the subdivision name or title shown hereon to be recorded.

\_\_\_\_\_  
Kevin Dragotto  
Dubuque County Auditor

**CITY ASSESSOR**

Dubuque, Iowa \_\_\_\_\_, 2024

The foregoing acquisition plat of **Parcel 2-F Being a Part of Lots 1-9 of Althausers Subdivision,, in the City of Dubuque, Iowa** was entered of record in the office of the Dubuque County Assessor this \_\_\_\_\_ of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Troy Patzner  
Dubuque City Assessor

**RECORDER'S CERTIFICATE**

Dubuque, Iowa \_\_\_\_\_, 2024

The foregoing acquisition plat of **Parcel 2-F Being a Part of Lots 1-9 of Althausers Subdivision,, in the City of Dubuque, Iowa** has been reviewed by the Dubuque County Recorder.

\_\_\_\_\_  
John Murphy  
Recorder of Dubuque County

Prepared by: Nate Kieffer, City of Dubuque, 50 W. 13<sup>th</sup> Street, Dubuque, Iowa 52001 (563)589-4270  
Return to: Nate Kieffer, City of Dubuque, 50 W. 13<sup>th</sup> Street, Dubuque, Iowa 52001 (563)589-4270

### **GRANT OF PUBLIC UTILITY EASEMENT**

For and in consideration of the One Dollar (\$1.00) and other good and valuable consideration, DUBUQUE COMMUNITY SCHOOL DISTRICT, an Iowa School Corporation, ("Grantor") does hereby grant to the City of Dubuque ("Grantee"), a municipal corporation, its agents and contractors, from the date hereof, a right of way and easement through, under and across the following described real estate situated in Dubuque County, Iowa, to wit:

Part of Lot 6 of Althausen's Subdivision of Lot 2 of Lot 1 and Part of Lot 1 of Lot 1 of Mineral Lot Number 474, Located in the Northeast Quarter of the Southeast Quarter of Section 13, Township 89 North, Range 2 East of the 5th Principal Meridian, City of Dubuque, Dubuque County, Iowa, as shown on Exhibit A attached hereto and by reference made a part hereof.

Said easement shall be as shown on the attached Exhibit A. Said Public Utility Easement shall be for the purpose of constructing and maintaining public utilities and other appurtenances, along with the right, privilege and authority to construct, reconstruct, maintain, operate, repair, patrol and remove said improvements. Said Public Utility Easement shall also include the right to cut, trim or remove trees, bushes and roots as may be required incident to rights given herein.

It is understood and agreed that the Grantee herein shall restore the disturbed area due to the construction, maintenance or repair of said public utilities and other appurtenances.

Grantor shall not erect any structure over or within the Public Utility Easement area without obtaining the prior written approval of the City Engineer. Grantor shall not change the grade, elevation, and contour or perform any construction or excavation that will diminish the lateral support or integrity of said improvements without obtaining the prior written consent of the City Engineer.

To have and to hold unto the said City of Dubuque, Iowa, forever, and the undersigned do hereby expressly covenant that they are the owners in fee of said real estate and have good right to execute this agreement, and that the Grantee, its agents or contractors, shall at all times have free access to and egress from and over said real estate to maintain or repair said public utilities thereon or therein.

Dated at Dubuque, Iowa this 18<sup>th</sup> day of March, 2024.

**DUBUQUE COMMUNITY  
SCHOOL DISTRICT**

By: Kas: A  
Kathrin A. Parks, President Board  
of Education

**NOTARY PUBLIC**

STATE OF IOWA,

COUNTY OF DUBUQUE, SS:

On this 18<sup>th</sup> day of March, A.D., 2024 before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared Kathryn A. Parks, School Board President of the Dubuque Community School District, to me known to be the identical person(s) named in and who executed the within and foregoing instrument, to which this is attached, and acknowledged that they executed the same as their voluntary act and deed.

Carolyn Mauss  
Notary Public In and For Said State

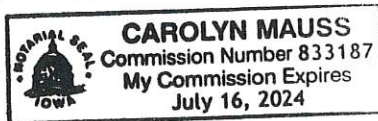




EXHIBIT A	
INDEX LEGEND	
LOCATION: LOT 6 OF ALTHAUSER'S SUBDIVISION OF LOT 2 OF LOT 1 AND PART OF LOT 1 OF LOT 1 OF MINERAL LOT NUMBER 474, LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 89 NORTH, RANGE 2 EAST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF DUBUQUE, DUBUQUE COUNTY, IOWA	
REQUESTOR: CITY OF DUBUQUE, IOWA, 50 W 13TH ST, DUBUQUE, IA 52001	
PROPRIETOR: DUBUQUE COMMUNITY SCHOOL DISTRICT (JEFFERSON JUNIOR HIGH), 2300 CHANEY RD, DUBUQUE, IA 52001	
SURVEYOR COMPANY: MSA PROFESSIONAL SERVICES INC., 400 ICE HARBOR DRIVE, SUITE 110, DUBUQUE, IA 52001	
RETURN TO: JOHN DEWEY, MSA PROFESSIONAL SERVICES INC., 400 ICE HARBOR DRIVE, SUITE 110, DUBUQUE, IA, 52001	
FOR RECORDER USE	

**DESCRIPTION OF PERMANENT PUBLIC UTILITY EASEMENT:**

PART OF LOT 6 OF ALTHAUSER'S SUBDIVISION OF LOT 2 OF LOT 1 AND PART OF LOT 1 OF LOT 1 OF MINERAL LOT NUMBER 474, LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 89 NORTH, RANGE 2 EAST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF DUBUQUE, DUBUQUE COUNTY, IOWA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 9 OF SAID ALTHAUSER'S SUBDIVISION OF LOT 2 OF LOT 1 AND PART OF LOT 1 OF LOT 1 OF MINERAL LOT NUMBER 474; THENCE NORTH 08 DEGREES 17 MINUTES 19 SECONDS EAST ALONG THE EAST LINE OF LOTS 6-9 OF SAID ALTHAUSER'S SUBDIVISION OF LOT 2 OF LOT 1 AND PART OF LOT 1 OF LOT 1 OF MINERAL LOT NUMBER 474 A DISTANCE OF 185.00 FEET; THENCE NORTH 81 DEGREES 42 MINUTES 41 SECONDS WEST A DISTANCE OF 17.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 81 DEGREES 42 MINUTES 41 SECONDS WEST A DISTANCE OF 10.00 FEET; THENCE NORTH 08 DEGREES 17 MINUTES 19 SECONDS EAST PARALLEL WITH THE EAST LINE OF SAID LOT 6 A DISTANCE OF 10.00 FEET; THENCE SOUTH 81 DEGREES 42 MINUTES 41 SECONDS EAST A DISTANCE OF 10.00 FEET; THENCE SOUTH 08 DEGREES 17 MINUTES 19 SECONDS WEST PARALLEL WITH THE EAST LINE OF SAID LOT 6 A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 100 SQUARE FEET (0.002 ACRES) MORE OR LESS.

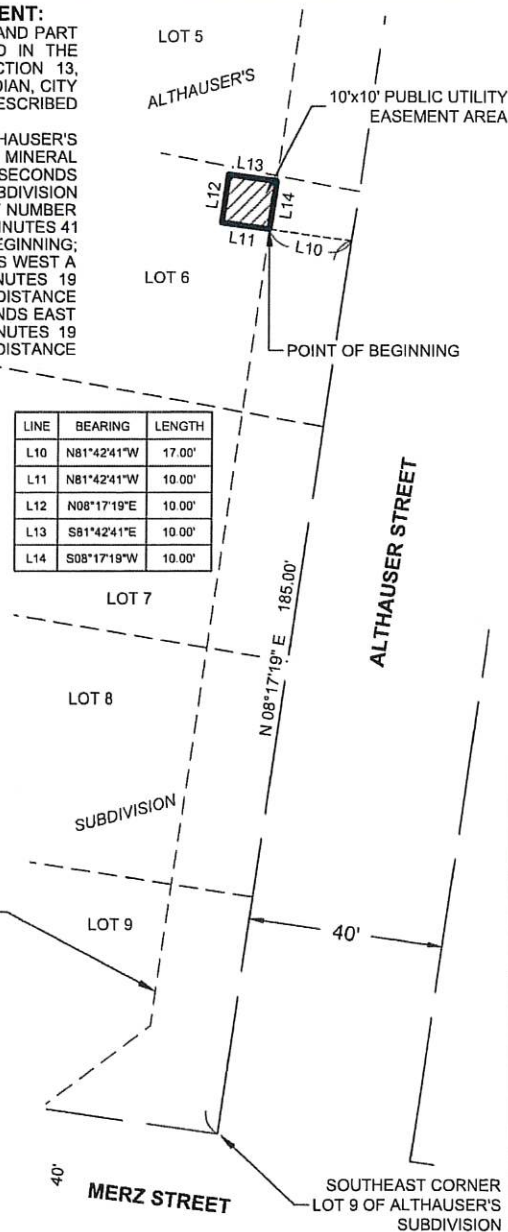
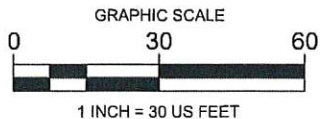
LINE	BEARING	LENGTH
L10	N81°42'41"W	17.00'
L11	N81°42'41"W	10.00'
L12	N08°17'19"E	10.00'
L13	S81°42'41"E	10.00'
L14	S08°17'19"W	10.00'

**LEGEND**

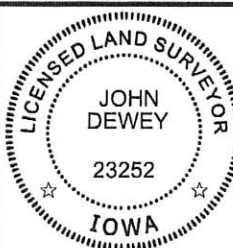
- BOUNDARY LINE
- - - RIGHT OF WAY LINE
- - - PLATTED LINE
- - - BOUNDARY TIE



BEARING BASED ON IOWA STATE PLANE  
COORDINATE SYSTEM NAD 83, NORTH ZONE.



PERMANENT PUBLIC UTILITY EASEMENT EXHIBIT			
ALTHAUSER AND EAGLE STS. WATERMAIN CITY OF DUBUQUE DUBUQUE COUNTY, IOWA			
1 OF 1	PROJECT NO.: 00492098	F.B.: FILE	
	PROJECT DATE: 1/18/23	PLOT DATE: 7/28/23	
	DRAWN BY: SRS	CHECKED BY: EJS	



I HEREBY CERTIFY THAT THIS LAND SURVEYING  
DOCUMENT WAS PREPARED AND THE RELATED  
SURVEY WORK WAS PERFORMED BY ME OR UNDER MY  
DIRECT PERSONAL SUPERVISION AND THAT I AM DULY  
LICENSED LAND SURVEYOR UNDER THE LAWS OF THE  
STATE OF IOWA.

JOHN DEWEY  
LICENSE NO. 23252  
DATE 7/28/23  
MY LICENSE RENEWAL DATE IS DECEMBER 31, 2023  
PAGES OR SHEETS COVERED BY THIS SEAL: 1 OF 1

**City of Dubuque  
City Council Meeting**

**Consent Items # 05.**

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<b>ITEM TITLE:</b>	Purchase Agreement with Dubuque Community School District as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project	
<b>SUMMARY:</b>	City Manager recommending City Council approval of a Purchase Agreement with Dubuque Community School District (DCSD) for certain rights of way and easement acquisitions related to the proposed Althausen Street Watermain and Sanitary Sewer Reconstruction project.	
	<b>RESOLUTION</b> Approving a Purchase Agreement between the City of Dubuque, Iowa and Dubuque Community School District for Purchase of Rights of Way and an Easement along Althausen Street and Eagle Street as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project	
<b>SUGGESTED DISPOSITION:</b>	Suggested Disposition: Receive and File; Adopt Resolution(s)	
<b><u>ATTACHMENTS:</u></b>		
<b>Description</b>	<b>Type</b>	
MVM Memo	City Manager Memo	
Staff Memo	Staff Memo	
Resolution	Resolutions	
Purchase Agreement	Supporting Documentation	
ROW and Easements Map	Supporting Documentation	





**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Purchase Agreement with Dubuque Community School District as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project

**DATE:** December 22, 2023

City Engineer Gus Psihoyos is recommending City Council approval of a Purchase Agreement with Dubuque Community School District (DCSD) for certain rights of way and easement acquisitions related to the proposed Althausen Street Watermain and Sanitary Sewer Reconstruction project.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv  
Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Gus Psihoyos, City Engineer  
Nate Kieffer, PE/PLS

**TO:** Michael C. Van Milligen, City Manager

**FROM:** Gus Psihoyos, City Engineer

**SUBJECT:** Purchase Agreement with Dubuque Community School District as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project

**DATE:** December 18, 2023

### **INTRODUCTION**

The purpose of this memorandum is to request City Council approval of a Purchase Agreement with Dubuque Community School District (DCSD) for certain rights of way and easement acquisitions related to the proposed Althausen Street Watermain and Sanitary Sewer Reconstruction project.

### **BACKGROUND**

The existing water main on Althausen Street near Jefferson Middle School was constructed in 1922. The water main on this section of street have had a significant number of water main breaks in recent years. The water main is an old cast iron main that is at the end of its useful life. Additionally, public works staff televised the sanitary sewer main in the area. This pipe was constructed in 1924 and is also at the end of its useful life. Sewer camera video shows multiple sags and breaks in the sewer main.

### **DISCUSSION**

The Althausen Street Watermain and Sanitary Sewer Reconstruction Project includes the reconstruction of an existing 6" clay sanitary sewer with 8" PVC sanitary sewer. The project also includes the reconstruction of an existing 6" cast iron water main with 6" DR-14 PVC watermain. New fire hydrants and associated main line valves will be replaced. Lead water services will be replaced from the main to the house with new copper services. Sanitary Sewer laterals will be replaced from the main to the right of way line. As a result of the utility replacement in the street, extensive street pavement, curb and gutter and some sidewalk will be replaced. ADA ramps at Althausen Street and Eagle Street and Althausen Street and Merz Street will be replaced.

The construction is planned to occur in the summer of 2024 and be complete prior to school starting that fall. The project is adjacent to Jefferson middle School on the east side of the school. Engineering and Water Department staff are coordinating with the school district and adjacent property owners.

Because some of the existing and proposed public utilities in the project area are located within property owned by DCSD, certain easements and right of way acquisitions are necessary for construction and long-term ownership and maintenance of said utilities. In addition to this, several existing and proposed public sidewalks and associated curb ramps in the project area are located within DCSD private property and should be located within a public street right of way. The Purchase Agreement provides for the acquisition of easements and rights of way to address these issues.

A copy of the Purchase Agreement executed by DCSD is attached.

**RECOMMENDATION**

I recommend that the City approve the agreement with DCSD for certain rights of way and easement acquisitions related to the proposed Althausen Street Watermain and Sanitary Sewer Reconstruction project per the terms of the attached Purchase Agreement.

**ACTION TO BE TAKEN**

I respectfully request adoption of the attached resolution approving said Purchase Agreement.

Attach.

Prepared by: Nate Kieffer, PE/PLS

cc: Bob Schiesl, Assistant City Engineer  
Jon Dienst, CE II

## RESOLUTION NO. 2-24

### APPROVING A PURCHASE AGREEMENT BETWEEN THE CITY OF DUBUQUE, IOWA AND DUBUQUE COMMUNITY SCHOOL DISTRICT FOR PURCHASE OF RIGHTS OF WAY AND AN EASEMENT ALONG ALTHAUSER STREET AND EAGLE STREET AS PART OF THE ALTHAUSER STREET WATERMAIN AND SANITARY SEWER RECONSTRUCTION PROJECT

**WHEREAS**, as part of the Althausen Street Watermain and Sanitary Sewer Reconstruction Project, certain rights of way and easement acquisitions are necessary for the future ownership and maintenance of the existing and proposed public utilities along Althausen Street and Eagle Street; and

**WHEREAS**, certain areas of existing public sidewalk and associated curb ramps in the project area are located within property owned by Dubuque Community School District along Althausen Street and Eagle Street and by City standards should be located within a public street right of way; and

**WHEREAS**, the City of Dubuque (City) and the Dubuque Community School District (DCSD) have agreed that the right of way and easement acquisitions are necessary for the construction project, long-term maintenance of the public utilities, and to ensure that the public sidewalks are located within public street rights of way; and

**WHEREAS**, the City has negotiated a Purchase Agreement, subject to City Council approval, with DCSD for the right of way and easement acquisitions associated with the project; and

**WHEREAS**, the City Council finds that it is in the best interest of the City of Dubuque to approve the Purchase Agreement attached hereto.

### NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:

Section 1. The Purchase Agreement between City and DCSD attached hereto is hereby approved.

Passed, Approved, and Adopted this 3<sup>rd</sup> day of January 2024.

  
Brad M. Cavanagh, Mayor

Attest:

  
Adrienne N. Breitfelder, City Clerk

Prepared by: Nate Kieffer, City of Dubuque, City Hall, 50 W 13<sup>th</sup> Street., Dubuque, IA 50201 515-382-1698  
Return to: Nate Kieffer, City of Dubuque, City Hall, 50 W 13<sup>th</sup> Street., Dubuque, IA 50201 515-382-1698

### PURCHASE AGREEMENT

PARCEL 1 COUNTY Dubuque  
PROJECT N/A NAME Althausen/Eagle St. Water Main Project

SELLER: Dubuque Community School District

THIS AGREEMENT entered into this     day of December, 2023, by and between Seller and the City of Dubuque, Iowa, Buyer.

- 1a. SELLER AGREES to sell and furnish to Buyer a conveyance document, on form(s) furnished by Buyer, and Buyer agrees to buy the following real estate, hereinafter referred to as the premises, situated in parts of the following: PARTS OF LOT 2 OF MIN LOT 472; LOTS 31, 32, 33, 43, & LOT 2-42 TAYLOR & COOLEYS; LOTS 12 THRU 16 STINES SUB; LOTS 2-11A STINES SUB; LOTS 2-9, 10, 11, 12, GMEHLES SUB; LOTS 1 THRU 9 ALTHAUSERS SUB, CITY OF DUBUQUE, IOWA., in the County of DUBUQUE, State of Iowa, as shown on the attached Easement Exhibits and Right of Way Acquisition Plats, including the following buildings, improvements and other property: None.
2. Possession of the premises is the essence of this agreement and Buyer may enter and assume full use and enjoyment of the premises per the terms of this agreement. SELLER GRANTS Buyer the immediate possession right to enter the premises for the purpose of gathering survey and soil data. SELLER MAY surrender possession of the premises or building or improvements or any part thereof prior to the time at which he has hereinafter agreed to do so, and agrees to give Buyer ten (10) days notice of Seller's intention to do so by calling Buyer.
3. Buyer agrees to pay and SELLER AGREES to grant the right of possession, convey title, and surrender physical possession of the premises as shown on or before the dates listed below.

<u>PAYMENT AMOUNT</u>	<u>AGREED PERFORMANCE</u>	<u>DATE OF PERFORMANCE</u>
\$ <u>                    </u>	on conveyance of title	<u>                                    </u>
\$ <u>                    </u>	on surrender of possession	<u>                                    </u>
\$ <u>15,521.72</u>	on possession and conveyance	<u>30 days after Buyer approval</u>
\$ <u>                    </u>	cost-to-cure settlement	<u>                                    </u>
\$ <u>15,521.72</u>	TOTAL LUMP SUM	<u>                                    </u>

<u>Breakdown</u>	<u>Ac./Sq.Ft.</u>
Land by Fee Title	<u>6,527</u> Ac./Sq.Ft. in the name of the City of Dubuque
Permanent Utility Easement	<u>100</u> Ac./Sq.Ft. in the name of the City of Dubuque
Permanent Easement	<u>                    </u> Ac./Sq.Ft.
Temporary Easement	<u>                    </u> Ac./Sq.Ft.
Road Easement to Fee Title	<u>                    </u> Ac./Sq.Ft. in the name of the City of Dubuque

4. SELLER WARRANTS that there are no tenants on the premises holding under lease except: None
5. This agreement shall apply to and bind the legal successors in interest of the Seller and SELLER AGREES to pay all liens and assessments against the premises, including all taxes and special assessments payable until surrender of possession as required by the Code of Iowa, and agrees to warrant good and sufficient title.
6. Buyer may include mortgages, lienholders, encumbrancers and taxing authorities as payees on warrants issued in payment of this agreement. In addition to the Total Lump Sum, Buyer agrees to pay \$150.00 for the cost of adding title documents required by this transaction to Seller's abstract of title. If requested to do so, SELLER WILL deliver to the Buyer an abstract of title to the premises. Buyer agrees to pay the cost of

abstract continuation. SELLER AGREES to provide such documentation as may be required by Iowa Land Title Standards to convey merchantable title to Buyer. SELLER ALSO AGREES to obtain court approval of this agreement, if requested by Buyer, in the event title to the premises becomes an asset of any estate, trust, conservatorship or guardianship. Buyer agrees to pay court approval costs and all other costs necessary to transfer the premises to Buyer, but not attorney fees. Claims for such transfer costs shall be paid in amounts supported by paid receipts or signed bills.

7. Buyer agrees that any agricultural drain tiles that are located within the premises and are damaged or require relocation by highway construction shall be repaired or relocated at no expense to Seller.
8. If Seller holds title to the premises in joint tenancy with full rights of survivorship and not as tenants in common at the time of this agreement, Buyer will pay any remaining proceeds to the survivor of that joint tenancy and will accept title solely from that survivor, provided the joint tenancy has not been destroyed by operation of law or acts of Seller.
9. These premises are being acquired for public purposes and this transfer is exempt from the requirements for the filing of a Declaration of Value by the Code of Iowa.
10. The premises also includes all estates, rights, title and interests, including all easements, and all advertising devices and the right to erect such devices as are located thereon. SELLER CONSENTS to any change of grade of the street and accepts payment under this agreement for any and all damages arising therefrom. SELLER ACKNOWLEDGES full settlement and payment from Buyer for all claims per the terms of this agreement and discharges Buyer from liability because of this agreement and the construction of this public improvement project.
11. Seller states and warrants that, to the best of Seller's knowledge, there is no burial site, well, solid waste disposal site, private sewage disposal systems, hazardous substance, nor underground storage tank on the premises described and sought herein, except:  
None
12. This written agreement constitutes the entire agreement between Buyer and Seller and there is no agreement to do or not to do any act or deed except as specifically provided for herein.
13. Buyer hereby gives notice of Seller's five-year right to renegotiate construction or maintenance damages not apparent at the time of the signing of this agreement as required under Section 6B.52 of the Code of Iowa.
14. It is understood and agreed that Seller waives all rights under Iowa Code Section 306.23.
15. This Purchase Agreement is subject to approval by the City of Dubuque City Council.

**SELLER'S SIGNATURE AND CLAIMANT'S CERTIFICATION:** Upon due approval and execution by the Buyer, we the undersigned claimants certify the Total Lump Sum payment shown herein is just and unpaid.

By: Carolyn Mauss

By: Kate Parks  
Kate Parks  
Dubuque Community School District Board President

This section to be completed by a Notary Public.  
Both columns must be completed.

**SELLER'S ACKNOWLEDGMENT**

STATE OF Iowa  
COUNTY OF Dubuque ss:

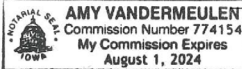
On this 12 day of December, A.D. 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared

X to me personally known  
or \_\_\_\_\_ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Amy VanderMeulen (Sign in Ink)  
Amy VanderMeulen (Print / Type Name)

Notary Public in and for the State of Iowa  
My commission expires 08/01/2024



**CAPACITY CLAIMED BY SIGNER:**

☐ INDIVIDUAL  
☐ CORPORATE  
Title(s) of Corporate Officer(s): \_\_\_\_\_  
☐ Corporate Seal is affixed  
☐ No Corporate Seal procured  
☐ PARTNER(s):  
☐ Limited Partnership  
☐ General Partnership  
☐ ATTORNEY-IN-FACT  
☐ EXECUTOR(s) or TRUSTEE(s)  
☐ GUARDIAN(s) or CONSERVATOR(s)  
☐ OTHER:

**SIGNER IS REPRESENTING:**

List name(s) of entity(ies) or person(s)

**BUYER'S ACKNOWLEDGMENT**

STATE OF IOWA: ss: On this 18 day of December, 2023, before me, the undersigned, personally appeared RUSSELN KIEFER AND GUSPSIHOS, known to me to be the AUTHORIZED REPRESENTATIVES of Buyer and who did say that said instrument was signed on behalf of Buyer by the authority duly recorded in its minutes, and acknowledged the execution of said instrument, which signature appears hereon, to be the voluntary act and deed of Buyer and by it voluntarily executed.



Kerry Jo Bradley  
Notary Public in and for the State of Iowa

**BUYER'S APPROVAL**

2023/12/18 12-18-2023  
Recommended by: \_\_\_\_\_ (Date)  
Right of Way-Project Agent:

Gus Psihoyos 12/18/23  
Approved by: \_\_\_\_\_ (Date)  
Gus Psihoyos  
City of Dubuque, Iowa



EXHIBIT A							
INDEX LEGEND							
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<p><b>DESCRIPTION OF PERMANENT PUBLIC UTILITY EASEMENT:</b>            PART OF LOT 6 OF ALTHAUSER'S SUBDIVISION OF LOT 2 OF LOT 1 AND PART OF LOT 1 OF LOT 1 OF MINERAL LOT NUMBER 474, LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 89 NORTH, RANGE 2 EAST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF DUBUQUE, DUBUQUE COUNTY, IOWA MORE PARTICULARLY DESCRIBED AS FOLLOWS:            COMMENCING AT THE SOUTHEAST CORNER OF LOT 8 OF SAID ALTHAUSER'S SUBDIVISION OF LOT 2 OF LOT 1 AND PART OF LOT 1 OF LOT 1 OF MINERAL LOT NUMBER 474, THENCE NORTH 08 DEGREES 17 MINUTES 19 SECONDS EAST ALONG THE EAST LINE OF LOTS 6-9 OF SAID ALTHAUSER'S SUBDIVISION OF LOT 2 OF LOT 1 AND PART OF LOT 1 OF LOT 1 OF MINERAL LOT NUMBER 474 A DISTANCE OF 185.00 FEET; THENCE NORTH 81 DEGREES 42 MINUTES 41 SECONDS WEST A DISTANCE OF 17.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 81 DEGREES 42 MINUTES 41 SECONDS WEST A DISTANCE OF 10.00 FEET; THENCE NORTH 08 DEGREES 17 MINUTES 19 SECONDS EAST PARALLEL WITH THE EAST LINE OF SAID LOT 6 A DISTANCE OF 10.00 FEET; THENCE SOUTH 81 DEGREES 42 MINUTES 41 SECONDS EAST A DISTANCE OF 10.00 FEET; THENCE SOUTH 08 DEGREES 17 MINUTES 19 SECONDS WEST PARALLEL WITH THE EAST LINE OF SAID LOT 6 A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.            CONTAINING 100 SQUARE FEET (0.002 ACRES) MORE OR LESS.</p>							
<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li>— BOUNDARY LINE</li> <li>— RIGHT OF WAY LINE</li> <li>— PLATTED LINE</li> <li>— BOUNDARY TIE</li> </ul>							
<p>BEARING BASED ON IOWA STATE PLANE COORDINATE SYSTEM NAD 83, NORTH ZONE.</p> <p>GRAPHIC SCALE 0 30 60 1 INCH = 30 US FEET</p>							
<p>PERMANENT PUBLIC UTILITY EASEMENT EXHIBIT</p> <p>ALTHAUSER AND EAGLE STS. WATERMAIN CITY OF DUBUQUE DUBUQUE COUNTY, IOWA</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>PROJECT NO.: 0948008</td> <td>P.B.: FILE</td> </tr> <tr> <td>PROJECT DATE: 5/19/23</td> <td>PLOT DATE: 7/28/23</td> </tr> <tr> <td>DRAWN BY: SPS</td> <td>CHECKED BY: SPS</td> </tr> </table>		PROJECT NO.: 0948008	P.B.: FILE	PROJECT DATE: 5/19/23	PLOT DATE: 7/28/23	DRAWN BY: SPS	CHECKED BY: SPS
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PROJECT DATE: 5/19/23	PLOT DATE: 7/28/23						
DRAWN BY: SPS	CHECKED BY: SPS						
<p style="text-align: center;">LICENSED LAND SURVEYOR</p> <p style="text-align: center;">JOHN DEWEY</p> <p style="text-align: center;">23252</p> <p style="text-align: center;">IOWA</p>							
<p>I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.</p> <p>JOHN DEWEY DATE 7/28/23</p> <p>LICENSE NO. 23252</p> <p>MY LICENSE RENEWAL DATE IS DECEMBER 31, 2023</p> <p>PAGES OR SHEETS COVERED BY THIS SEAL: 1 OF 1</p>							



INDEX LEGEND																						
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FOR RECORDER USE																						
<b>DESCRIPTION OF ACQUISITION PLAT:</b> BEGINNING AT THE NORTHEAST CORNER OF LOT 1 OF SAID ALTHAUSER'S SUBDIVISION; THENCE SOUTH 00 DEGREES 16 MINUTES 01 SECOND EAST ALONG THE EAST LINE OF LOTS 1-4 OF SAID ALTHAUSER'S SUBDIVISION A DISTANCE OF 163.68 FEET; THENCE SOUTH 08 DEGREES 17 MINUTES 19 SECONDS WEST ALONG THE EAST LINE OF LOTS 4-9 OF SAID ALTHAUSER'S SUBDIVISION A DISTANCE OF 290.80 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9; THENCE NORTH 81 DEGREES 42 MINUTES 33 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 9 A DISTANCE OF 37.00 FEET; THENCE NORTH 53 DEGREES 17 MINUTES 23 SECONDS EAST A DISTANCE OF 23.28 FEET; THENCE NORTH 08 DEGREES 17 MINUTES 19 SECONDS EAST PARALLEL WITH THE EAST LINE OF SAID LOTS 4-9 A DISTANCE OF 240.00 FEET; THENCE NORTH 77 DEGREES 19 MINUTES 01 SECOND EAST A DISTANCE OF 16.06 FEET; THENCE NORTH 08 DEGREES 17 MINUTES 19 SECONDS EAST PARALLEL WITH THE EAST LINE OF SAID LOT 4 A DISTANCE OF 25.00 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 01 SECOND WEST PARALLEL WITH THE EAST LINE OF SAID LOTS 1-4 A DISTANCE OF 138.88 FEET; THENCE NORTH 42 DEGREES 07 MINUTES 44 SECONDS WEST A DISTANCE OF 37.25 FEET TO THE NORTH LINE OF SAID LOT 1; THENCE SOUTH 84 DEGREES 28 MINUTES 00 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 27.00 FEET TO THE POINT OF BEGINNING. CONTAINING 5.365 SQUARE FEET (0.123 ACRES) MORE OR LESS.																						
<b>LEGEND</b> - BOUNDARY LINE - PROPERTY LINE - PLATTED LINE - RIGHT OF WAY LINE - 1" IRON ROD FOUND - CAPPED IRON ROD FOUND - SQUARE IRON ROD FOUND - 1.0" IRON PIPE FOUND - 0.75" IRON ROD SET WORKRANGE CAP "MSA PLS P23252"																						
BEARING BASED ON IOWA STATE PLANE COORDINATE SYSTEM NAD 83, NORTH ZONE.																						
<table border="1"> <thead> <tr> <th>LINE</th> <th>BEARING</th> <th>LENGTH</th> </tr> </thead> <tbody> <tr> <td>L4</td> <td>N81°42'23"W</td> <td>37.00'</td> </tr> <tr> <td>L5</td> <td>N53°17'23"E</td> <td>23.28'</td> </tr> <tr> <td>L6</td> <td>N77°19'01"E</td> <td>16.06'</td> </tr> <tr> <td>L7</td> <td>N08°17'19"E</td> <td>240.00'</td> </tr> <tr> <td>L8</td> <td>N42°07'44"W</td> <td>37.25'</td> </tr> <tr> <td>L9</td> <td>S84°28'00"E</td> <td>27.00'</td> </tr> </tbody> </table>		LINE	BEARING	LENGTH	L4	N81°42'23"W	37.00'	L5	N53°17'23"E	23.28'	L6	N77°19'01"E	16.06'	L7	N08°17'19"E	240.00'	L8	N42°07'44"W	37.25'	L9	S84°28'00"E	27.00'
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<b>ACQUISITION PLAT</b> ALTHAUSER AND EAGLE STS. WATERMAIN CITY OF DUBUQUE DUBUQUE COUNTY, IOWA																						
<table border="1"> <tr> <td>PROJECT NO.: 03482005</td> <td>FILE</td> </tr> <tr> <td>PROJECT DATE: 11/19/23</td> <td>PLOT DATE: 7/28/23</td> </tr> <tr> <td>DRAWN BY: SPS</td> <td>CHECKED BY: BAS</td> </tr> </table>		PROJECT NO.: 03482005	FILE	PROJECT DATE: 11/19/23	PLOT DATE: 7/28/23	DRAWN BY: SPS	CHECKED BY: BAS															
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PROJECT DATE: 11/19/23	PLOT DATE: 7/28/23																					
DRAWN BY: SPS	CHECKED BY: BAS																					
I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.																						
JOHN DEWEY LICENSE NO. 23252 MY LICENSE RENEWAL DATE IS DECEMBER 31, 2023 PAGES OR SHEETS COVERED BY THIS SEAL: 1 OF 1																						
DATE: 7/28/23																						

INDEX LEGEND	
LOCATION: LOT 1 OF ALTHAUSER'S SUBDIVISION, LOT 2 OF THE SUBDIVISION OF MINERAL LOT NUMBER 472, LOT 33 OF TAYLOR & COOLEY'S SUBDIVISION AND THE ALLEY IN ALTHAUSER'S SUBDIVISION VACATED IN BOOK A2, PAGE 552; ALL LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 88 NORTH, RANGE 2 EAST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF DUBUQUE, DUBUQUE COUNTY, IOWA	
REQUESTOR: CITY OF DUBUQUE, IOWA, 50 W 13TH ST, DUBUQUE, IA 52001	
PROPRIETOR: DUBUQUE COMMUNITY SCHOOL DISTRICT (JEFFERSON JUNIOR HIGH), 2300 CHANEY RD, DUBUQUE, IA 52001	
SURVEYOR COMPANY: MSA PROFESSIONAL SERVICES INC., 400 ICE HARBOR DRIVE, SUITE 110, DUBUQUE, IA 52001	
RETURN TO: JOHN DEWEY, MSA PROFESSIONAL SERVICES INC., 400 ICE HARBOR DRIVE, SUITE 110, DUBUQUE, IA, 52001	
FOR RECORDER USE	

**DESCRIPTION OF ACQUISITION PLAT:**  
 PART OF LOT 1 AND THE ALLEY VACATED IN BOOK A2, PAGE 552 IN ALTHAUSER'S SUBDIVISION OF LOT 2 OF LOT 1 AND PART OF LOT 1 OF LOT 1 OF MINERAL LOT NUMBER 472; LOT 2 OF THE SUBDIVISION OF MINERAL LOT NUMBER 472; LOT 33 OF TAYLOR & COOLEY'S SUBDIVISION OF A PART OF MINERAL LOT NO. 472; ALL LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 88 NORTH, RANGE 2 EAST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF DUBUQUE, DUBUQUE COUNTY, IOWA MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 BEGINNING AT THE NORTHWEST CORNER OF LOT 33 OF SAID TAYLOR & COOLEY'S SUBDIVISION, THENCE NORTH 88 DEGREES 29 MINUTES 43 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 33 AND THE NORTH LINE OF LOT 2 OF SAID SUBDIVISION OF MINERAL LOT 472 A DISTANCE OF 306.52 FEET, THENCE SOUTH 84 DEGREES 28 MINUTES 00 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 2 AND THE NORTH LINE OF A VACATED ALLEY OF SAID ALTHAUSER'S SUBDIVISION AND THE NORTH LINE OF LOT 1 OF SAID ALTHAUSER'S SUBDIVISION A DISTANCE OF 24.34 FEET; THENCE SOUTH 88 DEGREES 29 MINUTES 13 SECONDS WEST A DISTANCE OF 312.67 FEET; THENCE SOUTH 43 DEGREES 29 MINUTES 06 SECONDS WEST A DISTANCE OF 28.28 FEET TO THE WEST LINE OF SAID LOT 33; THENCE NORTH 01 DEGREE 31 MINUTES 01 SECOND WEST ALONG THE WEST LINE OF SAID LOT 33 A DISTANCE OF 23.00 FEET TO THE POINT OF BEGINNING. CONTAINING 1.162 SQUARE FEET (0.027 ACRES) MORE OR LESS.

**LEGEND**

- BOUNDARY LINE
- PROPERTY LINE
- PLATTED LINE
- RIGHT OF WAY LINE
- - 0.75" IRON ROD SET  
W/ ORANGE CAP "MSA PLS  
P23252"

BEARING BASED ON IOWA STATE PLANE  
COORDINATE SYSTEM NAD 83, NORTH ZONE.

GRAPHIC SCALE  
0 50 100  
1 INCH = 50 US FEET

**ACQUISITION PLAT**  
 ALTHAUSER AND EAGLE STS., WATERMAIN  
 CITY OF DUBUQUE  
 DUBUQUE COUNTY, IOWA

PROJECT NO.: 02400000 P.S. FILE  
 PROJECT DATE: 1/19/23 PLOT DATE: 7/28/23  
 DRAWN BY: SRS CHECKED BY: ELS

**MSA**

**LICENSED LAND SURVEYOR**  
 JOHN DEWEY  
 23252  
 IOWA

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

JOHN DEWEY  
 LICENSE NO. 23252  
 MY LICENSE RENEWAL DATE IS DECEMBER 31, 2023  
 PAGES OR SHEETS COVERED BY THIS SEAL: 1 OF 1

7/28/23  
 DATE



**City of Dubuque  
City Council Meeting**

**Consent Items # 09.**

---

**ITEM TITLE:** 2023 Maintenance Dredging Project: Acceptance of Public Improvement Construction Contract - Project Number: 5546000001-304-67990 Harbor Area Dredging

**SUMMARY:** City Manager recommending City Council adopt the attached resolution to accept the Public Improvement Construction Contract and to authorize the payment of the contract amount of \$546,823.00 to Newt Marine Service for 2023 Maintenance Dredging Project.

**RESOLUTION** Accepting the 2023 Maintenance Dredging Project and Authorizing Final Payment to the Contractor

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Adopt Resolution(s)

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
MVM Memo	City Manager Memo
Staff Memo	Staff Memo
Resolution	Resolutions
Engineer's Certificate of Completion	Supporting Documentation





**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** 2023 Maintenance Dredging Project  
Acceptance of Public Improvement Construction Contract  
Project Number: 5546000001-304-67990 Harbor Area Dredging

**DATE:** March 26, 2024

Assistant City Engineer Robert Schiesl is recommending City Council adopt the attached resolution to accept the Public Improvement Construction Contract and to authorize the payment of the contract amount of \$546,823.00 to Newt Marine Service for 2023 Maintenance Dredging Project.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
\_\_\_\_\_  
Michael C. Van Milligen

MCVM:sv

Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Gus Psihoyos, City Engineer  
Robert Schiesl, Assistant City Engineer  
Rick Dickinson, Greater Dubuque Development Corporation President & CEO

**TO:** Michael C. Van Milligen, City Manager  
Gus Psihoyos, City Engineer

**FROM:** Robert Schiesl, Assistant City Engineer

**DATE:** March 26, 2024

**RE:** 2023 Maintenance Dredging Project  
Acceptance of Public Improvement Construction Contract  
Project Number: 5546000001-304-67990 Harbor Area Dredging

## **INTRODUCTION**

The enclosed resolution provides for the acceptance of the Public Improvement Construction Contract for the 2023 Maintenance Dredging Project.

## **BACKGROUND**

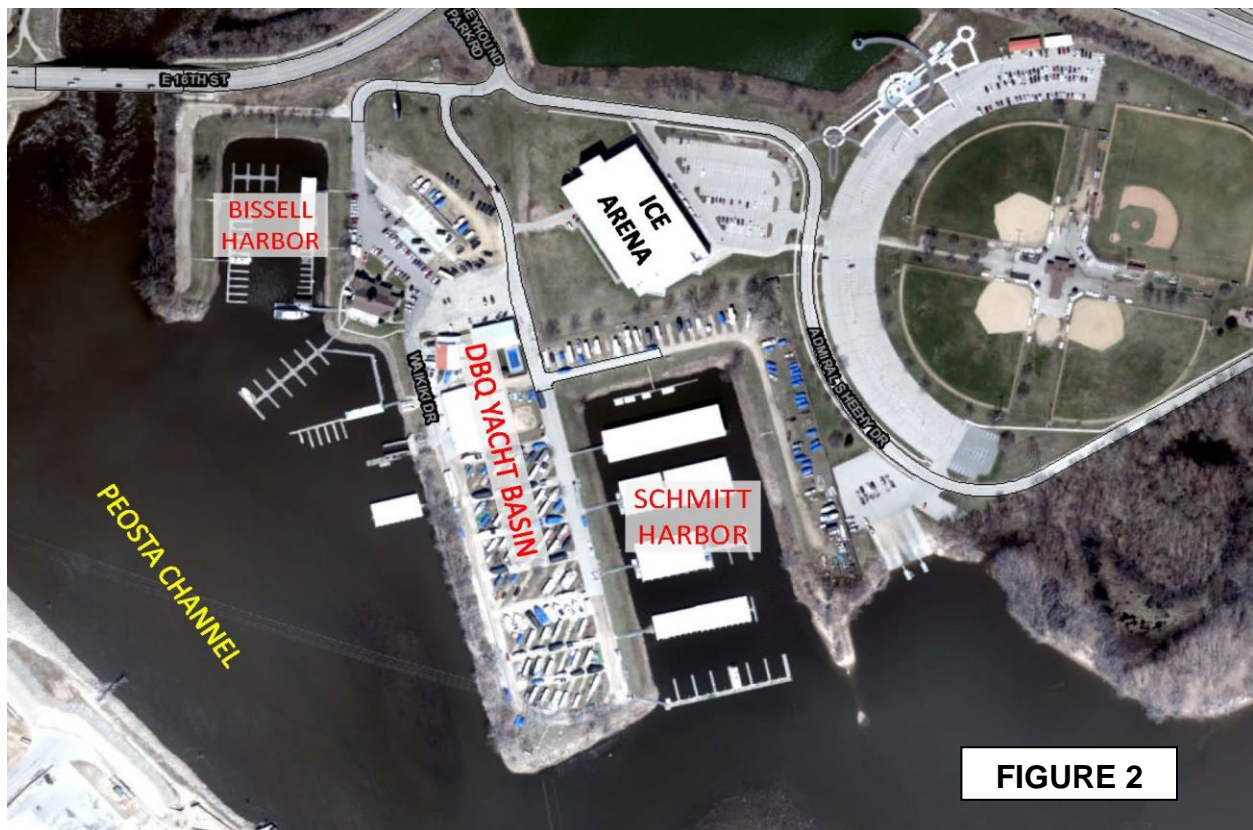
The City has an annual recurring Harbor Area Dredging Capital Improvement Program (CIP) budget which provides for maintenance dredging at multiple riverfront locations to maintain adequate harbor and channel depths for recreational and transient boat navigation. This funding allows for annual riverfront maintenance dredging as required at Schmitt Island and AY McDonald Park public boat ramp launch locations; River's Edge Plaza to accommodate excursion boat mooring; Ice Harbor gates; and Port of Dubuque Marina.

The City also has a contractual obligation to maintain city-owned and leased property under current lease terms to perform maintenance dredging at Dubuque Marina and at American Marine – Dubuque Yacht Basin to maintain adequate harbor depth for recreational and transient boat navigational access.

For the Dubuque Marina Lease dated October 29, 1956, the City is only responsible for performing maintenance dredging of Pleasure Boat Harbor to a usable depth for such purposes as are permitted by the Lease. Figure 1 shows the Dubuque Marina site and the location of Pleasure Boat Harbor.

For the Dubuque Yacht Basin Lease dated February 5, 1974, the City is only responsible for performing maintenance dredging of Schmitt Harbor to a usable depth for such purposes as are permitted by the Lease. Figure 2 shows the Dubuque Yacht Basin site and the location of Schmitt Harbor.

The FY2023 budget includes funding to assist with dredging both Dubuque Marina and American Marine - Dubuque Yacht Basin locations.



In May 2023, while river elevations were still high from the spring flood event, the City retained the services of Mohn Surveying to perform river bottom bathometric surveys

along the entire riverfront. Based on the survey data, staff were able to model river and harbor bottom elevations to identify shallow water way locations at various river stages and evaluate potential dredging needs.

Based on the river bottom contour elevations, a silted area at the entrance to Pleasure Boat Harbor at Dubuque Marina needed to be dredged per the terms of the Lease. The remainder of Pleasure Boat Harbor has adequate depth.

Schmitt Harbor at Dubuque Yacht Basin has adequate depth and does not require dredging to be performed per the terms of each respective Lease.

City staff met with representatives from both Dubuque Marina and American Marine to review the bathometric survey contour maps, evaluate maintenance dredging needs, and prioritize maintenance dredging locations based on current operational challenges for safe harbor access for recreational and transient boat navigational access.

Dubuque Marina identified the location shown in Figure 3 as their #1 priority to be dredged as part of the 2023 Maintenance Dredging Project. A majority of the requested dredge area is outside the Pleasure Boat Harbor location referenced per their Lease. Although the requested dredge area extends beyond the City's obligation to maintain, staff believes it is in the public's best interests to perform maintenance dredging to create a safe open water way channel for navigating vessels from the Peosta Channel and Mississippi River to and from the marina harbor.

American Marine - Dubuque Yacht Basin identified the location shown in Figure 4 as their #1 priority to be dredged as part of the 2023 Maintenance Dredging Project. The requested dredge area is outside the Schmitt Harbor location referenced per their Lease. Although the requested dredge area is outside the City's obligation to maintain, staff believes it is in the public's best interests to perform maintenance dredging to create a safe open waterway for navigating vessels from the Peosta Channel to and from the marina harbor and transient docks.

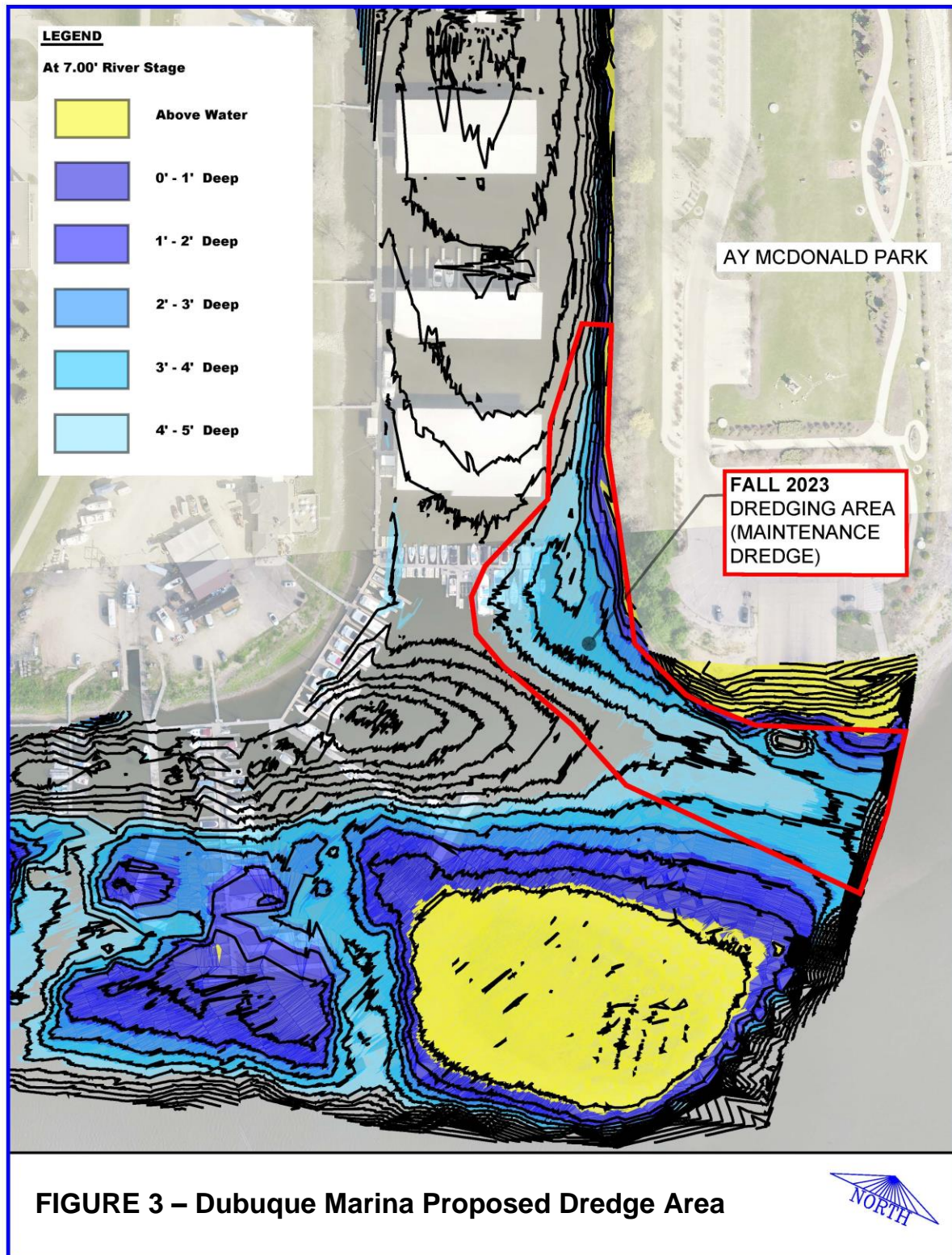
## **DISCUSSION**

With the completion of the 2023 Maintenance Dredging Project, American Marine – Dubuque Yacht Basin and Dubuque Marina now have adequate depth and improved open waterway access for recreational and transient boat navigational access at their highest priority areas. By dredging the additional areas outside the City's obligation to maintain and creating the open waterways from the Peosta Channel to the marina harbors, this created improved water flow and water circulation which reduces the potential for future sediment siltation within the completed dredge locations. The dredged open waterways will be more sustainable long-term and will maximize the return on the investment of City and private funding with a long-term solution in providing safe harbor access.

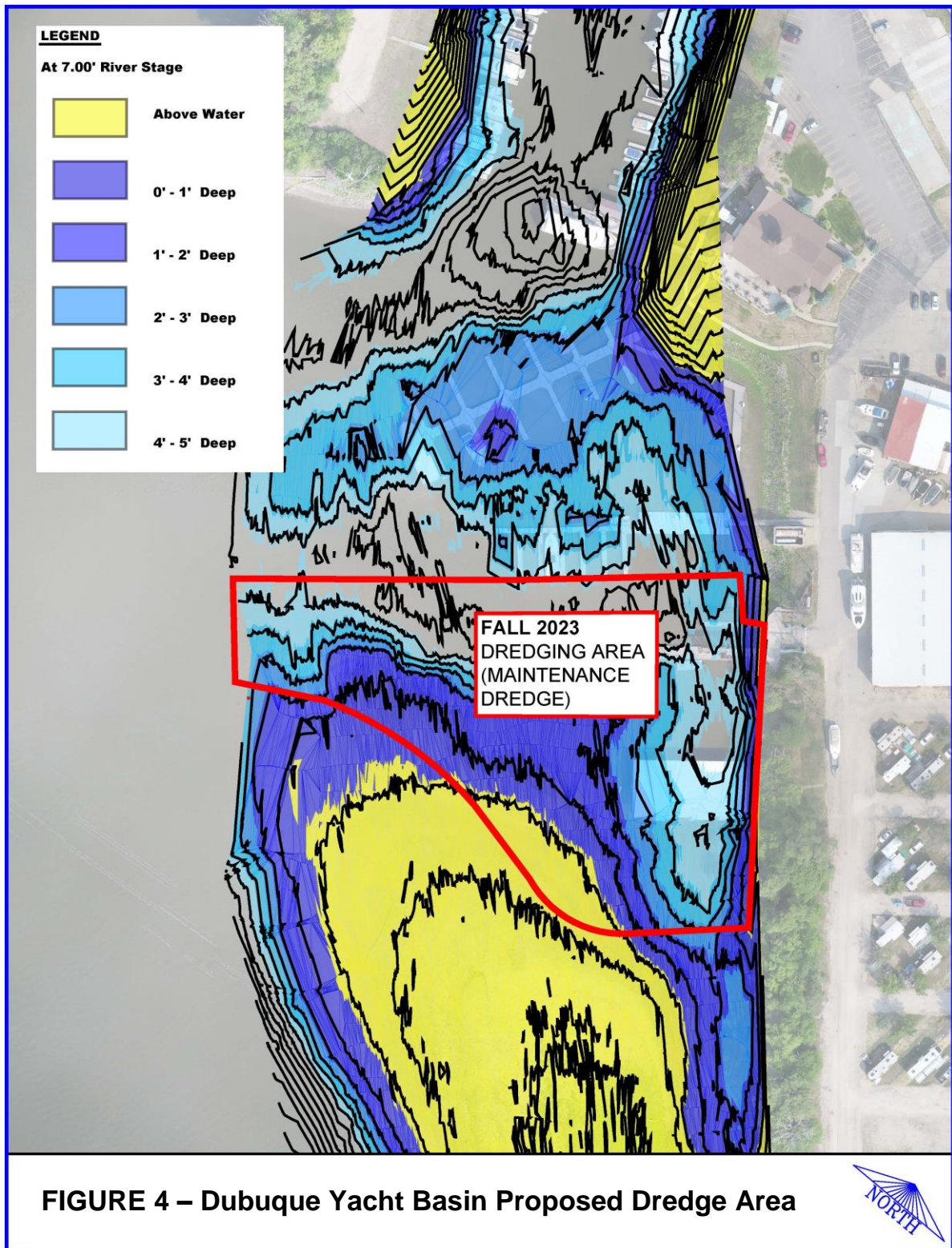
The 2023 Maintenance Dredging Project was completed by Newt Marine Service of Dubuque Iowa in the final contract amount of \$546,823.00 which is a 10.7% increase from the original contract amount of \$493,840.00. The added costs incurred were a result of payment for over depth dredging. In accordance with the contract documents to cover inaccuracies of the dredging process, material removed below the design dredge



elevation to a depth of not more than 6 inches is measured and paid for at the contract unit price.







## **RECOMMENDATION**

I recommend that the City Council accept the Public Improvements and authorize the payment of \$546,823.00 to Newt Marine Service, for the 2023 Maintenance Dredging Project.

## **BUDGET IMPACT**

The project cost for the 2023 Maintenance Dredging Project is summarized in the following table:

<b>Description</b>	<b>Cost Estimate</b>	<b>Award</b>	<b>Final Cost</b>
Dredge Construction - Dubuque Marina	\$ 200,000.00	\$ 202,910.00	\$ 227,241.00
Dredge Construction - American Marine Yacht Basin	300,000.00	290,930.00	319,582.00
<b>Dredging Cost</b>	<b>\$ 500,000.00</b>	<b>\$ 493,840.00</b>	<b>\$ 546,823.00</b>
Contingency	25,000.00	25,000.00	0.00
Engineering Design and Administration	15,000.00	15,000.00	16,569.13
<b>Total Dredging Cost Estimate</b>	<b>\$ 540,000.00</b>	<b>\$ 533,840.00</b>	<b>\$ 563,392.13</b>

The proposed project funding is summarized as follows:

<b>Project Number</b>	<b>Fund Description</b>	<b>Fund Amount</b>
5546000001-304-67990	Harbor Area Dredging	\$ 463,392.13
	Private Participation - American Marine	100,000.00
<b>Total Project Funding</b>		<b>\$ 563,392.13</b>

American Marine provided \$100,000 towards dredging at the Yacht Basin as part of the 2023 Maintenance Dredging Project.

## **REQUESTED ACTION**

The City Council is requested to adopt the attached resolution to accept the Public Improvement Construction Contract and to authorize the payment of the contract amount of \$546,823.00 to Newt Marine Service for 2023 Maintenance Dredging Project.

cc: Jenny Larson, Chief Financial Officer  
Nathan Steffen, Civil Engineer  
Dubuque Marina  
American Marine

F:\PROJECTS\DREDGING PROJECTS\2023 Maintenance Dredge\Council & Staff Documents\Acceptance

**RESOLUTION NO. -24**

**ACCEPTING THE 2023 MAINTENANCE DREDGING PROJECT AND AUTHORIZING FINAL PAYMENT TO THE CONTRACTOR**

WHEREAS, the public improvement contract for the 2023 Maintenance Dredging Project, (the Project) has been completed by the Contractor, Newt Marine Service of Dubuque Iowa (Contractor), the City Engineer has examined the work and recommends that the Project be accepted; and

WHEREAS, the final contract amount for the Project is \$546,823.00;

WHEREAS, the Contractor has previously been paid \$519,581.85, leaving a credit refund balance of \$27,341.15; and

WHEREAS, the City Council finds that the recommendation of the City Engineer should be accepted.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:

Section 1. The recommendation of the City Engineer is approved, and the Project is hereby accepted.

Section 2. The Finance Director is hereby directed to pay the Contractor for the balance of the retainage of \$27,341.15 as provided in Iowa Code chapter 573, and to pay such retainage in accordance with the provisions of Iowa Code chapter 573 or Iowa Code chapter 26.13.

Passed, approved and adopted this 1<sup>st</sup> day of April 2024.

Attest:


\_\_\_\_\_  
Brad M. Cavanagh, Mayor

\_\_\_\_\_  
Adrienne N. Breittfelder, City Clerk

## **CITY ENGINEER'S CERTIFICATE OF FINAL COMPLETION OF THE 2023 MAINTENANCE DREDGING PROJECT**

The undersigned City Engineer of the City of Dubuque, Iowa, hereby certifies that he has inspected the 2023 Maintenance Dredging Project has been performed in compliance with the terms of the Public Improvement Contract, and that the total project cost of the completed work is \$563,392.13.

Dated this 25<sup>th</sup> day of March 2024.

  
Gus Psihoyos, City Engineer

Filed in the office of the City Clerk on the 26<sup>th</sup> day of March 2024.

  
Adrienne N. Breitfelder, City Clerk

**City of Dubuque  
City Council Meeting**

**Consent Items # 010.**

---

**ITEM TITLE:** Acceptance of Quit Claim Deed from Iowa Department of Transportation Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition

**SUMMARY:** City Manager recommending City Council acceptance of the Quit Claim Deed from the State of Iowa, Iowa Department of Transportation (Iowa DOT) for Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition, Dubuque County, Iowa.

**RESOLUTION** Accepting Quit Claim Deed from State of Iowa, Iowa Department of Transportation for Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition, Dubuque County, Iowa

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Adopt Resolution(s)

**ATTACHMENTS:**

**Description**

MVM Memo  
Staff Memo  
Resolution  
Quit Claim

**Type**

City Manager Memo  
Staff Memo  
Supporting Documentation  
Supporting Documentation



**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Acceptance of Quit Claim Deed from Iowa Department of Transportation  
Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition

**DATE:** March 27, 2024

Assistant City Engineer Robert Schiesl is recommending City Council acceptance of the Quit Claim Deed from the State of Iowa, Iowa Department of Transportation (Iowa DOT) for Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition, Dubuque County, Iowa.

When Westside Drive was constructed as part of the Southwest Arterial / US52 project, the frontage road was constructed on and over a portion of Iowa DOT property. As part of the survey and plating process, the public road right-of-way for the Westside Drive frontage road was platted as Lot A of Weber Acres 2nd Addition. The Quit Claim Deed for Lot A conveys the Westside Drive public road right-of-way from the Iowa DOT to the City.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv

Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Gus Psihoyos, City Engineer  
Robert Schiesl, Assistant City Engineer  
Nate Kieffer, PE/PLS  
Wally Wernimont, Planning Services Director



**TO:** Michael C. Van Milligen, City Manager  
Gus Psihoyos, City Engineer

**FROM:** Robert Schiesl, Assistant City Engineer

**DATE:** March 27, 2024

**SUBJECT:** Acceptance of Quit Claim Deed from Iowa Department of Transportation  
Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition

### **INTRODUCTION**

The purpose of this memorandum is to request City Council acceptance of the Quit Claim Deed from the State of Iowa, Iowa Department of Transportation (Iowa DOT) for Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition, Dubuque County, Iowa.

### **BACKGROUND**

Now that the Southwest Arterial / US52 project is completed and per the terms of the Memorandum of Understanding (MOU) and the Transfer of Roadway Jurisdiction (TOJ) Agreements the City is responsible for the survey and plating the highway access control right-of-way, plating the interchange locations, plating right-of-way for the frontage roads, and identifying any potential excess remnant parcels.

When Westside Drive was constructed as part of the Southwest Arterial / US52 project, the frontage road was constructed on and over a portion of Iowa DOT property. As part of the survey and plating process, the public road right-of-way for the Westside Drive frontage road was platted as Lot A of Weber Acres 2nd Addition. The Quit Claim Deed for Lot A conveys the Westside Drive public road right-of-way from the Iowa DOT to the City.

Additionally, when Westside Drive was constructed, a secondary private drive (Westside Court) was constructed on and over Iowa DOT property (Lot 4). The Quit Claim Deed for Lot 4 conveys the property from the Iowa DOT to the City. Lot 4 will retain a 60-foot ingress / egress easement for the private drive Westside Court. As part of the survey and plating process, a portion of Lot 4 has been identified as excess remnant property and the City will subsequently dispose of the excess property through the Iowa Code 306.23 process.

As part of the survey and plating process, Lot 5 has been identified as an excess remnant property. Lot 5 is located on the westerly end of Westside Drive, adjacent to the Menards property. The City will subsequently dispose of the excess property through the Iowa Code 306.23 process.



### **RECOMMENDATION**

I would recommend that the City Council accept the Quit Claim Deed from the State of Iowa, Iowa DOT for Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition, Dubuque County, Iowa.

### **ACTION TO BE TAKEN**

I respectfully request that the City Council accept the Quit Claim Deed from the State of Iowa, Iowa DOT for Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition, Dubuque County, Iowa, through the adoption of the attached resolution.

cc: Nate Kieffer, PE/PLS  
Wally Wernimont, Planning Services Director

F:\PROJECTS\SOUTHWEST ARTERIAL\SURVEY - REPLAT CORRIDOR\Weber Acres 2nd Addition\Quit Claim Deed

Prepared by: Robert Schiesl, City of Dubuque, 50 W. 13th St. Dubuque, IA 52001 (563)589-4270  
Return to: Nate Kieffer, City of Dubuque, 50 W. 13<sup>th</sup> Street, Dubuque, IA 52001 (563) 589-4270

**RESOLUTION NO. - 24**

**RESOLUTION ACCEPTING QUIT CLAIM DEED FROM STATE OF IOWA, IOWA DEPARTMENT OF TRANSPORTATION FOR LOT A, LOT 4, AND LOT 5 OF WEBER ACRES 2ND ADDITION, DUBUQUE COUNTY, IOWA**

**WHEREAS**, the State of Iowa, Iowa Department of Transportation are the owners of the property legally described as:

Lot A of Weber Acres 2nd Addition, Dubuque County, Iowa, according to the recorded plat thereof; and

Lot 4 of Weber Acres 2nd Addition, Dubuque County, Iowa, according to the recorded plat thereof; and

Lot 5 of Weber Acres 2nd Addition, Dubuque County, Iowa, according to the recorded plat thereof; and

**WHEREAS**, Lot A of Weber Acres 2nd Addition was platted as public road right-of-way for the Westside Drive frontage road as shown on the final subdivision plat of Weber Acres 2nd Addition filed as instrument number 2023-00011060 in the Office of the Dubuque County Recorder; and

**WHEREAS**, Lot 4 of Weber Acres 2nd Addition was identified as an excess remnant property and will retain a 60-foot ingress / egress easement for the private drive Westside Court as shown on the final subdivision plat of Weber Acres 2nd Addition filed as instrument number 2023-00011060 in the Office of the Dubuque County Recorder; and

**WHEREAS**, Lot 5 of Weber Acres 2nd Addition was identified as an excess remnant property as shown on the final subdivision plat of Weber Acres 2nd Addition filed as instrument number 2023-00011060 in the Office of the Dubuque County Recorder; and

**WHEREAS**, the State of Iowa, Iowa Department of Transportation has executed the attached Quit Claim Deed conveying their interest in Lot A, Lot 4, and Lot 5 of Weber Acres 2nd Addition, Dubuque County, Iowa as filed as instrument number 2024-00001594 in the Office of the Dubuque County Recorder.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:**

**SECTION 1.** The City Council of the City of Dubuque, Iowa, hereby approves of, accepts, and consents to the Quit Claim Deed from State of Iowa, Iowa Department of Transportation, copies of which are attached hereto, as required by Iowa Code Section 569.7.

**SECTION 2.** The City Clerk is hereby authorized to and directed to record this resolution with the Dubuque County Recorder.

Passed, approved, and adopted this 1<sup>st</sup> day of April 2024.

Attest:

\_\_\_\_\_  
Brad M. Cavanagh, Mayor

\_\_\_\_\_  
Adrienne N. Breitfelder, City Clerk

Number: 202400001594  
Recorded: 2/29/2024 at 9:44:31.0 AM  
County Recording Fee: \$37.00  
Iowa E-Filing Fee: \$3.00  
Combined Fee: \$40.00  
Revenue Tax: \$0.00  
Karol Kennedy, RECORDER  
Dubuque County, Iowa

Prepared by/Return to: Sandy Sells, IA Department of Transportation, Right of Way Bureau, 800 Lincoln Way, Ames, IA 50010, 515-239-1731  
Address Tax Statement to: Tax Exempt - Iowa Code Section 427.1 City of Dubuque, IA, City Hall, 50 W 13<sup>th</sup> Street, Dubuque, IA 52001



STATE OF IOWA  
IOWA DEPARTMENT OF TRANSPORTATION  
QUITCLAIM DEED  
TO CITY OF DUBUQUE, IOWA

The Iowa Department of Transportation, by Scott C. Marler, Director, acting for the State of Iowa by authority of Iowa Code Section 306.42, hereby quitclaims, grants and conveys unto the **City of Dubuque, Iowa, City Hall, 50 W 13<sup>th</sup> Street, Dubuque, IA 52001**, all rights, easements, title, and interest in all land used as streets and highway right of way, all roadway, and all right of way and roadway appurtenances thereto, together with any other lands and interests in land which may have been acquired by prescription and by adverse possession and by any other title instrument and by the public's use thereof as a public roadway, and any bridges, culverts, or structures that may be situated thereon, to the following described roadway situated in **Dubuque County, Iowa**, to-wit:

That portion of former Primary Road No. US 20, which is now a part of the local municipal street system, and is described as follows:

**Lot A, containing 12.72 acres and Lot 4, containing 0.87 acre and Lot 5, containing 0.11 acres as shown and described on Plat of Survey Weber Acres 2<sup>nd</sup> Addition, Dubuque County, Iowa filed on November, 21, 2023, in the office of Dubuque County Recorder as File 2023-00011060.**

Title and interest to part of the above-described roadway was acquired by the State of Iowa through the following title instruments filed and recorded in the records of Dubuque County, Iowa.

GENERAL LOCATION

<u>GRANTOR(S)</u>	<u>¼ ¼ SECTIONS LOTS, BLOCKS</u>	<u>SEC-TWP-RNG</u>	<u>TYPE OF INSTRUMENT</u>	<u>DATE FILED</u>	<u>BOOK</u>	<u>PAGE</u>
City of Dubuque, Iowa	SW ¼ f the SW1/4	Sec29, T89N, R2E	QCD	8/20/1999	99	13560
Menard, Inc	Lot 2 of Siegert's Place	Sec32, T89N, R2E	Warranty Deed	9/25/2001	01	15374
Schuster Heating and Pump, Inc	Lot 4 of Westside Commercial Park	Sec32, T89N, R2E	Warranty Deed	5/6/2005	2005	00006897
Tschiggfrie	Lot 1 and 2 of Weber Acres	Sec 29 and 32, T89N, R2E	Warranty Deed	3/3/2003	03	5029

This instrument does not transfer any access rights. All access rights are being retained by the Iowa Department of Transportation. It transfers only the right of way for the above-described parcel.

This transfer is subject to the rights of all utilities in possession of any right of way and all rights of ingress and egress whether excepted, reserved, or granted by the transferring authority to land or to owners of land adjacent to the above-described roadway, including but not limited to any easements reserved in the Owner's Consent to the Plat of Survey of Weber Acres 2<sup>nd</sup> Addition, Dubuque County, Iowa, filed on November 21, 2023, in the office of the Dubuque County Recorder as File 2023-00011060.

The Grantee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this deed for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provisions of similar services or benefits, the Grantee shall maintain and operate such facilities and services in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the Iowa Department of Transportation, acting for the State of Iowa, shall have the right to re-enter said land and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of Iowa Department of Transportation, acting for the State of Iowa, and its assigns.

Should Grantee elect to dispose of these premises in the future, Grantee acknowledges that these premises were acquired for highway purposes and therefore any future disposal shall be in accordance with the Iowa Code in regard to the disposal of highway right of way.

This transaction is exempt from transfer tax and a declaration of value because the State of Iowa is the grantor, pursuant to Iowa Code Section 428A.2(6).

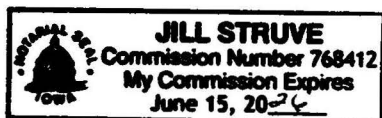
Signed this 26<sup>th</sup> day of Feb, 2024

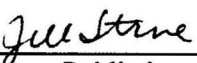
  
\_\_\_\_\_  
Scott C. Marler, Director  
Iowa Department of Transportation

STATE OF IOWA, STORY COUNTY, §:

This instrument was acknowledged before me on Feb. 26, 2024, by Scott C. Marler, as Director, respectively of Iowa Department of Transportation.


(SEAL)



  
\_\_\_\_\_  
Notary Public in and for said State of Iowa

Approved as to form:

Shean Fletchall  
Assistant Attorney General  
Transportation Section Chief

By:  (Date) 2-23-2024  
Michael J. Moss  
Assistant Attorney General

Doc ID: 011166870010 Type: GEN  
Kind: SUBDIVISION PLAT  
Recorded: 11/21/2023 at 04:10:53 PM  
Fee Amt: \$52.00 Page 1 of 10  
Dubuque County Iowa  
Karol Kennedy Recorder  
File 2023-00011060

Pins Found	
Letter of Corner	Description of Pins Found
A	Found 1/2" Iron Pin laying on it side
B	Found 1/2" Iron Pin Cap No. 14417
C	Found 3/4" Pipe
D	Found 1/2" Iron Pin
E	Found 5/8" Iron Pin
F	Found Rebar IDOT Aluminum Cap
G	Found Right-of-Way Rail
H	Found Rebar IDOT Aluminum Cap
I	Found 5/8" Rebar Cap No. 12631
J	Found 1" Pipe
K	Found 1/2" Iron Pin Cap No. 14417

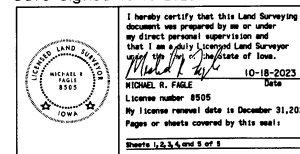
Section Corners and Property Corners were found during the design survey for the Dubuque Southwest Arterial

See Sheet 2 and 3 of 5 for Bearing and Distance Tables and Area Table

See Sheet 4 of 5 for Description of Boundary of Weber Acres 2nd Addition

See Sheet 5 of 5 for Location of Existing and New Easements

Date Signed 10-18-2023



Sheet 1 of 5

⊗ City Engineer 52<sup>00</sup>

Plat of Survey Weber Acres 2nd Addition  
Part of Lots 1 and 2 of Weber Acres and Part of Lot 4 of Westside Commercial Park  
and Lots A and B of Siegerts Place 3rd Addition and Part of Lot A-I-I of the East 1/2  
of the Northwest 1/4 of Section 32, Township 89 North, Range 2 East of the 5th P.M. and  
Part of the Northwest 1/4 and the Northeast 1/4 of Section 32, Township 89 North,  
Range 2 East of the 5th P.M. and Part of the Southeast 1/4 of  
Section 29, Township 89 North, Range 2 East of the 5th P.M.  
all in the City of Dubuque, Dubuque County, State of Iowa

Point Number 2 is the Point of Beginning

Bearings and Distances Boundary Weber Acres 2nd Addition																			
1	To	2	S	01°	31'	57"	E	205.87'	21	To	22	S	37°	37'	24"	E	20.00'	20.15'	Record
2	To	3	S	80°	15'	18"	E	88.76'	22	To	23	R = 2644.79' L = 629.69' 629.91' Record LC = S 45°15'23" W 628.20'							
3	To	4	N	25°	00'	40"	E	110.72'	23	To	24	S	01°	32'	09"	E	107.21'		
4	To	5	N	59°	00'	52"	E	511.96'	24	To	25	S	88°	34'	42"	W	85.11'		
5	To	6	N	71°	25'	19"	E	430.00'	25	To	26	R = 2644.79' L = 216.89' 216.60' Record LC = S 33°07'24" W 216.83'							
6	To	7	N	47°	47'	33"	E	87.32'	26	To	B	N	43°	17'	17"	W	20.79'	20.51'	Record
7	To	8	N	71°	25'	17"	E	73.72'	B	To	K	R = 2664.79' L = 156.26' LC = S 29°13'01" W 156.24'							
8	To	I	S	02°	57'	15"	E	291.28'	K	To	27	S	40°	44'	21"	W	109.46'		
I	To	10	N	85°	41'	12"	E	25.01'	27	To	28	N	12°	46'	27"	E	98.01'		
10	To	11	S	02°	55'	46"	E	400.02'	28	To	29	R = 2714.79' L = 474.95' LC = N 32°18'19" E 474.83'							
11	To	12	S	70°	29'	20"	W	592.03'	29	To	30	N	37°	24'	41"	E	237.87'		
12	To	13	S	82°	46'	26"	W	224.92' 225.00' Record	30	To	31	N	45°	19'	20"	E	284.04'		
13	To	14	S	07°	15'	22"	E	113.15' 113.20' Record	31	To	32	N	49°	19'	14"	E	286.68'		
14	To	15	S	62°	38'	19"	W	440.45' 440.42' Record	32	To	33	N	56°	50'	33"	E	295.97'		
15	To	16	N	01°	31'	57"	W	485.04'	33	To	34	N	66°	25'	05"	E	143.47'		
16	To	17	S	71°	28'	03"	W	147.67' 150.42' Record	34	To	35	N	85°	07'	56"	E	170.24'		
17	To	18	R = 50.00' L = 85.57' 85.60' Record LC = N 67°26'34" W 75.50'						35	To	2	S	80°	15'	18"	E	113.51'		
18	To	19	N	56°	28'	15"	W	143.59' 143.71' Record	1	To	36	S	01°	31'	57"	E	1353.69'		
19	To	20	R = 125.00' L = 26.25' 25.79' Record LC = N 50°28'31" W 26.20'						1	To	37	S	88°	11'	55"	W	2677.75'		
20	To	21	R = 2664.79' L = 429.46' 429.00' Record LC = S 56°41'46" W 429.00'																

Point Number 9 is the P.O.B. Lot 1

Bearings and Distances Lot 1									
8	To	9	S	02°	57'	15"	E	52.96'	
9	To	1	S	02°	57'	15"	E	238.32'	
1	To	46	N	87°	07'	05"	W	142.27'	
46	To	47	N	00°	00'	00"	E	43.09'	
47	To	48	N	10°	40'	26"	E	91.52'	
48	To	49	N	39°	15'	38"	E	77.05'	
49	To	9	N	59°	13'	35"	E	74.60'	

Point Number 11 is the P.O.B. Lot 2

Bearings and Distances Lot 2									
11	To	12	S	70°	29'	20"	W	592.03'	
12	To	13	S	82°	46'	26"	W	224.92'	
13	To	46	N	07°	15'	22"	W	125.00'	
46	To	41	N	35°	30'	02"	W	37.24'	
41	To	42	S	73°	01'	21"	E	53.31'	
42	To	43	N	67°	35'	12"	E	634.95'	
43	To	44	N	20°	58'	54"	E	184.86'	
44	To	45	S	71°	38'	09"	E	104.68'	
45	To	11	S	02°	55'	46"	E	294.83'	

Point Number 14 is the P.O.B. Lot 3

Bearings and Distances Lot 3									
14	To	15	S	62°	38'	19"	W	440.45'	
15	To	40	N	01°	31'	57"	W	577.56'	
40	To	41	S	73°	01'	21"	E	371.09'	
41	To	46	S	35°	30'	02"	E	37.24'	
46	To	14	S	07°	15'	22"	E	238.15'	

Point Number 16 is the P.O.B. Lot 4

Bearings and Distances Lot 4									
16	To	17	S	71°	28'	03"	W	147.67'	
17	To	18	R = 50.00'	L = 85.57'					
			LC = N 67°26'34" W	75.50'					
18	To	19	N	56°	28'	15"	W	143.59'	
19	To	20	R = 125.00'	L = 26.25'					
			LC = N 50°28'31" W	26.20'					
20	To	38	N	70°	41'	33"	E	112.96'	
38	To	39	N	82°	16'	53"	E	60.00'	
39	To	40	S	80°	18'	23"	E	183.72'	
40	To	16	S	01°	31'	57"	E	92.52'	

Plat of Survey Weber Acres 2nd Addition  
Part of Lots 1 and 2 of Weber Acres and Part of Lot 4 of Westside Commercial Park  
and Lots A and B of Siegerts Place 3rd Addition and Part of Lot A-I-I of the East 1/2  
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Part of the Northwest 1/4 and the Northeast 1/4 of Section 32, Township 89 North,  
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Section 29, Township 89 North, Range 2 East of the 5th P.M.  
all in the City of Dubuque, Dubuque County, State of Iowa

Bearings and Distances Lot 5									
23	To	24	S	01	°	32	'	09	" E 107.21'
24	To	25	S	88	°	34	'	42	" W 85.11'
25	To	23	R = 2644.79' L = 136.77'						
LC = N 36°57'15" E 136.76'									

Point Number 8 is the P.O.B. Lot A

Bearings and Distances Lot A																																																																																																																																																																																																																																																																																				
8	To	9	S	02	°	57	'	15	"	E	52.96'	<table><tr><td>25</td><td>To</td><td>26</td><td colspan="9">R = 2644.79' L = 216.89' 216.60'</td></tr><tr><td colspan="12">LC = S 33°07'24" W 216.83'</td></tr><tr><td>26</td><td>To</td><td>B</td><td>N</td><td>43</td><td>°</td><td>17</td><td>'</td><td>17</td><td>"</td><td>W</td><td>20.79'</td></tr><tr><td>B</td><td>To</td><td>K</td><td colspan="9">R = 2664.79' L = 156.26'</td></tr><tr><td colspan="12">LC = S 29°13'01" W 156.24'</td></tr><tr><td>K</td><td>To</td><td>27</td><td>S</td><td>40</td><td>°</td><td>44</td><td>'</td><td>21</td><td>"</td><td>W</td><td>109.46'</td></tr><tr><td>27</td><td>To</td><td>28</td><td>N</td><td>12</td><td>°</td><td>46</td><td>'</td><td>27</td><td>"</td><td>E</td><td>98.01'</td></tr><tr><td>28</td><td>To</td><td>29</td><td colspan="9">R = 2714.79' L = 474.95'</td></tr><tr><td colspan="12">LC = N 32°18'19" E 474.83'</td></tr><tr><td>29</td><td>To</td><td>30</td><td>N</td><td>37</td><td>°</td><td>24</td><td>'</td><td>41</td><td>"</td><td>E</td><td>237.87'</td></tr><tr><td>30</td><td>To</td><td>31</td><td>N</td><td>45</td><td>°</td><td>19</td><td>'</td><td>20</td><td>"</td><td>E</td><td>284.04'</td></tr><tr><td>31</td><td>To</td><td>32</td><td>N</td><td>49</td><td>°</td><td>19</td><td>'</td><td>14</td><td>"</td><td>E</td><td>286.68'</td></tr><tr><td>32</td><td>To</td><td>33</td><td>N</td><td>56</td><td>°</td><td>50</td><td>'</td><td>33</td><td>"</td><td>E</td><td>295.97'</td></tr><tr><td>33</td><td>To</td><td>34</td><td>N</td><td>66</td><td>°</td><td>25</td><td>'</td><td>05</td><td>"</td><td>E</td><td>143.47'</td></tr><tr><td>34</td><td>To</td><td>35</td><td>N</td><td>85</td><td>°</td><td>07</td><td>'</td><td>56</td><td>"</td><td>E</td><td>170.24'</td></tr><tr><td>35</td><td>To</td><td>2</td><td>S</td><td>80</td><td>°</td><td>15</td><td>'</td><td>18</td><td>"</td><td>E</td><td>113.51'</td></tr><tr><td>2</td><td>To</td><td>3</td><td>S</td><td>80</td><td>°</td><td>15</td><td>'</td><td>18</td><td>"</td><td>E</td><td>88.76'</td></tr><tr><td>3</td><td>To</td><td>4</td><td>N</td><td>25</td><td>°</td><td>00</td><td>'</td><td>40</td><td>"</td><td>E</td><td>110.72'</td></tr><tr><td>4</td><td>To</td><td>5</td><td>N</td><td>59</td><td>°</td><td>00</td><td>'</td><td>52</td><td>"</td><td>E</td><td>511.96'</td></tr><tr><td>5</td><td>To</td><td>6</td><td>N</td><td>71</td><td>°</td><td>25</td><td>'</td><td>19</td><td>"</td><td>E</td><td>430.00'</td></tr><tr><td>6</td><td>To</td><td>7</td><td>N</td><td>47</td><td>°</td><td>47</td><td>'</td><td>33</td><td>"</td><td>E</td><td>87.32'</td></tr><tr><td>7</td><td>To</td><td>8</td><td>N</td><td>71</td><td>°</td><td>25</td><td>'</td><td>17</td><td>"</td><td>E</td><td>73.72'</td></tr></table>	25	To	26	R = 2644.79' L = 216.89' 216.60'									LC = S 33°07'24" W 216.83'												26	To	B	N	43	°	17	'	17	"	W	20.79'	B	To	K	R = 2664.79' L = 156.26'									LC = S 29°13'01" W 156.24'												K	To	27	S	40	°	44	'	21	"	W	109.46'	27	To	28	N	12	°	46	'	27	"	E	98.01'	28	To	29	R = 2714.79' L = 474.95'									LC = N 32°18'19" E 474.83'												29	To	30	N	37	°	24	'	41	"	E	237.87'	30	To	31	N	45	°	19	'	20	"	E	284.04'	31	To	32	N	49	°	19	'	14	"	E	286.68'	32	To	33	N	56	°	50	'	33	"	E	295.97'	33	To	34	N	66	°	25	'	05	"	E	143.47'	34	To	35	N	85	°	07	'	56	"	E	170.24'	35	To	2	S	80	°	15	'	18	"	E	113.51'	2	To	3	S	80	°	15	'	18	"	E	88.76'	3	To	4	N	25	°	00	'	40	"	E	110.72'	4	To	5	N	59	°	00	'	52	"	E	511.96'	5	To	6	N	71	°	25	'	19	"	E	430.00'	6	To	7	N	47	°	47	'	33	"	E	87.32'	7	To	8	N	71	°	25	'	17	"	E	73.72'
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I	To	10	N	85	°	41	'	12	"	E	25.01'																																																																																																																																																																																																																																																																									
10	To	45	S	02	°	55	'	46	"	E	105.19'																																																																																																																																																																																																																																																																									
45	To	44	N	71	°	38	'	09	"	W	104.68'																																																																																																																																																																																																																																																																									
44	To	43	S	20	°	58	'	54	"	W	184.86'																																																																																																																																																																																																																																																																									
43	To	42	S	67	°	35	'	12	"	W	634.95'																																																																																																																																																																																																																																																																									
42	To	41	N	73	°	01	'	21	"	W	53.31'																																																																																																																																																																																																																																																																									
41	To	40	N	73	°	01	'	21	"	W	371.09'																																																																																																																																																																																																																																																																									
40	To	39	N	80	°	18	'	23	"	W	183.72'																																																																																																																																																																																																																																																																									
39	To	38	S	82	°	16	'	53	"	W	60.00'																																																																																																																																																																																																																																																																									
38	To	20	S	70	°	41	'	33	"	W	112.96'																																																																																																																																																																																																																																																																									
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23	To	25	R = 2644.79' L = 136.77'																																																																																																																																																																																																																																																																																	
LC = S 36°57'15" W 136.76'																																																																																																																																																																																																																																																																																				

Area Table		
Boundary and Lots	Square Feet	Acres
Weber Acres 2nd Addition	954,235	21.91
Lot 1	24,889	0.57
Lot 2	171,761	3.94
Lot 3	161,087	3.70
Lot 4	37,726	0.87
Lot 5	4,643	0.11
Lot A	554,129	12.72



Plat of Survey Weber Acres 2nd Addition

Part of Lots 1 and 2 of Weber Acres and Part of Lot 4 of Westside Commercial Park and Lots A and B of Siegert's Place 3rd Addition and Part of Lot A-1-1 of the East 1/2 of the Northwest 1/4 of Section 32, Township 89 North, Range 2 East of the 5th P.M. and Part of the Northwest 1/4 and the Northeast 1/4 of Section 32, Township 89 North, Range 2 East of the 5th P.M. and Part of the Southeast 1/4 of Section 29, Township 89 North, Range 2 East of the 5th P.M. all in the City of Dubuque, Dubuque County, State of Iowa

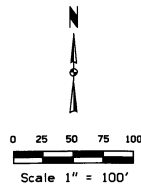
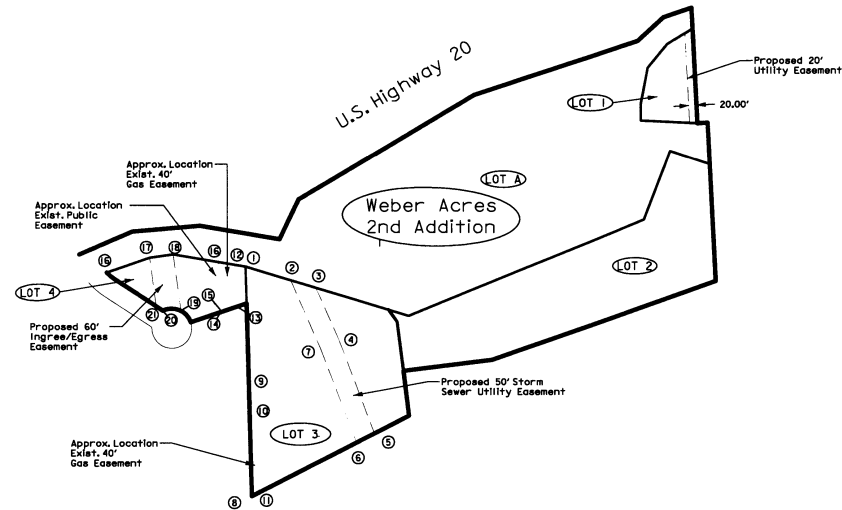
Description: Weber Acres 2nd Addition

Part of Lots 1 and 2 of Weber Acres and part of Lot 4 of Westside Commercial Park and Lots A and B of Siegert's Place Third Addition and part of Lot A-1-1 of the East 1/2 of the Northwest 1/4 of Section 32, Township 89 North, Range 2 East of the 5th P.M. and part of the Northwest 1/4 and part of the Northeast 1/4 of Section 32, Township 89 North, Range 2 East of the 5th P.M. and part of the Southeast 1/4 of Section 29, Township 89 North, Range 2 East of the 5th P.M., all in the City of Dubuque, County of Dubuque, State of Iowa, described as follows:

Commencing at the Northeast corner of the Northwest 1/4 of said Section 32; thence South 01°31'57" East (assumed bearing for the purpose of this description) along the East line of the Northwest 1/4 of said Section 32, a distance of 205.87 feet to the Point of Beginning; thence South 80°15'18" East, 88.76 feet; thence North 25°00'40" East, 110.72 feet; thence North 59°00'52" East, 511.96 feet; thence North 71°25'19" East, 430.00 feet; thence North 47°47'33" East, 87.32 feet; thence North 71°25'17" East, 73.72 feet to the Northerly prolongation of the Easterly line of Lot 1 of Weber Acres; thence South 02°57'15" East along the Northerly prolongation of the Easterly line of Lot 1 of Weber Acres and the Easterly line of Lot 1 of Weber Acres, 291.28 feet to a corner of Lot 1 of Weber Acres; thence North 85°41'12" East along a Northerly line of Lot 1 of Weber Acres, 25.01 feet to a corner of Lot 1 of Weber Acres; thence South 02°55'46" East along the Easterly line of Lot 1 of Weber Acres, 400.02 feet to the Southeasterly corner of Lot 1 of Weber Acres; thence South 70°29'20" West along the Southeasterly line of Lot 1 of Weber Acres, 592.03 feet to a corner of Lot 1 of Weber Acres; thence South 82°46'26" West along the Southeasterly line of Lot 1 of Weber Acres, 224.92 feet (225.00 feet record) to the Southwesterly corner of Lot 1 of Weber Acres; thence South 07°15'22" East along the Easterly line of Lot 2 of Weber Acres, 113.15 feet (113.20 feet record) to the Southeasterly corner of Lot 2 of Weber Acres; thence South 62°38'19" West along the Southeasterly line of Lot 2 of Weber Acres, 440.45 feet (440.42 feet record) to the Southwesterly corner of Lot 2 of Weber Acres; thence North 01°31'57" West along the Westerly line of Lot 2 of Weber Acres, 485.04 feet to the Southeasterly corner of Lot 4 of Westside Commercial Park; thence South 71°28'03" West along the Southeasterly line of Lot 4 of Westside Commercial Park, 147.67 feet (150.42 feet record) to the Southerly corner of Lot 4 of Westside Commercial Park being the beginning of a non-tangent curve concave Southwesterly and having a 50.00-foot radius and a 75.50-foot long chord bearing North 67°26'34" West; thence Northwesterly along the Southwesterly line of Lot 4 of Westside Commercial Park and said curve 85.57 feet (85.60 feet record) to a corner of Lot 4 of Westside Commercial Park; thence North 56°28'15" West along the Southwesterly line of Lot 4 of Westside Commercial Park, 143.59 feet (143.71 feet record) to a corner of Lot 4 of Westside Commercial Park being the beginning of a tangent curve concave Northeasterly and having 125.00-foot radius and a 26.20-foot long chord bearing North 50°28'31" West; thence Northeasterly along the Southwesterly line of Lot 4 of Westside Commercial Park and said curve 26.25 feet (25.79 feet record) to the Northwesterly corner of Lot 4 of Westside Commercial Park being the beginning of a non-tangent curve concave Southeasterly and having a 2664.79-foot radius and a 429.00-foot long chord bearing South 56°41'46" West, thence Southwesterly along the Northeasterly prolongation of the Northwesterly line and the Northwesterly line of Lot 1 of Siegert's Place Third Addition and the Northwesterly line of Lot A-1 of Siegert's Place Third Addition and said curve, 429.46 feet to the Southwesterly line of Lot A-1 of Siegert's Place Third Addition; thence South 37°37'24" East along the Southwesterly line of Lot A-1 of Siegert's Place Third Addition, 20.00 feet (20.15 feet record) to the Southeasterly line of Lot B Siegert's Place Third Addition being the beginning of a non-tangent curve concave Southeasterly and having a 2644.79-foot radius concave Southeasterly and a 628.20-foot long chord bearing South 45°15'23" West; thence Southwesterly along the Southeasterly line of Lot B of Siegert's Place Third Addition and said curve, 629.69 feet (629.91 feet record) to the Easterly line of Lot A-1-1 of the East 1/2 of the Northwest 1/4 of Section 32, Township 89 North, Range 2 East of the 5th P.M.; thence South 01°32'09" East along the Easterly line of said Lot A-1-1, a distance of 107.21 feet to the Southeasterly corner of said Lot A-1-1; thence South 88°34'42" West along the Southerly line of said Lot A-1-1, a distance of 85.11 feet to the Southeasterly line of Lot A of Siegert's Place Third Addition being the beginning of a non-tangent curve concave Southeasterly and having a 2644.79-foot radius and a 216.83-foot long chord bearing South 33°07'24" West; thence Southwesterly along the Southeasterly line of Lot A of Siegert's Place Third Addition and said curve 216.89 feet (216.60 feet record) to the Northeasterly line of Lot 3-A of Siegert's Place 5th Addition; thence North 43°17'17" West along the Northeasterly line of Lot 3-A of Siegert's Place 5th Addition, 20.79 feet (20.51 feet record) to the Northwesterly line of Lot 3-A of Siegert's Place 5th Addition being the beginning of a non-tangent curve concave Southeasterly and having a 2664.79-foot radius and a 156.24-foot long chord bearing South 29°13'01" West; thence Southwesterly along the Northwesterly line of Lot 3-A of Siegert's Place 5th Addition and said curve 156.26 feet to a corner of Lot 3-A of Siegert's Place 5th Addition; thence South 40°44'21" West along the Northwesterly line of Lot 3-A of Siegert's Place 5th Addition, 109.46 feet; thence North 12°46'27" East, 98.01 feet to the beginning of a non-tangent curve concave Southeasterly and having a 2714.79-foot radius and a 474.83-foot long chord bearing North 32°18'19" East; thence Northeasterly along said curve, 474.95 feet; thence North 37°24'41" East, 237.87 feet; thence North 45°19'20" East, 284.04 feet; thence North 49°19'14" East, 286.68 feet; thence North 56°50'33" East, 295.97 feet; thence North 66°25'05" East, 143.47 feet; thence North 85°07'56" East, 170.24 feet; thence South 80°15'18" East, 113.51 feet to the Point of Beginning.

Containing 954,235 Square Feet or 21.91 Acres

Plat of Survey Weber Acres 2nd Addition  
 Part of Lots 1 and 2 of Weber Acres and Part of Lot 4 of Westside Commercial Park  
 and Lots A and B of Siegerts Place 3rd Addition and Part of Lot A-1-I of the East 1/2  
 of the Northwest 1/4 of Section 32, Township 89 North, Range 2 East of the 5th P.M. and  
 Part of the Northwest 1/4 and the Northeast 1/4 of Section 32, Township 89 North,  
 Range 2 East of the 5th P.M. and Part of the Southeast 1/4 of  
 Section 29, Township 89 North, Range 2 East of the 5th P.M.  
 all in the City of Dubuque, Dubuque County, State of Iowa



Bearings and Distances Proposed 60-foot Ingress/Egress Easement Lot 4									
16	To	17	N	70°	41'	33"	E	112.96'	
17	To	18	N	82°	16'	53"	E	60.00'	
18	To	19	S	07°	43'	07"	E	143.10'	
19	To	20	R = 50.00' L = 47.10'						
			LC = N 89° 28' 55" 45.38'						
20	To	21	N	56°	28'	15"	W	20.07'	
21	To	17	N	07°	43'	07"	W	123.37'	
Bearings and Distances Approximate Location Existing 40-foot Gas Easement Lot 4									
1	To	12	N	80°	18'	23"	W	27.26'	
12	To	13	S	02°	27'	09"	E	105.49'	
13	To	14	S	71°	28'	03"	W	41.09'	
14	To	15	N	09°	04'	10"	W	4.49'	
15	To	16	N	02°	27'	09"	W	121.02'	
16	To	12	S	80°	18'	23"	E	40.92'	

Bearings and Distances Proposed 50-foot Drainage Easement Lot 3									
1	To	2	S	73°	01'	21"	E	117.21'	
2	To	3	S	73°	01'	21"	E	65.57'	
3	To	4	S	23°	19'	50"	E	145.81'	
4	To	5	S	20°	34'	08"	E	248.41'	
5	To	6	S	62°	38'	19"	W	50.35'	
6	To	7	N	20°	34'	08"	W	253.16'	
7	To	2	N	23°	19'	50"	W	187.02'	
Bearings and Distances Approximate Location Existing 40-foot Gas Easement Lot 3									
8	To	9	N	01°	31'	57"	W	284.06'	
9	To	10	S	09°	04'	10"	E	76.68'	
10	To	11	S	04°	09'	00"	E	199.14'	
11	To	8	S	62°	38'	19"	W	20.89'	

## OWNER'S CONSENT

## Dubuque, Iowa

November 1, 2023

The foregoing Plat of Survey of: **Weber Acres 2<sup>nd</sup> Addition**, in the City of Dubuque, Dubuque County, Iowa, is made with the free consent and in accordance with the desires of the undersigned owners and proprietors of said real estate.

A perpetual fifty-foot-wide storm sewer utility easement is hereby reserved for the public over Lot 2 as stated and as shown on Sheets 1 of 5 and 5 of 5 of this plat. Said easement shall be for the purpose of constructing and maintaining an existing storm sewer utility and other appurtenances within said utility easement, along with the right, privilege, and authority to allow access, construct, reconstruct, maintain, operate, repair, patrol and remove said storm sewer, now and in the future. Said easement shall also include the right to cut, trim or remove trees, bushes and roots as may be required incidental to rights given herein. No structures shall be erected over or within the utility easement area without obtaining the prior written approval of the facility owner(s). No change in the grade, elevation, and contour or perform any construction or excavation over or within the utility easement area that will diminish the integrity of said storm sewer without obtaining the prior written consent of the facility owner(s).

A perpetual sixty-foot-wide ingress/egress easement is hereby reserved for the public over Lot 4 as stated and as shown on Sheets 1 of 5 and 5 of 5 of this plat. Said easement shall be for the purpose of ingress and egress to and from the Westside Court and Westside Drive rights of ways.

A twenty-foot-wide public utility easement is hereby reserved over Lot 1 as stated and as shown on Sheet 1 of 5 and 5 of 5 of this plat. Said easement shall be for the purpose of constructing and maintaining all existing and future underground utilities and other appurtenances within said utility easement, along with the right, privilege, and authority to allow access, construct, reconstruct, maintain, operate, repair, patrol and remove said facilities, now and in the future. Said easement shall also include the right to cut, trim or remove trees, bushes and roots as may be required incidental to rights given herein. No structures shall be erected over or within the utility easement area without obtaining the prior written approval of the facility owner(s). No change in the grade, elevation, and contour or perform any construction or excavation over or within the utility easement area that will diminish the integrity of said underground facilities without obtaining the prior written consent of the facility owner(s).

**IOWA DEPARTMENT OF TRANSPORTATION**

By:

Brad Hofer, Director of Right-of-Way Bureau

State of Iowa )  
 ) ss:

County of Story )

On this 19<sup>th</sup> of day November, 2023, before me, a Notary Public in and for the County of Dubuque and State of Iowa, personally appeared Brad Hofer, to me personally known who, being duly sworn did say that the said Brad Hofer is the Director of Right-of-Way Bureau for the Iowa Department of Transportation, and that said instrument was signed and sealed on behalf of the said Iowa Department of Transportation, and the said Brad Hofer acknowledges the execution of said instrument to be the voluntary act and deed of said Iowa Department of Transportation, by it voluntarily executed.

NOTARIAL SEAL  
SANDY SELLS  
Commission Number 771136  
Expires  
1-10-2024

Sandy Sells  
Notary Public in the State of Iowa

My Commission Expires 1-10-2024

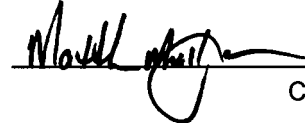
**CITY OF DUBUQUE ZONING ADVISORY COMMISSION**

Dubuque, Iowa

November 1, 2023

The foregoing Plat of Survey of **Weber Acres 2<sup>nd</sup> Addition**, in the City of Dubuque, or within the two-mile jurisdiction of the City of Dubuque, Iowa, as defined under Section 354 of the Code of Iowa, is hereby approved by the Dubuque Planning and Zoning Advisory Commission and approval of said plat by the City Council of the City of Dubuque, Dubuque County, Iowa is hereby recommended.

**City of Dubuque Zoning Advisory Commission**

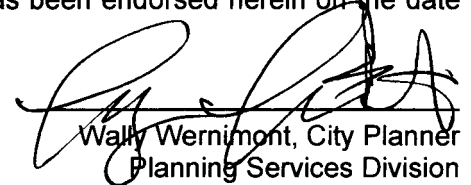
  
Chairperson

**PLANNING SERVICES**

Dubuque, Iowa

November 14, 2023

The foregoing Plat of Survey of **Weber Acres 2<sup>nd</sup> Addition**, in the City of Dubuque or within the two-mile jurisdiction of the City of Dubuque, Iowa, as defined under Section 354 of the Code of Iowa, has been reviewed by the City Planner, (or designee) of the City of Dubuque in accordance with Chapter 42 of the City of Dubuque Code of Ordinances, and said approval has been endorsed herein on the date first written above.


  
Wally Wernimont, City Planner  
Planning Services Division  
City of Dubuque, Iowa

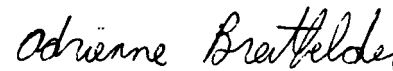
**CITY COUNCIL**

Dubuque, Iowa

November 20, 2023

The undersigned, Mayor and Clerk of the City of Dubuque, Iowa, do hereby certify that the foregoing Plat of Survey: **Weber Acres 2<sup>nd</sup> Addition**, in the City of Dubuque, Dubuque County, Iowa, has been filed in the office of the Clerk of the City of Dubuque, and that by Resolution No. 384-23, the Dubuque City Council approved said plat.

  
Brad M. Cavanagh  
Mayor of the City of Dubuque

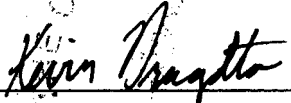
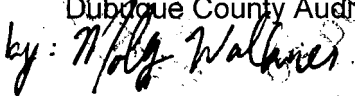
  
Adrienne N. Breitfelder ~~Trish L. Gleason~~  
~~Assistant~~ Clerk of the City of Dubuque

COUNTY AUDITOR

Dubuque, Iowa

November 21, 2023

The foregoing Plat of Survey of: **Weber Acres 2<sup>nd</sup> Addition**, in the City of Dubuque, Dubuque County, Iowa was entered of record in the office of the Dubuque County Auditor this 21 of November, 2023. We approve the subdivision name or title to be recorded.

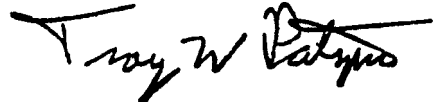
  
Kevin Dragotto  
Dubuque County Auditor  
by: 

CITY ASSESSOR

Dubuque, Iowa

November 21, 2023

The foregoing Plat of Survey of **Weber Acres 2<sup>nd</sup> Addition**, in the City of Dubuque, Dubuque County, Iowa was entered of record in the office of the City Assessor of the City of Dubuque, Iowa, this 21<sup>st</sup> of November, 2023.

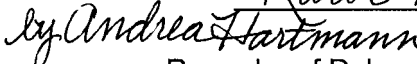
  
Troy Patzner  
Dubuque City Assessor

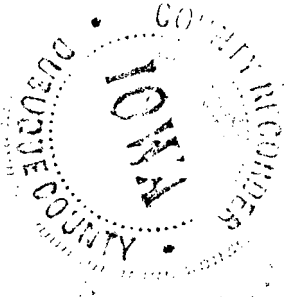
RECORDER'S CERTIFICATE

Dubuque, Iowa

November 21<sup>st</sup>, 2023

The foregoing Plat of Survey of **Weber Acres 2<sup>nd</sup> Addition**, in the City of Dubuque, Dubuque County, Iowa, has been reviewed by the Dubuque County Recorder.

  
by  Karol Kennedy  
Recorder of Dubuque County, Iowa



COUNTY TREASURER

Dubuque, Iowa

November 21, 2023

I, the undersigned, Michael Clasen, Treasurer of Dubuque County, Iowa, do hereby certify that all taxes levied against, Lot 4 of Isaac Hanna Subdivision, in the City of Dubuque, Dubuque County, Iowa, have been paid and said real estate is free and clear of all taxes as of this date.

  
Michael Clasen  
Dubuque County Treasurer



Prepared by: Wally Wernimont, City Planner Address: City Hall, 50 W. 13th St Telephone: 589-4210  
Return to: Adrienne Breitfelder, City Clerk Address: City Hall, 50 W. 13th St Telephone: 589-4121

**RESOLUTION NO. 384-23**

**A RESOLUTION APPROVING THE PLAT OF SURVEY FOR WEBER ACRES 2<sup>ND</sup> ADDITION IN THE CITY OF DUBUQUE, IOWA**

Whereas, there has been filed with the City Clerk a Plat of Survey Weber Acres 2<sup>nd</sup> Addition in the City of Dubuque, Iowa; and


Whereas, said Plat of Survey has been examined by the Zoning Advisory Commission and its approval has been endorsed thereon; and

Whereas, said Plat of Survey has been examined by the City Council and they find that it conforms to the statutes and ordinances relating thereto.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:

Section 1. That the Plat of Survey for Weber Acres 2nd Addition is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to endorse the approval of the City of Dubuque, Iowa upon said Plat of Survey.

Passed, approved and adopted this 20<sup>th</sup> day of November 2023.

  
Brad M. Cavanagh, Mayor

Attest:

  
Adrienne Breitfelder, City Clerk

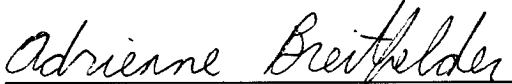
## CERTIFICATE *of the* CITY CLERK

STATE OF IOWA            )  
                                      )     SS:  
COUNTY OF DUBUQUE    )

I, Adrienne N. Breitfelder, City Clerk, do hereby certify that I am the duly appointed, qualified, City Clerk of the City of Dubuque, Iowa, in the County aforesaid, and as such City Clerk, I have in my possession or have access to the records of the proceedings of the City Council. I do further state that the hereto attached **Resolution No. 384-23** is a true and correct copy of the original.

In Testimony Whereof, I hereunto set my hand and official seal of the City of Dubuque, Iowa.

Dated at Dubuque, Iowa, on this 21<sup>st</sup> day of November, 2023.

  
\_\_\_\_\_  
Adrienne N. Breitfelder, City Clerk



**City of Dubuque  
City Council Meeting**

**Consent Items # 011.**

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**ITEM TITLE:** Acceptance of Quit Claim Deed from Iowa Department of Transportation  
Lot B ISAAC Hanna 2nd Addition

**SUMMARY:** City Manager recommending City Council acceptance of the Quit Claim  
Deed from the State of Iowa, Iowa Department of Transportation (Iowa  
DOT) for Lot B ISAAC Hanna 2nd Addition, Dubuque County, Iowa.

**RESOLUTION** Accepting Quit Claim Deed from State of Iowa, Iowa  
Department of Transportation for Lot B Isaac Hanna 2nd Addition,  
Dubuque County, Iowa

**SUGGESTED  
DISPOSITION:** Suggested Disposition: Receive and File; Adopt Resolution(s)

**ATTACHMENTS:**

**Description**

MVM Memo

Staff Memo

Resolution

Quit Claim

**Type**

City Manager Memo

Staff Memo

Resolutions

Supporting Documentation





**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Acceptance of Quit Claim Deed from Iowa Department of Transportation  
Lot B ISAAC Hanna 2nd Addition

**DATE:** March 27, 2024

Assistant City Engineer Robert Schiesl is recommending City Council acceptance of the Quit Claim Deed from the State of Iowa, Iowa Department of Transportation (Iowa DOT) for Lot B ISAAC Hanna 2nd Addition, Dubuque County, Iowa.

When the intersection of US20 and Old Highway Road was reconstructed as part of the Southwest Arterial / US52 project, the north leg of the intersection was realigned and constructed on and over a portion Iowa DOT property. As part of the survey and plating process, the public road right-of-way for the north leg of Old Highway Road was platted as Lot B ISAAC Hanna 2nd Addition. The Quit Claim Deed for Lot B conveys the Old Highway public road right-of-way from the State of Iowa, Iowa DOT to the City.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv

Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Gus Psihoyos, City Engineer  
Robert Schiesl, Assistant City Engineer  
Nate Kieffer, PE/PLS  
Wally Wernimont, Planning Services Director

**TO:** Michael C. Van Milligen, City Manager  
Gus Psihoyos, City Engineer

**FROM:** Robert Schiesl, Assistant City Engineer

**DATE:** March 27, 2024

**SUBJECT:** Acceptance of Quit Claim Deed from Iowa Department of Transportation  
Lot B ISAAC Hanna 2nd Addition

### **INTRODUCTION**

The purpose of this memorandum is to request City Council acceptance of the Quit Claim Deed from the State of Iowa, Iowa Department of Transportation (Iowa DOT) for Lot B ISAAC Hanna 2nd Addition, Dubuque County, Iowa.

### **BACKGROUND**

Now that the Southwest Arterial / US52 project is completed and per the terms of the Memorandum of Understanding (MOU) and the Transfer of Roadway Jurisdiction (TOJ) Agreements the City is responsible for the survey and plating the highway access control right-of-way, plating the interchange locations, plating right-of-way for the frontage roads, and identifying any potential excess remnant parcels.

When the intersection of US20 and Old Highway road was reconstructed as part of the Southwest Arterial / US52 project, the north leg of the intersection was realigned and constructed on and over a portion Iowa DOT property. As part of the survey and plating process, the public road right-of-way for the north leg of Old Highway road was platted as Lot B ISAAC Hanna 2nd Addition. The Quit Claim Deed for Lot B conveys the Old Highway public road right-of-way from the State of Iowa, Iowa DOT to the City.

### **RECOMMENDATION**

I would recommend that the City Council accept the Quit Claim Deed from the State of Iowa, Iowa DOT for Lot B ISAAC Hanna 2nd Addition, Dubuque County, Iowa.

### **ACTION TO BE TAKEN**

I respectfully request that the City Council accept the Quit Claim Deed from the State of Iowa, Iowa DOT for Lot B ISAAC Hanna 2nd Addition, Dubuque County, Iowa, through the adoption of the attached resolution.

cc: Nate Kieffer, PE/PLS  
Wally Wernimont, Planning Services Director

**RESOLUTION NO. - 24**

**RESOLUTION ACCEPTING QUIT CLAIM DEED FROM STATE OF IOWA, IOWA DEPARTMENT OF TRANSPORTATION FOR LOT B ISAAC HANNA 2ND ADDITION, DUBUQUE COUNTY, IOWA**

**WHEREAS**, the State of Iowa, Iowa Department of Transportation are the owners of the property legally described as:

Lot B ISAAC Hanna 2nd Addition, Dubuque County, Iowa, according to the recorded plat thereof; and

**WHEREAS**, Lot B ISAAC Hanna 2nd Addition was platted as public road right-of-way for the segment of Old Highway Road, north of the US Highway 20 - Old Highway Road intersection as shown on the final subdivision plat of ISAAC Hanna 2nd Addition filed as instrument number 2023-00011059 in the Office of the Dubuque County Recorder; and

**WHEREAS**, the State of Iowa, Iowa Department of Transportation has executed the attached Quit Claim Deed conveying their interest in Lot B ISAAC Hanna 2nd Addition, Dubuque County, Iowa as filed as instrument number 2024-00001593 in the Office of the Dubuque County Recorder.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:**

**SECTION 1.** The City Council of the City of Dubuque, Iowa, hereby approves of, accepts, and consents to the Quit Claim Deed from State of Iowa, Iowa Department of Transportation, copies of which are attached hereto, as required by Iowa Code Section 569.7.

**SECTION 2.** The City Clerk is hereby authorized to and directed to record this resolution with the Dubuque County Recorder.

Passed, approved, and adopted this 1<sup>st</sup> day of April 2024.

Attest:

\_\_\_\_\_  
Brad M. Cavanagh, Mayor

\_\_\_\_\_  
Adrienne N. Breitfelder, City Clerk

Number: 202400001593  
Recorded: 2/29/2024 at 9:42:29.0 AM  
County Recording Fee: \$27.00  
Iowa E-Filing Fee: \$3.00  
Combined Fee: \$30.00  
Revenue Tax: \$0.00  
Karol Kennedy, RECORDER  
Dubuque County, Iowa

Prepared by/Return to: Sandy Sells, IA Department of Transportation, Right of Way Bureau, 800 Lincoln Way, Ames, IA 50010, 515-239-1731  
Address Tax Statement to: Tax Exempt - Iowa Code Section 427.1 City of Dubuque, IA, City Hall, 50 W 13<sup>th</sup> Street, Dubuque, IA 52001



STATE OF IOWA  
IOWA DEPARTMENT OF TRANSPORTATION  
QUITCLAIM DEED  
TO CITY OF DUBUQUE, IOWA

The Iowa Department of Transportation, by Scott C. Marler, Director, acting for the State of Iowa by authority of Iowa Code Section 306.42, hereby quitclaims, grants and conveys unto the **City of Dubuque, Iowa, City Hall, 50 W 13<sup>th</sup> Street, Dubuque, IA 52001**, all rights, easements, title, and interest in all land used as streets and highway right of way, all roadway, and all right of way and roadway appurtenances thereto, together with any other lands and interests in land which may have been acquired by prescription and by adverse possession and by any other title instrument and by the public's use thereof as a public roadway, and any bridges, culverts, or structures that may be situated thereon, to the following described roadway situated in **Dubuque County, Iowa**, to-wit:

That portion of former Primary Road No. US 20, which is now a part of the local municipal street system, and is described as follows:

**A portion of Lot 4, shown as Lot B that contains 7,128 square feet of ISAAC Hanna Subdivision which is shown and described on Plat of ISAAC Hanna 2<sup>nd</sup> Addition all of Lot 4 of ISAAC Hanna Subdivision, Dubuque County, Iowa filed on November, 21, 2023, in the office of Dubuque County Recorder as File 2023-00011059.**

Title and interest to part of the above-described roadway was acquired by the State of Iowa through the following title instruments filed and recorded in the records of Dubuque County, Iowa.

GENERAL LOCATION

<u>GRANTOR(S)</u>	<u>¼ ¼ SECTIONS LOTS, BLOCKS</u>	<u>SEC-TWP-RNG</u>	<u>TYPE OF INSTRUMENT</u>	<u>DATE FILED</u>	<u>BOOK</u>	<u>PAGE</u>
Isaac Hanna, LLC	Lot 4 of Isaac Hanna Subdivision	Sec29, T89N, R2E	Condemnation	1/25/2010	2010	00001178

This instrument does not transfer any access rights. All access rights are being retained by the Iowa Department of Transportation. It transfers only the right of way for the above-described parcel.

This transfer is subject to the rights of all utilities in possession of any right of way and all rights of ingress and egress whether excepted, reserved, or granted by the transferring authority to land or to owners of land adjacent to the above-described roadway.

The Grantee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this deed for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provisions of similar services or benefits, the Grantee shall maintain and operate such facilities and services in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the Iowa Department of Transportation, acting for the State of Iowa, shall have the right to re-enter said land and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of Iowa Department of Transportation, acting for the State of Iowa, and its assigns.

Should Grantee elect to dispose of these premises in the future, Grantee acknowledges that these premises were acquired for highway purposes and therefore any future disposal shall be in accordance with the Iowa Code in regard to the disposal of highway right of way.

This transaction is exempt from transfer tax and a declaration of value because the State of Iowa is the grantor, pursuant to Iowa Code Section 428A.2(6).

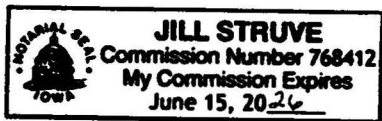
Signed this 26<sup>th</sup> day of Feb, 2024

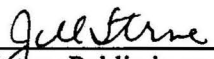
  
\_\_\_\_\_  
Scott C. Marler, Director  
Iowa Department of Transportation

STATE OF IOWA, STORY COUNTY, §:

This instrument was acknowledged before me on Feb. 26, 2024, by Scott C. Marler, as Director, respectively of Iowa Department of Transportation.

(SEAL)



  
\_\_\_\_\_  
Notary Public in and for said State of Iowa

Approved as to form:

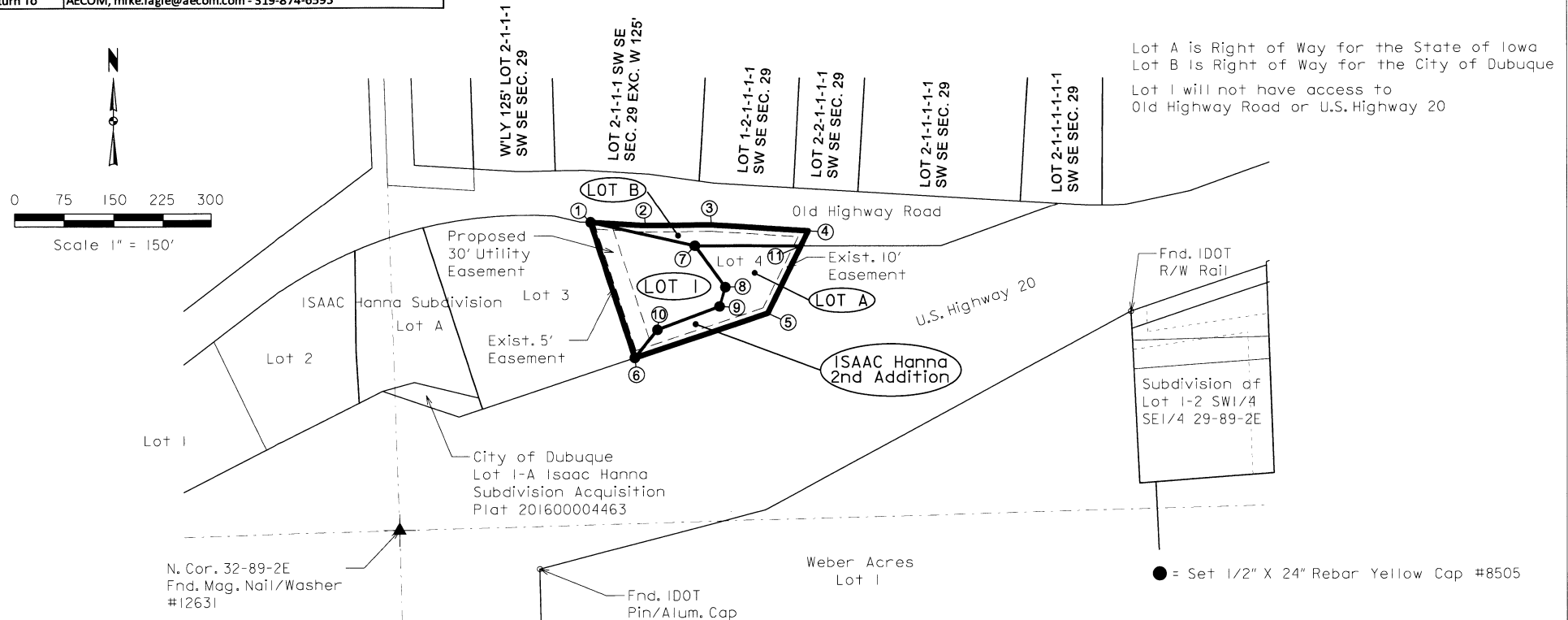
Shean Fletchall  
Assistant Attorney General  
Transportation Section Chief

By:  (Date) 2-23-2024  
Michael J. Moss  
Assistant Attorney General

Index Legend	
Location:	Lot 4 of ISAAC Hanna Subdivision City of Dubuque, Iowa
Requestor:	City of Dubuque, Iowa 50 W. 13th Street, Dubuque, Iowa 52001
Proprietor:	State of Iowa
Surveyor:	Michael R. Fagle
Company:	AECOM Michael R. Fagle, 501 Sycamore Street, Suite 222, Waterloo, Iowa, 50703
Return To:	AECOM, mike.fagle@aecom.com - 319-874-6595

# Plat of ISAAC Hanna 2nd Addition all of Lot 4 of ISAAC Hanna Subdivision in the City of Dubuque, Dubuque County, State of Iowa

Doc ID: 011166860007 Type: GEN  
Kind: SUBDIVISION PLAT  
Recorded: 11/21/2023 at 04:09:21 PM  
Fee Amt: \$37.00 Page 1 of 7  
Dubuque County Iowa  
Karol Kennedy Recorder  
File **2023-00011059**



Note:  
Section Corners and Property Corners were found during the design survey for the Dubuque Southwest Arterial

See Sheet 2 of 2 for lot lines bearings and distances table and lot areas

## Description of ISAAC Hanna 2nd Addition

All of Lot 4 of ISAAC Hanna Subdivision which is shown on a Final Plat that is recorded in file 2008-00001840 in the office of the Dubuque County Recorder. All in the City of Dubuque, County of Dubuque, State of Iowa.

Containing 45,440 Square Feet

Sheet 1 of 2

	I hereby certify that this Land Surveying document was prepared by me or under my direct personal supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Iowa.	
	<i>Michael R. Fagle</i>	10-18-2023
	MICHAEL R. FAGLE	Date
	License number 8505	
My license renewal date is December 31, 2024		
Pages or sheets covered by this seal:		
SHEETS 1 AND 2 OF 2		

**AECOM**

City Engineer 3700

Plat of ISAAC Hanna 2nd Addition  
all of Lot 4 of ISAAC Hanna Subdivision  
in the City of Dubuque, Dubuque County,  
State of Iowa

Bearing/Distance ISAAC Hanna 2nd Addition

1 TO 2	S 86 ° 29 ' 07 " E	84.32 '
2 TO 3	N 89 ° 30 ' 38 " E	100.24 '
3 TO 4	S 86 ° 29 ' 07 " E	150.15 '
4 TO 5	S 26 ° 16 ' 31 " W	141.31 '
5 TO 6	S 71 ° 25 ' 19 " W	215.13 '
6 TO 1	N 17 ° 59 ' 22 " W	219.50 '

Areas

ISAAC Hanna 2nd Addition = 45,440 Square Feet

Lot 1 = 22,474 Square Feet

Lot A = 15,838 Square Feet

Lot B = 7,128 Square Feet

Bearing/Distance Lot 1 ISAAC Hanna 2nd Addition

1 TO 7	S 77 ° 07 ' 03 " E	163.70 '
7 TO 8	S 35 ° 58 ' 07 " E	78.82 '
8 TO 9	S 16 ° 33 ' 53 " W	30.85 '
9 TO 10	S 69 ° 18 ' 11 " W	101.43 '
10 TO 6	S 38 ° 37 ' 05 " W	55.11 '
6 TO 1	N 17 ° 59 ' 22 " W	219.50 '

Bearing/Distance Lot A ISAAC Hanna 2nd Addition

6 TO 10	N 38 ° 37 ' 05 " E	55.11 '
10 TO 9	N 69 ° 18 ' 11 " E	101.43 '
9 TO 8	N 16 ° 33 ' 53 " E	30.85 '
8 TO 7	N 35 ° 58 ' 07 " W	78.82 '
7 TO 11	N 90 ° 00 ' 00 " E	163.34 '
11 TO 5	S 26 ° 16 ' 31 " W	115.68 '
5 TO 6	S 71 ° 25 ' 19 " W	215.13 '

Bearing/Distance Lot B ISAAC Hanna 2nd Addition

1 TO 2	S 86 ° 29 ' 07 " E	84.32 '
2 TO 3	N 89 ° 30 ' 38 " E	100.24 '
3 TO 4	S 86 ° 29 ' 07 " E	150.15 '
4 TO 11	S 26 ° 16 ' 31 " W	25.63 '
11 TO 7	S 90 ° 00 ' 00 " W	163.34 '
7 TO 1	N 77 ° 07 ' 03 " W	163.70 '

**OWNER'S CONSENT**

Dubuque, Iowa

November 1, 2023

The foregoing Plat of Survey of: **Isaac Hanna 2<sup>nd</sup> Addition**, in the City of Dubuque, Dubuque County, Iowa, is made with the free consent and in accordance with the desires of the undersigned owners and proprietors of said real estate.

A thirty-foot wide public utility easement is hereby reserved as stated and as shown on Sheet 1 of 2 of this plat. Said easement shall be for the purpose of constructing and maintaining all existing and future underground utilities and other appurtenances within said utility easement, along with the right, privilege, and authority to allow access, construct, reconstruct, maintain, operate, repair, patrol and remove said facilities, now and in the future. Said easement shall also include the right to cut, trim or remove trees, bushes and roots as may be required incidental to rights given herein. No structures shall be erected over or within the utility easement area without obtaining the prior written approval of the facility owner(s). No change in the grade, elevation, and contour or perform any construction or excavation over or within the utility easement area that will diminish the integrity of said underground facilities without obtaining the prior written consent of the facility owner(s).

**IOWA DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_

Brad Hofer, Director of Right-of-Way Bureau

State of Iowa            )  
                                  ) ss:  
County of Story            )

On this 1<sup>st</sup> of day November, 2023, before me, a Notary Public in and for the County of Dubuque and State of Iowa, personally appeared Brad Hofer, to me personally known who, being duly sworn did say that the said Brad Hofer is the Director of Right-of-Way Bureau for the Iowa Department of Transportation, and that said instrument was signed and sealed on behalf of the said Iowa Department of Transportation, and the said Brad Hofer acknowledges the execution of said instrument to be the voluntary act and deed of said Iowa Department of Transportation, by it voluntarily executed.



Sandy Sells

Notary Public in the State of Iowa

My Commission Expires 1-10-2024



**CITY OF DUBUQUE ZONING ADVISORY COMMISSION**

Dubuque, Iowa

November 1, 2023

The foregoing Plat of Survey of **Isaac Hanna 2<sup>nd</sup> Addition**, in the City of Dubuque, or within the two-mile jurisdiction of the City of Dubuque, Iowa, as defined under Section 354 of the Code of Iowa, is hereby approved by the Dubuque Planning and Zoning Advisory Commission and approval of said plat by the City Council of the City of Dubuque, Dubuque County, Iowa is hereby recommended.

**City of Dubuque Zoning Advisory Commission**

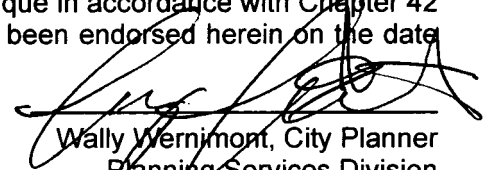
  
Chairperson

**PLANNING SERVICES**

Dubuque, Iowa

November 14, 2023

The foregoing Plat of Survey of **Isaac Hanna 2<sup>nd</sup> Addition**, in the City of Dubuque or within the two-mile jurisdiction of the City of Dubuque, Iowa, as defined under Section 354 of the Code of Iowa, has been reviewed by the City Planner, (or designee) of the City of Dubuque in accordance with Chapter 42 of the City of Dubuque Code of Ordinances, and said approval has been endorsed herein on the date first written above.


  
Wally Wernimont, City Planner  
Planning Services Division  
City of Dubuque, Iowa

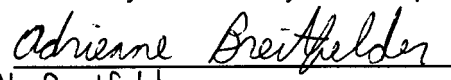
**CITY COUNCIL**

Dubuque, Iowa

November 20, 2023

The undersigned, Mayor and Clerk of the City of Dubuque, Iowa, do hereby certify that the foregoing Plat of Survey: **Isaac Hanna 2<sup>nd</sup> Addition**, in the City of Dubuque, Dubuque County, Iowa, has been filed in the office of the Clerk of the City of Dubuque, and that by Resolution No. 383-23, the Dubuque City Council approved said plat.

  
Brad M. Cavanagh  
Mayor of the City of Dubuque

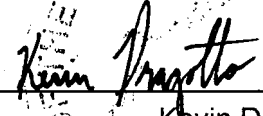

  
Adrienne N. Breitfelder ~~Trish L. Gleason~~  
~~Assistant~~ Clerk of the City of Dubuque

COUNTY AUDITOR

Dubuque, Iowa

November 21, 2023

The foregoing Plat of Survey of: **Isaac Hanna 2<sup>nd</sup> Addition**, in the City of Dubuque, Dubuque County, Iowa was entered of record in the office of the Dubuque County Auditor this 21 of November, 2023. We approve the subdivision name or title to be recorded.

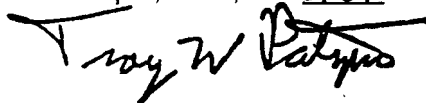
  
Kevin Dragotto  
Dubuque County Auditor  


CITY ASSESSOR

Dubuque, Iowa

November 21st, 2023

The foregoing Plat of Survey of **Isaac Hanna 2<sup>nd</sup> Addition**, in the City of Dubuque, Dubuque County, Iowa was entered of record in the office of the City Assessor of the City of Dubuque, Iowa, this 21st of November, 2023.

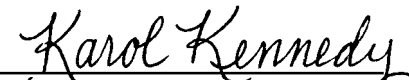

  
Troy Patzner  
Dubuque City Assessor

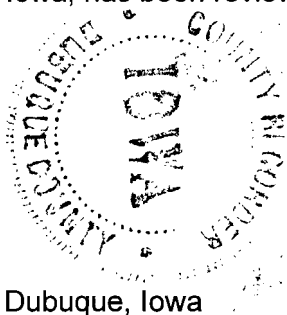
RECORDER'S CERTIFICATE

Dubuque, Iowa

November 21<sup>st</sup>, 2023

The foregoing Plat of Survey of **Isaac Hanna 2<sup>nd</sup> Addition**, in the City of Dubuque, Dubuque County, Iowa, has been reviewed by the Dubuque County Recorder.

  
by  Karol Kennedy  
Recorder of Dubuque County, Iowa

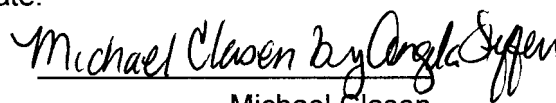


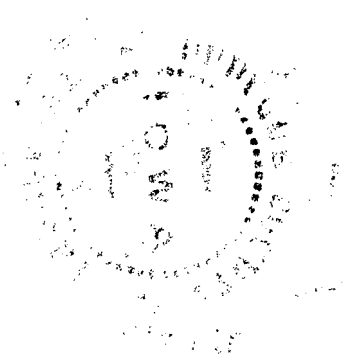
COUNTY TREASURER

Dubuque, Iowa

November 21, 2023

I, the undersigned, Michael Clasen, Treasurer of Dubuque County, Iowa, do hereby certify that all taxes levied against, Lot 4 of Isaac Hanna Subdivision, in the City of Dubuque, Dubuque County, Iowa, have been paid and said real estate is free and clear of all taxes as of this date.

  
Michael Clasen  
Dubuque County Treasurer



Prepared by: Wally Wernimont, City Planner Address: City Hall, 50 W. 13th St Telephone: 589-4210  
Return to: Adrienne Breitfelder, City Clerk Address: City Hall, 50 W. 13th St Telephone: 589-4121

**RESOLUTION NO. 383 - 23**

**A RESOLUTION APPROVING THE PLAT OF SURVEY FOR ISAAC HANNA 2<sup>nd</sup> ADDITION IN THE CITY OF DUBUQUE, IOWA**

Whereas, there has been filed with the City Clerk a Plat of Survey ISAAC Hanna 2<sup>nd</sup> Addition in the City of Dubuque, Iowa; and

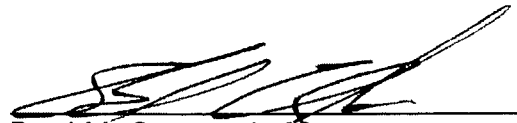
Whereas, said Plat of Survey has been examined by the Zoning Advisory Commission and its approval has been endorsed thereon; and

Whereas, said Plat of Survey has been examined by the City Council and they find that it conforms to the statutes and ordinances relating thereto.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:

Section 1. That the Plat of Survey for ISAAC Hanna 2nd Addition is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to endorse the approval of the City of Dubuque, Iowa upon said Plat of Survey.

Passed, approved and adopted this 20<sup>th</sup> day of November 2023.

  
Brad M. Cavanagh, Mayor

Attest:

  
Adrienne Breitfelder, City Clerk

## CERTIFICATE *of the* CITY CLERK

STATE OF IOWA            )  
                                      )     SS:  
COUNTY OF DUBUQUE    )

I, Adrienne N. Breitfelder, City Clerk, do hereby certify that I am the duly appointed, qualified, City Clerk of the City of Dubuque, Iowa, in the County aforesaid, and as such City Clerk, I have in my possession or have access to the records of the proceedings of the City Council. I do further state that the hereto attached **Resolution No. 383-23** is a true and correct copy of the original.

In Testimony Whereof, I hereunto set my hand and official seal of the City of Dubuque, Iowa.

Dated at Dubuque, Iowa, on this 21<sup>st</sup> day of November, 2023.



Adrienne Breitfelder  
Adrienne N. Breitfelder, City Clerk

**City of Dubuque  
City Council Meeting**

**Consent Items # 012.**

---

**ITEM TITLE:** Request to post Request for Proposal to update the Unified Development Code

**SUMMARY:** City Manager recommending City Council review and approve the enclosed Request for Proposal for the update to the Unified Development Code.

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Approve

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
MVM Memo	City Manager Memo
Staff Memo	Staff Memo
Unified Development Code Update Request for Proposal	Supporting Documentation



**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Request to post Request for Proposal to update the Unified Development Code

**DATE:** March 26, 2024

Planning Services Manager Wally Wernimont is recommending City Council review and approve the enclosed Request for Proposal for the update to the Unified Development Code.

In the FY24 budget there is \$100,000 in non-recurring operating budget designated for the UDC update. The Planning Department also has approximately \$10,800 in FY24 Development Services Advertising to cover the cost of posting the draft in the Telegraph Herald during the project.

The Update will allow this regulatory document to be reviewed with an equity lens and developed in regards to a changing landscape of land use and technology. In addition to the aforementioned plans, several other plans are underway that may impact the UDC such as plans related to parking and mobility. This work is important as we support developers and their creation of additional housing units across Dubuque, which multiple studies have identified as critical for Dubuque's future.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv  
Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Wally Wernimont, Planning Services Manager  
Chris Happ Olson, Assistant Planner  
Rick Dickinson, Greater Dubuque Development Corporation President and CEO

**TO:** Michael C. Van Milligen, City Manager

**FROM:** Wally Wernimont, Planning Services Manager *WW*

**SUBJECT:** Request to post UDC RFP

**DATE:** March 22, 2024

## INTRODUCTION

The following memo is to request approval to post a request for proposals (RFP) for the upcoming Unified Development Code (UDC) Update.

## BACKGROUND

The UDC was adopted on October 19, 2009. The UDC Update is on the City Council's 2023-2025 Management in Progress/Major Projects list under Livable Neighborhoods/Housing.

This request supports the City Council goals of:

- Robust Local Economy: Diverse Business and Jobs with Economic Prosperity
- Vibrant Community: Healthy and Safe
- Livable Neighborhoods and Housing; Great Place to Live,
- Sustainable Environment: Preserving and Enhancing Natural Resources, Diverse Arts, Culture, Parks and Recreation Experience and Activities and
- Connected Community: Equitable Transportation, Technology Infrastructure and Mobility.

Since the implementation of the UDC in 2009, the City has adopted a number of other plans which will help inform and guide our work:

- Imagine Dubuque Comprehensive Plan - 2017
- Equitable Poverty Reduction & Prevention Plan - 2021
- Climate Action & Plan - 2013 (updated in 2020)
- Arts and Culture Master Plan - 2016
- Central Avenue Corridor Streetscape Master Plan - 2022

The Update will allow this regulatory document to be reviewed with an equity lens and developed in regards to a changing landscape of land use and technology. In addition to the aforementioned plans, several other plans are underway that may impact the UDC such as plans related to parking and mobility. This work is important as we support developers and their creation of additional housing units across Dubuque, which multiple studies have identified as critical for Dubuque's future.

## **DISCUSSION**

The Planning Services Department has led the development of an RFP and convened a committee to draft and review the document, consisting of myself as Project Coordinator and the following members:

- Shena Moon, Associate Planner
- Chris Happ Olson, Jason Duba and Travis Schrobilgen; Assistant Planners
- Matt O'Brien, Planning Technician
- Dawn March, Purchasing and Safety Coordinator
- Jason Lehman, Assistant-City Attorney
- Nate Kiefer, Nate Steffen; Civil Engineer I
- Mike Belmont, Housing & Community Development Assistant Director
- Ian Hatch, Economic Development Assistant Director
- Gisella Aitken-Shadle, Equity & Human Rights Director
- Rick Dickinson, Greater Dubuque Development Corporation President/CEO

The enclosed RFP is included for your review and approval.

## **BUDGET IMPACT**

In the City's FY24 budget there is \$100,000 in non-recurring operating budget funds from Activity Code 100-62-0000-50-540-6202-00-01-64900 designated for the UDC update. We have approximately \$10,800 in FY24 Development Services Advertising with Activity Code 100-62-0000-50-540-6202-11-01-64020 to cover the cost of posting the draft in the Telegraph Herald during the project.

## **TIMELINE**

The RFP includes a timeline for the plan for undertaking an RFP and contracting with a consultant.

## **RECOMMENDATION**

I respectfully request review and approval of the enclosed RFP for the update to the Unified Development Code.

Prepared by Chris Happ Olson


Enclosure

Attachments

cc: Jenny Larson, Finance & Budget Director  
Jill Connors, Economic Development Director  
Alexis Steger, Housing and Community Development Director  
Gus Psihoyos, Engineering Department Director  
Crenna Brumwell, City Attorney  
Gisella Aitken-Shadle, Equity and Human Rights Director  
Rick Dickinson, Greater Dubuque Development Corporation



City of Dubuque Insurance Requirements for Professional Services

REQUEST FOR PROPOSAL (RFP)	
	<b>ISSUE DATE:</b> April 3, 2024 <b>CONTACT:</b> Wally Wernimont, Planning Services <b>PHONE NO:</b> 563-589-4210 <b>EMAIL:</b> wwernimo@cityofdubuque.org
SUBMIT PROPOSAL/OFFER PRIOR TO: <b>CLOSING DATE:</b> April 26, 2024 <b>CLOSING TIME:</b> 12:00 P.M. (local time)	SUBMIT TO: <b>SEE Section 8.0</b> FAX NOT ACCEPTED
<b>DESCRIPTION:</b> <b>Professional Services for a Comprehensive Update to the City of Dubuque's Unified Development Code</b>	
<b>RECEIPT OF PROPOSAL ACKNOWLEDGEMENT</b> If you are considering a response to this RFP, please mark the box to the left, fill in the information below and return this sheet as a confirmation that you received this RFP. <input type="checkbox"/> <b>NO RESPONSE REPLY</b> If you <u>do not</u> want to respond to this RFP at this time, please mark the box to the left, fill in the information below and return this sheet only. <input type="checkbox"/>	
COMPANY NAME:	DATE:
MAILING ADDRESS:	
CITY/STATE:	ZIP CODE:
AUTHORIZED SIGNATURE:	
PRINTED NAME:	
TITLE OF AUTHORIZED REPRESENTATIVE:	
EMAIL:	PHONE:



# **CITY OF DUBUQUE PLANNING SERVICES DEPARTMENT**

## **REQUEST FOR PROPOSAL**

**Professional Services for an Update  
to the City of Dubuque's Unified Development Code**

# RFP ORGANIZATION

The City of Dubuque Planning Services Department  
Update to the City of Dubuque's Unified Development  
City of Dubuque, Iowa

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## **Consultant Professional Services Request for Proposal**

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### **1.0 INTRODUCTION**

The City of Dubuque Planning Services Department is soliciting competitive sealed proposals from qualified and experienced professional consulting firms or teams (Consultant) to update the City's existing Unified Development Code which includes the zoning code, the subdivision ordinance, and the historic preservation ordinance.

The current Unified Development Code (UDC) was adopted in 2009. Since its adoption, the UDC has been updated by City staff and through text amendment requests to address new issues, to reflect State-initiated regulation changes, and to accommodate growth and emerging trends. The City is now seeking a more thorough evaluation of the UDC to see that it is supporting the City Council goals and priorities, is in alignment with other City plans, and to ensure it is not serving as a barrier to development in the community.

The purpose of this Request for Proposal (RFP) is to outline the scope of work, describe information to be provided in the proposal, and share the process which will be used in selecting a successful Consultant to complete the project. The Consultant will be required to produce all products defined in the Scope of Work, with assistance from staff and the Project Team.

A link to the RFP and related documents is posted on the City of Dubuque website provided below. As well, you may sign up for bid notifications for the future on that page.

Request for Proposal website: <https://www.cityofdubuque.org/bids.aspx>.

### **2.0 PROJECT OBJECTIVES**

Review of the City's current UDC and analyze and determine the strengths and weaknesses of the existing code, and the extent to which the current code acts as a barrier to efficient development. This update is not intended to be a complete rewrite of the existing code. The City believes the current document provides a solid foundation, however, updates and enhancements are necessary to eliminate inconsistencies and incorporate zoning code best practices.

## **City of Dubuque Insurance Requirements for Professional Services**

The City of Dubuque Planning Department primary goals and expectations for the update include:

- To consider the 2017 Imagine Dubuque Comprehensive Plan, the Equitable Poverty Reduction & Prevention Plan, and other City plans, special purpose areas, overlay districts, and standards and policies to inform the code update;
- To remove barriers to the creation of housing of various types and affordability;
- To research and consider topics mentioned in zoning reform discussions, such as changing demographics, parking, housing, flexible uses, and bulk regulations;
- To clarify certain aspects of the code inconsistencies that are ambiguous or conflicting;
- To streamline certain processes and provide options for administrative waivers;
- To consider certain aspects of the code that have led to frequent requests, such as special exceptions and variances;
- To consider issues raised through community feedback, including the Developer's Roundtable (a public-private development ad hoc committee); and
- To comply with legislation from the State of Iowa.

### **3.0 COMMUNITY BACKGROUND**

The City of Dubuque is located on the Mississippi River in northeastern Iowa, adjacent to Illinois and Wisconsin. As Iowa's oldest city chartered in 1837, Dubuque is a community well known for its historic and architectural beauty. The city is over 30 square miles in area, with a population of nearly 60,000 persons. The community has a stable and diversified manufacturing base and a growing service sector. Dubuque is the major retail, medical, education, and employment center for the tri-state area. Tourism continues to be a major economic force in the community. The City website is [www.cityofdubuque.org](http://www.cityofdubuque.org).

The City of Dubuque is governed by an elected Mayor and City Council and managed by a City Manager. The City funds a full range of municipal services. City government works in collaboration with the private and non-profit sectors to promote economic development and sustainability. Sustainability and downtown, neighborhood, and riverfront planning and revitalization are long-standing priorities of the City Council. A summary of current City Council goals and priorities can be found here: [www.cityofdubuque.org/councilgoals](http://www.cityofdubuque.org/councilgoals).

The City's Unified Development Code regulates zoning, subdivision, signs, site development, and historic preservation. The UDC's coordinated regulations facilitate development, enhance neighborhood quality, and support City goals. The UDC promotes urban design and mixed-land use through diverse commercial, recreational, educational, and residential uses. The current UDC regulations can be accessed through the link below: [https://codelibrary.amlegal.com/codes/dubuqueia/latest/dubuque\\_ia/0-0-0-13151](https://codelibrary.amlegal.com/codes/dubuqueia/latest/dubuque_ia/0-0-0-13151)

### **4.0 PROJECT SCOPE OF SERVICES**

The following outline describes the minimum components which should be included in the scope of services.

## **City of Dubuque Insurance Requirements for Professional Services**

In preparing a response to this RFP, Consultants should describe the means or strategy by which they would satisfy the scope of services. The final scope of work will be negotiated with the selected consultant or consultant team. The City will evaluate submitted proposals and award a contract to the selected Consultant based on the best overall proposed solution, considering each individual section listed below. The City encourages proposals from Consultants that are Women/Minority Businesses Enterprises (W/MBE).

The City's Project Team will be made up of staff members across departments that are assisting with different portions of the project and a representative from Greater Dubuque Development Corporation:

- Wally Wernimont, Planning Services Director
- Shena Moon, Associate Planner
- Chris Happ Olson, Assistant Planner
- Jason Duba, Assistant Planner
- Travis Schrobilgen, Assistant Planners
- Matt O'Brien, Planning Technician
- Dawn March, Purchasing and Safety Coordinator
- Jason Lehman, Assistant City Attorney
- Nate Kiefer, Professional Land Surveyor
- Nathan Steffen, Civil Engineer I
- Mike Belmont, Housing & Community Development Assistant Director
- Ian Hatch, Economic Development Assistant Director
- Gisella Aitken-Shadle, Chief of Equity & Human Rights
- Rick Dickinson, President & CEO [Greater Dubuque Development Corporation]

### **4.1 – Project Management & Accounting**

- 4.1.1 The Consultant shall identify one person to serve as the Project Manager. The Project Manager shall be the leader of this effort and is expected to ensure that the project scope, schedule, and budget are being adhered to at all times for the duration of the project. Additionally, the Project Manager shall serve as the primary point of contact for all exchange of information between the City and the Consultant.
- 4.1.2 Process all payment requests for the project, maintain the budget for the project, and provide monthly status updates to the City of Dubuque Planning Services Department.

### **4.2 – Project Manager Deliverables**

The following is a list of requirements which shall be met throughout the contract period.

- 4.2.1 The Project Manager shall submit an updated electronic copy of the project schedule at each progress meeting.
- 4.2.2 The Project Manager shall submit the project progress report at progress meetings and with each monthly invoice.

## **City of Dubuque Insurance Requirements for Professional Services**

- 4.2.3 The Project Manager shall shepherd the project, with support from the Project Team and stakeholders, from inception, through City Council approval(s), and codification.

### **4.3 – Project Coordination and Communication**

- 4.3.1 Administer any change orders that may come up in the project. All change orders need approval from the Project Coordinator prior to executing the change order.
- 4.3.2 Maintain all records for the project. Provide a copy of all records to the Planning Services Department.
- 4.3.3 Coordination with City Staff: The Consultant will participate in multiple coordination meetings with the Planning Services Department of the City of Dubuque and the Project Team to review progress. (see project timeline, Appendix E)
- 4.3.4 Miscellaneous Coordination: The Consultant will work with the Planning Services staff and members of the Project Team to gather data and input and carry out the project.

### **4.4 – Stakeholder Engagement**

- 4.4.1 The Consultant will engage the community, including stakeholders, staff, and elected/appointed officials through various methods such as presentations, workshops, surveys and social media. Strong communication (oral and written) and presentation skills are required.
- 4.4.2 It is anticipated that the Consultant will lead public meetings and attend/be present to City Council in a series of work sessions. Proposals should include the following:
- Community Engagement Process
  - Required review by City Council (in-person work sessions)
  - Frequency for meeting with Technical Advisory Committee
  - Developer's Roundtable (The consultant shall conduct a minimum of one (1) meeting with this stakeholder group.)
  - City staff will coordinate the input from commissions, committees and boards, including but not limited to:
    - Long Range Planning Advisory Commission
    - Zoning Board of Adjustment
    - Zoning Advisory Commission
    - Historic Preservation Commission
    - Housing Commission
    - Resilient Community Advisory Commission
    - Development Review Team

## City of Dubuque Insurance Requirements for Professional Services

### 4.5 – Schedule

4.5.1 The project schedule shall meet the needs of the project scope. A timeline overview is provided below.

Suggested overall timeline:

April 3, 2024	City issues RFP
April 18, 2024	Consultant questions due to City
April 22, 2024	Q&A published by City to Consultants
<b>April 26, 2024</b>	<b>Proposal due by 12:00 p.m. CDT</b>
May 2024	Consultant interviews
June 2024	Selection presented to City Council
July 2024	Contract awarded
August 2024	Notice to proceed
March 2026	Completion

4.5.2 The Consultant shall provide a recommended schedule for the completion of the project through award of contract, construction, and project closeout.

### **5.0 USE OF CITY RESOURCES**

#### **5.1 - Use of City Resources for the RFP Preparation**

All information requests during the RFP process shall be directed to the City's Project Coordinator as detailed in Section 7.0 of this RFP. Consultants should note that directly contacting other City of Dubuque staff or any of the Project Team members shall be considered inappropriate and grounds for disqualification, except in the case of following the protocol outlined in Section 7.0.

#### **5.2 - Material Available for the RFP**

5.2.1 A link to the RFP and related documents is posted on the City of Dubuque website: <https://www.cityofdubuque.org/bids.aspx>. Additionally, the documents can be requested by contacting Project Coordinator Wally Wernimont at [wwwernimo@cityofdubuque.org](mailto:wwwernimo@cityofdubuque.org).

5.2.2 Relevant and referenced information in this plan are in the following locations:

- City of Dubuque's Unified Development Code, <https://www.cityofdubuque.org/1209/Unified-Development-Code>,
- 2017 Imagine Dubuque Comprehensive Plan <https://www.cityofdubuque.org/2432/Imagine-Dubuque>,
- Equitable Poverty Reduction & Prevention Plan <https://www.cityofdubuque.org/2974/Equitable-Poverty-Reduction-Prevention-P>,
- Arts & Culture Master Plan <https://www.cityofdubuque.org/2269/Arts-Culture-Master-Plan>,



## City of Dubuque Insurance Requirements for Professional Services

- Community Climate Action & Resiliency Plan  
<https://www.cityofdubuque.org/1374/50-by-2030-Plan>,
- Interactive Zoning and Historic District Maps  
<https://www.cityofdubuque.org/2912/Interactive-Maps>.

### 5.3 - City Resources Available to the Selected Consultant

The City will make its ArcGIS Pro mapping and data analysis capabilities available for this project as well as assistance from the Planning Services Department. Digital aerial photos of the City of Dubuque were last taken in Spring 2022 and we anticipate an update in Fall 2024.

## **6.0 INFORMATION TO BE INCLUDED IN PROPOSAL**

The Proposal should address all the points outlined in this RFP excluding any cost information which shall be included in a separate sealed envelope or electronic file labeled "Project Cost Estimate". The Proposal should be prepared simply and economically, providing a straight-forward, concise description of the Consultant's capabilities to satisfy the requirements of the RFP.

To simplify the review process and to obtain the maximum degree of comparability, the proposal shall include the following information and shall be organized in the order and manner specified below. While additional data may be presented, the following subjects must be included. They represent the criteria against which the proposal will be evaluated.

### Letter of Transmittal

Provide a letter of transmittal briefly outlining the Consultant's understanding of the work and list the Project Manager's name, address, telephone number, and e-mail address. The name that is provided for the Project Manager will be used as the primary contact person during the RFP evaluation process.

### Table of Contents

Each proposal shall contain a table of contents that delineates each section contained in the proposal and the corresponding page number.

### Profile of Consultant

Provide general information about the Consultant, along with its area(s) of expertise and experience as it relates to this RFP. Describe the experience and success of the Consultant in performing similar projects. State the description of the Consultant, the size of the Consultant's professional staff, and the location of the office from where the work on this project will be performed.

Discuss the Consultant's ability to integrate this project into their present workload. Include a statement to specify if the Consultant currently has the capacity to undertake the project or whether it intends to hire additional staff or partner with subconsultants.

## City of Dubuque Insurance Requirements for Professional Services

### Scope of Services

Describe the means or strategy by which the Consultant would satisfy the scope of services for the currently approved budget as listed below in “Fees and Compensation”.

Include a basic work plan for each strategy that delineates the Consultant’s approach to the completion of the project. The work plan, at a minimum, should include those components outlined in Section 4.0 of this RFP. The Consultant should indicate in the work plan those aspects that might be completed by City staff.

Highlight any parts of the work plan that will reflect the Consultant’s unique philosophy or insight regarding its approach to this project and how this approach positively impacts the successful completion of the project.

### Consultant Team Qualifications

Provide the names of all members of the consultant team associated with this project. Specifically identify the supervisory and management staff including principals, the Project Manager, and technical experts who would be assigned to this project. For each consultant team member, provide their qualifications and experience. Include any training and relevant continuing and professional education.

Include a flow chart that shows the communication path between the City and Consultant. Include all consultant team members on the flow chart and show the supervisory relationship between all members of the team. Be sure to include all subconsultant staff on the consultant team flow chart.

If applicable, provide the name and location of other subconsultants that would be included in a Consultant team and the approximate percentage of the work that would be performed by each of these Consultants. Provide the qualifications and experience of all subconsultant staff working on the project.

In submitting the Proposal, the prospective Consultant is representing that each person listed or referenced in the proposal shall be available to perform the services as described. The Project Manager, principals, management, subconsultants, and other consultant team staff may be changed in accordance with the requirements described in *Substitution of Consultant Team Members* in *Appendix C – City of Dubuque Contract Terms and Conditions*.

Describe the experience and success of the consultant team members in performing similar projects. Specifically list any experience and success completing code drafting and updates for municipalities similar to Dubuque and/or within the State of Iowa.

### References

Include at least three (3) client references (including individual contact names and telephone numbers) for similar or relevant projects that have been completed by the Consultant in the last five (5) years. List the names of individuals on the consultant team proposed for the Dubuque project who have worked on the referenced projects.

## **City of Dubuque Insurance Requirements for Professional Services**

### **Understanding of Final Contract Terms**

The Consultant should provide a statement that indicates they have read and understand *Appendix C – City of Dubuque Contract Terms and Conditions* and agree to include the clauses that are listed in Appendix C in the final signed contract. Any exceptions to the Contract Terms and Conditions by the Consultant must be clearly stated in their submitted Proposal.

### **Certificate of Insurance**

The Consultant shall provide a confirmation obtained from their insurance provider demonstrating their ability to meet the requirements of the said Schedule J, included in Appendix D of this RFP. Consultants shall also confirm that they will meet the requirements of Schedule J should they be awarded the contract.

### **Proposed Project Schedule**

Provide a project schedule for each strategy. Outline the time durations and estimated completion dates for each major component of the proposed scope of work. The schedule should list all deliverables that are required throughout the project.

### **Fees and Compensation**

The City of Dubuque has a budget not to exceed \$100,000 to complete the scope of this project. The City of Dubuque will separately incur the cost of the legal notices required by law for this project.

Consultants should provide a fixed cost not to exceed the City's budget for the project. All expenses shall be included in the budget, including travel, community engagement, and printing. The project shall be billed based on a percentage complete at the time of billing. The cost proposal should roughly breakdown costs by major scope element and include a list of hourly rates for personnel assigned to the project.

Quotation of fees and compensation shall remain firm for a period of at least 120 days from the RFP submission deadline.

**Payment for Work:** The Consultant awarded the contract shall be paid once monthly. The invoiced amount shall be based on the earned value based on the percentage of work completed as reported in monthly project report updates and invoicing.

**Method of Submittals:** Submittals shall be in two parts: the proposal and the budget, each submitted separately in PDF. Initial screening will be done without viewing the Consultant's proposed costs and related information.

## **7.0 PROPOSAL QUESTIONS AND ANSWERS**

If you have any questions concerning this proposal, or other technical questions, please submit your requests in writing to the City's designated Project Coordinator. The City has used considerable efforts to ensure an accurate representation of information in this RFP, however, should there be inaccuracies, questions, or concerns, we invite Consultants to

## **City of Dubuque Insurance Requirements for Professional Services**

reach out to the Project Coordinator. Each Consultant is responsible to conduct its own investigations into the material facts provided.

No answers given in response to questions submitted shall be binding upon this RFP unless released in writing (letter or email) as an officially numbered and titled addendum to the RFP by the City of Dubuque.

Any questions concerning this proposal must be received on or before 9:00 a.m. (local time) on Thursday April 18, 2024. Any inquiries received after this date will not be answered. When submitting a question to the Project Coordinator, please include the appropriate Consultant contact information. A copy of all blind questions and their answers will be provided to all registered Consultants on Monday April 22, 2024 via the bidding notification system in order to provide all Consultants with consistent information.

From the date of issuance of the RFP until final City action, the Consultant shall not discuss the RFP with or contact any other City of Dubuque employees or any of the Project Team members regarding the subject matter of this RFP, except as expressly authorized by the Project Coordinator identified in this Section. Violation of this restriction will be considered a violation of the rules and be grounds for disqualification of the Consultant's proposal.

Project Coordinator contact information is as follows:

Wally Wernimont, Planning Services Director  
City of Dubuque  
Planning Services Department  
50 W. 13<sup>th</sup> Street  
Dubuque, IA 52001  
Phone: 563.589.4210  
E-mail: [wwernimo@cityofdubuque.org](mailto:wwernimo@cityofdubuque.org)  
For e-mail questions, use subject: RFP Q&A

### **8.0 SUBMISSION REQUIREMENTS**

Before submitting a proposal, each Consultant shall make all investigations and examinations necessary to understand the current Unified Development Code, related City plans and standards previously mentioned (see section 2.0), and to verify any representations made by the City upon which the Consultant will rely.

Each Consultant is required to submit an electronic copy of their proposal via email by the deadline of Friday, April 26, 2024 at 12:00 pm CDT.

### **PROPOSAL SUBMITTAL INFORMATION**

#### Submittal Contacts:

Wally Wernimont, Planning Services Director	<a href="mailto:wwernimo@cityofdubuque.org">wwernimo@cityofdubuque.org</a>
Departmental email	<a href="mailto:planning@cityofdubuque.org">planning@cityofdubuque.org</a>

## City of Dubuque Insurance Requirements for Professional Services

### REQUIRED DOCUMENT SUBMISSIONS FOR THE RFP

Email Submittal	Format	Deadline	Delivery method
Transmittal letter  Project proposal and addenda	Portable Document Format (PDF)	April 26, 2024 12 p.m.  (noon, Central time)	Email to: <a href="mailto:wwernimo@cityofdubuque.org">wwernimo@cityofdubuque.org</a> <a href="mailto:planning@cityofdubuque.org">planning@cityofdubuque.org</a>  (Email shall be generated from the email account of the officer of the Consultant who is authorized to legally bind the Consultant to its provisions.)
Cost proposal	Separate (PDF) Portable Document Format		

Each Consultant shall submit one copy via email, using the deadlines, methods and formats outlined in the submittal chart referenced immediately above. Proposals should not include any pre-printed or promotional materials. **Please make attempts to keep proposals to less than 30 pages total.** The City can receive up to 25MB file size via a single email.

Each addendum must be acknowledged in the Letter of Transmittal by providing the addendum number and title. Failure to acknowledge each addendum will be considered grounds for possible disqualification. In regards to insurance, please submit your confirmation demonstrating your willingness to meet the terms of Schedule J, as well as a confirmation obtained from your insurance provider demonstrating your ability to meet the requirements of the said schedule. Said Schedule J is located under Appendix D. It is solely the Consultant's responsibility to ensure that you have reviewed all addendums to this RFP before submitting the proposal.

The proposal document shall be signed by an officer of the Consultant who is authorized to legally bind the Consultant to its provisions. Proposals are to contain a statement indicating the period during which the proposal will remain valid. A period of not less than one hundred twenty (120) calendar days from the proposal closing date is required. Failure to comply with the above requirements shall be considered grounds for possible disqualification.

Each Consultant assumes full responsibility for delivery and deposit of the completed proposal package on or before the deadline. It is recommended that the Consultant follows up with the Planning Services Office to confirm delivery. Any proposals not meeting the submittal deadlines will not be considered and will be returned to the Consultant. The City of Dubuque is not responsible for any loss or delay with respect to delivery of the proposals.

The City of Dubuque is not liable for any costs incurred by any Consultant prior to the execution of an agreement or contract. Nor shall the City of Dubuque be liable for any costs incurred by Consultants that are not specified in any contract. All results from this project will remain the property of the City of Dubuque.

Upon receiving this RFP, we request that the Consultant complete the "Receipt of Proposal Acknowledgement"— "No Response Reply" information contained on the first page of this

## City of Dubuque Insurance Requirements for Professional Services

document and return it to the City's Project Coordinator by email so the City can ensure that each Consultant received this Request For Proposal.

The City of Dubuque appreciates your time and consideration of this RFP.

Sincerely,



Wally Wernimont, Planning Services Director  
Planning Services Department  
The City of Dubuque  
Project Coordinator



**Professional Services for an Update  
to the City of Dubuque's Unified Development Code**

**April 3, 2024**

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**Appendix A**

**Consultant Evaluation and Selection Process**

## **City of Dubuque Insurance Requirements for Professional Services**

### **EVALUATION CRITERIA**

Proposals will be screened to ensure that they meet the minimum requirements of the proposal format. The Project Team will review qualifying proposals and select Consultants for placement on the consultant short-list for the project. The following criteria are among those that will be used to initially evaluate submitted proposals.

1. A high level of professional competence and a proven track record in urban planning and land use regulation; evaluation, updating, and administration of land use regulations; land use law; the development of city zoning, subdivision, and historic preservation codes:
  - a. Qualifications and experience of the Consultant and any subconsultants.
  - b. Demonstration of the professional expertise and technical abilities of the consultant team members.
  - c. If a joint venture with subconsultants, any track records of the Consultant's experience working with each referenced subconsultant.
  - d. Experience of the Consultant working on municipal projects, especially in Iowa.
2. Design approach/methodology in completing scope of services such as:
  - a. Grasp of project requirements and level of interest in the project.
  - b. Ability of Consultant to demonstrate initiative, motivation, and knowledge of the City of Dubuque.
  - c. Creativity and problem-solving ability.
3. Experience of engaging stakeholders in the process:
  - a. Experience with public input facilitation.
  - b. Diplomatically translating stakeholder input into UDC standards and/or criteria.
4. Responsiveness and compatibility between Consultant and City:
  - a. General attitude and ability to communicate.
  - b. Ability to listen, be flexible, and to follow and implement directions, ideas, and concepts.
  - c. Overall success of past projects completed for the City of Dubuque, if applicable.
5. Quality and completeness of the written proposal and services offered:
  - a. The proposal should clearly demonstrate an understanding of the City's overall objectives for the project.
  - b. Ability to produce high quality documents that are user-friendly with high quality graphics.
  - c. Ability to make high quality oral and visual presentations.
6. Proposed schedule required to complete project.
7. Proposals from Women/Minority Businesses Enterprises (W/MBE) are encouraged.

The Project Team will interview the short-listed Consultants. Proposal cost in relationship to the services offered will be evaluated following the initial review of proposals and the criteria outlined above. Reference checks will be conducted as appropriate. Both the original submitted proposal and the results of the Consultant interviews, reference checks, and costs proposals will be used to select the final Consultant for the project.



## **City of Dubuque Insurance Requirements for Professional Services**

### **SELECTED CONSULTANT**

Upon the completion of the evaluation of the proposals, the Project Team will recommend to the City Manager, who will then make a recommendation to the City Council, the awarding of a contract to the highest ranked Consultant. The Project Team will also request authority to negotiate with the recommended Consultant a final scope of work and fee structure for the project.

If a contract, satisfactory and advantageous to the City, can be negotiated at a price considered fair and reasonable, the award shall be made to that Consultant. Otherwise, negotiations with the Consultant ranked first shall be formally terminated and negotiations commenced with the Consultant ranked second, and so on, until a contract can be negotiated that is acceptable to the City.

Upon the successful completion of contract negotiations, the Project Team shall recommend that the City Manager execute a contract with the successful Consultant. The City Manager will in turn make a decision to execute the contract or request the City Council make a final determination to award and execute the contract with a Consultant.



**Professional Services for an Update  
to the City of Dubuque's Unified Development Code**

**April 3, 2024**

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**Appendix B**

RFP Rules and Protest Procedure

## **City of Dubuque Insurance Requirements for Professional Services**

### **MINOR IRREGULARITIES**

The City reserves the right to waive minor irregularities in submitted proposals, providing such action is in the best interest of the City. Minor irregularities are defined as those that have no adverse effect on the City's best interests and will not affect the outcome of the selection process by giving the prospective Consultants an advantage or benefit not enjoyed by other prospective Consultants.

### **EXCEPTIONS**

Consultant exceptions to any part of the requirements stated in this request must be clearly identified as exceptions and noted in the letter of transmittal and in the submitted project cost estimate.

### **DEFINITIONS**

The City has established for the purposes of this RFP that the words "shall", "must", or "will" are equivalent in this RFP and indicate a mandatory requirement or condition, the material deviation from which shall not be waived by the City. A deviation is material if, in the City's sole discretion, the deficient response is not in substantial accord with this RFP's mandatory conditions requirements.

The words "should" or "may" are equivalent in this RFP and indicate very desirable conditions, or requirements but are permissive in nature. Deviation from, or omission of, such a desirable condition or requirement will not in and of itself cause automatic rejection of a proposal but may result in being considered as not in the best interest of the City.

### **DISPUTES/EXCEPTIONS**

Any prospective Consultant who disputes the reasonableness or appropriateness of any item within this RFP document, any addendum to this RFP document, notice of award or notice of rejection shall set forth the specific reason and facts concerning the dispute, in writing, within five (5) business days of the receipt of the proposal document or notification from the City. The written dispute shall be sent via certified mail or delivered in person to the point of contact set forth in Section 7.0, who shall review the written dispute and work with the City Manager to render a decision which shall be considered final.



**Professional Services for an Update  
to the City of Dubuque's Unified Development Code**

**April 3, 2024**

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**Appendix C**

City of Dubuque Contract Terms and Conditions

# City of Dubuque Insurance Requirements for Professional Services

## CITY OF DUBUQUE STANDARD TERMS AND CONDITIONS

**ACCELERATED PAY DISCOUNTS** - Accelerated discounts should be so stated on the bid submittal page. If quick pay discounts are offered, the City reserves the right to include that discount as part of the award criteria. Prices must, however, be based upon payment in net thirty (30) days after receipt, inspection and acceptance. In all cases, quick pay discounts will be calculated from the date of the invoice or the date of acceptance, whichever is later.

### **ADA COMPLIANCE**

1. The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101 et seq.) and applicable Federal regulations under the Act.
2. Bids for design, construction, programs, policies and concessions of any type shall comply with the 2010 Standards for Accessible Design, the ADA title II regulation, Section 504 of the 1973 Rehabilitation Act, and similar statutes and regulations prohibiting discrimination on the basis of disability.
3. The Contractor shall ensure that its websites and all online services, including those websites or online services provided by third parties upon which Dubuque relies to provide services or content, comply with, at minimum, Web Content Accessibility Guidelines - WCAG 2.0 AA.

**ASSIGNMENT** - The City and the Contractor each are hereby bound and the partners, successors, executors, administrators and legal representatives of the City and the Contractor are hereby bound to the other party to the Contract and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of the Contract. Any assignment or attempt at assignment made without prior written consent of the City shall be void.

**BID CURRENCY/LANGUAGE** - All bid prices shall be shown in US Dollars (\$). All prices must remain firm for the duration of the Contract regardless of the exchange rate. All bid responses must be submitted in English.

**BID FORM** - Each bidder must submit an original bid and additional copies as required on the forms attached. The bidder shall correctly sign the bid, and the bid may be rejected if it shows any omissions, alterations of the form, additions not called for in the bid, or any irregularities of any kind. In case of a discrepancy between the unit price and the extended price, the unit price shall prevail.

**BID INFORMATION IS PUBLIC** – The bid and all documents submitted with any bid shall become public documents subject to Iowa Code Chapter 22, which is otherwise known as the “Iowa Open Records Law”. By submitting the bid any document to the City of Dubuque in connection with a bid, the submitting party recognizes this and waives any claim against the City of Dubuque and any of its officers and employees relating to the release of any document or information submitted. Each submitting party shall hold the City of Dubuque and its officers and employees harmless from any claims arising from the release of any document or information made available to the City of Dubuque arising from any opportunity. Bid information requested by the public or other bidders will be provided in an alternative format if the requestor is a person with a disability and requires an alternative form for comprehension.

**BID REJECTION OR PARTIAL ACCEPTANCE** - The City reserves the right to accept or reject any or all bids or parts thereof. The City further reserves the right to waive technicalities and formalities in bids, as well as to accept in whole or in part such bids where it is deemed advisable in protection of the best interests of the City.

**CONFLICT OF INTEREST** - The Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Contractor and the City that is a conflict of interest. No employee, officer or agent of the Contractor shall participate in the selection or in the award if a conflict of interest, real or apparent, exists. The provisions of Iowa Code ch. 68B shall apply to the Contract. If a conflict of interest is proven to the City, the City may terminate the Contract, and Contractor shall be liable for any excess costs to the City as a result of the conflict of interest. The Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that

## City of Dubuque Insurance Requirements for Professional Services

are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties. The Contractor shall report any potential, real, or apparent conflict of interest to the City.

**CONTRACT DOCUMENTS** – The Contract Documents are this Contract, the Request for Bids, the Contractor’s Bids, and the following additional documents, if any:

In the event of a dispute with respect to any term or condition in the Contract Documents, they shall be interpreted in the following order: this Contract, the Request for Bids, the Contractor’s Bids, and the following additional documents, if any:

**DISPUTES** - Should any disputes arise with respect to the Contract, the Parties agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute and the City shall continue to make payment for all Work properly performed. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the City or the Contractor as a result of such failure to proceed shall be borne by the Contractor. The unintentional delayed payment by the City to the Contractor of one or more invoices not in dispute in accordance with the terms of the Contract will not be cause for Contractor to stop or delay Work.

**FORCE MAJEURE** - Force majeure shall be any of the following events: acts of God or the public enemy; compliance with any order, rule, regulation, decree, or request of any governmental authority or agency or person purporting to act therefore; acts of war, public disorder, rebellion, terrorism, or sabotage; floods, hurricanes, or other storms; strikes or labor disputes; or any other cause, whether or not of the class or kind specifically named or referred to herein, not within the reasonable control of the party affected. A delay in or failure of performance of either party shall not constitute a default hereunder nor be the basis for, or give rise to, any claim for damages, if and to the extent such delay or failure is caused by force majeure. The party who is prevented from performing by force majeure shall be obligated, within a period not to exceed fourteen (14) days after the occurrence or detection of any such event, to give notice to the other party setting forth in reasonable detail the nature thereof and the anticipated extent of the delay, and shall remedy such cause as soon as reasonably possible, as mutually agreed between the parties.

**INDEMNIFICATION** - To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the City, its officers and employees, from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Contract, provided that such claim, damages, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of property, including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, or anyone directly or indirectly employed by the Contractor or anyone for whose acts the Contractor may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

**LAWS AND REGULATIONS** - The Contract shall be governed, interpreted and enforced in accordance with all applicable federal, State of Iowa, and local laws, ordinances, licenses and regulations and shall apply to the Contract throughout, as the case may be. The Contractor certifies that in performing the Contract it will comply with all applicable provisions of the federal, state, and local laws, ordinances, licenses and regulations. Venue for any action arising out of this Contract shall be the Iowa District Court for Dubuque County, Iowa.

**METHOD OF AWARDING** - The City reserves the right to make awards based on the entire bid or on an item by item basis. However, if Contractor’s bid is based on an “all or none” condition, the City may consider its bid non-responsive and reject the entire bid.

**NO GIFT STANDARD** - The City of Dubuque is committed to upholding the highest ethical standards in all of its business practices. This standard recognizes the need to avoid even the perception of improper gifts or favors to employees. Therefore, all suppliers have been asked to abide by the City’s “No Gift” standard. The “No Gift” standard also applies to all offers of discounts or free items at any place of business targeted toward a City employee and not available to the general public, regardless of the value.

## **City of Dubuque Insurance Requirements for Professional Services**

**NON-COLLUSION STATEMENT** - Neither the Contractor, nor anyone in the employment of the Contractor, has employed any person to solicit or procure the Contract nor will the Contractor make any payment or agreement for payment of any compensation in connection with the Contract. There is no contract, agreement or arrangement, either oral or written, expressed or implied, contemplating any division of compensation for Work rendered under the Contract or participation therein, directly or indirectly, by any other person, firm or corporation, except as documented in the Contract. Neither the Contractor, nor anyone in the employment of the Contractor, has either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive procurement in connection with the Contract.

**NON-DISCRIMINATION AND EQUAL OPPORTUNITY** - All Contractors that engage in contracts with the City of Dubuque, Iowa agree as follows: The Contractor will not discriminate against any employee or applicant for employment because of race, sex, color, creed, ancestry, national origin, marital status, Familial status, religion, age, disability, sexual orientation, gender identity, genetic information, status with regard to public assistance, status as a veteran or any classification protected by federal, state, or local law, (Protected Classes) except where age and sex are essential bona fide occupational requirements, or where disability is a bona fide occupational disqualification. Such action shall include, but not be limited to the following: (a) Employment, (b) Upgrading, (c) Demotion or transfer, (d) Recruitment and advertising, (e) Layoff or termination, (f) Rate of pay or other forms of compensation, and (g) Selection for training, including apprenticeship. The Contractor further assures that managers and employees comply with both the spirit and intent of federal, state, and local legislation, government regulation, and executive orders in providing affirmative action as well as equal opportunity without regard to the protected classes, as stated above. The Contractor will include, or incorporate by reference, the provisions of the nondiscrimination clause in every contract or subcontract unless exempt by the rules, regulations or orders of the City and will provide in every contract or subcontract that said provision will be binding upon each Contractor..

**REGULATORY AGENCY COMPLIANCE** - Compliance with laws and regulations set forth by regulatory agencies is required. These agencies include, but are not limited to, OSHA – Occupational Safety & Health Agency, EPA – Environmental Protection Agency, ICC – Interstate Commerce Commission, DNR – Department of Natural Resources, and DOT – Department of Transportation. The City of Dubuque expects that Contractors will offer expertise on conformance of regulations applying to the products they sell and the Work they perform.

**RIGHT TO PROTEST** - Anyone wishing to file a protest concerning (1) the specifications, (2) the bid procedure or (3) the award of the Contract must do so in writing in accordance with the City's Protest by bidders which is found in the City's purchasing policy.

**SAFETY DATA SHEETS** - The Hazard Communication Standard (HCS) requires chemical manufacturers, distributors, and importers to ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked and to provide Safety Data Sheets (SDS) to communicate the hazards of hazardous chemical products. It is the chemical supplier's responsibility to determine which products are covered and to provide SDS with the initial shipment. It is also the chemical supplier's responsibility to provide any updated or revised SDS, as they become available for any products sold and delivered to the City of Dubuque. City of Dubuque employees shall not accept a shipment of any chemical that does not have a SDS attached or currently on file. Safety Data Sheets shall be available in alternative formats if the requestor is a person with a disability and requires an alternative format for comprehension.

**SUBCONTRACTING** - All Subcontractors shall be listed in the Contract or in a written amendment to the Contract.

**SUBSTITUTION OF CONSULTANT TEAM MEMBERS** – The Project Manager must notify the Project Coordinator within no more than seven (7) days of a change of any team member(s), including subconsultants. Replacement of the consultant team member(s) is subject to review and approval by the Project Coordinator.

## **City of Dubuque Insurance Requirements for Professional Services**

**SUSPENSIONS AND DEBARMENT** - The Contractor hereby certifies, pursuant to 2 CFR pt. 180 and 2 CFR pt. 3000, that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Contract by any federal agency. The Contractor further certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contracts with the City of Dubuque or the State of Iowa.

**TAXES** - The City of Dubuque is exempt from sales tax and certain other use taxes. Any charges for taxes from which the City is exempt will be deducted from invoices before payment is made.

**TERMINATION OF CONTRACT** - The City may terminate the Contract at any time for any reason with or without cause. In that event, all finished or unfinished Work, reports, materials(s) prepared or furnished by the Contractor under the Contract shall, at the option of the City, become its property. If the Contract is terminated by the City as provided herein, the Contractor shall be paid for all Work which has been authorized, provided, and approved up to the effective date of termination. The City will not be subject to any termination fees from the Contractor.

**WARRANTIES - WORK** - The Contractor shall perform Work for the City pertaining to the Project as set forth in the Contract.

Contractor represents that the Work and all of its components shall be free of defects; shall be performed in a manner consistent with other Contractors in a similar industry and application; and shall conform to the requirements of the Contract.

Contractor shall be responsible for the quality, technical accuracy, completeness and coordination of all Work performed under the Contract. Contractor shall, promptly and without charge, provide all corrective Work necessary as a result of Contractor's acts, errors, or omissions with respect to the quality and accuracy of the Work.

Contractor shall be responsible for any and all damages to property or persons as a result of Contractor's acts, errors, or omissions, and for any losses or costs to repair or remedy any Work undertaken by City based upon the Work as a result of any such acts, errors, or omissions.

Contractor's obligations shall exist without regard to, and shall not be construed to be waived by, the availability or unavailability of any insurance, either of City or Contractor.

**WARRANTIES - INTELLECTUAL PROPERTY** - Contractor represents and warrants that all the materials and Work produced, or provided to the City pursuant to the terms of the Contract shall be wholly original with the Contractor or that the Contractor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such materials and work. The Contractor represents and warrants that the materials and Work, and the City's use of same, and the exercise by the City of the rights granted by the Contract shall not infringe upon any other work or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm, or corporation. The Contractor further represents and warrants that the materials and Works does not infringe upon the copyright, trademark, trade name, trade dress patent, statutory, common law or any other rights of any person, firm or corporation or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute the Work contemplated by the Contract.





**Professional Services for an Update  
to the City of Dubuque's Unified Development Code**

**April 3, 2024**

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**Appendix D**

Insurance Requirements  
Schedule J

## **INSURANCE SCHEDULE J**

1. The Consultant shall furnish a signed certificate of insurance to the City of Dubuque, Iowa for the coverage required in Exhibit I prior to commencing work and at the end of the project if the term of work is longer than 60 days. Contractors presenting annual certificates shall present a certificate at the end of each project with the final billing. Each certificate shall be prepared on the most current ACORD form approved by the Iowa Department of Insurance or an equivalent approved by the Director of Finance and Budget. Each certificate shall include a statement under Description of Operations as to why the certificate was issued.
2. All policies of insurance required hereunder shall be with an insurer authorized to do business in Iowa and all insurers shall have a rating of A or better in the current A.M. Best's Rating Guide.
3. Each certificate shall be furnished to the Finance Department of the City of Dubuque.
4. Failure to provide coverage required by this Insurance Schedule shall not be deemed a waiver of these requirements by the City of Dubuque. Failure to obtain or maintain the required insurance shall be considered a material breach of this agreement.
5. Contractors shall require all subconsultants and sub-subconsultants to obtain and maintain during the performance of work insurance for the coverages described in this Insurance Schedule and shall obtain certificates of insurances from all such subconsultants and sub-subconsultants. Contractors agree that they shall be liable for the failure of a subconsultant and sub-subconsultant to obtain and maintain such coverages. The City may request a copy of such certificates from the Contractor.
6. All required endorsements shall be attached to certificate of insurance.
7. Whenever a specific ISO form is listed, required the current edition of the form must be used, or an equivalent form may be substituted if approved by the Director of Finance and Budget and subject to the contractor identifying and listing in writing all deviations and exclusions from the ISO form.
8. Contractors shall be required to carry the minimum coverage/limits, or greater if required by law or other legal agreement, in Exhibit I. If the contractor's limits of liability are higher than the required minimum limits then the provider's limits shall be this agreement's required limits.
9. Contractor shall be responsible for deductibles and self-insured retention for payment of all policy premiums and other cost associated with the insurance policies required below.
10. All certificates of insurance must include agents name, phone number, and email address.
11. The City of Dubuque reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by this Schedule at any time.
12. The City of Dubuque reserves the right to modify these requirements, including limits, based on changes in the risk or other special circumstances during the term of the agreement, subject to mutual agreement of the parties.

## INSURANCE SCHEDULE J (continued)

### Exhibit I

#### A) **COMMERCIAL GENERAL LIABILITY**

General Aggregate Limit	\$2,000,000
Products-Completed Operations Aggregate Limit	\$1,000,000
Personal and Advertising Injury Limit	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage Limit (any one occurrence)	\$50,000
Medical Payments	\$5,000

- 1) Coverage shall be written on an occurrence, not claims made, form. The general liability coverage shall be written in accord with ISO form CG 00 01 or business owners form BP 00 02. All deviations from the standard ISO commercial general liability form CG 00 01, or business owners form BP 00 02, shall be clearly identified.
- 2) Include endorsement indicating that coverage is primary and non-contributory.
- 3) Include Preservation of Governmental Immunities Endorsement. (Sample attached).
- 4) Include additional insured endorsement for:  
The City of Dubuque, including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees and volunteers. Use ISO form CG 20 26.
- 5) Policy shall include Waiver of Right to Recover from Others endorsement.

#### B) **AUTOMOBILE LIABILITY**

Combined Single Limit	\$1,000,000
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Coverage shall include all owned, non-owned, and hired vehicles. If the Contractor's business does not own any vehicles, coverage is required on non-owned and hired vehicles.

- 1) Policy shall include Waiver of Right to Recover from Others endorsement.

#### C) **WORKERS' COMPENSATION & EMPLOYERS LIABILITY**

Statutory Benefits covering all employees injured on the job by accident or disease as prescribed by Iowa Code Chapter 85.

Coverage A Statutory—State of Iowa

Coverage B Employers Liability

Each Accident	\$100,000
Each Employee-Disease	\$100,000
Policy Limit-Disease	\$500,000

Policy shall include Waiver of Right to Recover from Others endorsement.

Coverage B limits shall be greater if required by the umbrella/excess insurer.

**OR**

## INSURANCE SCHEDULE J (continued)

If, by Iowa Code Section 85.1A, the Contractor is not required to purchase Workers' Compensation Insurance, the Contractor shall have a copy of the State's Nonelection of Workers' Compensation or Employers' Liability Coverage form on file with the Iowa Workers' Compensation Insurance Commissioner, as required by Iowa Code Section 87.22. Completed form must be attached.

**D) UMBRELLA/EXCESS LIABILITY** \$1,000,000

The General Liability, Automobile Liability and Workers Compensation Insurance requirements may be satisfied with a combination of primary and Umbrella or Excess Liability Insurance. If the Umbrella or Excess Insurance policy does not follow the form of the primary policies, it shall include the same endorsements as required of the primary policies including Waiver of Subrogation and Primary and Non-contributory in favor of the City.

**E) PROFESSIONAL LIABILITY** \$1,000,000

If the required policy provides claims-made coverage:

- 1) The Retroactive Date must be shown and must be before the date of the agreement.
- 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the work or services.
- 3) If coverage is canceled or non-renewed and not replaced with another claims- made policy form with a Retroactive Date prior to the date of the agreement, the contractor must provide "extended reporting" coverage for a minimum of five (5) years after completion of the work or services.

**F) CYBER LIABILITY/BREACH** \$1,000,000

☐ Yes ☒ No

Coverage for First and Third Party liability including but not limited to lost data and restoration, loss of income and cyber breach of information.

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## City of Dubuque Insurance Requirements for Professional Services

### INSURANCE SCHEDULE J (continued)

Please be aware that naming the City of Dubuque as an additional insured as is required by this Insurance Schedule may result in the waiver of the City's governmental immunities provided in Iowa Code sec. 670.4. If you would like to preserve those immunities, please use this endorsement or an equivalent form.

#### PRESERVATION OF GOVERNMENTAL IMMUNITIES ENDORSEMENT

1. Nonwaiver of Governmental Immunity. The insurer expressly agrees and states that the purchase of this policy and the including of the City of Dubuque, Iowa as an Additional Insured does not waive any of the defenses of governmental immunity available to the City of Dubuque, Iowa under Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.
2. Claims Coverage. The insurer further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time. Those claims not subject to Code of Iowa Section 670.4 shall be covered by the terms and conditions of this insurance policy.
3. Assertion of Government Immunity. The City of Dubuque, Iowa shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurer.
4. Non-Denial of Coverage. The insurer shall not deny coverage under this policy and the insurer shall not deny any of the rights and benefits accruing to the City of Dubuque, Iowa under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the City of Dubuque, Iowa.

No Other Change in Policy. The above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

***End of Insurance Schedule J***

**City of Dubuque  
City Council Meeting**

**Consent Items # 013.**

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<b>ITEM TITLE:</b>	Suspension of Iowa Talent Bank Pilot Program for City Boards and Commissions	
<b>SUMMARY:</b>	Correspondence from Kimberly Baxter, Human Rights Advocacy Chief for the Iowa Department of Health and Human Services, regarding the suspension of the Iowa Talent Bank Pilot Program for City Boards and Commissions.	
<b>SUGGESTED DISPOSITION:</b>	Suggested Disposition: Receive and File	
<b><u>ATTACHMENTS:</u></b>		
<b>Description</b>	<b>Type</b>	
Correspondence	Supporting Documentation	



March 18, 2024

Adrienne Breitfelder  
City Clerk  
City of Dubuque  
50 W. 13<sup>th</sup> Street  
Dubuque, IA 52001

Dear Adrienne,

I want to thank you on behalf of the Human Rights team at the Iowa Department of Health and Human Services for working with us to explore the possibility of expanding the Iowa Talent Bank Program. Your input was incredibly valuable as we explored the possibility of extending the Talent Bank Program to include local boards and commissions.

As the Iowa Legislature is currently considering reducing the number of state boards and commissions, we are delaying action on the growth of the Talent Bank. In response to your request, we mutually agree to end the Memorandum of Agreement to serve as a pilot city for the Iowa Talent Bank. Further, we have disabled your account on the test site, and no one will be able to access your account or the information you supplied. Additionally, our contractor performs a quarterly "refresh" to delete all previous data, including the information you provided on the test site.

I have enjoyed working with you and look forward to future collaborations. If you need anything else, please do not hesitate to contact me.

Take care,

**Kimberly Baxter**

Advocacy Chief

Human Rights

Iowa Department of Health and Human Services

515-725-2837

[kimberly.baxter@iowa.gov](mailto:kimberly.baxter@iowa.gov)

[HHS.Iowa.gov](https://HHS.Iowa.gov)



**City of Dubuque  
City Council Meeting**

**Consent Items # 014.**

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**ITEM TITLE:** Signed Contract(s)

**SUMMARY:** J&R Supply, Inc. for the Ring & Lids - Metal Supply Project; Origin Design Co. for the Kerper Boulevard Lift Station Replacement; UPS Technologies for Odor Abatement Analysis.

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
Kerper Boulevard Lift Station Replacement	Supporting Documentation
Odor Abatement Analysis	Supporting Documentation
Ring & Lids - Metal Supply Project	Supporting Documentation



# **AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES**

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## **AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES**

This is an Agreement between City of Dubuque (Owner) and Origin Design Co. (Engineer). Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as Kerper Boulevard Lift Station Replacement (Project). Other terms used in this Agreement are defined in Article 7. Engineer's services under this Agreement are generally identified as Planning, Design, Bidding, and Construction Phase Engineering services related to the replacement of the Kerper Boulevard Lift Station, including analysis of planning alternatives related to the Track Sewer abandonment.

Owner and Engineer further agree as follows:

### **ARTICLE 1—SERVICES OF ENGINEER**

#### **1.01 Scope**

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.
- B. All phases of service will include Management of Engineering Services as shown in Exhibit A.

### **ARTICLE 2—OWNER'S RESPONSIBILITIES**

#### **2.01 Project Information**

- A. To the extent Owner has not already provided the following, or has new, additional, or revised information from that previously provided, Owner shall provide Engineer with information and data needed by Engineer in the performance of Basic and Additional Services, including Owner's:
  - 1. design objectives and constraints;
  - 2. space, capacity, and performance requirements;
  - 3. flexibility and expandability needs;
  - 4. design and construction standards;
  - 5. budgetary limitations; and
  - 6. any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- B. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information as Additional Services. Such additional information or data may include the following:
  - 1. Property descriptions.
  - 2. Zoning, deed, and other land use restrictions.
  - 3. Surveys, topographic mapping, and utility documentation.

4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
  5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; appropriate professional interpretation of such information or data.
  6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
  7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- C. Owner shall examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
  - D. Owner shall furnish to Engineer data as to Owner's anticipated costs for services to be provided to Owner by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) so that Engineer may assist Owner in collating the various cost categories that comprise Total Project Costs.
  - E. Owner shall advise Engineer if any invention, design, process, product, or device that Owner has requested, required, or recommended for inclusion in the Drawings or Specifications will be subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights.
  - F. Owner shall inform Engineer as to whether Engineer's assistance is requested with respect to Owner's evaluation of the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
  - G. Owner shall inform Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- 2.02 Owner's Instructions Regarding Bidding/Proposal and Front-End Construction Contract Documents
- A. Owner shall give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable) and Owner's construction contract practices and requirements, and furnish to Engineer (or give specific directions requesting Engineer to use copies already in Engineer's possession) the following:
    1. Owner's standard contract forms, general conditions (if other than the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract), supplementary conditions, text, and related documents and content for Engineer to include in the draft Bidding/Proposal Documents, and in draft Front-End Construction Contract Documents;

2. insurance and bonding requirements;
  3. protocols for electronic transmittals during bidding and construction;
  4. Owner's safety and security programs applicable to Contractor and other Constructors;
  5. diversity and other social responsibility requirements;
  6. bidding and contract requirements of funding, financing, or regulatory entities;
  7. other specific conditions applicable to the procurement of construction or contract documents;
  8. any other information necessary for Engineer to assist Owner in preparing its Bidding/Proposal Documents and Front-End Construction Contract Documents.
- B. Owner shall have responsibility for the final content of (1) such Bidding/Proposal Documents, and (2) such Front-End Construction Contract Documents, other than content furnished by Engineer concerning the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters.
1. Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. If there will be an advertisement soliciting bids for construction, Owner shall place and pay for such advertisement.

#### 2.03 Owner-Furnished Services

- A. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, Owner shall obtain, as required for the Project:
1. Accounting, bond and financial advisory services (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
  2. Legal services, including attorney review of proposed Construction Contract Documents, legal services required by Owner, legal services needed as a result of issues raised by Contractor, and Project-related legal services reasonably requested by Engineer.
  3. Auditing services, including those needed by Owner to ascertain how or for what purpose Contractor has used money paid to it.
- B. Owner shall provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Owner shall provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- C. Owner shall acquire or arrange for acquisition of the Site(s) and any temporary or permanent rights of access, easements, or property rights needed for the Project.

- D. With respect to the portions or phases of the Project designed or specified by Engineer, Owner shall provide, obtain, or arrange for:
  - 1. all required reviews, approvals, consents, and permits from governmental authorities having jurisdiction, and
  - 2. such reviews, approvals, and consents from others as may be necessary for completion of each portion or phase of the Project.
- E. Owner may delegate to Contractor or others the responsibilities set forth in Paragraphs 2.03.C and D.

#### 2.04 Owner's General Responsibilities

- A. Owner shall inform Engineer of the policies, procedures, and requirements of Owner that are applicable to Engineer's performance of services under this Agreement.
- B. Owner shall provide Engineer with Owner's budget for the Project, including type and source of funding to be used, and will promptly inform Engineer if the budget or funding sources change.
- C. Owner shall inform Engineer in writing of any safety or security programs that are applicable to the personnel of Engineer, its Subconsultants, and Engineer's Subcontractors, as they visit the Site or otherwise perform services under this Agreement.
- D. Owner shall arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under this Agreement.
- E. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services.
- F. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- G. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
  - 1. any development that affects the scope or time of performance of Engineer's services;
  - 2. the presence at the Site of any Constituent of Concern; or
  - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.
- H. Owner shall advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.

- I. If Owner designates a construction manager, site representative, or any individual or entity other than, or in addition to, Engineer to represent Owner at the Site, Owner shall define and set forth as an exhibit to this Agreement the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- J. Owner shall:
  1. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
  2. Primarily communicate with Engineer's Subcontractors and Subconsultants through the Engineer.
    - a. Promptly inform Engineer of the substance of any communications between Owner and Engineer's Subcontractors or Subconsultants.
    - b. Refrain from directing the services of Engineer's Subcontractors or Subconsultants.
  3. Authorize Engineer to provide Additional Services as set forth in Article 2 of Exhibit A of the Agreement, as required.
  4. Perform or provide the following:
    - a. None.

## 2.05 Payment

- A. Owner shall pay Engineer as set forth in Article 4 and Exhibit J.
- B. Engineer's compensation is summarized as follows; if there is a conflict between the following summary and the contents of Exhibit J, then Exhibit J will prevail.

Description of Service		Amount	Basis of Compensation
1.	Basic Services (Article 1 of Exhibit A)	\$202,100.00	Lump Sum
2.	Resident Project Representative Services	\$45,200.00	Hourly Rates
4.	Additional Services (Article 2 of Exhibit A)		Hourly Rates

Based on a 4-month construction period, with full-time RPR services during active construction.

1. Compensation items and totals based in whole or in part on Hourly Rates, Direct Labor, or Percentage of Construction Cost are estimates only.
2. Lump sum amounts incorporate Engineer's labor, overhead, profit, and Engineer's Subcontractor and Subconsultants' charges.

## ARTICLE 3—SCHEDULE FOR RENDERING SERVICES

### 3.01 Commencement

- A. Engineer is authorized to begin rendering services as of the Effective Date.

### 3.02 Time for Completion

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit B, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- D. If Engineer fails, for reasons within control of Engineer, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages to the extent, if any, resulting from such failure by Engineer.

## ARTICLE 4—INVOICES AND PAYMENTS

### 4.01 Invoices

- A. Preparation and Submittal of Invoices: Engineer shall prepare invoices in accordance with its standard invoicing practices, the progress reporting and special invoicing requirements (if any) in Exhibit A Paragraph 1.01.A, and the terms of Exhibit J. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

### 4.02 Payments

- A. Application to Interest and Principal: Payment will be credited first to any interest owed to Engineer and then to principal.
- B. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so; may withhold only that portion so disputed; and must pay the undisputed portion, subject to the terms of Paragraph 4.01. After a disputed item has been resolved, Engineer shall include the agreed-upon amount on a new invoice.
- C. Failure to Pay: If Owner fails to make any undisputed payment due Engineer within 30 days after receipt of Engineer's invoice, then:
  - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and
  - 2. Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement until Owner has paid in full amounts due. Owner waives any and all claims against Engineer for any such suspension.
- D. Sales or Use Taxes: If after the Effective Date any governmental entity takes an action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or

use taxes; such reimbursement will be in addition to the compensation to which Engineer is entitled under the terms of Exhibit J.

## **ARTICLE 5—OPINIONS OF COST**

### **5.01 Opinions of Probable Construction Cost**

- A. Engineer's opinions of probable Construction Cost (if any) are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

### **5.02 Opinions of Total Project Costs**

- A. The services, if any, of Engineer with respect to Total Project Costs will be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

## **ARTICLE 6—GENERAL CONSIDERATIONS**

### **6.01 Standards of Performance**

- A. **Standard of Care:** The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. **Technical Accuracy:** Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. **Engineer's Subcontractors and Subconsultants:** Engineer may retain such Engineer's Subcontractors and Subconsultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. **Reliance on Others:** Subject to the standard of care set forth in Paragraph 6.01.A, Engineer may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. **Compliance with Laws and Regulations, and Policies and Procedures**
  - 1. Engineer and Owner shall comply with applicable Laws and Regulations.



2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
  - a. changes after the Effective Date to Laws and Regulations,
  - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures, and
  - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. General Conditions of Construction Contract: The general conditions for any Construction Contract Documents prepared hereunder are to be the current edition of City of Dubuque's Public Improvement Project - Contract Documents Manual, unless expressly indicated otherwise.
- G. Copies of Drawings and Specifications: If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one complete electronic copy of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and one complete printed copy, duly signed and sealed.
- H. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant conditions whose existence Engineer cannot ascertain within the authorized scope of Engineer's services. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.
- I. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- J. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- K. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer.
- L. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

- M. Engineer's services do not include providing legal advice or representation.
- N. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- O. While at the Site, Engineer, its Subconsultants, and Engineer's Subcontractors, and their employees and representatives will comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

#### 6.02 Ownership and Use of Documents

- A. All Documents are instruments of service, and Engineer owns the Documents, including all associated copyrights and the right of reuse at the discretion of the Engineer, subject to the following provisions:
  - 1. Upon receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents and subject to the express exclusions that follow, Engineer and any Subconsultants will grant to Owner the ownership of the Documents, including all associated copyrights and the right of reuse.
  - 2. When requested by Owner, Engineer will perform any clerical or administrative acts reasonably necessary to confirm or record the transfer of Engineer's interests in the Documents to the Owner, and Owner will reimburse the Engineer for its costs to comply with the transfer request.
  - 3. Engineer shall have and retain the ownership, title, and property rights, including copyright, patent, intellectual property, and common law rights, in any design elements (including but not limited to standard details, drawings, plans, specifications, methodologies, and engineering computations) used in the Documents, but developed by Engineer or its Subconsultants previous to or independent of this Agreement ("Previously/Independently Created Works"). Engineer shall provide appropriate verification of such previous or independent development upon Owner's request.
  - 4. Upon receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, Engineer will issue to Owner a royalty-free, nonexclusive and irrevocable license to use such Previously/Independently Created Works on the Project or on any extension of the Project.
  - 5. Owner acknowledges that the Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer.
  - 6. Any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants.

7. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer.
  8. Such limited license to Owner shall not create any rights in third parties.
  9. Nothing herein limits the Engineer's right of use or reuse of Previously/Independently Created Works or any of Engineer's non-Document work product.
- B. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.
- C. Engineer shall inform Owner if Engineer is aware of any invention, design, process, product, or device specified in the Drawings, Specifications, or other Documents that is subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights. If Engineer's good-faith inclusion in the Drawings, Specifications, or other Documents of new, innovative, or non-standard technologies, for the benefit of Owner and the Project, results in third-party claims of infringement or violation of intellectual property rights, then Owner and Engineer shall share equally the costs of defending against, settling, or paying such claims.
- D. Engineer will obtain Owner's consent, which will not be unreasonably withheld, prior to releasing any publicity, including news and press releases, promotional publications, award and prize competition submittals, and other advertising regarding the subject matter of this Agreement. Nothing herein will limit the Engineer's right to include information in statements of qualifications and proposals to others accurately describing its participation and participation of employees in the Project.

#### 6.03 Electronic Transmittals

- A. To the fullest extent practical, Owner and Engineer agree to transmit, and accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with Exhibit F, Electronic Documents Protocol (EDP).
1. Compliance with the EDP by Engineer shall be considered a Basic Service and no direct or separate compensation will be paid to Engineer for such compliance, unless provisions for separate compensation are expressly set forth in the EDP.
  2. Engineer's costs directly attributable to changes in Engineer's Electronic Documents obligations, after the effective date of this Agreement, necessitated by revisions to Exhibit F, delayed adoption of Exhibit F, or implementation of other Electronic Documents protocols, will be compensated as Additional Services.
- B. If this Agreement does not include Exhibit F or otherwise does not establish or include protocols for transmittal of Electronic Documents by Electronic Means, then Owner and Engineer may operate without specific protocols or may jointly develop such protocols at a later date.
- C. Except as stated otherwise in Exhibit F (if included in this Agreement), when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations

as to long term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents, or from those established in applicable protocols.

- D. This Agreement (including the EDP) is not intended to create obligations for Owner or Engineer with respect to transmittals to or from third parties, except as expressly stated in the EDP.

#### 6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G.
- B. Additional Insureds: The Engineer's commercial general liability, automobile liability, and umbrella or excess liability policies, must:
  - 1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in Exhibit G;
  - 2. include coverage for the respective officers, directors, members, partners, and employees of all such additional insureds;
  - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations); and
  - 4. not seek contribution from insurance maintained by the additional insured.
- C. Owner shall procure and maintain insurance as set forth in Exhibit G.
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer, its Subconsultants, and Engineer's Subcontractors to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Owner shall give Engineer access to any certificates of insurance and copies of endorsements and policies obtained by Owner from Contractor.
- E. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates must be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
  - 1. Upon request by Owner or any other insured, Engineer shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subconsultants and Engineer's Subcontractors. In any documentation furnished under this provision, Engineer may redact (a) any confidential premium or pricing information and (b) any wording specific to projects or jurisdictions other than those applicable to this Agreement.
- F. All construction contracts entered into by Owner with respect to the Project must require builder's risk or similar property insurance.

- G. All policies of property insurance relating to the Project, including but not limited to any builder's risk or similar policy, must allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer, its Subconsultants, or Engineer's Subcontractors. Owner and Engineer waive all rights against each other, Contractor, Engineer's Subcontractors and Subconsultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any such builder's risk or similar policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- H. All policies of insurance must contain a provision or endorsement that the coverage afforded will not be canceled, and that renewal will not be refused, until at least 10 days' prior written notice has been given to the primary insured. Upon receipt of such notice, the primary insured must promptly forward a copy of the notice to the other party to this Agreement and replace the coverage being cancelled or reduced to conform to the requirements of this Agreement.
- I. At any time, Owner may request that Engineer, or Engineer's Subcontractors or Subconsultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require Engineer's Subcontractors or Subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

## 6.05 Suspension and Termination

### A. Suspension

- 1. By Owner: Owner may suspend Engineer's services for up to 90 days upon 7 days' written notice to Engineer.
- 2. By Engineer: Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement:
  - a. if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraphs 4.02.B and 4.02.C;
  - b. in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.09.D; or
  - c. if persistent circumstances beyond the control of Engineer have prevented it from performing its obligations under this Agreement.

### B. Termination for Cause

- 1. Either party may terminate the Agreement for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of the Agreement, through no fault of the terminating party.

- a. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1 if the party receiving such notice begins, within 7 days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30-day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein will extend up to, but in no case more than, 60 days after the date of receipt of the notice.
  2. In addition to its termination rights in Paragraph 6.05.B.1, Engineer may terminate this Agreement for cause upon 7 days' written notice:
    - a. if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional;
    - b. if Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control; or
    - c. as the result of the presence at or adjacent to the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.09.E.
  3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.
- C. Termination for Convenience: Owner may terminate this Agreement for convenience, effective upon Engineer's receipt of notice from Owner.
- D. Extension of Effective Date of Termination: If Owner terminates the Agreement for cause or convenience, Owner may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Engineer shall be entitled to compensation for such tasks.
- E. Payments Upon Termination: In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination. Upon making such payment, Owner will have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.02.A.
1. If Owner has terminated the Agreement for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the Documents will be resolved in accordance with the dispute resolution provisions of this Agreement or as otherwise agreed in writing.
  2. If Owner has terminated the Agreement for convenience, or if Engineer has terminated the Agreement for cause, then Engineer will be entitled, in addition to the payments identified above, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating

contracts with Engineer's Subcontractors or Subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit J.

**6.06 Successors, Assigns, and Beneficiaries**

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.06.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, claims arising out of this Agreement or money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
  - 1. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
  - 2. Nothing in this Agreement will be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
  - 3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C will appear in the Construction Contract Documents.

**6.07 Dispute Resolution**

- A. Unless otherwise required by Exhibit H, Owner and Engineer shall resolve all disputes in the following manner:
  - 1. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice, prior to invoking mediation.
  - 2. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation. Owner and Engineer agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
  - 3. If the parties fail to resolve a Dispute through negotiations under Paragraph 6.07.A.1 or mediation under Paragraph 6.07.A.2, then:
    - a. either or both may invoke the applicable dispute resolution procedures of Exhibit H for final resolution of Disputes.
    - b. If Exhibit H is not included, or if no final dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.08 Controlling Law; Venue

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.
- B. Venue for any exercise of rights at law will be the state court having jurisdiction at the location of the Project; or at the choice of either party, and if federal jurisdictional requirements can be met, in federal court in the district in which the Project is located.

6.09 Environmental Condition of Site

- A. Owner represents to Engineer that, as of the Effective Date, to the best of Owner's knowledge, no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. Undisclosed Constituents of Concern: For purposes of this Paragraph 6.09, the presence at or adjacent to the Site of Constituents of Concern that were not disclosed to Engineer pursuant to Paragraph 6.09.A, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as "undisclosed" Constituents of Concern.
  - 1. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not undisclosed Constituents of Concern.
  - 2. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under this Agreement are not undisclosed Constituents of Concern.
  - 3. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not undisclosed Constituents of Concern if Engineer has been informed of the general scope of such contract.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate authorities having jurisdiction if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, or if encountered, uncovered, or revealed Constituents of Concern are present in substantially greater quantities or substantially different locations than disclosed or anticipated, or if investigative or remedial action, or other professional services, are necessary or required by applicable Laws and Regulations with respect to such Constituents of Concern, then Engineer may, at its option and without liability for direct, consequential, or any other damages, suspend performance of services on the portion of the Project adversely affected thereby until such portion of the Project is no longer so affected; and Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.



- E. If the presence at the Site of undisclosed Constituents of Concern, or of Constituents of Concern in substantially greater quantities or in substantially different locations than disclosed or anticipated, adversely affects the performance of Engineer's services under this Agreement, then:
1. if the adverse effects do not preclude Engineer from completing its Project services in general accordance with this Agreement on unaffected or marginally affected portions of the Project, Engineer may accept an equitable adjustment in its compensation or in the time of completion, or both; and the Agreement will be amended to reflect changes necessitated by the presence of such Constituents of Concern; or
  2. if the adverse effects are of such materiality to the overall performance of Engineer that it cannot complete its services without significant changes to the scope of services, time of completion, and compensation, then Engineer may terminate this Agreement for cause on 7 days' written notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and will not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

#### 6.10 Indemnification and Mutual Waiver

- A. Indemnification by Engineer: To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."
- B. Environmental Indemnification: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer, its Subconsultants, Engineer's Subcontractors, and their officers, directors, members, partners, agents, employees, and subconsultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorney's fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that:
1. any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and
  2. nothing in this paragraph obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

- C. No Defense Obligation: The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- D. Percentage Share of Negligence: To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, will not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- E. Mutual Waiver: To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's officers, directors, members, partners, agents, employees, subconsultants, and insurers, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes. Such excluded damages include but are not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and cost of capital.

#### 6.11 Records Retention

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, or such other period as required by Laws and Regulations, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

#### 6.12 Miscellaneous Provisions

- A. Notices: Any notice required under this Agreement will be in writing and delivered: in person (by commercial courier or otherwise); by registered or certified mail; or by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line. All such notices are effective upon the date of receipt.
- B. Survival: Subject to applicable Laws and Regulations, all express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. Severability: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Engineer.
- D. No Waiver: A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Agreement.
- E. Accrual of Claims: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement will be deemed to have accrued, and all statutory periods of limitation will commence, no later than the date of Substantial Completion; or, if Engineer's services do not include Construction Phase services, or the Project is not completed, then no later than the date of Owner's last payment to Engineer.

#### 6.13 City of Dubuque Standard Terms and Conditions

- A. The City of Dubuque Standard Terms and Conditions are attached by Exhibit K to this Agreement. Exhibit K shall supplement this Agreement. In the event of conflicting clauses, Exhibit K will prevail, limited to the extent of the conflicting clause.

### ARTICLE 7—DEFINITIONS

#### 7.01 Defined Terms

- A. Wherever used in this Agreement (including the exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
  - 1. Addenda—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
  - 2. Additional Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 2 of Exhibit A of this Agreement.
  - 3. Agreement—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
  - 4. Application for Payment—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
  - 5. Basic Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 1 of Exhibit A of this Agreement.
  - 6. Bidding/Proposal Documents—Documents related to the selection of the Contractor, including advertisements or invitations to bid; requests for proposals; instructions to bidders or proposers, including any attachments such as lists of available Site-related documents; bid forms; bids; proposal forms; proposals; bidding requirements; and qualifications documents.
  - 7. Change Order—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
  - 8. Change Proposal—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
  - 9. Constituents of Concern—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous

waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

10. Construction Contract—The entire and integrated written contract between Owner and Contractor concerning the Work.
11. Construction Contract Documents—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract. See also definition of “Front-End Construction Contract Documents” below.
12. Construction Contract Price—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
13. Construction Contract Times—The number of days or the dates by which Contractor must: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. Construction Cost—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
15. Constructor—Any person or entity (not including the Engineer, its employees, agents, representatives, or Subconsultants, or Engineer’s Subcontractors), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, design-builders, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. Contractor—The entity or individual with which Owner enters into a Construction Contract.
17. Documents—All documents expressly identified as deliverables in this Agreement, whether in printed or Electronic Document form, required by this Agreement to be provided or furnished by Engineer to Owner. Such specifically required deliverables may include, by way of example, Drawings, Specifications, data, reports, building information models, and civil integrated management models.
18. Drawings—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. Effective Date—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. Electronic Document—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not

limited to Shop Drawings and other Submittals, that are in an electronic or digital format.

21. **Electronic Means**—Electronic mail (e-mail), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Agreement. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
22. **Engineer**—The individual or entity named as such in this Agreement.
23. **Engineer's Subcontractor**—An individual, firm, vendor, or other entity having a contract with Engineer to furnish general services, equipment, or materials with respect to the Project as an independent contractor.
24. **Field Order**—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
25. **Front-End Construction Contract Documents**—Those Construction Contract Documents whose primary purpose is to establish legal and contractual terms and conditions, typically including the Owner-Contractor agreement, bonds, general conditions, and supplementary conditions. The term excludes the Drawings and Specifications, and any Construction Contract Documents delivered or issued after the effective date of the Construction Contract.
26. **Laws and Regulations; Laws or Regulations**—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
27. **Owner**—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
28. **Project**—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
29. **Record Drawings**—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
30. **Resident Project Representative**—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of the RPR.

31. **Samples**—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
32. **Shop Drawings**—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
33. **Site**—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
34. **Specifications**—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
35. **Subconsultant**—An individual, design firm, consultant, or other entity having a contract with Engineer to furnish professional services with respect to the Project as an independent contractor.
36. **Subcontractor**—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
37. **Submittal**—A written or graphic document, prepared by or for Contractor, which the Construction Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Construction Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Construction Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
38. **Substantial Completion**—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
39. **Supplier**—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

40. Total Project Costs—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties and private utilities (including relocation if not part of Construction Cost), Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.
41. Underground Facilities—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
42. Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
43. Work Change Directive—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Terminology

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

## ARTICLE 8—EXHIBITS AND SPECIAL PROVISIONS

### 8.01 Exhibits to Agreement

The following exhibits are incorporated by reference and included as part of this Agreement:

- A. Exhibit A, Engineer's Services.
- B. Exhibit B, Deliverables Schedule.
- C. Exhibit C, Amendment to Owner-Engineer Agreement (form). "CURRENTLY NOT USED"
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.
- E. Exhibit E, EJCDC® C-626, Notice of Acceptability of Work (form). "CURRENTLY NOT USED"

- F. Exhibit F, Electronic Documents Protocol (EDP). "NOT USED"
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution. "NOT USED"
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Payments to Engineer for Services and Reimbursable Expenses.
- K. Exhibit K, City of Dubuque Standard Terms and Conditions.

#### 8.02 Total Agreement

- A. This Agreement (which includes the exhibits listed above) constitutes the entire contractual agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit C to this Agreement.

#### 8.03 Designated Representatives

- A. With the execution of this Agreement, Engineer and Owner shall each designate a specific individual to act as representative under this Agreement. Such an individual must have authority to transmit instructions, receive information, and render decisions with respect to this Agreement on behalf of the party that the individual represents.

#### 8.04 Engineer's Certifications

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
  - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
  - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
  - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

#### 8.05 Conflict of Interest

- A. Nothing in this Agreement will be construed to create or impose any duty on the part of Engineer that would be in conflict with Engineer's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing Engineer, its Subconsultants, and all licensed professionals employed by Engineer or its Subconsultants.
- B. If during the term of this Agreement a potential or actual conflict of interest arises or is identified:
  - 1. Engineer and Owner together will make reasonable, good faith efforts to avoid or eliminate the conflict of interest; to mitigate any adverse consequences of the conflict



of interest; and, if necessary and feasible, to modify this Agreement to address the conflict of interest and its consequences, such that progress under the Agreement may continue.

2. Such efforts will be governed by applicable Laws and Regulations and by any pertinent Owner's policies, procedures, and requirements (including any conflict of interest resolution methodologies) provided to Engineer under Paragraph 2.04.A of this Agreement.

This Agreement's Effective Date is 3/19/2024.

Owner:

Engineer:

City of Dubuque

(name of organization)

Origin Design Co.

(name of organization)

By:

Michael Van Milligen  
(individual's signature)

By:

Lauren Ray  
(individual's signature)

Date: 03/19/2024

(date signed)

Date: 3/18/2024

(date signed)

Name: Michael C. Van Milligen

(typed or printed)

Name: Lauren Ray, PE, SE

(typed or printed)

Title: City Manager

(typed or printed)

Title: Vice President/Secretary

(typed or printed)

Attest:

Adrienne N. Breitfelder

(individual's signature)

Attest:

Marc Ruden

(individual's signature)

Title: Adrienne Breitfelder

City Clerk

(typed or printed)

Title: Marc Ruden, PE

Water Resources Team Leader

(typed or printed)

Address for giving notices:

City of Dubuque, Engineering Department

50 West 13<sup>th</sup> Street

Dubuque, Iowa 52001

Designated Representative:

Name: Maxwell O'Brien

(typed or printed)

Name: Marc Ruden, PE

(typed or printed)

Title: Civil Engineer

(typed or printed)

Title: Water Resources Team Leader

(typed or printed)

Address:

City of Dubuque, Engineering Department

50 West 13<sup>th</sup> Street

Dubuque, Iowa 52001

Phone: 563-690-6034

Email: mobrien@cityofdubuque.org

Address:

Origin Design Co.

137 Main Street, Suite 100

Dubuque, Iowa 52001

Phone: 563-556-2464

Email: marc.ruden@origindesign.com

# **EXHIBITS TO AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES**

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Engineer shall provide Basic and Additional Services as set forth below.

**ARTICLE 1—BASIC SERVICES**

**1.01 Management of Engineering Services**

1. Coordinate services within Engineer’s internal team, and with Subconsultants and Engineer’s Subcontractors.
2. Prepare for and participate in meetings with consultants and contractors working on other parts of the Project that may affect, or be affected by, Engineer’s services or resulting construction.
3. Prepare and submit monthly engineering services progress reports to the Owner. Include summary of services performed in period, expected progress in next period, percent completion of current tasks, and a description of major issues or concerns.
4. Special Invoicing: In addition to, or as a substitute for, Engineer’s standard invoicing, provide the specified additional information or documentation, following the invoicing procedures indicated: Not Applicable.
5. Conduct ongoing management tasks, including:
  - a. Maintaining communications records and files pertaining to or arising from Engineer’s services;
  - b. With respect to Engineer’s services and other directly relevant parts of the Project, prepare for and participate in periodic progress meetings with Owner to discuss progress, schedule, budget, issues, potential problems and their resolution; and
  - c. Preparing agendas prior to and minutes following all Engineer-led meetings.

- B. In all phases of Engineer's services, Engineer shall prepare draft and final Drawings in accordance with Engineer's CAD standards.
- C. The source documents for the draft and final Specifications in all phases of Engineer's services will be Owner's standard specifications, unless otherwise mutually agreed upon by the parties.

## 1.02 Study and Report Phase

### A. Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.
2. Conduct a site visit to obtain the following:
  - a. Review the proposal scope and to collect any site data and drawings for use in the Facility Planning Reports development.
  - b. Measure applicable site and vault dimensions and elevations for planning purposes.
  - c. Review existing power supply and locations.
3. Coordinate and Conduct Geotechnical Investigations
  - a. Prepare and present recommendations to Owner for services for subsurface explorations, test borings, soil testing and depth to rock borings at the project site as may be required.
  - b. Conduct recommended subsurface explorations, test borings, soil testing, and depth to bedrock field testing through geotechnical engineering firm.
  - c. A Geotechnical Report will be prepared by the Geotechnical Engineering Firm for use in Engineer's design phase service and in preparation of the Construction Contract Documents.
4. Technical Memo Preparation, Review, and Submission
  - a. Prepare Technical Memo No. 1 to analyze the affected sewer service area:
    - 1) Conduct a Sewer Service Area Analysis for required sanitary sewer gravity main in accordance with the requirements of Chapter 11 of the Iowa Wastewater Facilities Design Standards and the SUDAS Design Manual to identify and evaluate future lift station capacity requirements. Potential impacts will include:
      - a) A review of historical flows into the lift station.
      - b) A review of historical flows or a calculation of potential design flows due to Track Line sewer modification alternatives.
      - c) A calculation of additional future flows to the lift station as a result of development within the tributary area.

- d) A review of receiving sewer historical flows to verify increases in capacity will not overload the sewer main leading to the Kerper Court Lift Station.
  - 2) Submit the Owner-Review Draft Technical Memo to Owner at approximately the 95% completion level for review.
    - a) Submit one (1) electronic copy to Owner.
  - 3) Collect and incorporate Owner input received during the Owner-Review Draft Technical Memo Meeting into the Final Technical Memo.
  - 4) Prepare and submit the Final Technical Memo to Owner.
    - a) Submit one (1) electronic copy to Owner for record.
- b. Prepare Technical Memo No. 2 to analyze the Track Line Sewer utility corridor:
- 1) Conduct a Utility Corridor Alternatives Analysis to identify and evaluate up to two (2) potential Track Sewer alignments to address long-term inspection and maintenance. Alignments will consider: minimum offset from rail lines, procurement of easements, and environmental impacts.
  - 2) Submit the Owner-Review Draft Technical Memo to Owner at approximately the 95% completion level for review.
    - a) Submit one (1) electronic copy to Owner.
  - 3) Collect and incorporate Owner input received during the Owner-Review Draft Technical Memo Meeting into the Final Technical Memo.
  - 4) Prepare and submit the Final Technical Memo to Owner.
    - a) Submit one (1) electronic copy to Owner for record.
- c. Prepare Technical Memo No. 3 to provide basis of design for the replacement Kerper Boulevard Lift Station:
- 1) Prepare a basis of design summary for the sizing and general layout of the replacement Kerper Boulevard Lift Station. Contents will include:
    - a) A description of the existing conditions and projections
    - b) A description of the anticipated growth areas and collection system requirements (as summarized from Technical Memo No. 1).
    - c) Description of the site for the improvements, including applicable setback requirements and flood elevations.
    - d) Description of improvements and general layout of lift station.
    - e) Discussion of the estimated capital costs.
  - 2) Submit the Owner-Review Draft Technical Memo to Owner at approximately the 95% completion level for review.
    - a) Submit one (1) electronic copy to Owner.
  - 3) Collect and incorporate Owner input received during the Owner-Review Draft Technical Memo Meeting into the Final Technical Memo.

- 4) Prepare and submit the Final Technical Memo to Owner.
      - a) Submit one (1) electronic copy to Owner for record.
  5. Regulatory Agency Coordination
    - a. Prepare with Owner necessary forms for Owner to submit to Iowa DNR for assignment of Project Manager to act as Iowa DNR representative to review and approve construction permit, including Self-Assessment Matrix and Work Record Request.
    - b. Attend Project Initiation Meeting (PIM) with Owner. Phone conference call is assumed.
    - c. Prepare and submit draft Design Schedules for wastewater permitting process, including Schedules A and E.
    - d. Prepare and submit Technical Memo No. 3 to Iowa DNR.
      - 1) Submit number of copies in format as required to Iowa DNR.
    - e. Respond to comments from Iowa DNR on Technical Memo No. 3.
      - 1) Engineer's review time is estimated to be a maximum of two (2) hours.
      - 2) The scope estimates one (1) submittal of Final Technical Memo No. 3. If the Iowa DNR requires resubmittals, and as mutually agreed upon, Engineer will provide, and it shall be considered Additional Services.
  - B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the final Facility Plan and any other Study and Report Phase deliverables.
- 1.03 Preliminary Design Phase
- A. Upon authorization from Owner, Engineer shall:
    1. Review and assess all available Project information and data, including any pertinent reports or studies (whether prepared by Engineer or others) and any related instructions from Owner.
    2. Based on the threshold review and assessment of available information and data, advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer any additional information and data, for Engineer's use in the preparation of a Preliminary Design Phase Report.
    3. Review available information and make design calculations, determinations, and judgments for the preliminary design and layout of the improvements, which include the following utilities, facilities, structures, and equipment:
      - a. Lift Station, including: concrete structures for wet well, valve vault, and flow meter; submersible pumps and accessories; pipe, fittings, and valves for pumped wastewater; instruments and sensors required for control and monitoring; and a control panel for operation of the equipment.
      - b. Sanitary Sewer, including manholes and sewer piping for redirecting flow from the existing lift station to the replacement lift station.

- c. Force Main, including pipe and fittings for directing pumped flow from the lift station to the existing discharge manhole.
  - d. Lift Station Site Improvements, including roadway access, paving, fencing, and site lighting associated with the lift station.
  - e. Electrical Improvements for powering the lift station equipment, including: supply of secondary power from the electric utility to the lift station site; a service entrance and metering equipment; a transfer switch; and an emergency generator.
  - f. Demolition and Abandonment of the existing lift station and sewer utilities.
- 4. Prepare Preliminary Design Phase Documents. The Preliminary Design Phase Documents include:
  - a. The form of Construction Contract and bidding-related documents to be used in the Bidding Phase. Federally-approved forms, if applicable, will be used for funding requirements of Project. All documents should be reviewed by the Owner's legal counsel and by the funding agencies.
  - b. A Preliminary Design Memo that includes the following information:
    - 1) General Design Standards and Criteria
    - 2) Unit Process Design Criteria, by Engineering Discipline
    - 3) Site Conditions (including land procurement and easements)
    - 4) Construction Phasing and Demolition
    - 5) Draft List of Construction Contract Drawings
    - 6) 60 Percent (60%) Preliminary Plan and Specification Submittal and Review Checklist
    - 7) Draft Iowa DNR Wastewater Construction Permit Design Schedules: A (General Information), and E (Wastewater Pump Station).
  - c. Opinion of Probable Construction Cost.
- 5. In preparing the Preliminary Design Phase Documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features and enhanced resiliency, as appropriate, pursuant to Owner's instructions.
- 6. Visit the Site one (1) time to prepare the Preliminary Design Phase Documents.
- 7. If at any point in the Preliminary Design Phase it becomes apparent to Engineer that additional reports, data, information, or services of the types described in Article 2 are necessary, then so advise Owner, and assist Owner in obtaining such reports, data, information, or services.
- 8. Above-Ground Utilities
  - a. Review above-ground utilities information obtained from Owner and from observations at the Site.



- b. Make recommendations regarding any further identification, investigation, and mapping of above-ground utilities at or adjacent to the Site, for Engineer's design purposes or otherwise.
  - c. Account for above-ground utilities, based on available information, when advancing design during the Preliminary Design Phase.
9. Underground Facilities
- a. Review Underground Facilities data furnished by Owner and obtained as a part of the Utility Locate process in the Survey and Staking Services. Assist Owner in reducing and managing risks associated with Underground Facilities by working together with Owner to identify needs for the further identification, investigation, and mapping of Underground Facilities at or adjacent to the Site.
10. Mitigation of Utilities Conflicts
- a. Identify potential conflicts between the Project (including existing and new facilities and structures) and above-ground utilities and Underground Facilities as reviewed in Exhibit A Paragraphs 1.03.B.8 and 9 above, and advise Owner regarding the need for resolution of such conflicts with utility and Underground Facilities owners and permit agencies. Identify the potential need for the relocation of existing above-ground utilities and Underground Facilities.
  - b. Working together with Owner, jointly identify which specific parties or other entities will be responsible for resolution of above-ground utilities conflicts. Such identification will take into account Owner's authority and standing, as owner of the Site, with respect to Underground Facilities and above-ground utilities.
    - 1) To the extent that Owner and Engineer agree that in addition to performing the design-related obligations set forth in Exhibit A Paragraphs 1.03.B.8 and 9, Engineer will also undertake resolution of above-ground utilities conflicts, such additional duties will be Additional Services under Article 2 of this Exhibit A.
11. Surveys, Topographic Mapping, and Utility Documentation
- a. Provide field surveys and topographic and utility mapping for Engineer's design purposes. Engineer shall provide design survey and staking services as set forth in Appendix 1 to this Exhibit A.
12. Obtain Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's Bidding/Proposal Documents and Front-End Construction Contract Documents.
- a. Also obtain copies of Owner's standard Bidding/Proposal Documents and Front-End Construction Contract Documents, and any other related documents or content for Engineer to include in drafts of the Project-specific Bidding/Proposal Documents and Front-End Construction Contract Documents, when applicable.

- b. Review Owner's instructions regarding procurement, bidding and contracting of construction services with respect to effects on the Project design, schedule and construction and address as needed in the Preliminary Design Phase deliverables.
  - 13. Perform or provide the following other Preliminary Design Phase tasks or deliverables:
    - a. Attend up to two meetings or conferences with the Owner at the Engineer's office, or the office of the Owner.
      - 1) The first meeting will consist of an Owner Kick-Off meeting to review the design scope, to collect any site data and drawings for use in the design development, and coordinate subsurface explorations.
      - 2) The second meeting will consist of a 60 Percent (60%) Design Owner Review Meeting at the end of preliminary design, approximately 60 Percent (60%) completion stage. Design will be submitted to the Iowa DNR at this stage as a part of the construction permitting process.
  - 14. Furnish one (1) electronic (\*.pdf format) review copy of the Preliminary Design Phase documents and any other Preliminary Design Phase deliverables to Owner seven (7) days prior to the 60 Percent (60%) Design Owner Design Review Meeting, and review them with Owner at the 60 Percent (60%) Design Owner Design Review Meeting. Within four (4) days of 60 Percent (60%) Owner Design Review Meeting, Owner shall submit to Engineer any comments regarding the furnished items.
  - 15. Revise the Preliminary Design Phase documents and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner one (1) electronic (\*.pdf format) copies of the revised Preliminary Design Phase documents and any other deliverables within seven (7) days after receipt of Owner's comments.
  - 16. Furnish to Iowa DNR one (1) electronic copy of the revised Preliminary Design Memo and 60 Percent (60%) Preliminary Plan and Specification Submittal and Review Checklist for Major Wastewater Pumping Stations as required by the Wastewater Engineering Construction Permitting Process.
    - a. Engineer will respond to comments from the Iowa DNR based on their review of the 60 Percent (60%) Design deliverables submitted to them. Engineer's review time is limited to four (4) hours, and Engineer shall notify Owner when approved time is exhausted. Owner shall provide written approval for time in excess of this allowance which shall be compensated as Additional Services as defined under Part A2.01
  - 17. Furnish to City of Dubuque Planning Services City Development Review Team (DRT) the Preliminary Design Phase Documents and applications as required for a Concept Review. Engineer will respond to comments and participate in review meeting with DRT.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the Preliminary Design Phase Documents (as revised), opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

#### 1.04 Final Design Phase

- A. After acceptance by Owner of the Preliminary Design Phase Documents, Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from specific modifications to the Project.
1. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one (1). If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.
  2. If more than one prime construction contract is to be awarded for the Work designed or specified by Engineer, then Owner shall define and set forth (in an exhibit to this Agreement, or in a subsequent document) the duties, responsibilities, and limitations of authority of a person or entity that will have authority and responsibility for coordinating the activities among the various prime Contractors, and any resulting changes in the duties, responsibilities, and authority of Engineer.
  3. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one (1) prime construction contract, or if Engineer's services are to be separately sequenced with the work of one or more separate design professional consultants or prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding/Proposal, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable under such separate prime construction contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such construction contracts is to proceed concurrently.
- B. Upon authorization from Owner, Engineer shall
1. Prepare Final Design Documents indicating the scope, extent, and character of the Work to be performed and furnished by Contractor, in accordance with the Preliminary Design Phase Documents. The Final Design Phase Documents include:
    - a. The Project Manual, including:
      - 1) Bidding Documents, including funding agency required forms.
      - 2) Construction Contract, and associated forms.
      - 3) Front-End Administrative Specifications.
      - 4) Technical Specifications.
      - 5) Reference Documents, such as site condition reports from geotechnical engineer or historical Record Drawings of the site.
    - b. Contract Drawings.
    - c. Opinion of Probable Construction Cost.

- C. In preparing the Specifications (and any bidding, contract, or other documents that are part of Engineer's scope of services), Engineer shall obtain from Owner or Owner's legal counsel any relevant constraints such as requirements for use of domestic steel and iron, other domestic purchasing requirements, statutory restrictions on utilizing proprietary specifying methods, and the like, and comply with or account for such constraints in drafting Specifications, Bidding/Proposal Documents, and other Project documents.
- D. Engineer shall prepare or assemble draft Bidding/Proposal Documents and Front-End Construction Contract Documents as follows:
  - 1. Such documents will be based on the City of Dubuque's Public Improvement Project - Contract Documents Manual, and on the specific bidding or Contractor selection-related instructions and forms, contract forms, text, or other content received from Owner.
  - 2. Owner will furnish to Engineer a copy of the required documents to be used for the Project's Bidding/Proposal Documents and Front-End Construction Contract Documents. Prior to the first Final Design Phase submittal, Engineer will review the bidding and contracting documents furnished by Owner and provide comments to Owner. Engineer will meet with Owner to discuss Engineer's comments. Owner will consider Engineer's recommendations to revise Owner's documents for the Project.
  - 3. Engineer will furnish to Owner, for review by Owner's legal counsel, the draft Bidding/Proposal Documents and Front-End Construction Contract Documents. Owner and Owner's legal counsel must transmit to Engineer, in a timely manner, one coordinated set of comments and revisions to the draft documents.
- E. Prepare detailed Drawings and Specifications to develop and establish the requirements of the Project to:
  - 1. Show the character of and scope of the work to be performed by contractors on the project.
  - 2. Illustrate the relationship of the components of the Project.
  - 3. Fix and describe the size and character of the Project.
  - 4. Outline construction requirements for treatment processes, structures, hydraulics, mechanical equipment and electrical work.
- F. During the Final Design Phase the Engineer shall continue to account for above-ground utilities and Underground Facilities as the design advances and is finalized. This may include:
  - 1. performing the services assigned to Engineer under the Underground Facilities Procedure described in Exhibit A Paragraph 1.03 above, including but not limited to the design-related tasks in Exhibit A Paragraph 1.03.B.9.
  - 2. addressing required and proposed activities or mitigations identified in the analysis of utilities and by the Underground Facilities Procedure as having an impact on the final design, and considering such in preparing the Drawings and Specifications.
- G. Visit the Site one (1) time to assist in preparing the final Drawings and Specifications.
- H. Furnish to Owner an updated Opinion of Probable Construction Cost based on the 90 Percent (90%) Final Design Documents. Opinion will not be updated at the 100 Percent (100%) Final

Design Document stage unless mutually-agreed to by Owner and Engineer based on requested modifications to the documents, and may be compensated as Additional Services as defined under Part A2.01.

- I. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
- J. Engineer shall perform or furnish the following other Final Design Phase services:
  1. Assist with or prepare applications for permits and approvals, as follows:
    - a. Prepare the following applications for Owner's submittal to authorities having jurisdiction over the construction or operation of the Project:
      - 1) Iowa DNR Wastewater Construction Permit Application and Design Schedules A, and D.
      - 2) Iowa DNR General Permit No. 2
    - b. Confer with Owner regarding revisions, if any, to the application(s), and make appropriate revisions to the application(s) for Owner's resubmittal to the authority having jurisdiction. Engineer will respond to comments from the Iowa DNR based on their review of the Final Design deliverables submitted to them. Engineer's review time is limited to four (4) hours, and Engineer shall notify Owner when approved time is exhausted. Owner shall provide written approval for time in excess of this allowance which shall be compensated as Additional Services as defined under Part A2.01
    - c. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of the authorities having jurisdiction listed above, including applications for review or approval of the final design.
    - d. Identify and indicate in the Construction Contract Documents the permits and approvals for which Contractor will be responsible, including work permits, building permits, and other permits and approvals that will be Contractor's responsibility; and, in addition, indicate those permits initially obtained by Owner for which Contractor will be a co-permittee, together with associated requirements.
    - e. Unless expressly indicated otherwise, Engineer's scope and budget includes attending one meeting or conference call with each permit and approval-issuing agency to discuss the Project and receive the agency's comments on the application.
    - f. Engineer does not guarantee issuance of any required permit or approval.
    - g. Fees charged by authorities having jurisdiction for such permits or approvals are the responsibility of Owner.
  2. Review the preliminary schedule for the Construction Phase and advise Owner when initial understanding of the Construction Contract Times must or should be revised, and furnish Owner with recommendations on revisions to the proposed Construction Contract Times.

3. Attend up to two meetings or conferences with the Owner at the Engineer's office, or the office of the Owner.
  - a. The first meeting will consist of a 90 Percent (90%) Design Owner Review Meeting near the end of final design and prior to submission to Iowa DNR for a construction permit, approximately 90 Percent (90%) completion stage.
  - b. The second meeting will consist of a 100 Percent (100%) Design Owner Review meeting to obtain Owner approval of Construction Contract for purposes of submission to the Iowa DNR for review and approval. Engineer at this time shall also present to Owner for approval and execution, Permit Applications requiring Owner approval and/or signature.
- K. Furnish one (1) electronic (\*.pdf format) review copy of the 90 Percent (90%) Final Design Phase documents and any other Final Design Phase deliverables to Owner seven (7) days prior to the 90 Percent (90%) Design Owner Design Review Meeting, and review them with Owner at the 90 Percent (90%) Design Owner Design Review Meeting. Within four (4) days of 90 Percent (90%) Owner Design Review Meeting, Owner shall submit to Engineer any comments regarding the furnished items.
- L. Revise the 90 Percent (90%) Final Design Phase documents and any other Final Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner one (1) electronic (\*.pdf format) copies of the revised 100 Percent (100%) Final Design Phase documents and any other deliverables within seven (7) days after receipt of Owner's comments.
- M. Furnish to Iowa DNR one (1) electronic copy of the 100 Percent (100%) Final Design Phase documents, Construction Permit Application and Design Schedules, as required by the Wastewater Engineering Construction Permitting Process.
- N. Furnish to City of Dubuque Planning Services City Development Review Team (DRT) the 100 Percent (%) Final Design Phase Documents and applications as required for a Final Review. Engineer will respond to comments and participate in review meeting (if required) for approval.
- O. Revise the 100 Percent (100%) Final Design Phase documents and any other Final Design Phase deliverables in response to Iowa DNR Wastewater Engineering's comments, as appropriate, and furnish to Owner four (4) bound (Contract Drawings will include one (1) full size at 22"x34" paper size and three (3) half-size at 11"x17" paper size) and One (1) electronic (\*.pdf format) copies of the revised Final Design Phase documents.
- P. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the Final Design Documents and any other Final Design Phase deliverables.

1.05 Bidding/Proposal Phase

- A. After acceptance by Owner of the Final Design Phase Documents, and upon authorization by Owner to proceed, Engineer shall:
  1. Assist Owner in advertising for and obtaining bids or proposals for the Work; assist Owner in issuing assembled Bidding/Proposal Documents and proposed Construction Contract Documents to prospective contractors; if applicable, maintain a record of

prospective contractors to which documents have been issued; attend pre-bid conferences, if any; and receive and process contractor deposits or charges, if any, for the issued documents.

- a. The Advertisement for Bids/Notice to Bidders will be posted on the Iowa League of Cities and Master Builders/Construction Update web sites. It will also be published in an acceptable local newspaper, as required by Iowa law.
  - b. Bidders proposals, plans, specifications and contract documents prepared by Origin Design (electronic copies or paper copies) may be obtained at no cost to interested parties from the Origin Design plan room through Tri-State Blueprint/Rapids Reproduction of Dubuque. Iowa law requires the Owner to pay for copies of bidding-related Documents provided to interested parties. Rapids Reproduction will invoice the Owner for the costs associated with electronic download or printing, binding, packaging, and postage/shipping if mailed/shipped, of all plans and specifications
2. Prepare and issue addenda as appropriate to clarify, correct, or change the issued documents.
  3. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Exhibit A Paragraph 2.01.A.2.
  4. Attend the bid opening; prepare bid tabulation sheets; and assist Owner in evaluating bids or proposals, assembling final Construction Contracts for the Work for execution by Owner and Contractor, and in preparing notices of award to be issued by Owner for such contracts.
  5. Provide information or assistance needed by Owner in the course of any review of bids, proposals, or negotiations with prospective contractors.
  6. Consult with Owner as to the qualifications of prospective contractors.
  7. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
  8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
  9. Perform or provide the following other Bidding/Proposal Phase tasks or deliverables:
  10. The Bidding/Proposal Phase will be considered complete upon award of Construction Contracts for the Work and commencement of the Construction Phase, or upon cessation of negotiations with prospective contractors.

#### 1.06 Construction Phase

- A. After completion of the Final Design Phase and concurrent with the Bidding/Proposal Phase, and after issuance by Owner of any instructions for specific modifications or changes in the

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Exhibit A—Engineer's Services.

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scope, extent, character, design, schedule, number of prime construction contracts, and other construction requirements of the Project during the Construction Phase desired by Owner, the Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services or compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from specific modifications to the Project.

1. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified. With the exception of such expressly required services, Engineer shall have no design, Submittal (including Shop Drawing) review, or other obligations during construction, and Owner assumes all responsibility for providing or arranging for all other necessary Construction Phase administrative, engineering, and professional services.
  2. Owner waives all claims against Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants, and Engineer's Subcontractors, that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A. Notwithstanding the foregoing waiver, Engineer shall be responsible for any professional opinions and interpretations provided by Engineer to Owner during the Construction Phase or Post-Construction Phase, including interpretations or clarifications of the Construction Contract Documents.
- B. Upon successful completion of the Bidding/Proposal Phase, and upon authorization from Owner, Engineer shall provide the following services:
1. General Administration of Construction Contract: Consult with Owner and act as Owner's representative as provided in this Agreement and the Construction Contract. Unless otherwise set forth in the scope of Basic Services (as duly modified), the extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2018) or other construction general conditions specified in this Agreement. Except as otherwise provided in the Construction Contract, Owner's communications to Contractor will be issued through Engineer.
    - a. If the responsibilities of Engineer as set forth in the Construction Contract are greater than those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified, then Owner shall either (1) expand the scope of the Construction Phase services to match those of the Construction Contract, and compensate Engineer for any related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services, or (2) identify a qualified individual or entity (other than Engineer) responsible for the additional responsibilities in the Construction Contract.
    - b. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, or if Owner requires Engineer's services for construction that extends longer than the anticipated Construction Contract Times, then Owner shall compensate Engineer for any



related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services.

- c. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional.
2. Resident Project Representative (RPR): Provide the services of an RPR at the Site to assist Engineer and to provide more extensive observation of Contractor's Work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.
3. Selection of Independent Testing Laboratory: Assist Owner in the selection of an independent testing laboratory to perform required testing services. Engineer will provide limited coordination of material testing and inspection services in conjunction with RPR services, as set forth in Exhibit D.
4. Pre-Construction Conference: Participate in a pre-construction conference prior to commencement of Work at the Site; prepare and distribute agenda for the conference and prepare and distribute minutes of such conference.
5. Electronic Transmittal Protocols: If the Construction Contract does not establish protocols for transmittal of Electronic Documents by Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
6. Original Documents: If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
7. Schedules: Receive, review, and, and, subject to the criteria of the Construction Contract, determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the progress schedule, schedule of submittals, and schedule of values. Advise Contractor in writing of Engineer's comments or acceptance of schedules.
  - a. Schedules will be acceptable to Engineer as to form and substance:
    - 1) Progress Schedule: if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
    - 2) Contractor's Schedule of Submittals: if it provides a workable arrangement for reviewing and processing the required Submittals.
    - 3) Contractor's Schedule of Values: if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

8. Baselines and Benchmarks: As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed. Engineer shall provide construction staking and layout services as set forth in Appendix 1 to this Exhibit A.
9. Permits: Provide Owner with copies of technical information and supporting data previously obtained or developed by Engineer for Owner's use, or for Owner to provide to Contractor, in obtaining required permits and licenses delegated to Contractor by Owner.
10. Visits to Site and Observation of Construction: In connection with observations of Contractor's Work while it is in progress:
  - a. Make visits to the Site at intervals appropriate to the various stages of the Work, as Engineer deems necessary, to observe as an experienced and qualified design professional, the progress of Contractor's executed Work. Such visits and observations by Engineer, including its RPR, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by its RPR, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work. Engineer will make a report of Engineer's visit, summarizing Engineer's general observations and any significant findings.
  - b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to by this Agreement and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer will not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor will Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

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Exhibit A—Engineer's Services.

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11. Defective Work: If, on the basis of Engineer's observations or as indicated in documentation available to Engineer, Engineer believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, Engineer will promptly issue written notice to Contractor (with copy to Owner) of such defective Work. Such notice will communicate the scope, extent (to Engineer's understanding) of defect, and associated provisions of the Construction Contract Documents.
  - a. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting the defective Work in accordance with the provisions of the Construction Contract Documents. Engineer shall give notice to Contractor regarding whether the defective Work should be repaired, replaced, or will be accepted by Owner.
  - b. However, Engineer's authority to provide this information to Owner or Engineer's decision to exercise or not exercise such authority will not give rise to a duty or responsibility of the Engineer to Contractors, Subcontractors, material and equipment suppliers, their agents or employees, or any other person(s) or entities performing any of the Work, including but not limited to any duty or responsibility for Contractors' or Subcontractors' safety precautions and programs incident to the Work.
12. Compatibility with Design Concept: If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
13. Clarifications and Interpretations: Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.
14. Non-reviewable Matters: If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (a) the performance or acceptability of the Work under the Construction Contract Documents, (b) the design (as set forth in the Drawings, Specifications, or otherwise), or (c) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
15. Field Orders: Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
16. Change Orders and Work Change Directives: Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.

17. Change Proposals and Claims

- a. Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal.
- b. Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.

18. Differing Site Conditions: Respond to any notice from Contractor of differing site conditions, including conditions relating to Underground Facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use subject to limitations of Engineer's obligations under this Agreement.

19. Contractor's Submittals: Review and approve or take other appropriate action with respect to required Contractor Submittals, but only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Construction Contract Documents, and for compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's Submittal schedule that Engineer has accepted.

20. Substitutes and "Or-equals": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Exhibit A Paragraph 2.01.A.2.

21. Inspections and Tests

- a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining whether the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
- b. Reply to Contractor requests for written concurrence that specific portions of the Work that are to be inspected, tested, or approved may be covered.
- c. Issue written requests to Contractor that specific portions of the Work remain uncovered.

- d. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
  - e. Pursuant to the terms of the Construction Contract, require additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
22. Contractor's Applications for Payment: Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
- a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set offs) based on the provisions for set offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, within the limits of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).
  - b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.
23. Contractor's Completion Documents: Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds,

certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Exhibit A Paragraph 1.06.B.20. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents will be to check that Contractor has submitted a complete set of those documents that Contractor is required to submit.

24. Substantial Completion: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, visit the Site in company with Owner and Contractor to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
25. Other Tasks: Perform or provide the following other Construction Phase tasks or deliverables:
  - a. Conforming to Construction Record Documents:
    - 1) Using Change Order, and other Record Documents provided by RPR and Contractor during the course of construction, compile a set of Conforming to Contract Record Drawings depicting change made during Construction to the Final Design Contract Drawing set. Engineer shall rely on official construction contract documents for compilation and makes no warranty as to the completeness of documentation of changes made by Contractor or others.
26. Completion and Acceptability of the Work: After notice from Contractor that the Work is complete:
  - a. visit the Site with Owner and Contractor to determine if the Work is in fact complete and acceptable;
  - b. notify Contractor of any part of the Work that is found during the visit to be incomplete or defective, and subsequently confirm that Contractor has corrected any such deficiencies;
  - c. follow the procedures in the Construction Contract regarding review and response to Contractor's application for final payment and accompanying documentation; and
  - d. if Engineer is satisfied that the Work is complete and acceptable, provide a notice to Owner and Contractor using EJCDC® C-626, Notice of Acceptability of Work (attached as Exhibit E), stating that the Work is acceptable (subject to the provisions of the Notice and this Exhibit A) within the limits of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.

27. Standards for Certain Construction-Phase Decisions: Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
- C. Duration of Construction Phase: The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractor. If the Project involves more than one (1) prime contract as indicated in Exhibit A Paragraph 1.04.A.1, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

## **ARTICLE 2—ADDITIONAL SERVICES**

### **2.01 Additional Services Not Requiring Owner's Written Authorization**

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit J.
1. Substantive design and other technical services in connection with Work Change Directives, Change Proposals, and Change Orders to reflect changes requested by Owner.
  2. Services essential to the orderly progress of the Bidding/Proposal and Construction Phases and not wholly quantifiable prior to those Phases or otherwise dependent on the actions of prospective individual bidders or contractors and including:
    - a. making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items;
    - b. services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project;
    - c. evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract; and
    - d. providing to the Contractor or Owner additional or new information not previously prepared or developed by the Engineer for their use in applying for or obtaining

required permits and licenses, in responding to agency comments on such applications, or in the administration of any such permits or licenses.

3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
5. Implement coordination of Engineer's services with other parts of the Project that are not planned or designed by Engineer or its Subconsultants, unless Owner furnished to Engineer substantive information about such other parts of the Project prior to the parties' entry into this Agreement, in the Baseline Information section of this Exhibit A, or otherwise in Exhibit A; if such substantive information has been so provided, coordination of Engineer's services will be part of Basic Services.
6. Implement the specific parts of an Underground Facilities Procedure that are assigned to Engineer, or above-ground utilities tasks that are assigned to Engineer as the Project progresses (but not including the design-related services already assigned to Engineer as a Basic Service).
7. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
8. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
9. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
10. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.
11. To the extent the Project is subject to Laws and Regulations governing public or government records disclosure or non-disclosure, Engineer will comply with provisions applicable to Engineer, and Owner will compensate Engineer as Additional Services for Engineer's costs to comply with any disclosure or non-disclosure obligations beyond those identified in the Basic Services.
12. Services directly attributable to changes in Engineer's Electronic Documents obligations after the effective date of the Agreement.



## 2.02 Additional Services Requiring Owner's Written Authorization

- A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit J.
1. Obtain or provide specified additional Project-related information and data to enable Engineer to complete its Basic and Additional Services.
  2. Preparation of special and customized reporting, invoicing, and related support documentation in addition to that identified to be provided under Basic Services.
  3. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
  4. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
  5. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
  6. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Exhibit A Paragraph 1.02.A.1.
  7. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
  8. Providing renderings or models for Owner's use, including development, management, and other services in support of building information modeling or civil integrated management.
  9. Undertaking investigations and studies including, but not limited to:
    - a. All-hazards risk assessments and other studies to evaluate the feasibility of enhancing the resiliency of the design;
    - b. detailed consideration of operations, maintenance, and overhead expenses;
    - c. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering

- and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
- d. preparation of appraisals;
  - e. with respect to proprietary systems or processes requiring licensing, providing services necessary to assist Owner in obtaining such licensing.
  - f. detailed quantity surveys of materials, equipment, and labor; and
  - g. audits or inventories required in connection with construction performed or furnished by Owner.
- 10. Furnishing services of Subconsultants or Engineer's Subcontractors for other than Basic Services.
  - 11. Providing data or services of the types described in Article 2, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
  - 12. Providing the following services:
    - a. Services attributable to more prime construction contracts than specified in Exhibit A Paragraph 1.04.A.1.
    - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
  - 13. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Article 1 of Exhibit A).
  - 14. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
  - 15. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents); preparing pre-qualification procedures and documents, and participating in pre-qualifying prospective Bidders; and preparing Construction Contract Documents for alternate bids.
  - 16. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
  - 17. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all addenda and any amendments negotiated by Owner and Contractor above the scope defined in Paragraph A1.06.
  - 18. Services to assist Owner in developing or modifying protocols for transmittal of Electronic Documents by Electronic Means after the effective date of this Agreement, either by revising or adapting Exhibit F to the Project or implementing other Electronic Documents protocols among Project participants.

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Exhibit A—Engineer's Services.

Exhibits to EJCDC® E-500, Agreement between Owner and Engineer for Professional Services.  
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19. Any services by Engineer in connection with Owner or Engineer providing a Document to a Requesting Party under Exhibit F Paragraph 1.01.D (see Exhibit F, Electronic Documents Protocol), or any other distribution of a Document to a third party. Such services may include but are not limited to preparing the data contained in the requested Document in a manner deemed appropriate by Engineer; creating or otherwise preparing and distributing the Document in a format necessary to respond to Owner's direction or decision to provide the Document to a requesting party, including Contractor, in a format other than that required for deliverables from Engineer to Owner; and services in connection with obtaining required releases from the third parties to which the Documents will be distributed. Compensation for these Additional Services is not contingent upon Owner's reimbursement from the requesting party.
20. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
21. Preparing Record Drawings, and furnishing such Record Drawings to Owner above the scope defined in Paragraph A1.06.
22. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources above the scope defined in Paragraph A1.06.
23. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed above the scope defined in Paragraph A1.06.
24. Preparation of operation, maintenance, and staffing manuals.
25. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
26. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
27. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
28. Preparing to serve or serving as a consultant or witness for, or producing documents for or on behalf of, Owner in any litigation, arbitration, mediation, lien or bond claim, or other legal or administrative proceeding involving the Project (but not including disputes between Owner and Engineer).
29. Overtime work requiring higher than regular rates.
30. Providing (other than as required under Exhibit A Paragraph 1.06.B.8 or 1.03.A.11): construction surveys and staking to enable Contractor to perform its work ; any type of property surveys or related engineering services needed for the transfer of interests in real property; providing construction and property surveys to replace reference points

or property monuments lost or destroyed during construction; and providing other special field surveys.

31. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
32. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
33. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

## EXHIBIT A - APPENDIX 1: SURVEY AND STAKING SERVICES

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### A. *Study, Preliminary Design, and Final Design Phase Services:*

1. Topographic Survey:
  - a. Engineer will complete topographic survey of the existing conditions for the proposed improvements at the existing WWTF site to the presumed property extents.
  - b. Field-work will involve locating site improvements, including but not limited to: visible existing surfaces, drainage structures, fences, sanitary manholes, sewer lines (size and inverts), utility poles, transformers, utility vaults, signs, survey markers (apparent property corners and two section corners), and breaks in grade in the survey area. The topographic survey will include the necessary ground shots to generate a drawing with one-foot contour intervals of the site. Engineer will coordinate with Iowa One-Call and on-site facility staff in acquiring utility maps and having utilities located. The utilities, as marked, will be shown on our topographical survey for site design.
2. Design Staking:
  - a. Subsurface investigations are planned for this Project. Prior to site investigations, Engineer will stake the proposed soil boring locations at the site and provide elevations to the Geotechnical Consultant.
3. Construction Easements:
  - a. Construction Easements will be defined with exhibits that will become attachments to the definition of rights prepared by an attorney for the Owner.
  - b. One (1) construction easement will be created to define the limits of the proposed sanitary sewer extension crossing private property. The easement is anticipated to affect only one (1) property.
4. Permanent Easements:
  - a. No permanent easements will be prepared for this Project.
5. Plats:
  - a. No plats will be prepared for this Project.

### B. *Construction Phase Services:*

1. The Engineer will provide staking for grading and municipal utilities (Storm Sewer, Sanitary Sewer & Water Main) on a one-time basis. Stakes will be placed for paving at a reasonable offset and interval to indicate pavement location and elevation of the edge of pavement

or top of curb. The Owner shall require that the contractor assign a single point of contact to request staking, in writing, and generally define a construction plan that communicates the anticipated steps of construction to plan and prepare staking.

2. The Owner shall include in the construction contract the following requirements.
  - a. The Contractor shall be responsible for preserving stakes. Any re-staking or additional staking not explicitly described shall be done by the Engineer at the Contractor's expense through reimbursement to the Owner of Engineer's Additional Services. Engineer will not mobilize for less than four (4) hours of staking. The Contractor must provide forty-eight (48)-hour notice for scheduling of staking crew. The maximum number of consecutive days that the survey crew will be on-site is two (2) days unless surveyor's schedule allows for more. The Contractor will be responsible for the cost associated with additional mobilizations and staking. Survey site control is listed in the plans, if additional site control is required for contractor GPS site calibration it shall be at the contractor's expense.
3. Offset stakes for utilities will be provided as follows:
  - a. Grading:
    - 1) Conventional Grading:
      - a) Set slope stakes left and right (nails or wood hubs) at one hundred (100) foot intervals, or less if needed, for embankment or roadway excavation. Mark slope stakes with wooden lath depicting station, offset, and elevation reference (cut or fill) to pertinent breaks in the slope.
      - b) In lieu of slope stakes, set a one hundred (100) foot grid, set lath at appropriate offsets over the project limits, high and low points, and points of inflection, with cut or fill marked for finished grade elevation. Finished grade refers to the finished surface of construction (top of paving for paved areas, top of finished grade for unpaved areas).
      - c) For paved areas, in addition to the one hundred (100) foot grid, set lath at appropriate offsets around the perimeter at fifty (50) foot intervals, high and low points, and points of inflection. Mark lath with cut or fill to finished grade (top of paving).
    - 2) GPS Machine-Controlled Grading:
      - a) Establish GPS control points consisting of a minimum of five (5) semi-permanent points located around the perimeter of the site. Points may be established horizontally using GPS, but transfer elevations of said points from an original benchmark located in the construction documents using a total station or level.
      - b) Provide grade check stakes at an approximate spacing of three hundred (300) feet on roadways.

- c) Provide approximately twenty (20) grade control check stakes for building pad and parking areas.
  - d) Provide one (1) grade control stake per acre for un-paved areas.
- b. Sanitary and Storm Sewers:
  - 1) Place stakes for all manholes, intakes, cleanouts, and other structures associated with new sewer.
  - 2) Provide stake for each structure offset at ten (10) to fifteen (15) feet. Offset may be increased for deep sewers.
  - 3) For back of curb intakes, set two (2) offset stakes along the curb alignment to properly align the new grate. Stakes may also be offset perpendicular to the curb alignment as required to avoid conflicts with the proposed storm sewer.
  - 4) Place stakes for all bends in the pipe alignment. Provide one (1) offset stake, for location and flow line
- c. Paving:
  - 1) Set paving hubs at appropriate offsets around perimeter of paved areas. Place hubs at grade breaks (high and low points), points of horizontal deflection (bends), and twenty-five (25) foot intervals in between. Label stakes with offset distance and elevation reference to the top of paving.
  - 2) For paving areas wider than sixty (60) feet, set paving hubs at appropriate offsets on twenty-five (25) to fifty (50) foot intervals along intervals along interior bays or drive lanes. Label stakes with offset distance, as necessary, and elevation reference to the top of paving.
  - 3) Place stakes for curb drop locations for sidewalk ramps. Set hubs on both sides of the drop curb at the top of the drop to ensure the appropriate width of curb opening is achieved. Label stakes with offset distance and elevation reference to top of paving.
  - 4) Place stakes for curb drop locations for driveways. Set hubs on both sides of the drop curb at the top of full height curb to ensure the appropriate width of curb opening is achieved. Label stakes with offset distance and elevation reference to top of paving.
  - 5) Place stakes for sidewalks and trails on one side only at Contractor specified offsets. Place stakes at fifty (50) foot intervals in straight and level sections and twenty-five (25) foot intervals for horizontal or vertical curves. Label stakes with offset distance and elevation reference to the top of paving.
  - 6) Project Limits:

- a) Staking of either construction limits, OR grading limits, will be provided at the contractors request. Staking of second set of limits will be provided at the Contractor's expense. Contractor shall rely on limits staked to determine both erosion control limits and/or location of erosion control limits.
  - (1) Construction limits will consist of staking the widest outside construction limit line, ie. right of way or permanent easement or temporary easement so as to define the allowable working area available to the contractor. Staking for construction limits will be provided such that line of sight can be established. Stakes will also be provided at locations where the construction limit changes direction.
  - (2) Grading limits will consist of staking the planned extents of grading, (ie. Top of slope for cut areas or bottom of slope for fill areas). Staking for grading limits will be provided at intervals of one hundred (100) feet, or longer. Stakes will also be provided at locations where the grading limit changes direction.



## EXHIBIT B—DELIVERABLES SCHEDULE

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Paragraphs 2.04.E, 3.02.A, and Exhibit A of the Agreement are supplemented by the following engineering documents deliverable timeline. Engineer shall furnish Documents to Owner generally according to the schedule in order to allow for subsequent review, comment, or other identified actions with respect to the Documents to progress the project in a timely fashion. Dates are based upon receipt of notice to proceed from City by March 18, 2024 and are provided as a general guideline subject to change and adjustment based on needs developed and agreed upon during the course of services.

### 1.2 Study and Report Phase

- A. Draft Technical Memo No. 1 - by 04/23/2024
- B. Draft Technical Memo No. 2 - by 06/18/2024
- C. Draft Technical Memo No. 3 - by 05/14/2024

### 1.3 Preliminary Design Phase

- A. Preliminary Design Phase Documents Package - by 06/18/2024

### 1.4 Final Design Phase

- A. 90% Final Design Documents Package - by 07/30/2024
- B. 100% Final Design Documents Package - by 08/20/2024
- C. Final Contract Documents Package - by 10/01/2024

**EXHIBIT C—AMENDMENT TO OWNER-ENGINEER AGREEMENT “CURRENTLY NOT USED”**

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**AMENDMENT TO OWNER-ENGINEER AGREEMENT**

Amendment No. **[Enter Amendment Number]**

Owner: **[Name of Owner]**

Engineer: **[Name of Engineer]**

Project: **[Name of Project]**

Effective Date of Owner-Engineer Agreement: **[Effective Date of Agreement]**

Nature of Amendment: (Check those that apply)

- ☐ Additional Services to be performed by Engineer
- ☐ Modifications to services of Engineer
- ☐ Modifications to responsibilities of Owner
- ☐ Modifications of payment to Engineer
- ☐ Modifications to time(s) for rendering services
- ☐ Modifications to other terms and conditions of the Agreement

Description of Modifications:

**[Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary. Include cost breakdown and documentation, if applicable.]**

Agreement Summary:

Original agreement amount: \$

Net change for prior amendments: \$

This amendment amount: \$

Adjusted Agreement amount: \$

Change in time for services (days or date, as applicable):

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. The Effective Date of the Amendment is **[Enter Effective Date of Amendment]**.

Owner

Engineer

\_\_\_\_\_  
(typed or printed name of organization)

\_\_\_\_\_  
(typed or printed name of organization)

By: \_\_\_\_\_  
(individual's signature)

By: \_\_\_\_\_  
(individual's signature)

(Attach evidence of authority to sign.)

(Attach evidence of authority to sign.)

Date: \_\_\_\_\_  
(date signed)

Date: \_\_\_\_\_  
(date signed)

Name: \_\_\_\_\_  
(typed or printed)

Name: \_\_\_\_\_  
(typed or printed)

Title: \_\_\_\_\_  
(typed or printed)

Title: \_\_\_\_\_  
(typed or printed)

## **EXHIBIT D—DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE**

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### **ARTICLE 1—RESIDENT PROJECT REPRESENTATIVE SERVICES**

Article 1 of the Agreement, Services of Engineer, and Exhibit A, Engineer's Services, are supplemented to include Exhibit D Paragraphs 1.01, 1.02, and 1.03, as follows:

#### **1.01 Resident Project Representative**

- A. Engineer shall furnish a Resident Project Representative ("RPR") to observe progress and quality of the Work. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
- B. The RPR will provide full-time representation during active construction, which is anticipated for an equivalent duration of 40 working days during a 4-month construction period.
- C. Subject to the scope of RPR's observations of the Work, which may include field checks of materials and installed equipment, Engineer shall endeavor to identify defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, inspect, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A Paragraph 1.06 are applicable.

#### **1.02 Duties and Responsibilities of RPR**

- A. The duties and responsibilities of the RPR are as follows:
  1. General: RPR's dealings in matters pertaining to the Work in general will be with Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
  2. Schedules: Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
  3. Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. Safety Compliance: Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. Liaison
  - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
  - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
  - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. Clarifications and Interpretations: Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor.
7. Shop Drawings, Samples, and other Submittals
  - a. Receive Samples that are furnished at the Site by Contractor.
  - b. Receive Contractor-approved Shop Drawings.
  - c. Receive other Submittals from Contractor.
  - d. Record date of receipt of Samples, Contractor-approved Shop Drawings, and other Submittals.
  - e. Notify Engineer of availability of Samples for examination, and forward Contractor-approved Shop Drawings and other Submittals to Engineer. When appropriate recommend distribution of Submittal to specified Subconsultants.
  - f. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. Proposed Modifications: Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. Review of Work; Defective Work
  - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected,

removed and replaced, or accepted as provided in the Construction Contract Documents.

- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work.
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. Inspections, Tests, and System Start-ups

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.
- f. Nothing in this Agreement will be construed to require RPR to conduct inspections.

11. Records

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Proposals, Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Proposals, Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.

- d. Record and maintain accurate, up-to-date lists of the company names and points of contact for Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to designated recipients.

## 12. Reports

- a. Furnish periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft responses to or make recommends on Change Proposals, Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform appropriate parties of the occurrence of any Site accidents, emergencies, natural catastrophes endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

## 13. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

## 14. Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

## 15. Completion

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

### 1.03 Limitations of Authority

#### A. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

**NOTICE OF ACCEPTABILITY OF WORK (EJCDC® C-626 2018)**

Owner:	Owner's Project No.:
Engineer:	Engineer's Project No.:
Contractor:	Contractor's Project No.:
Project:	
Contract Name:	
Notice Date:	Effective Date of the Construction Contract:

The Engineer hereby gives notice to the Owner and Contractor that Engineer recommends final payment to Contractor, and that the Work furnished and performed by Contractor under the Construction Contract is acceptable, expressly subject to the provisions of the Construction Contract's Contract Documents ("Contract Documents") and of the Agreement between Owner and Engineer for Professional Services dated **[date of professional services agreement]** ("Owner Engineer Agreement"). This Notice of Acceptability of Work (Notice) is made expressly subject to the following terms and conditions to which all who receive and rely on said Notice agree:

1. This Notice has been prepared with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice has been prepared to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's Work) under the Owner Engineer Agreement, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Owner Engineer Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents, or to otherwise comply with the Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

Engineer

By (signature): \_\_\_\_\_  
Name (printed): \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT F—ELECTRONIC DOCUMENTS PROTOCOL (EDP) - “NOT USED”**

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## **EXHIBIT G—INSURANCE**

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### **ARTICLE 1—INSURANCE**

Paragraph 6.04 of the Agreement, Insurance, is supplemented to include the following Insurance Schedule J from City of Dubque Insurance Requirements for Professional Services



ORIGI-1

OP ID: JCAM

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/18/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Ludovissy & Associates-Dubuque 302 Locust Street Dubuque, IA 52001 Troy Leibold	563-556-6661	CONTACT NAME: Jill Campbell PHONE (A/C, No, Ext): 563-556-6661 FAX (A/C, No): 563-588-4756 E-MAIL ADDRESS: jcampbell@ludovissyandassociates.com
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Employers Mutual		21415
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED Origin Design Co. IIW PC dba 137 Main St. Dubuque, IA 52001	
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## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	X	X	6D49925	11/07/2023	11/07/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	6E49925	11/07/2023	11/07/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ 0	X	X	6J49925	11/07/2023	11/07/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		X	6H49925	11/07/2023	11/07/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project #24041 Kerper Boulevard Lift Station Project

## CERTIFICATE HOLDER

## CANCELLATION

CITYD-1  City of Dubuque 50 W 13th St Dubuque, IA 52001	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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**NOTEPAD:**HOLDER CODE CITYD-1  
INSURED'S NAME Origin Design Co.ORIGI-1  
OP ID: JCAMPAGE 2  
Date 03/18/2024

The City of Dubuque, including all its elected and appointed officials, its employees and volunteers, its boards, commissions and/or authorities and their board members, employees and volunteers are Additional Insured on a Primary, Non-contributory Basis including Ongoing & Completed Operations. A Waiver of Subrogation and Governmental Immunity.

Policy shall include cancellation and material change endorsement providing thirty (30) days advance written notice of cancellation, nonrenewal, reduction in insurance coverage and/or limits and ten (10) days written notice of non-payment of premium shall be sent to: City of Dubuque Finance Department, 50 West 13th Street Dubuque, Iowa 52001



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EMCASCO INSURANCE COMPANY  
ORIGIN DESIGN CO

EFF DATE: 11/07/23

POLICY NUMBER: 6D4-99-25  
EXP DATE: 11/07/24

FORMS APPLICABLE:

CG0001(04/13)\*, CG0122(12/07)\*, CG0124(01/93)\*, CG0168(11/20)\*,  
CG0441(03/11)\*, CG2106(05/14)\*, CG2147(12/07)\*, CG2170(01/15)\*,  
CG2176(01/15)\*, CG2243(04/13)\*, CG2417(10/01)\*, CG2605(02/07)\*,  
CG2681(12/04)\*, CG7001A(10/12)\*, CG7003(10/13)\*, CG7428(11/98)\*,  
CG7429(11/98)\*, CG7578(02/19)\*, CG7604(06/07)\*, CG7740(11/20)\*,  
CG7748(10/22)\*, CG8301(10/22)\*, IL0017(11/98)\*, IL0021(09/08)\*,  
IL0244(09/07)\*, IL0245(09/08)\*, IL0276(09/08)\*, IL0283(11/18)\*,  
IL0286(04/17)\*, IL7004(03/20)\*, IL7131A(04/01)\*, IL7168(01/22)\*,  
IL7305(11/15)\*, IL7337(12/09)\*, IL8046(01/90)\*, IL8118(06/11)\*,  
IL8383.2A(12/20)\*, IL8384A(01/08)\*, IL8532(01/05)\*, IL8576(10/17)\*

AUDIT PERIOD: ANNUAL

DATE OF ISSUE: 11/03/23 BPP

FORM CG7000A ED. 08-99 BPP 11/07/23 060 DB 6D49925 2401



EMCASCO INSURANCE COMPANY

POLICY NUMBER: 6D4-99-25---24

ORIGIN DESIGN CO.

EFF DATE: 11/07/23

EXP DATE: 11/07/24

GENERAL LIABILITY POLICY  
DECLARATIONS

## =====

## ENDORSEMENT SCHEDULE

FORM	EDITION DATE	DESCRIPTION/ADDITIONAL INFORMATION	PREMIUM
*CG0001	04-13	COMMERCIAL GEN LIABILITY COV FORM	
*CG0122	12-07	MN CHGS CONTRACTUAL LIAB EXCLUSION	
*CG0124	01-93	WI CHGS-AMENDMENT POLICY CONDITIONS	
*CG0168	11-20	MICHIGAN CHANGES	
*CG0441	03-11	OH-STOP GAP-EMPLOYERS LIABILITY LIMITS OF INSURANCE BODILY INJURY BY ACCIDENT \$ 1,000,000 EACH ACCIDENT BODILY INJURY BY DISEASE \$ 1,000,000 AGGREGATE LIMIT BODILY INJURY BY DISEASE \$ 10,000 EACH EMPLOYEE	
*CG2106	05-14	EXCL-ACCESS/DISCL OF CONFID/PERSONAL	
*CG2147	12-07	EXCL-EMPLOYMENT RELATED PRACTICES	
*CG2170	01-15	CAP/LOSSES FROM CERT ACTS/TERRORISM	
*CG2176	01-15	EXCL PUNITIVE DMGS ACTS OF TERRORISM	
*CG2243	04-13	EXCL-ENGR,ARCHT,SURVEY PROF LIABILTY	
*CG2417	10-01	---CONTRACTUAL LIABILITY RAILROADS SCHEDULED RAILROAD/DESIGNATED JOB SITE TBD	
*CG2605	02-07	MINNESOTA CHANGES	
*CG2681	12-04	MINNESOTA CHANGES - DUTIES CONDITION	
*CG7001A	10-12	GENERAL LIABILITY SCHEDULE	
*CG7003	10-13	GL QUICK REFERENCE (OCCURRENCE)	
*CG7428	11-98	AMEND - AGGREGATE LIMIT PER LOCATION	
*CG7429	11-98	AMEND - AGGREGATE LIMIT PER PROJECT	
*CG7578	02-19	GENERAL LIABILITY ELITE EXTENSION	
*CG7604	06-07	MICHIGAN CANCELLATION	
*CG7740	11-20	COMMUNICABLE DISEASE EXCLUSION	
*CG7748	10-22	CANNABIS EXCL/EXCP RETAIL SALES CBD	
*CG8301	10-22	IMPORTANT NOTICE TO POLICYHOLDERS	
*IL0017	11-98	COMMON POLICY CONDITIONS	
*IL0021	09-08	NUCLEAR ENERGY LIAB EXCL/BROAD FORM	
*IL0244	09-07	OH CHANGES - CANCELLATION/NONRENEWAL	
*IL0245	09-08	MN CHANGES - CANCELLATION/NONRENEWAL	
*IL0276	09-08	IA CHANGES - CANCELLATION/NONRENEWAL	
*IL0283	11-18	WI CHANGES - CANCELLATION/NONRENEWAL	
*IL0286	04-17	MI CHANGES - CANCELLATION/NONRENEWAL	
*IL7004	03-20	MUTUAL POLICY PROVISIONS	
*IL7131A	04-01	COMM'L POLICY ENDORSEMENT SCHEDULE	
*IL7168	01-22	ASBESTOS EXCLUSION	
*IL7305	11-15	GOVERNMENTAL ENTITY AS ADD'L INSURED NAME: CITY OF DUBUQUE  NAME:	

DATE OF ISSUE: 11/03/23

(CONTINUED)

FORM: IL7131A (ED. 04-01)

060

DB

6D49925 2401



PAGE NO: 2

EMCASCO INSURANCE COMPANY

POLICY NUMBER: 6D4-99-25---24

ORIGIN DESIGN CO.

EFF DATE: 11/07/23

EXP DATE: 11/07/24

GENERAL LIABILITY POLICY  
DECLARATIONS

ENDORSEMENT SCHEDULE

FORM	EDITION DATE	DESCRIPTION/ADDITIONAL INFORMATION	PREMIUM
CITY OF CEDAR FALLS			
*IL7337	12-09	AMENDMENT OF OCCUR DEF SUBCONTR WORK	
*IL8046	01-90	NOTICE CANCELLATION REQUESTED BY YOU	
*IL8118	06-11	COMPLAINT NOTICE - WISCONSIN	
*IL8383.2A	12-20	DISCL PURSUANT TERRSM RISK INS. ACT	\$ 41
*IL8384A	01-08	TERRORISM NOTICE	
*IL8532	01-05	IMPORTANT NOTICE TO POLICYHOLDERS-MI	
*IL8576	10-17	MEDICARE IMPT NOTICE TO POLICYHOLDER	

DATE OF ISSUE: 11/03/23

FORM: IL7131A (ED. 04-01)

060

DB

6D49925 2401



EMCASCO INSURANCE COMPANY  
ORIGIN DESIGN CO

EFF DATE: 11/07/23

POLICY NO: 6D4-99-25---24

EXP DATE: 11/07/24

GENERAL LIABILITY SCHEDULE

CODE NO./EXPOSURE/CLASSIFICATION	PRODUCTS/COMPL OPS			ALL OTHER		
	RATE	ADVANCE	PREM	RATE	ADVANCE	PREM
LOCATION 001	!	!	!	!	!	!
40111	!	!	!	8.554	!	9
BOATS - CANOES OR ROWBOATS - NO (2)	!	!	!	!	!	!
PREMIUM BASIS:	!	!	!	!	!	!
PER AREA	!	!	!	!	!	!
EXPOSURE: 1	!	!	!	!	!	!
(SUBLINE /334)	!	!	!	!	!	!
87742	!	!	!	!	!	0
MUNICIPALITY ENDORSEMENT	!	!	!	!	!	!
IL7305	!	!	!	!	!	!
PREMIUM BASIS:	!	!	!	!	!	!
FLAT CHARG	!	!	!	!	!	!
EXPOSURE: IF ANY	!	!	!	!	!	!
(SUBLINE /334)	!	!	!	!	!	!
ADDITIONAL INTEREST ( 1-334)	!	!	!	!	!	50
CITY OF DUBUQUE	!	!	!	!	!	!
ADDITIONAL INTEREST ( 2-334)	!	!	!	!	!	50
CITY OF CEDAR FALLS	!	!	!	!	!	!
87747	!	!	!	!	!	0
AMENDMENT - AGGREGATE LIMITS OF	!	!	!	!	!	!
INSURANCE (PER LOCATION)	!	!	!	!	!	!
PREMIUM BASIS:	!	!	!	!	!	!
FLAT CHARG	!	!	!	!	!	!
EXPOSURE: IF ANY	!	!	!	!	!	!
(SUBLINE /334)	!	!	!	!	!	!
87748	!	!	!	!	!	0
AMENDMENT - AGGREGATE LIMITS OF	!	!	!	!	!	!
INSURANCE (PER PROJECT)	!	!	!	!	!	!
PREMIUM BASIS:	!	!	!	!	!	!
FLAT CHARG	!	!	!	!	!	!
EXPOSURE: IF ANY	!	!	!	!	!	!
(SUBLINE /334)	!	!	!	!	!	!
87789	!	!	!	!	!	0
CONTRACTUAL LIABILITY - RAILROAD	!	!	!	!	!	!
ENDORSEMENT	!	!	!	!	!	!
CG2417	!	!	!	!	!	!
PREMIUM BASIS:	!	!	!	!	!	!
FLAT CHARG	!	!	!	!	!	!
EXPOSURE: IF ANY	!	!	!	!	!	!
(SUBLINE /334)	!	!	!	!	!	!
ADDITIONAL INTEREST ( 1-334)	!	!	!	!	!	50
TBD	!	!	!	!	!	!

DATE OF ISSUE: 11/03/23 BPP

(CONTINUED)

FORM CG7001A ED.10-12 BPP 11/07/23 060 DB 6D49925 2401





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EMCASCO INSURANCE COMPANY  
ORIGIN DESIGN CO

EFF DATE: 11/07/23

POLICY NO: 6D4-99-25---24

EXP DATE: 11/07/24

GENERAL LIABILITY SCHEDULE  
(CONTINUED)

CODE NO./EXPOSURE/CLASSIFICATION	PRODUCTS/COMPL OPS		ALL OTHER	
	RATE	ADVANCE PREM	RATE	ADVANCE PREM
91805	!	!	0.421!	\$ 242
DRAFTSMEN (4)	!	!	!	!
PREMIUM BASIS:	!	!	!	!
THOUSANDS OF PAYROLL	!	!	!	!
EXPOSURE: 575,000	!	!	!	!
(SUBLINE /334)	!	!	!	!
92663	!	!	1.067!	\$ 3,201
ENGINEERS OR ARCHITECTS-CONSULTING	!	!	!	!
NOT ENGAGED IN ACTUAL CONSTRUCTION	!	!	!	!
(4)	!	!	!	!
PREMIUM BASIS:	!	!	!	!
THOUSANDS OF PAYROLL	!	!	!	!
EXPOSURE: 3,000,000	!	!	!	!
(SUBLINE /334)	!	!	!	!
99471	!	!	1.217!	\$ 730
SURVEYORS - LAND - NOT ENGAGED IN	!	!	!	!
ACTUAL CONSTRUCTION (4)	!	!	!	!
PREMIUM BASIS:	!	!	!	!
THOUSANDS OF PAYROLL	!	!	!	!
EXPOSURE: 600,000	!	!	!	!
(SUBLINE /334)	!	!	!	!
LOCATION 002	!	!	!	!
92663	!	!	0.798!	\$ 0
ENGINEERS OR ARCHITECTS-CONSULTING	!	!	!	!
NOT ENGAGED IN ACTUAL CONSTRUCTION	!	!	!	!
(4)	!	!	!	!
PREMIUM BASIS:	!	!	!	!
THOUSANDS OF PAYROLL	!	!	!	!
EXPOSURE: IF ANY	!	!	!	!
(SUBLINE /334)	!	!	!	!
LOCATION 003	!	!	!	!
92663	!	!	0.887!	\$ 169
ENGINEERS OR ARCHITECTS-CONSULTING	!	!	!	!
NOT ENGAGED IN ACTUAL CONSTRUCTION	!	!	!	!
(4)	!	!	!	!
PREMIUM BASIS:	!	!	!	!
THOUSANDS OF PAYROLL	!	!	!	!
EXPOSURE: 190,000	!	!	!	!
(SUBLINE /334)	!	!	!	!

DATE OF ISSUE: 11/03/23 BPP

(CONTINUED)

FORM CG7001A ED.10-12 BPP 11/07/23 060 DB 6D49925 2401



PAGE 3

EMCASCO INSURANCE COMPANY  
ORIGIN DESIGN CO

EFF DATE: 11/07/23

POLICY NO: 6D4-99-25---24  
EXP DATE: 11/07/24GENERAL LIABILITY SCHEDULE  
(CONTINUED)

CODE NO./EXPOSURE/CLASSIFICATION	! PRODUCTS/COMPL OPS !	! RATE ! ADVANCE PREM !	ALL OTHER	! RATE ! ADVANCE PREM
LOCATION 004	!	!	!	!
92663	!	!	0.578!	\$ 0
ENGINEERS OR ARCHITECTS-CONSULTING	!	!	!	!
NOT ENGAGED IN ACTUAL CONSTRUCTION	!	!	!	!
(4)	!	!	!	!
PREMIUM BASIS:	!	!	!	!
THOUSANDS OF PAYROLL	!	!	!	!
EXPOSURE: IF ANY	!	!	!	!
(SUBLINE /334)	!	!	!	!
LOCATION 005	!	!	!	!
92663	!	!	0.770!	\$ 49
ENGINEERS OR ARCHITECTS-CONSULTING	!	!	!	!
NOT ENGAGED IN ACTUAL CONSTRUCTION	!	!	!	!
(4)	!	!	!	!
PREMIUM BASIS:	!	!	!	!
THOUSANDS OF PAYROLL	!	!	!	!
EXPOSURE: 64,000	!	!	!	!
(SUBLINE /334)	!	!	!	!

## POLICY LEVEL COVERAGES

COVERAGES	LIMIT OF INSURANCE	PREMIUM
GENERAL LIABILITY ELITE EXTENSION	!	!\$ 300

PREMIUM FOR CERTIFIED ACTS OF TERRORISM \$ 41.00  
TOTAL ESTIMATED POLICY PREMIUM \$ 4891.00

- (1) OTHER THAN NOT FOR PROFIT (2) NOT FOR PROFIT  
(3) INCLUDING PRODUCTS AND/OR COMPLETED OPERATIONS UNLESS OTHERWISE EXCLUDED  
(4) PRODUCTS-COMPLETED OPERATIONS ARE SUBJECT TO THE GENERAL AGGREGATE LIMIT  
(5) A \$250 PD DEDUCTIBLE PER CLAIM APPLIES TO CUSTOMERS AUTOS UNLESS OTHERWISE DESIGNATED BY THIS CLASSIFICATION CODE  
(6) FOR SPRAY PAINTING OPERATIONS, A PD DEDUCTIBLE OF \$250 PER CLAIM APPLIES UNLESS A HIGHER DEDUCTIBLE IS OTHERWISE DESIGNATED FOR THIS CLASSIFICATION CODE

LOCATION OF ALL PREMISES OWNED, RENTED OR OCCUPIED:

RATED LOCATIONS:

LOC 001 137 MAIN ST  
DUBUQUE, IA 52001-7677

DATE OF ISSUE: 11/03/23 BPP

(CONTINUED)

FORM CG7001A ED.10-12 BPP 11/07/23 060 DB 6D49925 2401

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## GENERAL LIABILITY ELITE EXTENSION

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The COMMERCIAL GENERAL LIABILITY COVERAGE FORM is amended to include the following clarifications and extensions of coverage. The provisions of the Coverage Form apply unless modified by endorsement.

#### A. EXPECTED OR INTENDED INJURY

**Section I – Coverage A**, Exclusion **a.** is amended as follows:

- a.** “Bodily injury” or “property damage” expected or intended from the standpoint of an insured. This exclusion does not apply to “bodily injury” or “property damage” resulting from the use of reasonable force to protect persons or property.

#### B. NON-OWNED WATERCRAFT

**Section I – Coverage A**, Exclusion **g.(2)** is amended as follows:

- (2)** A watercraft you do not own that is:

- (a)** Less than 60 feet long; and
- (b)** Not being used to carry person(s) or property for a charge;

#### C. EXTENDED PROPERTY DAMAGE COVERAGE

**Section I – Coverage A**, Exclusions **j.(3)** and **(4)** is amended to add the following:

Paragraphs **(3)** and **(4)** of this exclusion do not apply to tools or equipment loaned to you, provided they are not being used to perform operations at the time of loss.

SCHEDULE	
Limits Of Insurance	Deductible
\$5,000 Each Occurrence	\$250 Per Claim
\$10,000 Annual Aggregate	

- a.** The each occurrence limit listed above is the most we will pay for all damages because of “property damage” to property in the care, custody and control of or property loaned to an insured as the result of any one “occurrence”, regardless of the number of:

- (1)** insureds;
- (2)** claims made or “suits” brought;
- (3)** persons or organizations making claims or bringing “suits”.

The aggregate limit listed above is the most we will pay for all damages because of “property damage” to property in the care custody and control of or property loaned to an insured during the policy period.

Any payment we make for damages because of “property damage” to property in the care, custody and control of or property loaned to an insured will apply against the General Aggregate Limit shown in the declarations.

- b.** Our obligation to pay damages on your behalf applies only to the amount of damages in excess of the deductible amount listed above. We may pay any part or all of the deductible amount listed above. We may pay any part or all of the deductible amount to effect settlement of any claim or “suit” and upon notification by us, you will promptly reimburse us for that part of the deductible we paid.

- c.** If two or more coverages apply under one “occurrence”, only the highest per claim deductible applicable to these coverages will apply.

- d.** Insurance provided by this provision is excess over any other insurance, whether primary, excess, contingent or any other basis. Since insurance provided by this endorsement is excess, we will have no duty to defend any claim or “suit” to which insurance provided by this endorsement applies if any other insurer has a duty to defend such a claim or “suit”. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured’s rights against all those other insurers.

#### D. PROPERTY DAMAGE – ELEVATORS

**Section I – Coverage A.2. Exclusions** paragraphs **j.(3)**, **j.(4)**, **j.(6)** and **k.** do not apply to use of elevators. This insurance afforded by this provision is excess over any valid and collectible property insurance (including any deductible) available to the insured and **Section IV – Commercial General Liability Conditions** Paragraph **4. Other Insurance** is changed accordingly.

## **E. FIRE, LIGHTNING OR EXPLOSION DAMAGE**

Except where it is used in the term "hostile fire", the word fire includes fire, lightning or explosion wherever it appears in the Coverage Form.

Under **Section I – Coverage A**, the last paragraph (after the exclusions) is replaced with the following:

Exclusions **c.** through **n.** do not apply to damage by fire, smoke or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **Section III – Limits of Insurance**.

## **F. MEDICAL PAYMENTS**

If **Section I – Coverage C. Medical Payments Coverage** is not otherwise excluded from this Coverage Form:

The requirement, in the Insuring Agreement of Coverage **C.**, that expenses must be incurred and reported to us within **one year** of the accident date is changed to **three years**.

## **G. SUPPLEMENTARY PAYMENTS**

**Supplementary Payments – Coverages A and B** Paragraphs **1.b.** and **1.d.** are replaced by the following:

- 1.b.** Up to \$5,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- 1.d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

## **H. SUBSIDIARIES AS INSURED**

**Section II – Who Is An Insured** is amended to add the following:

- 1.f.** Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of this policy. However, insured does not include any subsidiary that is an insured under any other general liability policy, or would have been an insured under such a policy but for termination of that policy or the exhaustion of that policy's limits of liability.

## **I. BLANKET ADDITIONAL INSURED – AS REQUIRED BY CONTRACT**

- 1.** **Section II – Who Is An Insured** is amended to include as an additional insured any person(s) or organization(s) subject to provisions in Paragraph **2.** below, (hereinafter referred to as additional insured) when you and such person(s) or organization(s) have agreed in a written contract or written agreement that such person(s) or organization(s) be added as an additional insured on your policy provided that the written contract or agreement is:

- a.** Currently in effect or becomes effective during the policy period; and
- b.** Executed prior to an "occurrence" or offense to which this insurance would apply.

However, the insurance afforded to such additional insured:

- a.** Only applies to the extent permitted by law; and
- b.** Will not be broader than that which you are required by the contract or agreement to provide for such additional insured; and
- c.** Applies only if the person or organization is not specifically named as an additional insured under any other provision of, or endorsement added to, **Section II – Who Is An Insured** of this policy.

- 2.** As provided herein, the insurance coverage provided to such additional insureds is limited to:

- a.** Any Controlling Interest, but only with respect to their liability arising out of their financial control of you; or premises they own, maintain, or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

- b.** Any architect, engineer, or surveyor engaged by you but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In connection with your premises; or

(2) In the performance of your ongoing operations.

With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

- c. Any manager or lessor of a premises leased to you, but only with respect to liability arising out of the ownership, maintenance or use of that part of a premises leased to you, subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
  - (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.
- d. Any state or governmental agency or subdivision or political subdivision, subject to the following:
    - (1) This insurance applies only with respect to the following hazards for which any state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:
      - (a) The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures; or
      - (b) The construction, erection or removal of elevators; or
      - (c) The ownership, maintenance or use of any elevators covered by this insurance.
    - (2) This insurance applies only with respect to operations performed by you or on your behalf for which any state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

This insurance does not apply to:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or
  - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".
- e. Any vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.

With respect to the insurance afforded to these vendors, the following additional exclusions apply:

- (1) The insurance afforded any vendor does not apply to:
  - (a) "Bodily injury" or "property damage" for which any vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that any vendor would have in the absence of the contract or agreement;
  - (b) Any express warranty unauthorized by you;
  - (c) Any physical or chemical change in the product made intentionally by any vendor;
  - (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - (e) Any failure to make such inspections, adjustments, tests or servicing as any vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - (f) Demonstration, installation, servicing or repair operations, except such operations performed at any vendor's premises in connection with the sale of the product;
  - (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for any vendor; or

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## COMMERCIAL AUTO ELITE EXTENSION

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

The BUSINESS AUTO COVERAGE FORM is amended to include the following clarifications and extensions of coverage. With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

#### A. TEMPORARY SUBSTITUTE AUTO PHYSICAL DAMAGE

**Section I – Covered Autos** Paragraph **C. Certain Trailers, Mobile Equipment, and Temporary Substitute Autos** is amended by adding the following:

If **Physical Damage Coverage** is provided by this coverage form for an "auto" you own, the **Physical Damage Coverages** provided for that owned "auto" are extended to any "auto" you do not own while used with the permission of its owner as a temporary substitute for the covered "auto" you own that is out of service because of breakdown, repair, servicing, "loss" or destruction.

The coverage provided is the same as the coverage provided for the vehicle being replaced.

#### B. BLANKET ADDITIONAL INSURED

The **Who Is An Insured** provision under **Section II – Covered Autos Liability Coverage** is amended to include the following as an "insured":

1. Any person or organization whom you have agreed in a written contract or agreement to name as an additional "insured" under your "auto" Policy to provide "bodily injury" or "property damage" coverage, but only with respects to liability arising out of the use of a covered "auto" you own, hire or borrow and resulting from the acts or omissions by you, any of your "employees" or agents. The insurance afforded to such additional "insured" will not be broader than that which you are required to provide for such additional "insured" and applies only to a written contract executed prior to the "bodily injury" or "property damage" and is still in force at the time of the "accident".
2. With respect to the insurance afforded to the additional "insured" described above, the following is added to **Section – C. Limit Of Insurance Covered Autos Liability Coverage**:

The most we will pay on behalf of the additional "insured" is the amount of insurance:

- (1) Required by the written contract or agreement described above, or

- (2) Available under the applicable Limit Of Insurance for Covered Autos Liability Coverage shown in the Declarations; whichever is less.

#### C. EMPLOYEES AS INSURED

The following is added to the **Section II – Covered Autos Liability Coverage**, Paragraph **A.1. Who Is An Insured** provision:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

#### D. EMPLOYEE HIRED AUTOS

##### 1. Changes In Covered Autos Liability Coverage

The following is added to the **Who Is An Insured** provision:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

##### 2. Changes In General Conditions

Paragraph **5.b.** of the **Other Insurance** in the Business Auto Coverage Form is amended by the addition of the following:

For Hired Auto Physical Damage Coverage any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business is deemed to be a covered "auto" you own.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

#### E. NEWLY FORMED OR ACQUIRED ORGANIZATIONS

**Section II – Covered Autos Liability Coverage, A.1. Who Is An Insured** is amended by adding the following:

Any organization which you acquire or form after the effective date of this Policy in which you maintain ownership or majority interest. However:

- (1) Coverage under this provision is afforded only up to 180 days after you acquire or form the organization, or to the end of the Policy period, whichever is earlier.

#### F. SUBSIDIARIES AS INSURED

**Section II – Covered Autos Liability Coverage, A.1. Who Is An Insured** is amended by adding the following:

Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of this Policy. However, "insured" does not include any subsidiary that is an "insured" under any other automobile liability Policy or was an "insured" under such a Policy but for termination of that Policy or the exhaustion of the Policy's limits of liability.

#### G. SUPPLEMENTARY PAYMENTS

**Section II – Covered Autos Liability Coverage, A.2.a. Coverage Extensions, Supplementary Payments (2) and (4)** are replaced by the following:

- (2) Up to \$5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

#### H. FELLOW EMPLOYEE COVERAGE

In those jurisdictions where, by law, fellow employees are not entitled to the protection afforded to the employer by workers compensation exclusivity rule, or similar protection. The following provision is added:

Subparagraph 5. of Paragraph B. **Exclusions in Section II – Covered Autos Liability Coverage** does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

#### I. TOWING AND LABOR

**Section III – Physical Damage Coverage, A.2. Towing And Labor** is replaced with the following:

We will pay for **Towing And Labor** costs incurred, subject to the following:

- a. Up to \$100 each time a covered "auto" that is a private passenger type is disabled; or
- b. Up to \$500 each time a covered "auto" other than the private passenger type is disabled.

However, the labor must be performed at the place of disablement.

#### J. LOCKSMITH SERVICES

**Section III – Physical Damage Coverage, A.4. Coverage Extensions** is amended by adding the following:

We will pay up to \$250 per occurrence for necessary locksmith services for keys locked inside

a covered private passenger "auto". The deductible is waived for these services.

#### K. TRANSPORTATION EXPENSES

**Section III – Physical Damage Coverage, A.4. Coverage Extensions Subparagraph a. Transportation Expenses** is replaced by the following:

- (1) We will pay up to \$75 per day to a maximum of \$2,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Cause of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the Policy's expirations, when the covered "auto" is returned to use or we pay for its "loss".
- (2) If the temporary transportation expenses you incur arise from your rental of an "auto" of the private passenger type, the most we will pay is the amount it costs to rent an "auto" of the private passenger type which is of the same like, kind and quality as the stolen covered "auto".

#### L. ELECTRONIC EQUIPMENT COVERAGE ADDED LIMITS

All electronic equipment that reproduces, receives or transmits audio, visual, or data signals in any one "loss" is \$5,000, in addition to the sublimit in Paragraph C.1.b. of the **Limits Of Insurance** provision under **Section III – Physical Damage Coverage**.

#### M. HIRED AUTO PHYSICAL DAMAGE

**Section III – Physical Damage Coverage, A.4. Coverage Extensions** is amended by adding the following: If hired "autos" are covered "autos" for Liability Coverage, and if Comprehensive, Specified Causes of Loss, or Collision Coverage is provided for any "auto" you own, then the Physical Damage coverages provided are extended to "autos" you lease, hire, rent or borrow is deemed to be a covered "auto" you own, subject to the following limit and deductible:

- (1) The most we will pay for loss to any leased, hired, rented or borrowed "auto" is the lesser of up to a limit of \$100,000, Actual Cash Value or Cost of Repair, minus the deductible.
- (2) The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage.
- (3) Subject to the above limit and deductible provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will pay up to \$1,000, in addition to the limit above, for **Loss Of Use** of a hired auto to a leasing or rental concern for a monetary loss

sustained, provided it results from an "accident" for which you are legally liable.

However, coverage does not apply to any "auto" leased, hired, rented or borrowed in your Motor Carrier Operations and any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

#### **N. AUTO LOAN/LEASE GAP COVERAGE**

**Section III – Physical Damage Coverage**  
**Paragraph A.4. Coverage Extensions** is amended by the addition of the following:

Autos of the private passenger, light or medium trucks that are loaned or leased for a period of six months or longer and which have been provided Physical Damage Coverage is a covered "auto" under this Policy for which a premium charge has been made for Comprehensive, Specified Cause of Loss, or Collision Coverage. We will pay any unpaid amount due up to a limit of \$10,000 on the lease or loan for a covered "auto", including up to a maximum of \$500 for early termination fees or penalties, on the lease or loan for a covered "auto", less:

1. The amount paid under the Policy's **Physical Damage Coverage**; and
2. Any:
  - a. Overdue or any deferred lease/loan payments at the time of the "loss";
  - b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
  - c. Security deposits not returned by the lessor;
  - d. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
  - e. Carry-over balances from previous loans or leases.

The insurance provided by this Auto Loan/Lease Gap Coverage is excess over any other collectible insurance including but not limited to any coverage provided by or purchased from the lessor or any financial institution.

#### **O. PERSONAL PROPERTY OF OTHERS**

**Section III – Physical Damage Coverage, A.4. Coverage Extensions** is amended by adding the following:

We will pay up to \$500 for loss to Personal Property Of Others in or on your covered "auto" in the event of a covered "auto" loss.

No deductibles apply to this coverage.

#### **P. PERSONAL EFFECTS COVERAGE**

**Section III – Physical Damage Coverage, A.4. Coverage Extensions** is amended by adding the following:

We will pay up to \$500 for "loss" to your Personal Effects not otherwise covered in the Policy or, if you

are an individual, the Personal Effects of a family member, that is in the covered auto at the time of the "loss".

For the purposes of this extension Personal Effects means tangible property that is worn or carried by an insured including portable audio, visual, or electronic devices. Personal Effects does not include tools, jewelry, guns, money and securities, or musical instruments.

#### **Q. EXTRA EXPENSE FOR STOLEN AUTO**

**Section III – Physical Damage Coverage, A.4. Coverage Extensions** is amended by adding the following:

We will pay up to \$1,000 for the expense incurred returning a stolen covered "auto" to you because of the total theft of such covered "auto". Coverage applies only to those covered "autos" for which you carry Comprehensive or Specified Causes Of Loss Coverage.

#### **R. RENTAL REIMBURSEMENT EXPENSES**

**Section III – Physical Damage Coverage, A.4. Coverage Extensions** is amended by adding the following:

1. This coverage applies only to a covered "auto" for which **Physical Damage Coverage** is provided on this Policy.
2. We will pay for **Rental Reimbursement Expenses** incurred by you for the rental of an "auto" because of "loss" to a covered "auto". Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto". No deductibles apply to this coverage.
3. We will pay only for those expenses incurred during the Policy period beginning 24 hours after the "loss" and ending, regardless of the Policy's expiration, with the lesser of the following number of days
  - a. The number of days reasonably required to repair or replace the covered "auto". If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered "auto" and return it to you; or
  - b. 30 days.
4. Our payment is limited to the lesser of the following amounts:
  - a. Necessary and actual expenses incurred; or
  - b. \$75 per day, subject to a \$2,250 limit.
5. This coverage does not apply while there are spare or reserve "autos" available to you for your operations.
6. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your **Rental Reimbursement Expenses** which is not already provided for under the **Physical Damage – Transportation Expense**



**Coverage Extension** included in this endorsement.

7. Coverage provided by this extension is excess over any other collectible insurance and/or endorsement to this Policy.

#### **S. VEHICLE WRAPS COVERAGE**

**Section III – Physical Damage Coverage, A.4. Coverage Extensions** is amended by adding the following:

1. This coverage applies only to a covered "auto" for which **Physical Damage Coverage** is provided on this Policy.
2. Vehicle wraps that are damaged are covered at the lessor of replacement cost or the original purchase cost of the vehicle wrap, whichever is less, up to \$2,000.

This coverage does not apply to wear and tear.

#### **T. AIRBAG COVERAGE**

**Section III – Physical Damage Coverage, B.3.a. Exclusions** is amended by adding the following:

If you have purchased Comprehensive or Collision Coverage under this Policy, the exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

#### **U. NEW VEHICLE REPLACEMENT COST**

The following is added to Paragraph **C. Limit Of Insurance** of **Section III – Physical Damage Coverage**

In the event of a total "loss" to a covered "auto" you own of the private passenger type or vehicle having a gross vehicle weight of 20,000 pounds or less, to which this coverage applies, we will pay to replace such covered "auto", minus any applicable deductible shown in the Declarations, at your option:

- a. The verifiable new vehicle purchase price you paid for your damaged vehicle, not including any insurance or warranties.
- b. The purchase price, as negotiated by us, of a new vehicle of the same make, model, and equipment, or most similar model available, not including any furnishings, parts, or equipment not installed by the manufacturer or their dealership.
- c. The market value of your damaged vehicle, not including any furnishings, parts, or equipment not installed by the manufacturer or their dealership.

We will not pay for initiation or set up costs associated with a loans or leases.

For the purposes of this coverage extension a new covered auto is defined as an "auto" of which you are the original owner that has not been previously titled which you purchased less than 180 days prior to the date of loss.

#### **V. LOSS TO TWO OR MORE COVERED AUTOS FROM ONE ACCIDENT**

**Section III – Physical Damage Coverage, D. Deductible** Subparagraph 2. is replaced by the following:

2. Regardless of the number of covered "autos" damaged or stolen the maximum deductible applicable for all "loss" in any one event caused by:

- a. Theft or Mischief or Vandalism; or
- b. All Perils
- c. Collision

Will be equal to two times the highest deductible applicable to any one covered "auto" on the Policy for Comprehensive, Specified Causes of Loss or Collision Coverage. The application of the highest deductible used to calculate the maximum deductible will be made regardless of which covered "autos" were damaged or stolen in the "loss".

#### **W. FULL GLASS COVERAGE**

**Section III – Physical Damage Coverage, D. Deductible** is amended by the addition of the following:

If the Comprehensive Coverage applies to the covered "autos", no Comprehensive Coverage Deductible applies to the cost of repairing or replacing damaged glass on the covered "auto(s)".

#### **X. PHYSICAL DAMAGE DEDUCTIBLE – VEHICLE TRACKING SYSTEM**

**Section III – Physical Damage D. Deductible** is amended by adding the following:

Comprehensive Coverage Deductible shown in the Declaration will be reduced by 50% for any "loss" caused by theft of the vehicle when equipped with a vehicle tracking device such as a radio tracking device or a global positioning device and that device was the method of recovery of the vehicle.

#### **Y. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS**

**Section IV – Business Auto Conditions, A.2. Duties In The Event Of Accident, Claim, Suit Or Loss** is amended by adding the following:

Your obligation to notify us promptly of an "accident", claim, "suit" or "loss" is satisfied if you send us the required notice as soon as practicable after your Insurance Administrator or anyone else designated by you to be responsible for insurance matters is notified, or in any manner made aware, of an "accident", claim, "suit" or "loss".

#### **Z. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY**

Subparagraph 5. of Paragraph **A. Loss Conditions** of **Section IV – Business Auto Conditions** is deleted in its entirety and replaced with the following.

##### **Transfer Of Rights Of Recovery Against Others To Us**

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them. However, we waive any right of recovery we may have against any person, or organization with whom you have a

written contract, agreement or permit executed prior to the "loss" that requires a waiver of recovery for payments made for damages arising out of your operations done under contract with such person or organization.

**AA. PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION**

**Section IV – Business Auto Conditions, B. General Conditions, 5. Other Insurance c.** is replaced by the following:

This Coverage **Form's Covered Autos Liability Coverage** is primary to and will not seek contribution from any other insurance available to an "insured" under your Policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

However, coverage does not apply to any "auto" leased, hired, rented or borrowed in your Motor Carrier Operations and any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

**AB. UNINTENTIONAL FAILURE TO DISCLOSE EXPOSURES**

**Section IV – Business Auto Conditions, B.2. Concealment, Misrepresentation, Or Fraud** is amended by adding the following:

If you unintentionally fail to disclose any exposures existing at the inception date of this Policy, we will not deny coverage under this Coverage Form solely because of such failure to disclose. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

**AC. MENTAL ANGUISH**

**Section V – Definitions, C.** is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including mental anguish or death resulting from bodily injury, sickness or disease.

**AD. LIBERALIZATION**

If we revise this endorsement to provide greater coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.



EMPLOYERS MUTUAL CASUALTY COMPANY (15539) PRIOR POLICY: 6H4-99-25-23  
RENEWAL INFORMATION PAGE WC000001A  
WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

THIS INFORMATION PAGE ALONG WITH THE 'POLICY  
PROVISIONS' COMPLETES THE NUMBERED POLICY.

\*-----\*  
\* POLICY NUMBER \*  
\* 6 H 4 - 9 9 - 2 5 ---24 \*  
\*-----\*

ITEM 1

N A M E D I N S U R E D :

P R O D U C E R :

ORIGIN DESIGN CO.  
137 MAIN ST  
DUBUQUE IA 52001-7677

LUDOVISSY & ASSOCIATES  
787 W LOCUST ST  
DUBUQUE IA 52001-4358

DIRECT BILL

AGENT: AA 3251  
AGENT PHONE: (563)556-6661  
CLAIM REPORTING: (888)362-2255  
SERVICING CARRIER: (515)280-2604

THIS POLICY RENEWAL IS OFFERED CONTINGENT UPON THE RECEIPT OF PAYMENT  
WHICH IS DUE ON 12/07/23.

INSURED IS: CORPORATION  
BUS DESC: ENGINEERING AND CONSULT  
INTRASTATE ID: 154681654  
FED. EMPLOYER'S ID: 363163838  
IA UNEMPLOYMENT ACCOUNT NUMBER: 999999  
MN UNEMPLOYMENT ACCOUNT NUMBER: 999999  
SIC CODE: 8711

ITEM 2 POLICY PERIOD: FROM: NOV/07/23 TO: NOV/07/24  
AT 12:01 A.M., STANDARD TIME AT THE INSURED'S MAILING ADDRESS

ITEM 3

- A. WORKERS' COMPENSATION INSURANCE: PART ONE OF THE POLICY APPLIES TO THE  
WORKERS' COMPENSATION LAW OF THE STATES LISTED HERE; IA, IL, MI, MN, WI
- B. EMPLOYERS' LIABILITY INS.: PART TWO OF THE POLICY APPLIES TO WORK IN EACH  
STATE LISTED IN ITEM 3.A. THE LIMITS OF OUR LIABILITY UNDER PART TWO ARE
- |                           |              |               |
|---------------------------|--------------|---------------|
| BODILY INJURY BY ACCIDENT | \$ 1,000,000 | EACH ACCIDENT |
| BODILY INJURY BY DISEASE  | \$ 1,000,000 | EACH EMPLOYEE |
| BODILY INJURY BY DISEASE  | \$ 1,000,000 | POLICY LIMIT  |
- C. OTHER STATES INS: PART THREE OF THE POLICY APPLIES TO ALL STATES EXCEPT  
ME, ND, OH, WA, WY AND STATES DESIGNATED IN ITEM 3.A SHOWN ABOVE.
- D. THIS POLICY INCLUDES THESE ENDORSEMENTS AND SCHEDULES:  
0405B(01/18)\*, 0417A\*, 1012E(01/18)\*, 1150(06/18)\*, IL7004(03/20),  
IL7130A(04/01)\*, IL7131A(04/01)\*, IL7621(04/16), IL8062(07/16)\*,  
IL8118(06/11)\*, IL8383.2A(12/20), IL8576(10/17)\*, WC000000C(01/15),  
WC000313(04/84), WC000406A(07/95)\*, WC000414A(01/19), WC000419(01/01),  
WC000419A(08/22), WC000421F(08/22), WC000422C(01/21), WC000424(01/17),  
WC000425(05/17), WC120601F(01/19), WC120603(01/19), WC210303A(06/97)\*,  
WC210304(06/20), WC210402C(09/20), WC220000A(11/03), WC220601D(08/06),  
WC340301C(03/10), WC480601C(04/01), WC480606B(01/02), WC7003A(09/86)\*,  
WC7005(07/11), WC7144(06/07), WC8130(10/14), WC8500(07/04)\*

Refer to prior distribution(s) for any forms not attached

COPYRIGHT 1983 NATIONAL COUNCIL ON COMPENSATION INSURANCE  
ISSUED FROM: EMC INSURANCE CO, PO BOX 884, DES MOINES, IA 50306  
DATE OF ISSUE: 11/03/23 (BPP) COUNTERSIGNED BY:

DATE:

FORM WC7002A 09/86

(BPP)

11/07/23 060 DB 6H49925 2401



PAGE 2

EMPLOYERS MUTUAL CASUALTY COMPANY  
ORIGIN DESIGN CO

POLICY NUMBER: 6H4-99-25---24  
EFF DATE: 11/07/23 EXP DATE: 11/07/24  
WC000001A

ITEM 4

THE PREMIUM FOR THIS POLICY WILL BE DETERMINED BY OUR MANUALS OF RULES,  
CLASSIFICATIONS, RATES AND RATING PLANS. ALL INFORMATION REQUIRED BELOW IS  
SUBJECT TO VERIFICATION AND CHANGE BY AUDIT.

		ESTIMATED ANNUAL PREMIUM
-----		
SEE CLASSIFICATION OF OPERATIONS SCHEDULE ATTACHED	.	
PREMIUM SUBTOTAL - SEE SCHEDULE ATTACHED	.\$	21,571.00
MINNESOTA SPECIAL COMPENSATION FUND SURCHARGE	.\$	1.00
ADJUSTMENT FOR DEBIT/CREDIT SCHEDULE MODIFICATION	.\$	-2,880.00
LESS: ESTIMATED PREMIUM DISCOUNT	.\$	-677.00
BLANKET WAIVER OF OUR RIGHT TO RECOVER	.\$	500.00
EXPENSE CONSTANT	.\$	220.00
MINIMUM PREMIUM \$ 478	ESTIMATED POLICY PREMIUM	.\$ 18,735.00
IOWA	.	
-----		
	Illinois WC Premium Surcharge	.\$ 1.14
	TOTAL ESTIMATED POLICY PREMIUM	.\$ 18,736.14
-----		

-----  
INTERIM ADJUSTMENTS WILL BE MADE: ANNUALLY

COPYRIGHT 1983 NATIONAL COUNCIL ON COMPENSATION INSURANCE  
ISSUED FROM: EMC INSURANCE CO, PO BOX 884, DES MOINES, IA 50306  
DATE OF ISSUE: 11/03/23 (BPP) COUNTERSIGNED BY:

DATE:

FORM WC7002A 09/86 (BPP) 11/07/23 060 DB 6H49925 2401



EMPLOYERS MUTUAL CASUALTY COMPANY  
ORIGIN DESIGN CO  
INTRASTATE ID: 154681654

POLICY NUMBER: 6H4-99-25---24  
EFF DATE: 11/07/23 EXP DATE: 11/07/24

EXTENSION OF INFORMATION PAGE  
ITEM 4 - CLASSIFICATION OF OPERATIONS SCHEDULE

WC000001A

\*\*\*\*\*

I O W A

( 001 ) 137 MAIN ST  
DUBUQUE, IA. 52001-7677

NUMBER OF EMPLOYEES:

MAXIMUM # OF EMPLOYEES EXPOSED AT ANY ONE TIME: 79

FULL TIME: 79

PART TIME:

SIC: 8711 NAICS:541330

CLASSIFICATION PHRASEOLOGY	.CODE . . NO. . . .	ESTIMATED ANNUAL REMUNERATION	RATES PER \$100 REMUNERATION	ESTIMATED ANNUAL PREMIUM
ARCHITECTURAL OR ENGINEERING FIRM - INCLUDING SALESPERSONS & DRIVERS	.8601 . . . . .	3,000,000. . . . .	0.35 \$. . . . .	10,500.00
SURVEYORS, TIMBER CRUISERS, OIL OR GAS GEOLOGISTS OR SCOUTS, & DRIVERS	.8602 . . . . .	600,000. . . . .	1.53 \$. . . . .	9,180.00
CLERICAL OFFICE EMPLOYEES NOC	.8810 . . . . .	700,000. . . . .	0.19 \$. . . . .	1,330.00
COMPUTER SYSTEM DESIGNERS OR PROGRAMMERS - EXCLUSIVELY OFFICE	.8810 . . . . .	575,000. . . . .	0.19 \$. . . . .	1,093.00
SALESPERSONS OR COLLECTORS - OUTSIDE	.8742 . . . . .	200,000. . . . .	0.39 \$. . . . .	780.00
EMPLOYERS LIABILITY PREMIUM FOR INCR LIMITS PART TWO.	.9812 . . . . .	. . . . .	\$. . . . .	252.00

SUBJECT PREMIUM \$. 23,135.00

MODIFIED PREMIUM - EXP. MOD. APPLIED  
(0.820) \$. 18,971.00

SCHEDULE MODIFICATION CREDIT 9887 \$. -2,846.00

STATE TOTAL ESTIMATED STANDARD PREMIUM \$. 16,125.00

CLASS CODE - 0063 ESTIMATED PREMIUM DISCOUNT \$. -632.00

BLANKET WAIVER OF OUR RIGHT TO RECOVER - CODE 9656 \$. 500.00

Terrorism - Code 9740 (RATE .010) \$. 508.00

Catastrophe (Other Than Cert Acts) - Code 9741 (RATE .010) \$. 508.00

STATE TOTAL PREMIUM \$. 17,009.00

M I N N E S O T A

ISSUED FROM: DES MOINES, IA  
DATE OF ISSUE: 11/03/23 (BPP)

FORM WC7003A 09/86 (BPP)

11/07/23 060 DB 6H49925 2401

**EXHIBIT H—DISPUTE RESOLUTION - “NOT USED”**

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**Exhibit H—Dispute Resolution.**

**Exhibits to EJCDC® E-500, Agreement between Owner and Engineer for Professional Services.  
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and American Society of Civil Engineers. All rights reserved.**

## **EXHIBIT I—LIMITATIONS OF LIABILITY**

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### **ARTICLE 1—LIMITATIONS OF LIABILITY**

Paragraph 6.10 of the Agreement is supplemented to include Exhibit I Paragraph(s) 1.01, Mutual Indemnification and 1.02, Limitation of Engineer's Liability:

#### **1.01 Mutual Indemnification**

- A. Indemnification by Owner: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants, and Engineer's Subcontractors, from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

#### **1.02 Limitation of Engineer's Liability**

- A. Engineer's Liability Limited to Amount of Engineer's Compensation: To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors, will not exceed the total compensation received by Engineer under this Agreement.

#### **1.03 Construction Contract Requirements**

- A. The following Contractor Indemnification Requirements are included in the 2018 EJCDC C-700 General Conditions. The Owner shall incorporate these into the Construction Contract General Conditions in the event that standard form of Agreement is not used.

#### **5.06 Hazardous Environmental Conditions at Site**

- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all

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Exhibit I—Limitation of Liability.

Exhibits to EJCDC® E-500, Agreement between Owner and Engineer for Professional Services.  
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and American Society of Civil Engineers. All rights reserved.

court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

#### **7.08 Patent Fees and Royalties**

B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

#### **7.11 Laws and Regulations**

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.



B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.

#### **7.18 Indemnification**

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.

B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

#### **8.03 Legal Relationships**

C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility

owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

### COMPENSATION PACKET BC-1: BASIC SERVICES—LUMP SUM

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#### ARTICLE 1—COMPENSATION PACKET BC-1: BASIC SERVICES—LUMP SUM

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 1.01:

1.01 Compensation for Basic Services (other than Resident Project Representative)—Lump Sum Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A (except for Resident Project Representative services, if any) as follows:

1. A Lump Sum amount of \$202,100.00 based on the following estimated distribution of compensation:

a. Study and Report Phase	\$71,260.00
b. Preliminary Design Phase	\$43,360.00
c. Final Design Phase	\$44,060.00
d. Bidding and Negotiating Phase	\$10,760.00
e. Construction Phase	\$32,660.00

2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but compensation will not exceed the total Lump Sum amount unless approved in writing by the Owner.

3. The Lump Sum includes compensation for Engineer's services and services of Engineer's Subcontractors and Subconsultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, and expenses (other than any expressly allowed Reimbursable Expenses).

4. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following Reimbursable Expenses: see Appendix 1 for rates or charges

5. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period. If any Reimbursable Expenses are expressly allowed, Engineer may also bill for any such Reimbursable Expenses incurred during the billing period.

B. Period of Service: The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding 18 months. If such period of service is extended, the compensation amount for Engineer's services will be appropriately adjusted.

## **EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES**

### **COMPENSATION PACKET RPR-2: RESIDENT PROJECT REPRESENTATIVE—STANDARD HOURLY RATES**

---

#### **ARTICLE 2—COMPENSATION PACKET RPR-2: RESIDENT PROJECT REPRESENTATIVE—STANDARD HOURLY RATES**

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 2.01:

**2.01 Compensation for Resident Project Representative Services—Standard Hourly Rates Method of Payment**

- A. Owner shall pay Engineer for Resident Project Representative Services as follows:
  - 1. Resident Project Representative Services: For services of Engineer's Resident Project Representative (RPR), if any, under Exhibits A and D, an amount equal to the cumulative hours charged by each class of Engineer's personnel providing RPR services times Standard Hourly Rates for each applicable billing class, plus RPR-related Reimbursable Expenses and RPR-related Engineer's Subcontractors' and Subconsultants' charges, if any. Standard Hourly Rates are set forth in Appendix 2, Standard Hourly Rates Schedule.
- B. The total compensation under this paragraph is estimated to be \$45,200 based upon full-time RPR services on an eight-hour workday, Monday through Friday, during active construction, which is anticipated for an equivalent duration of 40 working days during a 4-month construction period.
- C. Compensation for Reimbursable Expenses
  - 1. For those Reimbursable Expenses that are directly related to the provision of RPR services and are not already accounted for in the compensation for Basic Services, Owner shall reimburse Engineer, using the rates set forth in Appendix 1, Reimbursable Expense Schedule, to this Exhibit J when applicable.
  - 2. Such Reimbursable Expenses include, to the extent RPR-related, the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
  - 3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be those internal expenses related to RPR services that are actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such services, the latter multiplied by a factor of 1.1.
- D. Other Provisions Concerning Payment
  - 1. Whenever Engineer is entitled to compensation for the RPR-related charges of Engineer's Subcontractors and Subconsultants, that compensation will be the amounts

billed by Engineer's Subcontractors and Subconsultants to Engineer times a factor of 1.1.

2. Factors: The external Reimbursable Expenses and Engineer's Subcontractors' and Subconsultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. Estimated Compensation Amounts
  - a. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
  - b. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice Owner and Engineer will promptly review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
4. The Standard Hourly Rates and the Reimbursable Expenses Schedule will be adjusted annually (as of January 1st) to reflect equitable changes in the compensation payable to Engineer for RPR-related services and expenses.
5. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

**EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES**  
**COMPENSATION PACKET AS-1: ADDITIONAL SERVICES—STANDARD HOURLY RATES**

---

**ARTICLE 3—COMPENSATION PACKET AS-1: ADDITIONAL SERVICES—STANDARD HOURLY RATES**

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 3.01:

**3.01 Compensation for Additional Services—Standard Hourly Rates Method of Payment**

- A. Owner shall pay Engineer for Additional Services, if any, as follows:
  - 1. For services of Engineer's personnel engaged directly on the Project pursuant to Exhibit A Paragraph 2.01 or 2.02, except for services as a consultant or witness under Exhibit A Paragraph 2.02.A.28 (which if needed will be separately negotiated based on the nature of the required consultation or testimony), an amount equal to the cumulative hours charged by each class of Engineer's personnel providing such Additional Services times Standard Hourly Rates for each applicable billing class, plus Additional Services-related Reimbursable Expenses and Additional Services-related Engineer's Subcontractors' and Subconsultants' charges, if any.
- B. Compensation for Reimbursable Expenses
  - 1. For those Reimbursable Expenses that are directly related to the provision of Additional Services, and are not already accounted for in the compensation for Basic Services or RPR-related services, Owner shall reimburse Engineer, using the rates set forth in Appendix 1 to this Exhibit J when applicable.
  - 2. Such Reimbursable Expenses include, to the extent Additional Services-related, the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
  - 3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of 1.1.
- C. Other Provisions Concerning Payment for Additional Services
  - 1. Whenever Engineer is entitled to compensation for the charges of Engineer's Subcontractors and Subconsultants, such compensation will be the amounts billed by Engineer's Subcontractors and Subconsultants to Engineer times a factor of 1.1.
  - 2. Factors: The external Reimbursable Expenses and Engineer's Subcontractors' and Subconsultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

3. The Standard Hourly Rates and the Reimbursable Expenses Schedule will be adjusted annually (as of January 1st) to reflect equitable changes in the compensation payable to Engineer for Additional Services-related services and expenses.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

## EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

### APPENDIX 1: REIMBURSABLE EXPENSES SCHEDULE

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Reimbursable Expenses are subject to review and adjustment per Exhibit J. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

Specs/Reports (up to 25 Pages)	\$5.00 each
Specs/Reports (Over 25 Pages)	\$10.00 each
Copies (Black/White)	\$0.05 per page
Copies (Color)	\$0.10 per page
Plots (Up to 15 sheets)	\$10.00 each
Plots (Over 15 sheets)	\$20.00 each
Flash Drive	\$10.00 each
Binder	\$5.00 each
Comb Binding	\$1.00 each
Cover Stock	\$0.20 per page
GPS Equipment	\$15.00 per hour
Robotic Survey Equipment	\$15.00 per hour
Mailing/UPS	At Cost
Mileage - Reimbursement	IRS Rate (\$0.67 per mile)
Mileage - Survey Vehicle	\$0.70 per mile
Travel Expenses, Lodging & Meals	At Cost
Traffic Counting Equipment	At Cost
Trimble Scanner	\$30.00 per hour
Boat	\$125.00 per day
Gator	\$95.00 per day
Architectural Scanner	\$50.00 per hour



## EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

### APPENDIX 2: STANDARD HOURLY RATES SCHEDULE

---

D. Standard Hourly Rates

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit J and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Exhibit J.

E. Schedule: Hourly rates for services performed on or after the date of the Agreement are:

FS Tech	\$89.00 - \$133.00 per hour
Construction Specialist	\$180.00 - \$210.00 per hour
Survey Tech	\$91.00 - \$129.00 per hour
Survey Specialist	\$160.00 - \$185.00 per hour
Professional Land Surveyor	\$172.00 - \$234.00 per hour
Design Tech	\$99.00 - \$149.00 per hour
Technical Specialist	\$145.00 - \$170.00 per hour
Engineering Designer	\$138.00 - \$227.00 per hour
Professional Engineer	\$184.00 - \$282.00 per hour
Designer	\$127.00 - \$145.00 per hour
Licensed Architect	\$163.00 - \$264.00 per hour
Administrative Assistant	\$86.00 - \$96.00 per hour
Project Support Specialist	\$103.00 - \$130.00 per hour
BIM Specialist	\$155.00 - \$180.00 per hour

**CITY OF DUBUQUE STANDARD TERMS AND CONDITIONS**

**ACCELERATED PAY DISCOUNTS** - Accelerated discounts should be so stated on the bid submittal page. If quick pay discounts are offered, the City reserves the right to include that discount as part of the award criteria. Prices must, however, be based upon payment in net thirty (30) days after receipt, inspection and acceptance. In all cases, quick pay discounts will be calculated from the date of the invoice or the date of acceptance, whichever is later.

**ADA COMPLIANCE**

1. The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101 et seq.) and applicable Federal regulations under the Act.
2. Bids for design, construction, programs, policies and concessions of any type shall comply with the 2010 Standards for Accessible Design, the ADA title II regulation, Section 504 of the 1973 Rehabilitation Act, and similar statutes and regulations prohibiting discrimination on the basis of disability.
3. The Contractor shall ensure that its websites and all online services, including those websites or online services provided by third parties upon which Dubuque relies to provide services or content, comply with, at minimum, Web Content Accessibility Guidelines - WCAG 2.0 AA.

**ASSIGNMENT** - The City and the Contractor each are hereby bound and the partners, successors, executors, administrators and legal representatives of the City and the Contractor are hereby bound to the other party to the Contract and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of the Contract. Any assignment or attempt at assignment made without prior written consent of the City shall be void.

**BID CURRENCY/LANGUAGE** - All bid prices shall be shown in US Dollars (\$). All prices must remain firm for the duration of the Contract regardless of the exchange rate. All bid responses must be submitted in English.

**BID FORM** - Each bidder must submit an original bid and additional copies as required on the forms attached. The bidder shall correctly sign the bid, and the bid may be rejected if it shows any omissions, alterations of the form, additions not called for in the bid, or any irregularities of any kind. In case of a discrepancy between the unit price and the extended price, the unit price shall prevail.

**BID INFORMATION IS PUBLIC** – The bid and all documents submitted with any bid shall become public documents subject to Iowa Code Chapter 22, which is otherwise known as the "Iowa Open Records Law". By submitting the bid any document to the City of Dubuque in connection with a bid, the submitting party recognizes this and waives any claim against the City of Dubuque and any of its officers and employees relating to the release of any document or information submitted. Each submitting party shall hold the City of Dubuque and its officers and employees harmless from any claims arising from the release of any document or information made available to the City of Dubuque arising from any

opportunity. Bid information requested by the public or other bidders will be provided in an alternative format if the requestor is a person with a disability and requires an alternative form for comprehension.

**BID REJECTION OR PARTIAL ACCEPTANCE** - The City reserves the right to accept or reject any or all bids or parts thereof. The City further reserves the right to waive technicalities and formalities in bids, as well as to accept in whole or in part such bids where it is deemed advisable in protection of the best interests of the City.

**CONFLICT OF INTEREST** - The Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Contractor and the City that is a conflict of interest. No employee, officer or agent of the Contractor shall participate in the selection or in the award if a conflict of interest, real or apparent, exists. The provisions of Iowa Code ch. 68B shall apply to the Contract. If a conflict of interest is proven to the City, the City may terminate the Contract, and Contractor shall be liable for any excess costs to the City as a result of the conflict of interest. The Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties. The Contractor shall report any potential, real, or apparent conflict of interest to the City.

**CONTRACT DOCUMENTS** - The Contract Documents are this Contract, the Request for Bids, the Contractor's Bids, and the following additional documents, if any:

In the event of a dispute with respect to any term or condition in the Contract Documents, they shall be interpreted in the following order: this Contract, the Request for Bids, the Contractor's Bids, and the following additional documents, if any:

**DISPUTES** - Should any disputes arise with respect to the Contract, the Parties agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute and the City shall continue to make payment for all Work properly performed. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the City or the Contractor as a result of such failure to proceed shall be borne by the Contractor. The unintentional delayed payment by the City to the Contractor of one or more invoices not in dispute in accordance with the terms of the Contract will not be cause for Contractor to stop or delay Work.

**FORCE MAJEURE** - Force majeure shall be any of the following events: acts of God or the public enemy; compliance with any order, rule, regulation, decree, or request of any governmental authority or agency or person purporting to act therefore; acts of war, public disorder, rebellion, terrorism, or sabotage; floods, hurricanes, or other storms; strikes or labor disputes; or any other cause, whether or not of the class or kind specifically named or referred to herein, not within the reasonable control of the party affected. A delay in or failure of performance of either party shall not constitute a default hereunder nor be the basis for, or give rise to, any claim for damages, if and to the extent such delay or failure is caused by force majeure. The party who is prevented from performing by force majeure shall be obligated, within a period not to exceed fourteen (14) days after the occurrence or detection of any such event, to give notice to the other party setting forth in reasonable



detail the nature thereof and the anticipated extent of the delay, and shall remedy such cause as soon as reasonably possible, as mutually agreed between the parties.

**INDEMNIFICATION** - To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the City, its officers and employees, from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Contract, provided that such claim, damages, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of property, including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, or anyone directly or indirectly employed by the Contractor or anyone for whose acts the Contractor may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

**LAWS AND REGULATIONS** - The Contract shall be governed, interpreted and enforced in accordance with all applicable federal, State of Iowa, and local laws, ordinances, licenses and regulations and shall apply to the Contract throughout, as the case may be. The Contractor certifies that in performing the Contract it will comply with all applicable provisions of the federal, state, and local laws, ordinances, licenses and regulations. Venue for any action arising out of this Contract shall be the Iowa District Court for Dubuque County, Iowa.

**METHOD OF AWARDING** - The City reserves the right to make awards based on the entire bid or on an item by item basis. However, if Contractor's bid is based on an "all or none" condition, the City may consider its bid non-responsive and reject the entire bid.

**NO GIFT STANDARD** - The City of Dubuque is committed to upholding the highest ethical standards in all of its business practices. This standard recognizes the need to avoid even the perception of improper gifts or favors to employees. Therefore, all suppliers have been asked to abide by the City's "No Gift" standard. The "No Gift" standard also applies to all offers of discounts or free items at any place of business targeted toward a City employee and not available to the general public, regardless of the value.

**NON-COLLUSION STATEMENT** - Neither the Contractor, nor anyone in the employment of the Contractor, has employed any person to solicit or procure the Contract nor will the Contractor make any payment or agreement for payment of any compensation in connection with the Contract. There is no contract, agreement or arrangement, either oral or written, expressed or implied, contemplating any division of compensation for Work rendered under the Contract or participation therein, directly or indirectly, by any other person, firm or corporation, except as documented in the Contract. Neither the Contractor, nor anyone in the employment of the Contractor, has either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive procurement in connection with the Contract.

**NON-DISCRIMINATION AND EQUAL OPPORTUNITY** - All Contractors that engage in contracts with the City of Dubuque, Iowa agree as follows: The Contractor will not discriminate against any employee or applicant for employment because of race, sex, color, creed, ancestry, national origin, marital status, Familial status, religion, age, disability, sexual orientation, gender identity, genetic information, status with regard to public assistance, status as a veteran or any classification protected by federal, state, or local law, (Protected Classes) except where age and sex are essential bona fide occupational requirements, or where disability is a bona fide occupational disqualification. Such action

shall include, but not be limited to the following; (a) Employment, (b) Upgrading, (c) Demotion or transfer, (d) Recruitment and advertising, (e) Layoff or termination, (f) Rate of pay or other forms of compensation, and (g) Selection for training, including apprenticeship. The Contractor further assures that managers and employees comply with both the spirit and intent of federal, state, and local legislation, government regulation, and executive orders in providing affirmative action as well as equal opportunity without regard to the protected classes, as stated above. The Contractor will include, or incorporate by reference, the provisions of the nondiscrimination clause in every contract or subcontract unless exempt by the rules, regulations or orders of the City and will provide in every contract or subcontract that said provision will be binding upon each Contractor..

**REGULATORY AGENCY COMPLIANCE** - Compliance with laws and regulations set forth by regulatory agencies is required. These agencies include, but are not limited to, OSHA – Occupational Safety & Health Agency, EPA – Environmental Protection Agency, ICC – Interstate Commerce Commission, DNR – Department of Natural Resources, and DOT – Department of Transportation. The City of Dubuque expects that Contractors will offer expertise on conformance of regulations applying to the products they sell and the Work they perform.

**RIGHT TO PROTEST** - Anyone wishing to file a protest concerning (1) the specifications, (2) the bid procedure or (3) the award of the Contract must do so in writing in accordance with the City's Protest by bidders which is found in the City's purchasing policy

**SAFETY DATA SHEETS** - The Hazard Communication Standard (HCS) requires chemical manufacturers, distributors, and importers to ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked and to provide Safety Data Sheets (SDS) to communicate the hazards of hazardous chemical products. It is the chemical supplier's responsibility to determine which products are covered and to provide SDS with the initial shipment. It is also the chemical supplier's responsibility to provide any updated or revised SDS, as they become available for any products sold and delivered to the City of Dubuque. City of Dubuque employees shall not accept a shipment of any chemical that does not have a SDS attached or currently on file. Safety Data Sheets shall be available in alternative formats if the requestor is a person with a disability and requires an alternative format for comprehension.

**SUBCONTRACTING** - All Subcontractors shall be listed in the Contract or in a written amendment to the Contract.

**SUSPENSIONS AND DEBARMENT** - The Contractor hereby certifies, pursuant to 2 CFR pt. 180 and 2 CFR pt. 3000, that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Contract by any federal agency. The Contractor further certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contracts with the City of Dubuque or the State of Iowa.

**TAXES** - The City of Dubuque is exempt from sales tax and certain other use taxes. Any charges for taxes from which the City is exempt will be deducted from invoices before payment is made.

**TERMINATION OF CONTRACT** - The City may terminate the Contract at any time for any reason with or without cause. In that event, all finished or unfinished Work, reports,

materials(s) prepared or furnished by the Contractor under the Contract shall, at the option of the City, become its property. If the Contract is terminated by the City as provided herein, the Contractor shall be paid for all Work which has been authorized, provided, and approved up to the effective date of termination. The City will not be subject to any termination fees from the Contractor.

**WARRANTIES - WORK** - The Contractor shall perform Work for the City pertaining to the Project as set forth in the Contract.

Contractor represents that the Work and all of its components shall be free of defects; shall be performed in a manner consistent with other Contractors in a similar industry and application; and shall conform to the requirements of the Contract.

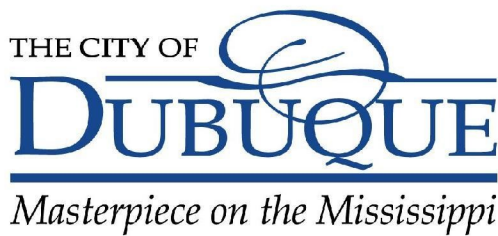
Contractor shall be responsible for the quality, technical accuracy, completeness and coordination of all Work performed under the Contract. Contractor shall, promptly and without charge, provide all corrective Work necessary as a result of Contractor's acts, errors, or omissions with respect to the quality and accuracy of the Work.

Contractor shall be responsible for any and all damages to property or persons as a result of Contractor's acts, errors, or omissions, and for any losses or costs to repair or remedy any Work undertaken by City based upon the Work as a result of any such acts, errors, or omissions.

Contractor's obligations shall exist without regard to, and shall not be construed to be waived by, the availability or unavailability of any insurance, either of City or Contractor.

**WARRANTIES - INTELLECTUAL PROPERTY** - Contractor represents and warrants that all the materials and Work produced, or provided to the City pursuant to the terms of the Contract shall be wholly original with the Contractor or that the Contractor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such materials and work. The Contractor represents and warrants that the materials and Work, and the City's use of same, and the exercise by the City of the rights granted by the Contract shall not infringe upon any other work or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm, or corporation. The Contractor further represents and warrants that the materials and Works does not infringe upon the copyright, trademark, trade name, trade dress patent, statutory, common law or any other rights of any person, firm or corporation or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute the Work contemplated by the Contract.





APPROVED BY  
City Manager Mike Van Milligen



**TO:** Michael Van Milligen, City Manager

**FROM:** Deron Muehring, Water & Resource Recovery Center Director

**SUBJECT:** Odor Abatement Analysis, Service Agreement, Odor Abatement Analysis, USP Technologies

**DATE:** March 21, 2024

### **INTRODUCTION**

The purpose of this memo is to seek authorization to enter into an agreement with USP Technologies to perform an analysis of options to dose the waste stream with ferric chloride to address odor and struvite issues at the Water & Resource Recovery Center (WRRC).

### **BACKGROUND**

USP Technologies was identified as the only known vendor that can provide technical expertise in identifying potential dosing locations, provide the equipment (temporary storage tanks and dosing skids) to evaluate the effectiveness of chemical dosing, and provide the chemicals for dosing.

USP previously worked to identify the optimum dosing ahead of the primary clarifiers with hydrogen peroxide resulting in a 50% reduction of hydrogen sulfide.

### **DISCUSSION**

WRRC staff began sampling and testing struvite-producing nutrients and hydrogen sulfide (H<sub>2</sub>S) between the digesters and the centrifuge to establish baseline levels prior to chemical dosing. This will allow for determining the reduction in H<sub>2</sub>S and in struvite-forming nutrients that can be achieved by chemical dosing. H<sub>2</sub>S is the most prevalent odor-causing compound in wastewater. Struvite is a mineral compound primarily composed of magnesium, ammonium, and phosphate. Struvite crystals can accumulate on surfaces within the treatment system, including pipes, pumps, and heat exchangers. This accumulation can result in clogging and scaling issues, reducing the flow capacity of the system.

When struvite builds up in wastewater treatment systems, it can trap and hold onto odorous compounds produced during the treatment process. When these deposits get disturbed, they release odors. Additionally, the struvite can affect the organisms in the system, affecting how organic matter breaks down and potentially creating

more odors. Struvite can also interact with certain compounds, like those containing sulfur, leading to the release of gases like H<sub>2</sub>S. To deal with struvite, treatment facilities use methods like adding chemicals and regular cleaning to prevent or get rid of struvite deposits. This helps keep the treatment process running smoothly and reduces the chances of unwanted odors.

Attached is an agreement for USP Technologies to continue its work to evaluate odor reduction and struvite control options at the WRRRC. The cost of the services will depend on the actual chemical usage but based on an 80-day trial, it is estimated to cost \$76,308.27.

### **BUDGET IMPACT**

Funding for the analysis will be from the FY24 CIP appropriation in the amount of \$150,000 for Odor and Struvite Control (Project 4381500012).

### **RECOMMENDATION**

I recommend hiring USP to provide the chemical dosing equipment to determine the benefits of dosing the waste stream with ferric chloride reduce odors and struvite formation at the WRRRC.

### **ACTION REQUESTED**

I respectfully request execution of the attached agreement and authorizing a purchase order in the amount of \$80,000.00.

Attach.

Cc: Willie O'Brien, WRRRC Plant Manager



January 10, 2024

Attn: William O'Brien & Derin Muehring  
Water & Resources Recovery Center  
**City of Dubuque**  
795 Julien Dubuque Drive  
Dubuque, Iowa 52003

**RE: Extension of Trial Proposal for Odor Control Services**

Dear Mr. O'Brien and Mr. Muehring,

USP Technologies is pleased to provide this trial extension proposal for a full-scale evaluation of the efficacy and economics of using iron salts and hydrogen peroxide to control odors and struvite around the Water & Resource Recovery Center. For this project USP will provide bulk deliveries of iron, bulk and/or tote deliveries of hydrogen peroxide, the installation and use of up to three (3) dosing systems, a bulk storage tank for hydrogen peroxide, a bulk storage tank for iron salts, H<sub>2</sub>S monitoring services, applications support through the course of the trial, and a summary report/presentation of findings with recommendations.

**Summary of equipment and services provided by USP Technologies through the duration of the trial:**

- The supply of ferrous chloride, ferric chloride, ferric sulfate, and/or SulFeLox™ in bulk deliveries (~3,500 – 4,200 gallons each)
- Tote/intermediate containers of 27% and/or 50% hydrogen peroxide (3100 pounds each)
- The supply of 50% hydrogen peroxide in bulk deliveries (~2,000 gallons each)
- The installation and use of three (3) engineered dosing systems
- Installation of suction and dosing lines, including one double block & bleed assembly with quill (if necessary)
- Monitoring services with Odalog, Acrulog, or other devices to supplement existing H<sub>2</sub>S monitoring
- Applications and technical support will be provided throughout the course of the trial
- Chemical safety training will be provided for any designated personnel

**Summary of responsibilities of Dubuque:**

- Supply bulk storage tanks suitable for use with iron salts (rated for a specific gravity of at least 1.55)
- Assistance in offloading and positioning of equipment & totes/IBC's
- 110V power for each dosing system and for the iron salts tank heat trace
- Assistance in installing suction and dosing lines, including any necessary coring, drilling, excavating, etc.
- If dosing into a pressurized line, City will provide a suitable valve or penetration for a ½" OD SST injection quill to be used. USP will adapt to a suitable NPT connection.
- Provide eyewash/safety shower units
- Provide water for rinsing/wash down purposes

**Pricing:**

- Ferrous chloride
  - **\$2.53/lb of iron**
  - ~10.4% ferrous iron content
  - Density: ~10.59 lbs/gallon or ~1.269 SG
- Ferric chloride
  - **\$3.82/lb of iron**
  - ~13.8% ferric iron content
  - Density: ~11.92 lbs/gallon or ~1.429 SG
- Ferric sulfate
  - **\$3.96/lb of iron**
  - ~12.25% ferric iron content
  - Density: ~12.89 lbs/gallon or ~1.545 SG
- SulFeLox™
  - **\$5.14/lb of iron**
  - ~13.0% ferrous iron content or ~1.33 SG
  - Density: ~11.1 lbs/gallon

- Hydrogen Peroxide
  - Bulk Deliveries
    - \$7.05/gallon** for bulk deliveries of 50% hydrogen peroxide solution
    - ~2,000 gallons/delivery
  - Tote Deliveries
    - \$7.52/gallon** for 13 tote deliveries of 27% hydrogen peroxide (~337 gallons/tote)
    - \$9.17/gallon** for 4 tote deliveries of 27% hydrogen peroxide (~337 gallons/tote)
    - \$10.78/gallon** for single tote deliveries of 27% hydrogen peroxide (~337 gallons/tote)
    - \$10.60/gallon** for 13 tote deliveries of 50% hydrogen peroxide (~310 gallons/tote)
    - \$12.45/gallon** for 4 tote deliveries of 50% hydrogen peroxide (~310 gallons/tote)
    - \$14.23/gallon** for single tote deliveries of 50% hydrogen peroxide (~310 gallons/tote)
    - Totes are delivered one way. USP can assist in identifying disposal/recycle options once empty.
- Included while purchasing and using odor control chemicals:
  - Installation, use, and maintenance of one (1) double-walled bulk storage tank for hydrogen peroxide
  - Installation, use, and maintenance of one (1) double-walled heat traced bulk storage tank for iron salts
  - Installation, use, and maintenance of three (3) engineered dosing systems and the associated suction and dosing lines
    - Note that USP will maintain ownership and responsibility for the dosing systems
  - On-going maintenance, data collection, and technical support services
- This pricing is valid through 6/30/2024.
- Please note that any unused product cannot be returned.
- Pricing excludes tax, payment terms are net 30 days.

	Bulk 50% Hydrogen Peroxide	Ferrous Chloride	Ferric Chloride	Ferric Sulfate	SulFeLox™
Active Ingredient	Hydrogen Peroxide	Ferrous Iron (Fe <sup>2+</sup> )	Ferric Iron (Fe <sup>3+</sup> )	Ferric Iron (Fe <sup>3+</sup> )	Ferrous Iron (Fe <sup>2+</sup> )
Theoretical Ratio of Active:Sulfide	1	1.75	1.2	1.2	1.75
Lb Active/Gallon	5.0	1.1	1.65	1.58	1.443
\$/Gallon	\$7.05	\$2.78	\$6.31	\$6.25	\$7.41
\$/Lb Active	\$1.41	\$2.53	\$3.82	\$3.96	\$5.14
Theoretical Cost \$/Lb Sulfide Treated	\$1.41	\$4.42	\$4.59	\$4.75	\$8.99
Lbs Active/Delivery	10,000	4,155	5,520	4,900	5,200
Quality	Standard Grade High Purity FDA GRAS	Standard Grade Contains Solids	Standard Grade Contains Solids	NSF/ANSI 60 Drinking Water Grade	Mix to retain buffering after 30 days
HMIS Rating	3 – 0 – 1	3 – 0 – 1	3 – 0 – 1	3 – 0 – 0	0 – 0 – 1
pH	< 3	< 1	< 1	< 2	3.5 – 4.5
Freezing Point (°F)	< -61	~ -10	< 10	~ -40	~ -35

I appreciate the opportunity to offer this proposal for your consideration and hope that we get the chance to provide you with a valuable solution. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

Michael Nelson

Territory Manager, Midwest

Agreed to by both parties:

**BUYER**

**City of Dubuque ("Buyer")**

795 Julien Dubuque Drive  
Dubuque, IA 52003

**SELLER**

**US Peroxide, LLC dba USP Technologies**  
**("USP" or "Seller")**  
5640 Cox Road  
Glen Allen, VA 23060

By:

Date March 23, 2024

Date 23-Jan-2024

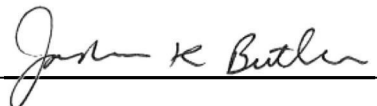
Name Michael Van Milligen

Name Jordan Butler

Title City Manager

Title General Manager

Signature 

Signature 

***Terms & Conditions:***

1. Weights. Seller's weights and volumes shall govern, except that in case of proven error adjustment shall be made.
2. Risk of Loss. Risk of loss and responsibility for all goods sold or provided hereunder shall pass to Buyer upon Seller's delivery to Buyer.
3. Warranty & Liability. Seller warrants that the goods shall conform to Seller's standard specifications in effect at time of shipment. Upon passage of title to the goods, Buyer assumes all responsibility and liability for Buyer's negligent storage, handling, sale or use of the goods or their containers.
4. Indemnification. Seller agrees to defend, indemnify, and hold harmless Buyer and its respective officers, directors, employees, affiliates, and volunteers from and against any and all claims, damages, liabilities, losses, proceedings, judgments, costs and expenses, including, without limitation, reasonable attorney's fees, arising out of, indirectly or directly the;
  - A. Negligence or misconduct of Seller related to its performance of obligations under this Agreement,
  - B. Breach or non-compliance by Seller with its obligations under this Agreement, and/or
  - C. Breach or non-compliance by Seller with applicable law, rule or regulation pertaining to this Agreement and its performance hereunder.

Buyer agrees to defend, indemnify, and hold harmless Seller and its respective officers, directors, employees, affiliates, and volunteers from and against any and all claims, damages, liabilities, losses, proceedings, judgments, costs and expenses, including, without limitation, reasonable attorney's fees, arising out of, indirectly or directly the;

- A. Negligence or misconduct of Buyer related to its performance of obligations under this Agreement,
- B. Breach or non-compliance by Buyer with its obligations under this Agreement, and/or



C. Breach or non-compliance by Buyer with applicable law, rule or regulation pertaining to this Agreement and its performance hereunder.

This indemnification shall survive the expiration or termination of this Agreement.

5. Damages & Claims. Seller's liability for damages and remedies against the Seller shall be limited to Seller's insurance coverage as required by the attached Insurance Schedule. The foregoing constitutes the exclusive remedy against the Seller and entire liability of the Seller in connection with such delivery and Seller shall not be liable for any incidental or consequential damages.

Buyer shall inspect each shipment of goods within a reasonable time after arrival at Buyers plant, and in any event before use. Failure to make a claim in writing against the Seller within 30 days after arrival of goods at destination shall constitute an irrevocable acceptance of goods. Any action for breach of this contract must be commenced within the period required for the commencement of actions for breach of a written contract.

6. Default or Waiver. If Buyer fails to perform any of the terms of this Contract, Seller may defer shipments until such failure is made good or may treat such failure as final refusal to accept further shipments and may cancel this Contract. Seller may terminate this contract if Buyer becomes insolvent. This Contract shall automatically terminate in the event Buyer assigns his property for the benefit of creditors or is adjudicated a bankrupt. Either party's waive of such party's rights thereafter to enforce and compel strict compliance with conditions of this Contract, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance with every term and condition of the Contract.

7. Excuses for Nonperformance. Seller shall have no liability for any delay or failure in performance hereunder, in whole or in part, if such delay or failure arises from

- (i) Compliance in good faith with any foreign or domestic governmental regulation or order, whether or not later shown invalid or inapplicable;
- (ii) The occurrence of any contingency the nonoccurrence of which was a basic assumption at the time this contract was made, including without limitation acts of God, fire, flood, accident, riot, war, terrorism, sabotage, strike, lock-out, labor trouble or shortage, breakdown or failure of equipment, or embargo;
- (iii) Seller's inability to obtain any required product, material, energy source, equipment, labor, or transportation at prices and on terms deemed by Seller to be acceptable;
- (iv) Seller's incurring increased costs for compliance with environmental protection, health or safety regulations; or
- (v) Any other event or occurrence not within the reasonable control of Seller.

If any such circumstances affect only a part of Seller's capacity to perform, Seller may allocate products, services and deliveries among its customers and its own requirements as Seller may determine in its sole discretion. Quantities affected by this paragraph may, at the option of either party, be eliminated from the contract without liability, but the Contract shall remain otherwise unaffected.

8. Assignability & Continuity. Neither party shall not assign this Contract or any right or obligation under this Contract without the prior, written approval of the other party; however, this Contract shall be binding upon and inure to the benefit of any actual or purported successors of the parties hereto.

9. Surcharges. Notwithstanding anything in this Contract to the contrary, Seller reserves the right to impose a special temporary surcharge in the event of any increase in the price of energy or any other raw material that is reasonably likely to have a material impact on Seller's overall costs of Products and Services, or is imposed on Seller by its material or services providers. The amount of such surcharge will be limited to that required to negate the increase in Seller's costs resulting from such increases. Seller shall give Buyer written notice at least ten (10) business days prior to imposing any such surcharge and shall reduce or remove such surcharge at such time as the price of energy or raw materials return to levels which no longer justify such increase.

10. Equipment. Where Buyer's program includes the provision of Equipment, the following shall apply:

(a) *Ownership*: Unless and until such time Buyer pays for Equipment in full, any Equipment provided hereunder shall remain the sole and exclusive personal property of Seller even though Buyer may attach Equipment to realty. Seller may cause such Equipment to be marked to indicate Seller's ownership. Buyer agrees to cooperate in the filing of any necessary financing statements to protect Seller's interests;

(b) *Use*: Equipment shall be used only in conjunction with the prescribed use of Seller Products and Buyer agrees not to introduce any other material into the Equipment;

(c) *Buyer Facility*: Buyer shall install and provide necessary utilities as specified by Seller for the term of this Agreement and, in addition, will provide Equipment with shelter, tank pads, spill protection and foundations as appropriate. Buyer shall receive, unload, and place Equipment at no cost to Seller;

(d) *Maintenance and Consumables*: Seller shall be responsible for all routine maintenance, within the scope of the applicable Equipment warranty, and Buyer shall be responsible for purchasing all consumables in connection with the use of the Equipment; and

(e) *Risk of Loss*: Customer agrees to assume all risk of loss arising from or pertaining to the possession, operation, or use of such Equipment. Buyer shall obtain and maintain for the term of this Agreement property damage and liability insurance sufficient to cover loss or damage to the Equipment including, without limitation, loss by fire (including so-called extended coverage) and such other risks of loss as are customarily insured against for the businesses in which Customer is engaged.

11. **Patents**. Seller represents that to the best of its knowledge, the sale and/or use by Buyer of goods in the form sold hereunder will not infringe any composition of matter claims in any adversely held U.S. Patent claiming the goods per se, but in the event that it is alleged that such sale and/or use constitutes infringement of such Patent, then Seller's liability to the Buyer shall (i) be limited to the defense of such infringement actions and the payment of damages awarded therefor by a court of competent jurisdiction from which no appeal is or can be taken, and (ii) arise only if Buyer promptly gives Seller written notice of such claim and full authority, information and assistance for the defense of such claim. Seller's warranty as to use patents only applies to infringement arising solely out of the use of the goods according to their applications as envisioned by Seller's specifications. In no event shall Seller be liable for any infringement or alleged infringement arising from or caused or alleged to be caused by Buyer's combination of the goods supplied hereunder with other goods in any fashion not specifically recommended by Seller or by use of the goods in any process not specifically provided or recommended by Seller and is provided on the condition that the Buyer is likewise responsible for and will defend, indemnify and hold harmless the Seller against all losses, claims, expenses or damages which may result from the misuse or misapplication of any goods or services by the Buyer or any third party affiliated or in privity with Buyer. The foregoing states the entire liability of the Seller with respect to patent infringement by said goods. Seller reserves the right to suspend deliveries hereunder, or to terminate this contract, if the Seller believes that the manufacture and/or sale by the Seller, or the sale and/or use by the Buyer, of any goods sold hereunder infringes on any U.S. PATENT.

12. **Applicable Law – Entirety**. The construction, performance and completion of this Contract shall be governed by the law of the state of Iowa. Venue for any action arising out of this Contract shall be exclusively in the Iowa District Court for Dubuque County, Iowa.

13. **Entire Agreement**. This contract is intended by the parties as the final expression of their agreement and is the complete and exclusive statement of the terms thereof, notwithstanding any oral representations or statements to the contrary heretofore made. No modification or release shall be effective unless in writing, signed by both parties, and specifically stating it is such modification or release.

14. **Termination**. If pursuant to any federal, state or local law, regulation or ordinance Seller is required to install any additional equipment or facilities, in order to comply with governmental standards and if the cost of such installation, in Seller's opinion, makes it uneconomic to Seller to continue production of the goods, Seller may terminate this Contract on 30 days prior written notice delivered to Buyer.

15. **Acceptance**. All sales and purchases of products hereunder are limited to and conditional on Buyer's acceptance of these standard terms and conditions. Seller objects to and rejects any terms and conditions that may be proposed by Buyer which are in addition to or different from these standard terms and conditions. No modification of this contract shall be affected by the acknowledgment or acceptance of purchase order forms containing different or additional terms or conditions.



## INSURANCE SCHEDULE G

1. Vendor shall furnish a signed certificate of insurance to the City of Dubuque, Iowa for the coverage required in Exhibit I prior to the contract commencement. Each certificate shall be prepared on the most current ACORD form approved by the Iowa Insurance Division or an equivalent. Each certificate shall include a statement under Description of Operations as to why the certificate was issued. Agreement dated \_\_\_\_\_.
2. All policies of insurance required hereunder shall be with an insurer authorized to do business in Iowa and all insurers shall have a rating of A or better in the current A.M. Best's Rating Guide.
3. Each certificate shall be furnished to the Finance Department of the City of Dubuque.
4. The service provider shall be required to carry the minimum coverage/limits, or greater if required by law or other legal agreement, in Exhibit I. Failure to provide the required minimum coverage shall not be deemed a waiver of such requirements by the City of Dubuque.
5. Failure to obtain or maintain the required insurance shall be considered a material breach of this agreement.
6. All required endorsements shall be attached to certificate.
7. Whenever a specific ISO form is referenced the current edition of the form must be used unless an equivalent form is approved by the Director of Finance and Budget. The service provider must identify or list in writing all deviations and exclusions from the ISO form.
8. If vendor's limits of liability are higher than the required minimum limits then the vendor's limits shall be this agreement's required limits.
9. Vendor shall require all subcontractors and sub-subcontractors to obtain and maintain during the performance of work insurance for the coverages described in this Insurance Schedule and shall obtain certificates of insurance from all such subcontractors and sub-subcontractors. Vendor agrees that it shall be liable for the failure of a subcontractor and sub-subcontractor to obtain and maintain such coverage. The City may request a copy of such certificates from the Vendor.
10. Vendor shall be responsible for deductibles/self-insured retention for payment of all policy premiums and other costs associated with the insurance policies required below.
11. All certificates of insurance must include agents name, phone number, and email address.
12. The City of Dubuque reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by this Schedule at any time.
13. The City of Dubuque reserves the right to modify these requirements, including limits, based on changes in the risk or other special circumstances during the term of the agreement, subject to mutual agreement of the parties.

## INSURANCE SCHEDULE G (continued)

### EXHIBIT I

#### A) COMMERCIAL GENERAL LIABILITY

General Aggregate Limit	\$2,000,000
Products-Completed Operations Aggregate Limit	\$1,000,000
Personal and Advertising Injury Limit	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage Limit (any one occurrence)	\$50,000
Medical Payments	\$5,000

- 1) Coverage shall be written on an occurrence, not claims made, form. The general liability coverage shall be written in accord with ISO form CG 00 01 or business owners form BP 00 02. All deviations from the standard ISO commercial general liability form CG 00 01, or Business owners form BP 00 02, shall be clearly identified.
- 2) Include ISO endorsement form CG 25 04 "Designated Location(s) General Aggregate Limit."
- 3) Include endorsement indicating that coverage is primary and non-contributory.
- 4) Include Preservation of Governmental Immunities Endorsement (Sample attached).
- 5) Include additional insured endorsement for:  
     The City of Dubuque, including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees and volunteers. Use ISO form CG 20 10 (Ongoing operations) or its equivalent.
- 6) Policy shall include Waiver of Right to Recover from Others endorsement.

#### B) WORKERS' COMPENSATION & EMPLOYERS LIABILITY

Statutory Benefits covering all employees injured on the job by accident or disease as prescribed by Iowa Code Chapter 85.

Coverage A	Statutory—State of Iowa	
Coverage B	Employers Liability	
	Each Accident	\$100,000
	Each Employee-Disease	\$100,000
	Policy Limit-Disease	\$500,000

Policy shall include Waiver of Right to Recover from Others endorsement.

Coverage B limits shall be greater if required by the umbrella/excess insurer.

#### OR

If, by Iowa Code Section 85.1A, the Vendor is not required to purchase Workers' Compensation Insurance, the Vendor shall have a copy of the State's Nonelection of Workers' Compensation or

Employers' Liability Coverage form on file with the Iowa Workers' Compensation Insurance Commissioner, as required by Iowa Code Section 87.22. Completed form must be attached.



## INSURANCE SCHEDULE G (continued)

### C) POLLUTION LIABILITY

Coverage required: ☐ \* ☐ Yes ☐ No

Pollution liability coverage shall be required if the lessee, contracting party, or permittee has any pollution exposure for abatement of hazardous or contaminated materials including, but not limited to, petroleum products, the removal of lead, asbestos, or PCBs. Pollution product and completed operations coverage shall also be covered.

Each Occurrence	\$2,000,000
Policy Aggregate	\$4,000,000

- 1) Policy to include job site and transportation coverage.
- 2) Include additional insured for:  
     The City of Dubuque, including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees and volunteers. Use ISO form CG 20 10. (Ongoing operations) or its equivalent and CG 20 37 (completed operations).
- 3) Include Preservation of Governmental Immunities Endorsement.
- 4) Provide evidence of coverage for 5 years after completion of project.

### D) PROFESSIONAL LIABILITY \$1,000,000

Coverage required: ☐ Yes ☐ \* ☐ No

If the required policy provides claims-made coverage:

- 1) The Retroactive Date must be shown and must be before the date of the agreement.
- 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the work or services.
- 3) If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the date of the agreement, the contractor must provide "extended reporting" coverage for a minimum of five (5) years after completion of the work or services.

### E) CYBER LIABILITY/BREACH \$1,000,000

Coverage required: ☐ Yes ☐ \* ☐ No

Coverage for First and Third Party liability including but not limited to lost data and restoration, loss of income and cyber breach of information.

### F) UMBRELLA/EXCESS \$1,000,000

Coverage required: ☐ \* ☐ Yes ☐ No

The General Liability, Automobile Liability and Workers Compensation Insurance requirements may be satisfied with a combination of primary and Umbrella or Excess Liability Insurance. If the Umbrella or Excess Insurance policy does not follow the form of the primary policies, it shall

include the same endorsements as required of the primary policies including Waiver of Subrogation and Primary and Non-contributory in favor of the City.

Please be aware that naming the City of Dubuque as an additional insured as is required by this Insurance Schedule may result in the waiver of the City's governmental immunities provided in Iowa Code sec. 670.4. If you would like to preserve those immunities, please use this endorsement or an equivalent form.

## **PRESERVATION OF GOVERNMENTAL IMMUNITIES ENDORSEMENT**

1. Nonwaiver of Governmental Immunity. The insurer expressly agrees and states that the purchase of this policy and the including of the City of Dubuque, Iowa as an Additional Insured does not waive any of the defenses of governmental immunity available to the City of Dubuque, Iowa under Code of Iowa Section 670.4 as it is now exists and as it may be amended from time to time.
  2. Claims Coverage. The insurer further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time. Those claims not subject to Code of Iowa Section 670.4 shall be covered by the terms and conditions of this insurance policy.
  3. Assertion of Government Immunity. The City of Dubuque, Iowa shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurer.
  4. Non-Denial of Coverage. The insurer shall not deny coverage under this policy and the insurer shall not deny any of the rights and benefits accruing to the City of Dubuque, Iowa under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the City of Dubuque, Iowa.
- No Other Change in Policy. The above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.



City of Dubuque  
Public Works Department  
925 Kerper Court  
Dubuque, IA 52001  
(563) 589-4250

**CITY OF DUBUQUE, IOWA  
SHORT FORM  
VENDOR SERVICE AGREEMENT**

THIS VENDOR SERVICE AGREEMENT (the Contract), made in triplicate, between the City of Dubuque, Iowa (City), by its City Manager, through authority conferred upon the City Manager by its City Council and J&R SUPPLY, INC of  
(Vendor Name)  
220 FENTRESS LAKE RD, EAST DUBUQUE, IL 61025  
(Vendor Address - City and State)

**PROJECT TITLE:** RING & LIDS - METAL SUPPLY

For and in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**VENDOR AGREES:**

1. To furnish all material and equipment and to perform all labor necessary for the project::

PROVIDING MANHOLE RING AND LIDS FOR MAINTENANCE PROJECTS  
AND ASPHALT OVERLAY PROJECT. MATERIALS SHOULD BE DELIVERED  
TO::

925 KERPER CT  
DUBUQUE, IA 52001

The Project shall be completed in strict accordance with the terms as described in this Contract; in strict accordance with the requirements of the laws of the State of Iowa and ordinances of the City of Dubuque, and in accordance with the Request For Proposal (RFP) Documents which provisions and documents are each and all hereby referred to and made a part of this Contract just as much as if the detailed statements thereof were repeated herein.

2. Contract Documents shall mean and include the following: This Contract; all ordinances and resolutions heretofore adopted by the City Council having to do with this Project; the Vendor's Proposal; and any, Plans and Specifications and General Requirements as adopted by the City Council for the Project which are listed in the Special Conditions section of this Contract.
3. All materials used by the Vendor on this Project shall be of the quality required by the Contract Documents and shall be put in place in accordance with the Contract Documents.
4. The Vendor shall remove any materials rejected by the City Manager as defective or improper, or any of said work condemned as unsuitable or defective, and the same shall be replaced or done anew to the satisfaction of the City Manager at the cost and expense of the Vendor.
5. The Vendor has read and understands the Contract Documents and has examined and understands the project description described in Section 1 of this Agreement and any attached Special Conditions herein referred to and agrees not to plead misunderstanding or deception because of estimates of quantity, character, location or other conditions surrounding the same.
6. The Vendor shall fully complete the Project under this Contract on or before  
    DECEMBER 1, 2024  
    (DATE)
7. INDEMNIFICATION FROM THIRD PARTY CLAIMS. To the fullest extent permitted by law, Vendor shall defend, indemnify and hold harmless City, its officers and employees, from and against all claims, damages, losses and expenses claimed by third parties, but not including any claims, damages, losses or expenses of the parties to this Contract, including but not limited to attorneys' fees, arising out of or resulting from performance of this Contract, provided that such claim, damages, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of property, including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of Vendor, or anyone directly or indirectly employed by Vendor or anyone for whose acts Vendor may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.
8. Unless otherwise specified in the Contract Documents, prior to the commencement of any work on this Project and at all times during the performance of this Contract, the Vendor shall provide evidence of insurance which meets the requirements of the City's Insurance Schedule attached to this Contract and listed in the Special Conditions section.
9. The Vendor agrees that no work under this Contract shall commence on the Project until the City has issued a written "Notice to Proceed" to the Vendor. Any work started by the Vendor prior the issuance of the Notice to Proceed shall be considered unauthorized and done at the sole risk to the Vendor.
10. The City of Dubuque in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it

will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, or disability in consideration for an award.

**THE CITY AGREES:**

Upon the completion of this Contract, and the acceptance of the Project by the City Manager, the City agrees to pay the Vendor as full compensation for the complete performance of this Contract, the amount determined for the total work completed at the prices stated in the Vendor's Proposal and less any liquidated damages provided for in the Contract Documents. The work as stated in the Contract Documents is approximate only, and the final payment shall be made for the actual work completed as listed below in this Contract.

CONTRACT AMOUNT \$ 435.00 / RING & COVER ~ \$ 65,250

THE MAXIMUM CONTRACT AMOUNT SHALL BE LIMITED TO AN INCREASE OF 10 % OF THE ABOVE LISTED ESTIMATED AMOUNT

**CITY OF DUBUQUE, IOWA**

By: Michael Van Milligen 03/20/2024  
Michael C. Van Milligen Date  
City Manager

**VENDOR:**

J&R SUPPLY, INC.  
Company Name  
By: Edward C. Erschen 3/12/24  
Signature Date  
EDWARD C. ERSCHEN  
Printed Name  
V.P.  
Title

**VENDOR ACKNOWLEDGEMENT OF ATTACHED SPECIAL CONDITIONS:**

By: Edward C. Erschen 3/12/24  
Signature Date  
EDWARD C. ERSCHEN  
Printed Name  
V.P.  
Title

[illegible]

**City of Dubuque  
City Council Meeting**

**Consent Items # 015.**

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**ITEM TITLE:** 3000 Jackson Dubuque Brewing and Malting Project Update  
**SUMMARY:** City Manager submitting a status update on the Dubuque Brewing and Malting project at 3000 Jackson Street.  
**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File

**ATTACHMENTS:**

**Description**

MVM Memo

Staff Memo

**Type**

City Manager Memo

Staff Memo



**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** 3000 Jackson Dubuque Brewing and Malting Project Update

**DATE:** March 28, 2024

Housing & Community Development Director Alexis Steger is submitting a status update on the Dubuque Brewing and Malting project at 3000 Jackson Street.

  
Michael C. Van Milligen

MCVM:sv

Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Alexis Steger, Housing & Community Development Director  
Jill Connors, Economic Development Director  
Wally Wernimont, Planning Services Director  
Michael Belmont, Asst. Housing & Comm Development Director





Housing & Community  
Development Department  
350 W 6<sup>th</sup> Street, Suite 312  
Dubuque, Iowa 52001-4763  
Office (563) 589-4230  
<http://www.cityofdubuque.org>

**TO:** Michael C. Van Milligen, City Manager

**FROM:** Alexis M. Steger, Housing and Community Development Director

**SUBJECT:** 3000 Jackson, Dubuque Brewing and Malting Building Update

**DATE:** March 28, 2024

## **INTRODUCTION**

This memorandum provides a status update on the Dubuque Brewing and Malting project at 3000 Jackson Street.

## **BACKGROUND**

On March 18, 2024, staff presented a memo to update the City Council providing the following information:

Zinser, the construction company hired by the owner, has submitted the following timeline:

- Mobilize and setup equipment March 11 – March 15
- Demolition of building – March 18 – April 5th
- Cleanup of site April 8 – April 12

The electrical contractor completed relocation of internal electric service that enters the 3000 Jackson building that is scheduled for demolition but serves a portion of the building used by Prairie Farms. Alliant Energy could not schedule removal of existing overhead powerlines until that internal work was completed. Now that it is complete, Alliant is scheduling the removal of existing power lines during the week of March 25, 2024.

A plumbing contractor has scheduled water and sewer disconnects for Monday March 18<sup>th</sup>.

A large excavator has been brought on site; however, the crane will not be delivered until after Alliant has removed the overhead powerlines.

## **DISCUSSION**

The water and sewer utilities have been disconnected.

On Sunday, March 24, Prairie Farms was able to shut down their operations to complete the electric service switch over. The service to Prairie Farms has been relocated and re-energized.

Alliant Energy converted an overhead electrical service line that fed a residence at 3035 Jackson Street to an underground service. The underground portion of the service has been completed and Alliant anticipates finalizing the switch-over on Friday March 28. That will complete Alliant Energy's preparation work for the deconstruction.

The owner is awaiting final sign off from DMASWA, which is dependent on clearance documentation from the asbestos abatement. The City is also waiting for a current Insurance certificate from the contractor.

## **RECOMMENDATION**

This memo is for information only.

Prepared By: Michael Belmont, Asst. Housing & Comm Development Director

CC: Jill Connors; Economic Development Director  
Wally Wernimont, City Planner

**City of Dubuque  
City Council Meeting**

**Items to be set for Public Hearing #  
01.**

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**ITEM TITLE:** Dubuque Racing Association Lease: Dubuque Racing Association Phase 2 Financing, Amended Leasehold Mortgage

**SUMMARY:** City Attorney recommending City Council set a public hearing for April 9, 2024, on the amendment to the lease and the consent to the amended leasehold mortgage.

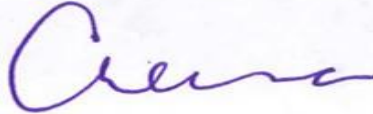
**RESOLUTION** Intent to dispose of an interest in real property through an amendment to the existing lease agreement with the Dubuque Racing Association, LTD. and approving an amendment to the leasehold mortgage between the Dubuque Racing Association, LTD and MidWestOne Bank

**SUGGESTED DISPOSITION:** Receive and File; Adopt Resolution(s), Set Public Hearing for April 9, 2024Suggested Disposition:

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
Staff Memo	Staff Memo
Resolution	Resolutions
Notice	Supporting Documentation
Supporting Documents	Supporting Documentation
Supporting Documents	Supporting Documentation

**CRENNA M. BRUMWELL, ESQ.**  
**CITY ATTORNEY**



**TO: MAYOR BRAD M. CAVANAGH & MEMBERS OF THE CITY COUNCIL**

**DATE: MARCH 28, 2024**

**RE: DUBUQUE RACING ASSOCIATION LEASE  
DUBUQUE RACING ASSOCIATION PHASE 2 FINANCING, AMENDED LEASEHOLD  
MORTGAGE**

The City of Dubuque in conjunction with the Dubuque Racing Association (DRA) and community participants have worked diligently for years to procure a Chaplain Schmitt Island Master Plan and Schmitt Island Placemaking & Implementation Plan.

Work on implementation of the plans has been ongoing. The biggest project to date has been the Veteran's Memorial. A Community Project Funding grant was received via Representative Hinson for construction of the Veterans Memorial Trailhead Project and will be constructed in 2024. In 2022 the City invested millions of dollars in improvements to ImOn Arena. Additional improvements to the arena are currently in process.

The Chaplain Schmitt Island Master Plan was adopted in 2014 and amended in 2017. The Chaplain Schmitt Island Placemaking & Implementation Plan was adopted in 2017.

The goals of the plan were largely recreational focused and included connecting and expanding access to the riverfront, creation of educational opportunities on the island, highlighting the unique characteristics of the island, bringing new visitors to the island, and offering activities and events for all seasons.

The largest tenant on the island is the DRA leasing and operating Q Casino. The DRA, in partnership with the City of Dubuque, has proposed approximately \$155 million dollars in public and private improvements to the island. The improvements completed or proposed include:

**Public Improvements**

- Iowa Amphitheater on Chaplain Schmitt Island (\$15 million)
- Veterans Memorial Trailhead Project and Other Trail Projects (\$5 million)

- Chaplain Schmitt Island connectivity and access improvements including a railroad overpass at 14th Street (Over \$40 million)
- Sanitary Sewer Improvements (~\$3 million)
- ImOn Ice Arena Improvements (~\$5 million)

Private Improvements - \$83 million

- Construction of a new 8-story, 108 room Hilton Tapestry Collection hotel adjacent to the existing Hilton Garden Inn, including an upscale rooftop restaurant, lounge, and event space overlooking the Mississippi River
- Interior casino remodel, including elevated bar with bar top slot machines and updated showroom, new Sports Book, and new sports bar.
- New banquet space and party rooms
- Addition of a family entertainment zone for all ages with high-end arcade games
- Exterior casino upgrades including the façade, signage, landscaping, and surface parking

The private improvements to the island necessitate:

- An amendment to the lease between the City and DRA.
- Financing of the improvements by the DRA. The lender for DRA, which is MidWestOne Bank, requires the City consent to an amended leasehold mortgage between the DRA and MidWestOne Bank.

An amendment to the lease has been negotiated between the City and DRA for Lot 1 of Chaplain Schmitt Island which contains the area where the casino, existing hotel and restaurant, and the new hotel are located. The amendment to Section 12 of the lease increases the total DRA project cost from \$80 million dollars to \$85 million dollars which takes into account an additional \$3 million dollars in costs related to the Phase 2 improvements and provides \$2 million in additional capacity to account for project changes and/or modifications. The balance of the existing lease terms remain the same.

The lease amendment and consent to the amended leasehold mortgage has been reviewed and negotiated between the parties.

Public hearing on the amendment to the lease and the consent to the amended leasehold mortgage is to be scheduled for April 9, 2024. Staff respectfully recommends approval.

cc: Michael C. Van Milligen, City Manager  
 Teri Goodmann, Director of Strategic Partnerships  
 Marie Ware, Leisure Services Director  
 Wally Wernimont, Planning Services Director  
 Jill Connors, Economic Development Director  
 Steve Sampson Brown, Project Manager  
 Alex Dixon, CEO and President, Dubuque Racing Association  
 Mike Donahue, Dubuque Racing Association Board Chair  
 Tonya Trumm, O'Connor & Thomas, DRA Legal Counsel

Prepared by Crenna Brumwell 300 Main Street Suite 330 Dubuque IA 52001 563 583-4113

**RESOLUTION NO. \_\_\_\_\_ - 24**

**INTENT TO DISPOSE OF AN INTEREST IN REAL PROPERTY THROUGH AN AMENDMENT TO THE EXISTING LEASE AGREEMENT WITH THE DUBUQUE RACING ASSOCIATION, LTD. AND APPROVING AN AMENDMENT TO THE LEASEHOLD MORTGAGE BETWEEN THE DUBUQUE RACING ASSOCIATION, LTD AND MIDWESTONE BANK**

**WHEREAS**, the City of Dubuque, Iowa (City) is the owner of the real property legally described as

Lot 1 of Chaplain Schmitt Island in the City of Dubuque, Iowa, according to the Plat recorded as Instrument #2023-7679, records of Dubuque County, Iowa

(the Property); and

**WHEREAS**, the Property is subject to a Lease Agreement between City and the Dubuque Racing Association (DRA); and

**WHEREAS**, the parties now desire to amend provision 12 of the Lease Agreement; and

**WHEREAS**, the DRA is in progress with an \$83 million construction project which requires financing with a lending institution; and

**WHEREAS**, the City has previously consented to the overall construction project and Phase 1 financing of the improvements through a Leasehold Mortgage between the DRA and MidWestOne Bank; and

**WHEREAS**, the DRA seeks City consent to an amendment to its Leasehold Mortgage with MidWestOne Bank for Phase 2 of its financing of the improvements; and

**WHEREAS**, the City Council believes it is in the best interests of the City to approve the Amendment to its Lease Agreement with the DRA and

**WHEREAS**, THE City Council believes it is in the best interests of the City to consent to amended Leasehold Mortgage between the DRA and MidWestOne Bank for Phase 2 of the DRA's financing of the improvements.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:**

Section 1. The City Council intends to dispose of City's interest in the foregoing-described real property pursuant to:

- An Amendment to its Lease Agreement with the DRA, and
- Consent to an amendment to the Leasehold Mortgage between the DRA and MidWestOne Bank for the financing of Phase 2 of the improvements by the DRA..

Section 2. The City Clerk is hereby authorized and directed to cause this Resolution and a Notice to be published as prescribed by Iowa Code §364.7 of a public hearing on City's intent to dispose of the foregoing-described real property, to be held on the 9th day of April 2024, at 6:30 o'clock p.m. in the City Council Chambers at the Historic Federal Building, 350 W. 6<sup>th</sup> Street, Dubuque, Iowa

Passed, approved and adopted this \_\_\_\_ day of \_\_\_\_\_, 2024.

---

Brad M. Cavanagh, Mayor

Attest:

---

Adrienne Breitfelder, City Clerk

**CITY OF DUBUQUE, IOWA  
OFFICIAL NOTICE**

PUBLIC NOTICE is hereby given that the City Council of the City of Dubuque, Iowa, will hold a public hearing on the 9th day of April 2024, at 6:30 p.m. in the Historic Federal Building, 350 West Sixth Street, 2nd floor, Dubuque, Iowa, at which meeting the City Council proposes to dispose of an interest in real property to the Dubuque Racing Association Ltd. through an Amendment to the Lease Agreement between the City and the Dubuque Racing Association Ltd. and by consenting to an amended leasehold mortgage between the Dubuque Racing Association Ltd. and MidWestOne Bank.

The real property encumbered by the Lease Agreement is:

Lot 1 of Chaplain Schmitt Island in the City of Dubuque, Iowa, according to the Plat recorded as Instrument #2023-7679, records of Dubuque County, Iowa.

At the meeting, the City Council will receive oral and written comments from any resident or property owner of said City to the above action. The official agenda will be posted the Friday before the meeting and will contain public input options.

The City Council agenda can be accessed at: <https://cityofdubuke.novusagenda.com/AgendaPublic/> or by contacting the City Clerk's Office at 563-589-4100, [ctyclerk@cityofdubuke.org](mailto:ctyclerk@cityofdubuke.org).

Written comments regarding the above public hearings may be submitted to the City Clerk's Office, before said time of public hearing: via email at [ctyclerk@cityofdubuke.org](mailto:ctyclerk@cityofdubuke.org) or by mail to City Clerk's Office, City Hall, 50 W. 13<sup>th</sup> St., Dubuque, IA 52001.

At said time and place of public hearings the City Council will receive any written comments.

Copies of supporting documents for the public hearings are on file in the City Clerk's Office and may be viewed Monday through Friday between 8:00 a.m. and 5:00 p.m.

Individuals with limited English proficiency, vision, hearing, speech, or other impairments requiring special assistance should contact the City Clerk's Office at (563) 589-4100, [ctyclerk@cityofdubuke.org](mailto:ctyclerk@cityofdubuke.org) as soon as feasible.

Deaf or hard-of-hearing individuals can use Relay Iowa by dialing 711 or (800) 735-2942.

Published by order of the City Council given on the \_\_\_\_ day of April 2024.

Adrienne Breitfelder, City Clerk



FIRST AMENDMENT  
TO  
AMENDED AND RESTATED  
LEASE AGREEMENT  
BETWEEN  
THE CITY OF DUBUQUE, IOWA  
AND  
DUBUQUE RACING ASSOCIATION, LTD.

This First Amendment to Amended and Restated Lease Agreement (this "Amendment") is dated for reference purposes as of the 15<sup>th</sup> day of April, 2024, and is by and between the City of Dubuque, Iowa, a municipal corporation ("City"), and Dubuque Racing Association, Ltd., an Iowa nonprofit corporation ("Association").

WHEREAS, City and Association are parties to that certain Amended and Restated Lease Agreement dated September 19, 2023 (the "Lease"), with respect to the real estate described on attached Exhibit A (hereinafter, the "Leased Premises"); and

WHEREAS, City and Association desire and intend to amend certain provisions of the Lease as set forth herein.

NOW, THEREFORE, City and Association, in consideration of the mutual covenants and conditions hereinafter set forth, agree as follows:

1. Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Lease.

2. Amendment to Section 12 of the Lease. Effective as of the date of this Amendment, Section 12 of the Lease is hereby amended and restated in its entirety to read as follows:

"12. Alterations. City acknowledges that Association has entered into certain contracts with respect to various improvements to be made to Association's facilities on the Leased Premises, which include the remodel of the casino facility, the addition of a family entertainment zone, and the addition of a new hotel and restaurant (the "Project"), the total cost of which Project will not exceed \$85,000,000.00. Subject to its approval of the various financing related documents to be entered into by Association in connection with the Project (the "Project Financing Documents"), City hereby consents to and approves the Project. City further acknowledges that the Project Financing Documents require Association to commit cash equity to the Project in a minimum amount of twenty-five percent (25%) of the total cost of the Project (the "Equity Contribution"). Notwithstanding anything to the contrary contained in this Lease (including, without limitation, any limitation on Association's use of cash or funds and/or any provision or covenant requiring use of such cash or funds for a different purpose), City hereby consents to and authorizes Association to make or fund the Equity Contribution with the following sources of cash: (a) capital reserves established in connection with any portion of the Leased Premises (including, without limitation, up to \$3,000,000.00 of funds on deposit in

the Capital Reserve Fund); (b) portions of Association's cash reserves and cage cash; (c) proceeds of a loan from Dubuque Initiatives; and (c) to the extent authorized by the subcommittee with discretion over the funds contained therein, funds from the Schmitt Island Master Plan Implementation Fund, subject to the prior obligations committed to by the subcommittee and obligated under the Lease between City and Association for the Destination Iowa Grant Application and associated projects.

Other than the Project, Association shall not commence alterations to any structure or structures or make additions to any existing structures or facilities in an amount exceeding One-Hundred Thousand Dollars (\$100,000.00) without the prior written approval of the plans and specifications by City.

Any improvements, modifications or additions to the Leased Premises wheresoever located or however financed shall become part of the real estate and owned by City upon termination of this Lease. City consent is not required for any items in Association's CIP budget except for improvements to the Leased Premises costing over \$100,000.00, or for capital improvements to be financed by incurring debt in excess of \$100,000.00. City consent is not required for Association expenditures for ongoing replacement of slot machines and other video games, or for equipment replacement in the normal course of business."

3. Reference to and Effect on the Lease. Except as expressly set forth in this Amendment, all of the terms and provisions of the Lease are and shall remain in full force and effect and are hereby ratified and confirmed. Unless the context requires otherwise or as otherwise expressly set forth herein, any references to the Lease contained therein shall be deemed to refer to the Lease as amended by this Amendment. The amendments provided for herein are limited to the specific provisions of the Lease specified herein and shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any party under the Lease, or constitute a waiver or amendment of any other provision of the Lease, except as and to the extent expressly set forth herein.

4. Counterparts. This Amendment may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of a signature page of this Amendment by telecopy or other electronic means shall be effective as delivery of a manually executed counterpart hereof.

5. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Iowa.

6. Effectiveness of Amendment. The parties acknowledge and agree that this Amendment must be approved by Association's Board of Directors, Association's lender, the City Council of Dubuque, Iowa, and the Iowa Racing and Gaming Commission. Accordingly, notwithstanding anything to contrary contained herein, this Amendment shall become effective as of the date of receipt of the last of such required approvals.

7. Memorandum for Recording. The parties mutually agree that, if necessary or desirable for title purposes, a Memorandum of First Amendment to Amended and Restated Lease Agreement may be executed and filed of record in lieu of recording this Amendment.

IN WITNESS WHEREOF, each of the parties hereto has executed this First Amendment to Amended and Restated Lease Agreement as of the date first written above.

CITY OF DUBUQUE, IOWA

DUBUQUE RACING ASSOCIATION,  
LTD.

By: \_\_\_\_\_  
Michael Van Milligen, City Manager

By:  \_\_\_\_\_  
Alex Dixon, President and CEO

Attest: \_\_\_\_\_  
\_\_\_\_\_, City Clerk

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**EXHIBIT A**  
**LEASED PREMISES**

Lot 1 of CHAPLAIN SCHMITT ISLAND in the City of Dubuque, Iowa, according to the Plat recorded as Instrument #2023-7679, records of Dubuque County, Iowa.

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**FIRST AMENDMENT TO  
LEASEHOLD MORTGAGE, FIXTURE FILING  
AND SECURITY AGREEMENT  
WITH ABSOLUTE ASSIGNMENT OF LEASES AND RENTS  
Recorder's Cover Sheet**

**Preparer Information:**

Fuerste, Carew, Juergens & Sudmeier, P.C.  
890 Main Street, Suite 200  
Dubuque, Iowa 52001  
(563) 556-4011  
Attn: Stephan Alt

**Taxpayer Information:**

Dubuque Racing Association, Ltd.  
1855 Greyhound Park Road  
Dubuque, Iowa 52001

**Return Document To:**

Fuerste, Carew, Juergens & Sudmeier, P.C.  
890 Main Street, Suite 200  
Dubuque, Iowa 52001  
Attn: Stephan Alt

**Mortgagor:**

Dubuque Racing Association, Ltd.

**Mortgagee:**

MidWestOne Bank

**Legal Description:** See Exhibit "A"

**Document or instrument number of previously recorded documents:** 2023-10305

**NOTICE:** This Amendment to Mortgage modified and secures credit in the amount of \$93,705,792. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

**THIS MORTGAGE ALSO CONSTITUTES A FIXTURE FILING**

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**FIRST AMENDMENT TO LEASEHOLD MORTGAGE, FIXTURE FILING  
AND SECURITY AGREEMENT  
WITH ABSOLUTE ASSIGNMENT OF LEASES AND RENTS**

THIS FIRST AMENDMENT TO LEASEHOLD MORTGAGE, FIXTURE FILING AND SECURITY AGREEMENT WITH ABSOLUTE ASSIGNMENT OF RENTS ("Amendment"), made as of April 19, 2024, by and between DUBUQUE RACING ASSOCIATION, LTD., an Iowa nonprofit corporation ("Mortgagor"), and MIDWESTONE BANK ("Lender" or "Mortgagee"; hereinafter the terms "Lender" and "Mortgagee" may be used interchangeably).

**RECITALS**

A. Mortgagor previously executed that certain Leasehold Mortgage, Fixture Filing and Security Agreement With Absolute Assignment of Rents dated October 20, 2023, in favor of Lender with respect to certain real property as described in Exhibit "A", attached hereto and incorporated herein by this reference, together with the improvements now or hereafter erected thereon, which was recorded in the records of the Dubuque County, Iowa Recorder on October 31, 2023, as Instrument # 2023-10305 (as hereby amended and as from time to time further amended, modified, supplemented, restated or amended and restated, the "Mortgage") securing credit in the amount of Fifty-One Million Three Hundred Eight Thousand Seven Hundred Seventy-Five and 00/100 Dollars (\$51,308,775.00);

B. Mortgagor and Mortgagee previously executed that certain Credit Agreement dated October 20, 2023, as amended and restated by that certain Amended and Restated Credit Agreement dated as of even date herewith (as the same may be further varied, amended, restated, renewed, consolidated, extended or otherwise supplemented from time to time, the "2024 Credit Agreement") under which Mortgagee has agreed to make additional loans to Mortgagor in the amount of Thirty-Five Million Nine Hundred Seventy-Two Thousand One Hundred Seventy-Nine and 00/100 Dollars (\$35,972,179.00) (the "2024 Loan") thereby increasing the total loan commitment under the 2024 Credit Agreement to Sixty-Five Million Seven Hundred Forty Thousand Eight Hundred Fifty and 00/100 Dollars (\$65,740,850.00);

C. The 2024 Loan is evidenced by certain Promissory Notes executed by Mortgagor on or after the date hereof (the "2024 Notes");

D. In connection with the execution and delivery of the 2024 Credit Agreement, Mortgagor has agreed to execute and deliver this Amendment as collateral security for the Mortgagor's increased Obligations under the 2024 Credit Agreement and further has agreed to increase the amount secured by this Mortgage to Ninety-Three Million Seven Hundred Five Thousand Seven Hundred Ninety-Two and 00/100 Dollars (\$93,705,792.00).

NOW, THEREFORE, in consideration of the above Recitals and the mutual covenants herein contained, the parties hereto hereby agree as follows:

**AGREEMENT**

1. Definitions. Unless otherwise defined herein, capitalized terms used in this Amendment shall have the meanings ascribed to such terms in the 2024 Credit Agreement.
2. Amendments to Mortgage.

- a. The Notice language on the cover page of the Mortgage is hereby amended and restated in its entirety to read as follows:

**“NOTICE: This Mortgage secures credit in the amount of \$93,705,792.00. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.”**

- b. Paragraph A of the Recitals is hereby amended and restated in its entirety to read as follows:

“A. On or about October 20, 2023, Mortgagor executed that certain Credit Agreement dated October 20, 2023 (the “2023 Credit Agreement”) relating to certain loans to be made by Mortgagee to Mortgagor in the amount of up to \$29,768,671 (collectively the “2023 Loan”). On or about April 19, 2024, Mortgagor executed that certain Amended and Restated Credit Agreement dated April 19, 2024 (as the same may be varied, amended, restated, renewed, consolidated, extended or otherwise supplemented from time to time, the “2024 Credit Agreement”), which amended and restated the 2023 Credit Agreement in its entirety. Pursuant to the 2024 Credit Agreement, Mortgagee has agreed to make additional loans to Mortgagor in the amount of Thirty-Five Million Nine Hundred Seventy-Two Thousand One Hundred Seventy-Nine and 00/100 Dollars (\$35,972,179.00) (the “2024 Loan”) thereby increasing the total loan commitment under the 2024 Credit Agreement, when combined with the 2023 Loan commitment, to Sixty-Five Million Seven Hundred Forty Thousand Eight Hundred Fifty and 00/100 Dollars (\$65,740,850.00).”

- c. Paragraph B of the Recitals is hereby amended and restated in its entirety to read as follows:

“B. The 2023 Loan is evidenced by certain Promissory Notes executed by Mortgagor on or about October 20, 2023 (the “2023 Notes”), and the 2024 Loan is evidenced by certain Promissory Notes executed by Mortgagor on or about April 19, 2024 (the “2024 Notes”).”

- d. Paragraph G of the Recitals is hereby amended and restated in its entirety to read as follows:

“G. “Loan” collectively shall mean the 2024 Loan, the 2023 Loan, and the Existing Hilton Garden Loan.”

- e. Paragraph H of the Recitals is hereby amended and restated in its entirety to read as follows:

“H. “Credit Agreement” collectively shall mean the 2024 Credit Agreement and the Existing Hilton Garden Loan Agreement.”

- f. Paragraph I of the Recitals is hereby amended and restated in its entirety to read as follows:

“I. “Note” collectively shall mean the 2024 Notes, the 2023 Notes, and the Existing Hilton Garden Note.”

- g. Section 2.2 of the Mortgage is hereby amended and restated in its entirety to read as follows:

“2.2 Maturity Date. The latest maturity date of the Notes secured hereby is January 1, 2036.”

3. No Other Changes. Except as may be otherwise expressly set forth herein, each and every term, condition, warranty and provision of or exhibits to the Mortgage shall remain in full force and effect, and such are hereby ratified, confirmed and approved by the parties hereto.
4. Counterparts. This Amendment may be executed in any number of identical counterparts, any set of which signed by all the parties hereto shall be deemed to constitute a complete, executed original for all purposes.
5. Acknowledgment, Continuance and Reaffirmation of Mortgage. Mortgagor hereby acknowledges and agrees that: (a) the Mortgage is a valid and enforceable lien upon the Property; (b) the Mortgage, and each of the terms and conditions set forth therein, as amended by this Amendment, remains in full force and effect; (c) the Mortgage secures the obligations and credit described in the Mortgage, as amended by this Amendment, and as further described in the Loan Documents; (d) the Mortgage, as amended by this Amendment, shall be binding on any successors and assigns of the parties hereto; and (e) this Amendment represents the final agreement between the parties hereto as the subject matter hereof and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties hereto and there are no unwritten oral agreements between the parties hereto.
6. Reaffirmation. Mortgagor hereby expressly reaffirms each of the representations, warranties and covenants set forth in the Mortgage, as amended by this Amendment.
7. Governing Law. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Iowa applicable to agreements made and wholly performed within such state.
8. Choice of Venue. If there is a lawsuit, Mortgagor agrees upon Lender's request to submit to the jurisdiction of the courts of Dubuque County, State of Iowa.
9. Incorporation of Recitals. The Recitals to this Amendment are true, correct, and incorporated herein by reference.
10. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
11. Severability. Whenever possible, each provision of this Amendment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Amendment shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Amendment.
12. Headings. The descriptive headings in this Amendment are inserted for convenience of reference only and shall not affect the construction of this Amendment. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the entity, person or persons may require.

**IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN**



**CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.**

**MORTGAGOR ACKNOWLEDGES THE RECEIPT OF A COPY OF THIS DOCUMENT AT THE TIME IT WAS SIGNED.**

*[Remainder of Page Intentionally Left Blank, Signature Pages Follow]*

IN WITNESS WHEREOF, Mortgagor has executed this Amendment, effective as of the day and year set forth above.

MORTGAGOR:

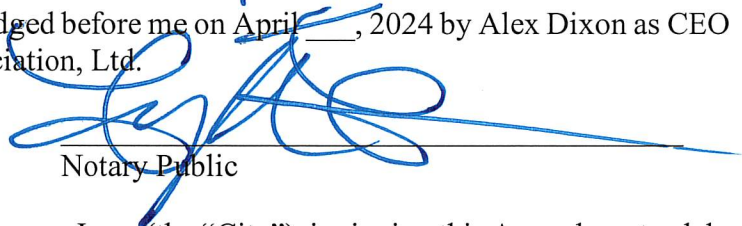
**DUBUQUE RACING ASSOCIATION LTD.**

By:   
Alex Dixon  
President and Chief Executive Officer

STATE OF IOWA                    )  
  ) ss:  
COUNTY OF DUBUQUE        )

This instrument or record was acknowledged before me on March 26, 2024, 2024 by Alex Dixon as CEO and President of Dubuque Racing Association, Ltd.



  
Notary Public

By signing below, the City of Dubuque, Iowa (the “City”), is signing this Amendment solely to evidence the City’s consent to Mortgagor’s execution and delivery of this Amendment and not as an indication that the City is pledging any interest that the City owns in the real estate subject to the Mortgage.

CITY:

**CITY OF DUBUQUE, IOWA**

By: \_\_\_\_\_  
Brad M. Cavanagh, Mayor

Attest: \_\_\_\_\_  
Adrienne N. Breitfelder, City Clerk

STATE OF IOWA                    )  
  ) ss:  
COUNTY OF DUBUQUE        )

This instrument or record was acknowledged before me on April \_\_\_, 2024 by Brad M. Cavanagh, as Mayor of the City of Dubuque, Iowa, and Adrienne N. Breitfelder, as City Clerk of the City of Dubuque, Iowa.

\_\_\_\_\_  
Notary Public

*[Signature page to First Amendment to Leasehold Mortgage, Fixture Filing and Security Agreement with Absolute Assignment of Leases and Rents]*

**EXHIBIT A**  
(Description of Land)

Lot 1 of CHAPLAIN SCHMITT ISLAND in the City of Dubuque, Iowa, according to the Plat recorded as Instrument #2023-7679, records of Dubuque County, Iowa.

**City of Dubuque  
City Council Meeting**

**Items to be set for Public Hearing #  
02.**

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**ITEM TITLE:** 2024 Maintenance Dredging Project No. 1: Initiate Public Improvement Bidding Process

**SUMMARY:** City Manager recommending City Council grant preliminary approval to the dredge construction plans and specifications; and establish April 15, 2024, as the date of the public hearing; and hereby authorized to advertise for bid proposals for the 2024 Maintenance Dredging Project No. 1 through adoption of the attached resolution.

**SUGGESTED DISPOSITION:** **RESOLUTION** 2024 Maintenance Dredging Project No. 1: Preliminary approval of plans, specifications, form of contract, and estimated cost; setting date of public hearing on plans, specifications, form of contract, and estimated cost; and ordering the advertisement for bids  
Receive and File; Adopt Resolution(s), Set Public Hearing for April 15, 2024Suggested Disposition:

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
MVM Memo	City Manager Memo
Staff Memo	Staff Memo
Resolution	Resolutions
Notice of Public Hearing	Supporting Documentation



**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** 2024 Maintenance Dredging Project No. 1  
Initiate Public Improvement Bidding Process  
Project Number: 5546000001-304-67990 Harbor Area Dredging

**DATE:** March 26, 2024

Assistant City Engineer Robert Schiesl is recommending City Council grant preliminary approval to the dredge construction plans and specifications; and establish April 15, 2024, as the date of the public hearing; and hereby authorize to advertise for bid proposals for the 2024 Maintenance Dredging Project No. 1 through adoption of the attached resolution.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv  
Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Gus Psihoyos, City Engineer  
Robert Schiesl, Assistant City Engineer  
Rick Dickinson, Greater Dubuque Development Corporation President and CEO

**TO:** Michael C. Van Milligen, City Manager  
Gus Psihoyos, City Engineer

**FROM:** Robert Schiesl, Assistant City Engineer

**DATE:** March 26, 2024

**RE:** 2024 Maintenance Dredging Project No. 1  
Initiate Public Improvement Bidding Process  
Project Number: 5546000001-304-67990 Harbor Area Dredging

### **INTRODUCTION**

The purpose of this memorandum is to authorize the initiation of the public bidding procedure for the 2024 Maintenance Dredging Project No. 1.

### **BACKGROUND**

In the fall of 2022, Dubuque Marina submitted a Boating Infrastructure Grant (BIG Tier 1) application to the Iowa DNR for dredging the marina to provide transient boaters, and boaters who operate vessels 26 feet or larger, access to docking and safe harbor facilities, including fueling, pump-out, bathroom and shower facilities, access to clean water, electricity, and other utilities.

In February 2023, Dubuque Marina was notified by the Iowa DNR that they were awarded \$200,000 in BIG Tier 1 grant funding. During the grant development process, it became apparent that it would be challenging for Dubuque Marina to administer and comply with all the federal grant requirements.

Based on the potential challenges for Dubuque Marina to successfully administer a federal BIG Tier 1 grant funded project, the Iowa DNR approached the City to inquire if the City would be interested in becoming the BIG Tier 1 Grant Recipient and be the responsible lead agency for administering the federal grant.

Since the City regularly performs maintenance dredging projects and has successfully completed two (2) previous BIG grant funded project, City staff supported assuming the lead agency role for the 2022 BIG Tier 1 grant to perform maintenance dredging at Dubuque Marina.

Since the Dubuque Marina was the original grant applicant, for the City to become the Grant Recipient, the City was required to submit a new, separate application to the U.S. Fish and Wildlife Service (USFWS) and Iowa DNR for the 2022 Boating Infrastructure Tier 1 Grant. In August 2023, per Resolution 248-23, the City Council authorized staff to submit the 2022 Boating Infrastructure Tier 1 Grant application.

In November 2023, the City received the Notice of Award from the Iowa DNR / USFWS for the BIG Tier 1 Grant, and per Resolution 379-23, the City Council authorized the execution of the BIG Tier 1 Subrecipient Grant Agreement.

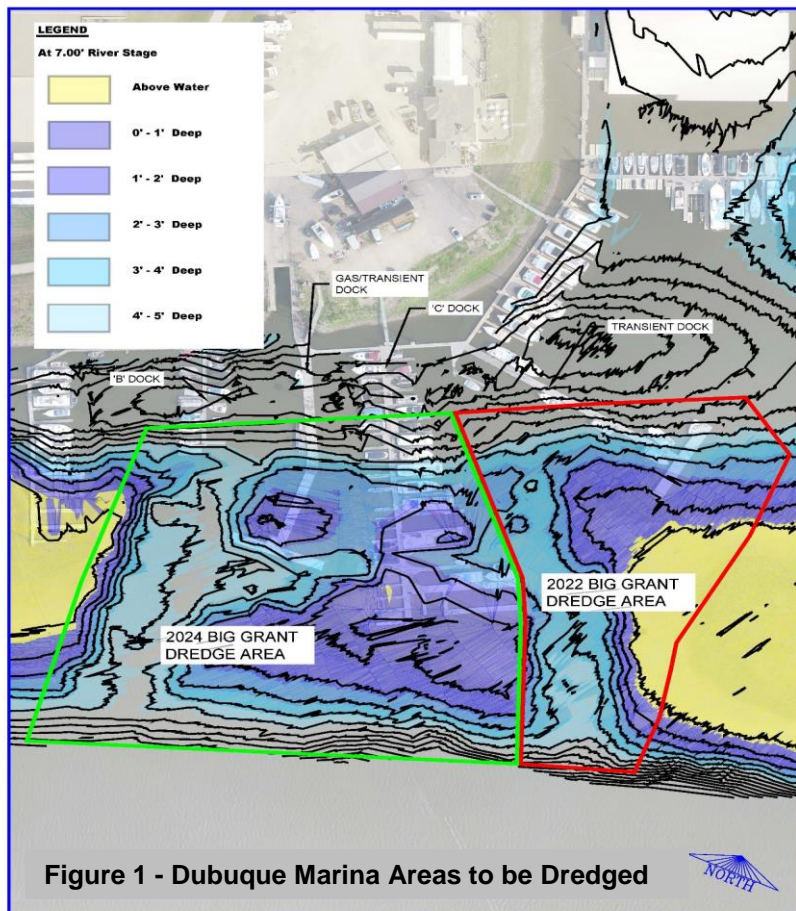
### **DUBUQUE MARINA FUNDING AGREEMENT**

In November 2023, per Resolution 380-23, the City Council authorized the execution of a Funding Agreement between the City and Dubuque Marina, Inc. for the partnership agreement to provide the required local match funding (\$117,500) for the 2022 BIG Tier 1 Grant to perform maintenance dredging at Dubuque Marina

### **BIG TIER 1 GRANTS - DREDGING PLAN**

Upon reviewing the BIG grant eligible scope of work for maintenance dredging, and after discussions with Dubuque Marina and Iowa DNR staff, City staff is proposing a 2-phase dredging project to support the local and regional transient boating at the marina.

The objective and scope of work for the 2024 Maintenance Dredging Project No. 1, utilizing the 2022 BIG TIER 1 Grant funding that was awarded is to perform maintenance dredging within the approximate area shown in Figure 1, to an approximate river bottom elevation of 586-Ft., which will provide adequate depth for transient boats 26 feet in length or greater and will create a safe open water for navigating vessels from the Peosta Channel to and from the marina transient docks.



#### **2024 Maintenance Dredging Project No. 1**

2022 BIG Tier 1 Grant Funding will be used to perform dredging within the area outlined in **RED**.

#### **2024 Maintenance Dredging Project No. 2**

City of Dubuque submitted a 2024 BIG Tier 1 Grant Application to assist in funding to perform dredging within the area outlined in **GREEN**.

In September 2023, per Resolution 284-23, the City Council authorized staff to submit the 2024 Boating Infrastructure Tier 1 Grant application. The objective and scope of work for the proposed 2024 Maintenance Dredging Project No. 2, utilizing the 2024 BIG Grant funding is to continue with the completion of maintenance dredging within the area shown in Figure 1, to an approximate river bottom elevation of 586-Ft. This will create a larger open waterway for navigating transient vessels from the Peosta Channel to and from the marina transient docks and provide safe access to the existing transient dock for fuel, water, and holding tank pump-out.

The proposed 2-phase dredging project will provide adequate depth and an improved open waterway for safely navigating transient vessels. By dredging and creating the open waterway from the Peosta Channel to the marina transient docks, this will create improved water flow and water circulation which will reduce the potential for future sediment siltation within the proposed dredge location. The proposed dredged open waterway will be more sustainable long-term and will maximize the return on the investment of federal BIG funding with a long-term solution in providing safe harbor access for daily and overnight transient boaters.

### **PROJECT SCHEDULE**

The schedule for the project will be as follows:

Initiate Bidding	April 1, 2024
Publish Notice to Bidders, Advertisement for Bids	April 5, 2024
Publish Notice of Hearing on Plans & Specifications	April 5, 2024
Public Hearing	April 15, 2024
Receipt of Bids	April 25, 2024
Award of Contract	May 6, 2024
Completion Date	June 28, 2024

### **BUDGET IMPACT**

The estimate of probable cost for the 2024 Maintenance Dredging Project No. 1 is summarized in the following table:

<b>Description</b>	<b>Cost Estimate</b>
Dredge Construction - Dubuque Marina	\$ 287,500.00
Contingency (Over Dredge Depth)	30,000.00
<b>Total Construction Cost Estimate</b>	<b>\$ 317,500.00</b>

The proposed project funding is summarized as follows:

<b>Project Number</b>	<b>Fund Description</b>	<b>Fund Amount</b>
5546000001-304-67990	Harbor Area Dredging (BIG TIER 1 Grant)	\$ 200,000.00
	Private Participation - Dubuque Marina	117,500.00
<b>Total Project Funding</b>		<b>\$ 317,500.00</b>



### **REQUESTED ACTION**

I respectfully request that the City Council grant preliminary approval to the dredge construction plans and specifications; and establish April 15, 2024, as the date of the public hearing; and hereby authorized to advertise for bid proposals for the 2024 Maintenance Dredging Project No. 1 through adoption of the attached resolution.

cc: Jenny Larson, Chief Financial Officer  
Nathan Steffen, Civil Engineer  
Dubuque Marina

F:\PROJECTS\DREDGING PROJECTS\2024 Maintenance Dredge\Council & Staff Documents\Project #1\Initiate

**RESOLUTION NO. -24**

**2024 MAINTENANCE DREDGING PROJECT NO. 1**

**PRELIMINARY APPROVAL OF PLANS, SPECIFICATIONS, FORM OF CONTRACT, AND ESTIMATED COST; SETTING DATE OF PUBLIC HEARING ON PLANS, SPECIFICATIONS, FORM OF CONTRACT, AND ESTIMATED COST; AND ORDERING THE ADVERTISEMENT FOR BIDS**

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:

The proposed plans, specifications, form of contract and estimated cost for the 2023 Maintenance Dredging Project in the estimated amount \$317,500.00, are hereby preliminarily approved and ordered filed in the office of the City Clerk for public inspection.

A public hearing will be held on the 15<sup>th</sup> day of April, 2024, at 6:30 p.m. in the Historic Federal Building Council Chambers (and/or by virtual means) 350 W. 6<sup>th</sup> Street, Dubuque, Iowa, at which time interested persons may appear and be heard for or against the proposed plans and specifications, form of contract and estimated cost of said Project, and the City Clerk be and is hereby directed to cause the attached notice of the time and place of such hearing to be published in a newspaper having general circulation in the City of Dubuque, Iowa, which notice shall be published not less than four days nor more than twenty days prior to the date of such hearing. At the hearing, any interested person may appear and file objections to the proposed plans, specifications, form of contract, or estimated cost of the Project.

The 2024 Maintenance Dredging Project No. 1 is hereby ordered to be advertised for bids for construction.

The amount of the security to accompany each bid shall be in an amount which shall conform to the provisions of the Notice to Bidders hereby approved.

The City Engineer is hereby directed to advertise for bids for the construction of the improvements herein provided, by publishing the Notice to Bidders to be published on the City of Dubuque website and a contractor plan room service with statewide circulation, which notice shall be published not less than thirteen but not more than forty-five days before the date for filing bids before 2:00 p.m. on the 25<sup>th</sup> day of April 2024. Bids shall be opened and read by the City Clerk at said time and will be submitted to the City Council for final action at 6:30 p.m. on the 6<sup>th</sup> day of May 2024, in the Historic Federal Building Council Chambers (and/or by virtual means) 350 West 6<sup>th</sup> Street, Dubuque, Iowa.

Passed, approved and adopted this 1<sup>st</sup> day of April 2024.

Attest:

\_\_\_\_\_  
Brad M. Cavanagh, Mayor

\_\_\_\_\_  
Adrienne N. Breitfelder, City Clerk

**CITY OF DUBUQUE, IOWA  
OFFICIAL NOTICE**

**NOTICE OF PUBLIC HEARING ON PLANS, SPECIFICATIONS, FORM OF CONTRACT, AND ESTIMATED COST FOR THE 2024 MAINTENANCE DREDGING PROJECT NO. 1**

NOTICE IS HEREBY GIVEN: The City Council of the City of Dubuque, Iowa will hold a public hearing on the proposed plans, specifications, form of contract and estimated cost for the 2024 Maintenance Dredging Project No. 1, in accordance with the provisions of Chapter 26, Code of Iowa, at 6:30 p.m., on the 15<sup>th</sup> day of April 2024, in the Historic Federal Building Council Chambers (and/or by virtual means), 350 West 6<sup>th</sup> Street, Dubuque, Iowa. Said proposed plans, specifications, form of contract and estimated cost are now on file in the office of the City Clerk. At said hearing any interested person may appear and file objections thereto.

The scope of the Project is as follows: Perform maintenance dredging at Dubuque Marina. The dredge material (approx. 7,800 CY) will be mechanically removed, loaded onto a material barge, and transported to a contractor provided, permitted disposal location. The dredge spoil material will be offloaded from the material barge to the approved disposal site.

Copies of supporting documents for the public hearing are on file in the City Clerk's Office, City Hall, 50 W. 13<sup>th</sup> St., Dubuque, Iowa. To comply with social distancing mandates, documents can be viewed at <https://www.cityofdubuque.org/Agendas> or by contacting the City Clerk's Office at 563-589-4100.

Written comments regarding the above public hearing should be submitted to the City Clerk's Office, 50 W. 13<sup>th</sup> St., Dubuque, IA 52001, [ctyclerk@cityofdubuque.org](mailto:ctyclerk@cityofdubuque.org), on or before said time of public hearing. At said time of public hearing all interested citizens and parties will be given an opportunity to submit online written comments for or against said proposal.

Individuals with limited English proficiency, vision, hearing or speech impairments or requiring special assistance should contact the City Clerk's Office at (563) 589-4100, TDD/TTY (563) 690-6678, [ctyclerk@cityofdubuque.org](mailto:ctyclerk@cityofdubuque.org) as soon as feasible. Deaf or hard-of-hearing individuals can use Relay Iowa by dialing 711 or (800) 735-2942.

Published by order of the City Council given on the 1<sup>st</sup> day of April 2024.

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Adrienne N. Breittfelder, City Clerk

## City of Dubuque City Council Meeting

## Boards/Commissions # 01.

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### ITEM TITLE:

Boards and Commission Application Review

### SUMMARY:

Applicants are invited to address the City Council regarding their desire to serve on the following Boards/Commissions. Applicant appointments will be made at the next City Council meeting.

**Mayoral selection of appointment to the Civil Service Commission to be made at this meeting**

*Iowa Code §400.1 requires publication of the name(s) of person(s) selected by the Mayor for appointment to the Civil Service Commission no less than thirty (30) days prior to a vote by the city council. Vote on appointment to occur at the May 6, 2024, city council meeting.*

**Civil Service Commission**

One, 4-Year term through April 6, 2028 (Expiring term of Heathcote)

Applicant:

- Carla Heathcote, 2529 Stafford St.

*This commission is subject to the State of Iowa Gender Balance Law, §69.16A.*

*3 Commissioners total; currently 2 males /0 females*

### SUGGESTED DISPOSITION:

#### **ATTACHMENTS:**

Description	Type
Overview Sheet	Supporting Documentation
Civil Service Commission Applicant	Supporting Documentation
Details and Openings	Supporting Documentation
Iowa Code Section 400.1 - Civil Service Appointments	Supporting Documentation
Gender Balance Iowa Code Section 69.16a	Supporting Documentation
Gender Balance Q&A Sheet	Supporting Documentation

**APPLICATIONS FOR CITY OF DUBUQUE  
BOARDS AND COMMISSIONS  
For Council Meeting,  
Monday, April 1, 2024  
6:30 p.m., Historic Federal Building, 350 W. 6th Street**

<b>APPLICANTS ARE INVITED TO ADDRESS THE COUNCIL REGARDING THEIR APPLICATION FOR APPOINTMENT</b>
--

**Mayoral selection of appointment to the Civil Service Commission to be made at this meeting**

*Iowa Code §400.1 requires publication of the name(s) of person(s) selected for appointment to the Civil Service Commission no less than thirty (30) days prior to a vote by the city council. Vote on appointment to occur at the May 6, 2024, city council meeting.*

**Civil Service Commission**

One, 4-Year term through April 6, 2028 (Expiring term of Heathcote)

Applicant:

- Carla Heathcote, 2529 Stafford St.

*This commission is subject to the State of Iowa Gender Balance Law, §69.16A.  
3 Commissioners total; currently 2 males /0 females*

## CHAPTER 2

### CIVIL SERVICE COMMISSION

#### SECTION:

##### **2-2-1: Commission Created**

##### **2-2-2: Purpose**

##### **2-2-3: Internal Organization And Rules**

##### **2-2-4: Procedures For Operation**

##### **2-2-5: Membership**

##### **2-2-6: Oath**

##### **2-2-7: Terms**

##### **2-2-8: Vacancies**

##### **2-2-9: Officers/Organization**

##### **2-2-10: Meetings**

##### **2-2-11: Compensation**

##### **2-2-12: Removal**

##### **2-2-13: Powers**

##### **2-2-14: City Council To Furnish Meeting Room, Equipment, Recorder**

##### **2-2-15: Record Of Meetings And Personnel**

##### **2-2-16: Examination Of Applicants**

##### **2-2-17: Conduct Of Examinations; Certification Of Qualified Persons**

##### **2-2-18: Procedure For Conduct Of Hearing Appeals**

##### **2-2-1: COMMISSION CREATED:**

There is hereby created the civil service commission. (Ord. 56-15, 9-8-2015)

##### **2-2-2: PURPOSE:**

The purpose of the commission is to conduct entrance examinations, conduct promotional examinations, and act as an appeals board as provided in chapter 400 of the Iowa Code. (Ord. 56-15, 9-8-2015)

##### **2-2-3: INTERNAL ORGANIZATION AND RULES:**

The commission may adopt rules and regulations to govern its organizational procedures as may be necessary and which are not in conflict with this code or the Iowa Code. (Ord. 56-15, 9-8-2015)

##### **2-2-4: PROCEDURES FOR OPERATION:**

All administrative, personnel, accounting, budgetary, and procurement policies of the city govern the commission in all its operations. (Ord. 56-15, 9-8-2015)

##### **2-2-5: MEMBERSHIP:**

- A. Composition: The commission comprises three (3) residents of the city, appointed by the city council.
- B. Age: Residents must be eighteen (18) years of age or older.
- C. Special Qualifications:
  1. Commissioners must be citizens of Iowa, eligible electors as defined in the Iowa Code, and may not hold or be a candidate for any office of public trust.
  2. The human rights director shall, ex officio, be a member, without vote.
  3. Commissioners may not do any of the following:
    - a. Sell, or in any manner become parties, directly or indirectly, to any contract to furnish supplies, material, or labor to the city unless the sale is made or the contract is awarded by competitive bid in writing, publicly invited and opened.
    - b. Have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the city unless the contract or job is awarded by competitive bid in writing, publicly invited and opened.
- D. Gender Balance: Membership on the commission must comply with the provisions of Iowa Code section 69.16A, relating to gender balance. No person may be appointed or reappointed to the commission if that appointment or reappointment would cause the number of members of one gender to be greater than one-half (1/2) of the membership of the commission plus one. If the city

has made a good faith effort to appoint a qualified person to fill a vacancy on the commission for a period of three (3) months but has been unable to make a compliant appointment, the city must utilize a fair and unbiased method of selecting the best qualified applicants. (Ord. 56-15, 9-8-2015; amd. Ord. 47-22, 12-19-2022)

**2-2-6: OATH:**

Each person, upon appointment or reappointment to the commission, must execute an oath of office at the first meeting of the commission following the appointment or reappointment or at the city clerk's office any time prior to the first meeting of the commission. (Ord. 56-15, 9-8-2015)

**2-2-7: TERMS:**

The term of office for commissioners is four (4) years or until such commissioner's successor is appointed and qualified. (Ord. 56-15, 9-8-2015)

**2-2-8: VACANCIES:**

Vacancies must be filled in the same manner as original appointments. (Ord. 56-15, 9-8-2015)

**2-2-9: OFFICERS/ORGANIZATION:**

The commissioners must choose annually a chairperson and vice chairperson, each to serve a term of one year. The city clerk, or the city clerk's designee, is the clerk of the commission. The commissioners must fill a vacancy among its officers for the remainder of the officer's unexpired term. (Ord. 56-15, 9-8-2015)

**2-2-10: MEETINGS:**

- A. Regular Meetings: The commission meets monthly. When there is no business, there is no obligation to meet.
- B. Special Meetings: Special meetings may be called by the chairperson or at the written request of a majority of the commissioners.
- C. Open Meetings: All meetings must be called and held in conformance with the Iowa open meetings law.
- D. Attendance:
  - 1. In the event a commissioner has been absent for three (3) or more consecutive meetings of the commission, without being excused by the chairperson, such absence will be grounds for the commission to recommend to the city council that the position be declared vacant and a replacement appointed.
  - 2. Attendance must be entered upon the minutes of all meetings.
- E. Minutes: A copy of the minutes of all regular and special meetings of the commission must be filed with the city council within ten (10) working days after each meeting, or by the next regularly scheduled city council meeting, whichever is later.
- F. Quorum: Two (2) commissioners constitute a quorum for the transaction of business. The affirmative vote of a majority of the commissioners present and voting is necessary for the adoption of any motion or resolution. (Ord. 56-15, 9-8-2015; amd. Ord. 37-22, 11-7-2022)

**2-2-11: COMPENSATION:**

Commissioners serve without compensation, provided that they may receive reimbursement for necessary travel and other expenses while on official commission business within the limits established in the city administrative policies and budget. (Ord. 56-15, 9-8-2015)

**2-2-12: REMOVAL:**

The mayor may remove any commissioner for cause upon written charges and after public hearing. (Ord. 56-15, 9-8-2015)

**2-2-13: POWERS:**

The commission has the powers, duties, and responsibilities as outlined in chapter 400 of the Iowa Code. (Ord. 56-15, 9-8-2015)

**2-2-14: CITY COUNCIL TO FURNISH MEETING ROOM, EQUIPMENT, RECORDER:**

The city council must provide suitable rooms in which the commission may hold its meetings and supply the commission with all necessary equipment and a qualified shorthand reporter to enable it properly to perform its duties. (Ord. 56-15, 9-8-2015)

**2-2-15: RECORD OF MEETINGS AND PERSONNEL:**

The commission must keep a record of all its meetings and also a complete individual service record of each civil service employee which record must be permanent and kept up to date. (Ord. 56-15, 9-8-2015)

**2-2-16: EXAMINATION OF APPLICANTS:**

Examinations for the positions in the city civil service are to be applicable and required of all applicants in accordance with the Iowa Code. (Ord. 56-15, 9-8-2015)

**2-2-17: CONDUCT OF EXAMINATIONS; CERTIFICATION OF QUALIFIED PERSONS:**

The commission must conduct examinations in accordance with the provisions of the laws of the state relative thereto, and for the purpose of determining the qualifications of applicants for positions under civil service, and must duly certify to the city council a list of the qualified persons as set forth in the Iowa Code. (Ord. 56-15, 9-8-2015)

**2-2-18: PROCEDURE FOR CONDUCT OF HEARING APPEALS:**

Notwithstanding chapter 1 of this title, the commission may adopt its own rules governing the procedure for the conduct of hearing appeals. (Ord. 56-15, 9-8-2015)

**CITY OF DUBUQUE, IOWA  
BOARD/COMMISSION APPLICATION**

Individuals serving on Boards and Commissions play an important role in advising the City Council on matters of interest to our community and its future.

The City Clerk's Office, City Hall, 50 West 13<sup>th</sup> Street, Dubuque, IA. accepts applications for any Board and/or Commission at any time. Applications stay active for one year from the date of receipt in the Clerk's Office. Applications to multiple vacancies and reappointment requests require separate applications.

DATE: March 24, 2024

NAME: Carla M Heathcote

BOARD/COMMISSION APPLYING FOR: Civil Service Commission

How did you hear about City of Dubuque Boards and Commissions?

- ☐ City of Dubuque Website
- ☐ City Life or another City of Dubuque Program
- ☐ City of Dubuque social media
- ☐ Through a friend
- ☒ Other: Please specify: Family members having served in the past

GENDER (choose all that apply):

- ☐ Man
- ☒ Woman
- ☐ Trans or transgender (please specify): \_\_\_\_\_
- ☐ Another identity (please specify): \_\_\_\_\_

Note: Some City Boards/Commissions are subject to the gender balance requirement in Iowa Code Section 69.16A

(PLEASE NOTE: you must live within the City of Dubuque to be eligible for a city board or commission)

STREET ADDRESS: 2529 Stafford Street

CITY, STATE and ZIP: Dubuque IA 52001

PREFERRED PHONE NUMBER: (563) 581 - 4799

E-MAIL ADDRESS(ES): cmheathcote@mchsi.com

JOB TITLE: Graphic Design Program Lead

PLACE OF EMPLOYMENT: Northeast Iowa Community College



**You may attach additional pages if necessary.**

**PLEASE LIST YOUR EXPERIENCES, SKILLS, AND/OR EDUCATION THAT HAVE PREPARED YOU FOR SERVICE ON THIS BOARD/COMMISSION:**

Experience: One term on the Civil Service Commission

Skills: 20 years teaching at college level

Education: MFA Design

**WHAT CONTRIBUTIONS CAN YOU MAKE OR STATE REASON FOR APPLYING:**

For the last three year I have actively + successfully fulfilled my duties on the Civil Service Commission with interest and dedication.

I would welcome the opportunity to continue as a member of this commission.

**DESCRIBE YOUR EXPERIENCE WORKING IN DIVERSE ENVIRONMENTS:**

Mentoring at a higher ed institution that has open enrollment means a diverse student body in terms of age, race, socio-economic + geographic background, gender identification, and skill level is commonly present in the classroom.

**DESCRIBE YOUR EXPERIENCE ENGAGING OTHER COMMUNITY MEMBERS TO GATHER THEIR INPUT AND OPINIONS:**

As a naturally curious person, I actively engage with people. From grocery store clerks, to neighbors, to peers @ social gatherings, I commonly ask people about their experiences within the community, future goals + plans, and will share references + resources that may benefit them.

Are you currently serving on a City Board or Commission: YES ☒ \_\_\_\_\_ NO \_\_\_\_\_?

If yes, which? Civil Service Commission

Have you served on a City Board or Commission before: YES ☒ \_\_\_\_\_ NO \_\_\_\_\_?

If yes, which? Civil Service Commission

Have you participated in the City of Dubuque City Life Program: YES \_\_\_\_\_ NO ☒ \_\_\_\_\_?

If so, when? \_\_\_\_\_

Have you participated in an intercultural competency program offered through the City of Dubuque or other organizations: YES ☒ \_\_\_\_\_ NO \_\_\_\_\_?

If yes to the above question, please list the organization that offered the program and date of completion:

Multicultural Art Education, Human Relations for the Classroom Teacher, NAPE Equity + Diversity Training, NAPE Culturally Responsive Teaching

**LIST TWO REFERENCES:**

NAME: Ms Sue Davis, Owner, River Lights Bookstore, DBQ PHONE NUMBER: 563.556.4391

NAME: Mr. Michael Gau, Dean, Northeast Iowa Comm College PHONE NUMBER: 563.556.5110

This application is a public document and as such can be reproduced and distributed for the public.

Each application for reappointment to a City Board or Commission will be considered without regard to incumbency. Misrepresentations on this application will constitute just cause for removal of an appointee.

Specific attention should be directed to possible conflict of interest. For further clarification, if a situation arises, contact the City Clerk's Office or the City Attorney's Office.

SIGNATURE: Carla M Heathcote

# CITY OF DUBUQUE

## BOARDS AND COMMISSIONS DETAILS AND OPENINGS

**X / X / 24**

**Indicates openings within 2023**

**Open**

**Indicates Current Opening**

**Indicates board or commission is subject to the provisions of Iowa Code section 69.16A relating to gender balance**

**\*\***

**Indicates Public Member representing board or commission and appointed as a representative to a separate board or commission**

### AIRPORT COMMISSION

**4 Yr. Term - Meets 4th Tuesday, 4 p.m., Airport Conf. Room**

Public Member 1	Douglas	Brotherton	9/14/25
Public Member 2	Marianne	Kurtz-Weber	9/14/25
Public Member 3	Michael	Phillips	9/14/26
Public Member 4	Robert	Blocker	9/14/26
Public Member 5	Sue	Clemenson	9/14/24

### AIRPORT ZONING BOARD OF ADJUSTMENTS

**5 Yr. Term - Meets on Call**

County Rep.	Laurie	Guy	2/15/26
County Rep.	Mary	Goebel	2/15/26
Public Member 1	Open	Open	unknown
ZBA Rep.	Rena	Stierman	3/25/27
ZBA Rep.	Jonathan	McCoy	3/25/26

### AIRPORT ZONING COMMISSION

**6 Yr. Term - Meets on Call**

County Rep.	Open	Open	12/31/26
County Rep.	Mary	Goebel	12/31/26
Public Member 1	Open	Open	12/31/26
ZAC Rep.	Richard	Russell	7/1/24
ZAC Rep.	Matthew	Mulligan	7/1/25

### ARTS AND CULTURAL AFFAIRS ADVISORY COMMISSION

**3 Yr. Term - Meets 4th Tuesday, 3:30 p.m., MFC or Varied locations**

Business Pro 1	Noelle	Chesney	6/30/24
In Cultural & Entertain Dist. 1	Paula	Neuhaus	6/30/24
Out Cultural & Entertain Dist. 1	Thomas	Robbins	6/30/25
Public Member 1	Shirley	Davis-Orwoll	6/30/25
Public Member 2	Doug	Donald	6/30/26
Public Member 3	Susan	Riedel	6/30/26
Public Member 4	Nicholas	Halder	6/30/25

### BUILDING CODE ADVISORY AND APPEALS BOARD

**3 Yr. Term -Meets on Call; 4:30 p.m., Federal Bldg.**

Altn. Commercial Construct Pro 1	Open	Open	1/1/24
Altn. Electrical Construct Pro 1	Adam	Brown	1/1/27
Altn. HVAC Construct Pro 1	Open	Open	1/1/24
Altn. Plumbing Construct Pro 1	Open	Open	1/1/24
Altn. Residential Construct Pro 1	Open	Open	1/1/24
Commercial Construct Pro 1	Open	Open	1/1/24
Electrical Construct Pro 1	Thomas	Townsend	1/1/27
HVAC Construct Pro 1	Corey	Valaskey	1/1/27
Multidisciplinary Rep. 1	Open	Open	1/1/24
Multidisciplinary Rep. 2	Open	Open	1/1/24
Plumbing Construct Pro 1	Open	Open	1/1/24
Residential Construct Pro 1	Open	Open	1/1/24

### BOARD OF LIBRARY TRUSTEES

**4 Yr. Term - Meets 4th Thur. 4 p.m., Library**

Public Member 1	Andrew	Bland	7/1/26
Public Member 2	A. Alanda	Gregory	7/1/26
Public Member 3	Victor	Lieberman	7/1/27
Public Member 4	Pam	Mullin	7/1/27
Public Member 5	Robert	Armstrong	7/1/24
Public Member 6	Christina	Monk	7/1/24
Public Member 7	Greg	Gorton	7/1/25

### CABLE TELEVISION COMMISSION

**3 Yr. Term - Meets on Call., Varied locations**

Public Member 1	Pauline	Maloney	7/1/26
Public Member 2	Georgina	Guerrero	7/1/26
Public Member 3	Ronald	Tigges	7/1/26
Public Member 4	Open	Open	7/1/24
Public Member 5	Jennifer	Tigges	7/1/24

### CATFISH CREEK WATERSHED MANGT. AUTHORITY

**4 Yr. term - Meets Quarterly**

Public Member 1 **	Steven	Drahozal	7/16/24
Public Member 2	Jared	Mc Govern	7/16/24

### CIVIC CENTER ADVISORY COMMISSION

**3 Yr. Term - Meets last Mon. of every third month,**

**3:30 p.m., Five Flags**

Public Member 1	Danielle	Jacobs	6/29/24
Public Member 2	Mc Kenzie	Blau	6/29/25
Public Member 3	Brenda	Christner	6/29/25
Public Member 4	Bryce	Parks	6/29/24
Public Member 5	Rod	Bakke	6/29/25

### CIVIL SERVICE COMMISSION

**4 Year Term - Meets 2nd Wed., 4:15 p.m., City Hall**

Public Member 1	Scott	Crabill	4/6/26
Public Member 2	Carla	Heathcote	4/6/24
Public Member 3	Daniel	White	4/6/25

### COMMUNITY DEVELOPMENT ADVISORY COMMISSION

**3 Yr. Term - Meets 3rd Wed., 5:30 p.m., Federal Bldg./Housing**

Housing Commission Rep. 1	Renee	Kehoe	8/17/24
Low/Moderate Income Rep. 1	Kelly	Fox	2/15/26
Low/Moderate Income Rep. 2	Gerald	Hammel Jr.	2/15/27
Low/Moderate Income Rep. 3	Julie	Woodyard	2/15/24
Low/Moderate Income Rep. 4	Dominique	Jeter	2/15/25
Public Member 1	Sasha	Williams	2/15/24
Public Member 2 **	Dean	Boles	2/15/25
Public Member 3	Michelle	Hinke	2/15/25
Public Member 4	Gabriel	Mozena	2/15/26

**Equity and Human Rights Commission****3 Yr. Term - Meets 2nd Tus. 4:30 p.m., MFC Conf. room 2**

Public Member 1	Carla	Anderson	1/1/25
Public Member 2	Enoc	Sanchez	1/1/26
Public Member 3	Matt	Zanger	1/1/26
Public Member 4	Jake	Kurczek	1/1/26
Public Member 5	Open	Open	1/1/24
Public Member 6	Theresa	Sampson	1/1/27
Public Member 7	Maitha	Jolet	1/1/25
Public Member 8	David	Heiar	1/1/24
Public Member 9	Michaela	Freiburger	1/1/25

**HISTORIC PRESERVATION COMMISSION****3 Yr. Term - Meets 3rd Thur., 5:30 p.m., Federal Bldg.**

Architect At-Large 1	Christina	Monk	7/1/26
Cathedral District 1	Open	Open	7/1/26
Jackson Park District 1	Janice	Esser	7/1/25
Langworthy District 1	Thea	Dement	7/1/26
Old Main District 1	Open	Open	7/1/24
Public Member 1	Melissa	Cassill	7/1/24
Public Member 2	William	Doyle	7/1/24
Public Member 3	Tim	Gau	7/1/24
West 11th District 1	Rick	Stuter	7/1/25
Interim District Rep. 1	Heidi	Pettit	Until district appointment made

**HOUSING APPEALS AND MEDIATION BOARD****3 - Yr. Term - Meets on Call, 4:30 p.m., Federal Bldg.**

Public Member 1	Mary	Gotz	1/1/27
Public Member 2	Luke	Hoffmann	1/1/27
Public Member 3	Open	Open	1/1/24
Public Member 4	Lynn	Sutton	1/1/27
Public Member 5	Jeff	Lenhart	1/1/27

**HOUSING COMMISSION****3 Yr. Term - Meets 4th Tues. (Jan, Aril, July, Oct), 4:00 p.m., Fed. Bldg.**

Public Member 1 **	Renee	Kehoe	8/17/24
Public Member 2	Ross	Janes	8/17/24
Public Member 3	Rick	Merfeld	8/17/25
Public Member 4	Open	Open	8/17/24
Public Member 5	Sam	Wooden	8/17/24
Public Member 6	Cathy	Dickens	8/17/25
Public Member 7	Julietta	Scott	8/17/26
Public Member 8 **	Rick	Baumhover	8/17/25
Public Member 9 ** **	Amy	Eudaley	8/17/26
Section 8 Rep. 1	Open	Open	8/17/24

**HOUSING TRUST FUND ADVISORY COMMITTEE****3 Yr. Term - Meets as needed, 7:30 a.m., Federal Bldg.**

Housing Commission Rep. 1	Rick	Baumhover	8/17/25
Housing Commission Rep. 2	Amy	Eudaley	8/17/26
Public Member 1	Open	Open	8/17/25
Public Member 2	Jim	Holz	8/17/24
Public Member 3	Michelle	Becwar	8/17/24

**INVESTMENT OVERSIGHT ADVISORY COMMISSION****3 Yr. Term - Meets 4th Wed.(Jan., April, July, Oct.) 3 p.m., City Hall**

Public Member 1	Daniel	Garza	7/1/26
Public Member 2	Molly	Valaskey	7/1/24
Public Member 3	Phillip	Heim	7/1/24
Public Member 4	Joshua	Merritt	7/1/25
Public Member 5	Gary	Ruden	7/1/25

**LONG RANGE PLANNING ADVISORY COMM.****3 Yr. Term - Meets 3rd Wed. 5:30 p.m., Federal Bldg.**

Housing Commission Rep. 1	Rick	Merfeld	8/17/25
Public Member 1	Mark	Ward	7/1/26
Public Member 2	Michael	Rabagia	7/1/26
Public Member 3	Tyler	Stoffel	7/1/24
Public Member 4	Beth	McGrath	7/1/24
Public Member 5	Cliff	Conrad	7/1/25
Public Member 6	Open	Open	7/1/25

**PARKS AND RECREATION ADVISORY COMMISSION****3 Yr. Term - Meets 2nd Tues., 4:30 p.m. MFC/Varied locations**

Public Member 1 **	Robin	Kennicker	6/30/26
Public Member 2	Ron	Axtell	6/30/26
Public Member 3	Jessica	Ochoa	6/30/26
Public Member 4	Jennifer	Tigges	6/30/24
Public Member 5	Lori	Ollendick	6/30/25
Public Member 6	Josh	Jorgenson	6/30/25
Public Member 7	Jason	Henkel	6/30/25

**RESILIENT COMMUNITY ADVISORY COMMISSION****3 Yr. Term - Meets 1st Thur. 5:00 p.m. , Jule Op. & Train. Center**

Commission Cross Rep. 1	Steven	Drahozal	7/16/24
Commission Cross Rep. 2	Robin	Kennicker	6/30/26
Commission Cross Rep. 3	Dean	Boles	2/15/25
Public Member 1	Sandra	Evans	7/1/25
Public Member 2	Adam	Hoffman	7/1/24
Public Member 3	Joshua	Chamberland	7/1/26
Public Member 4	Lalith	Jayawickrama	7/1/26
Public Member 5	Katharine	Connolly	7/1/24
Public Member 6	Jacob	Kohlhaas	7/1/25

**TRANSIT ADVISORY BOARD****3 Yr. Term - Meets bi-monthly Sept. to May, 2nd Thur.****Intermodal Transit Station**

Public Member 1	Open	Open	7/30/25
Public Member 2	Open	Open	7/30/26
Public Member 3	Greg	Orwoll	7/30/26
Public Member 4	Dora	Serna	7/30/26
Public Member 5	Matthew	Esser	7/30/24

**ZONING ADVISORY COMMISSION****3 Yr. Term - Meets 1st Wed., 6:00 p.m., Fed. Bldg..**

Public Member 1 **	Matthew	Mulligan	7/1/25
Public Member 2	Martha	Christ	7/1/26
Public Member 3	Carrie	Lohrmann	7/1/26
Public Member 4	Teri	Zuccaro	7/1/26
Public Member 5	Richard	Russell	7/1/24
Public Member 6	Ryan	Sempf	7/1/24
Public Member 7	Pat	Norton	7/1/25

**ZONING BOARD OF ADJUSTMENTS****5 Yr. Term - Meets 4th Thur., 5:30 p.m. Fed. Bldg..**

Public Member 1	Gwen	Kosel	3/25/24
Public Member 2 **	Keith	Ahlvin	3/25/25
Public Member 3	Jonathan	McCoy	3/25/26
Public Member 4	Rena	Stierman	3/25/27
Public Member 5	Matthew	Mauss	3/25/28

**400.1 Appointment of commission.**

1. In cities having a population of eight thousand or over and having a paid fire department or a paid police department, the mayor, one year after a regular city election, with the approval of the council, shall appoint three civil service commissioners. The mayor shall publish notice of the names of persons selected for appointment no less than thirty days prior to a vote by the city council. Commissioners shall hold office, one until the first Monday in April of the second year, one until the first Monday in April of the third year, and one until the first Monday in April of the fourth year after such appointment, whose successors shall be appointed for a term of four years. In cities having a population of more than seventy thousand, the city council may establish, by ordinance, the number of civil service commissioners at not less than three.

2. For the purpose of determining the population of a city under [this chapter](#), the federal census conducted in 1980 shall be used.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5689; C46, 50, 54, 58, 62, 66, 71, 73, §365.1; C75, 77, 79, 81, §400.1]

[92 Acts, ch 1118, §1](#); [95 Acts, ch 114, §3](#); [97 Acts, ch 162, §1, 9](#); [98 Acts, ch 1100, §55](#); [2002 Acts, ch 1134, §108, 115](#); [2007 Acts, ch 127, §1](#); [2009 Acts, ch 111, §1](#)

**69.16A Gender balance.**

1. All appointive boards, commissions, committees, and councils of the state established by the Code, if not otherwise provided by law, shall be gender balanced. No person shall be appointed or reappointed to any board, commission, committee, or council established by the Code if that appointment or reappointment would cause the number of members of the board, commission, committee, or council of one gender to be greater than one-half the membership of the board, commission, committee, or council plus one if the board, commission, committee, or council is composed of an odd number of members. If the board, commission, committee, or council is composed of an even number of members, not more than one-half of the membership shall be of one gender. If there are multiple appointing authorities for a board, commission, committee, or council, they shall consult each other to avoid a violation of [this section](#).

2. All appointive boards, commissions, committees, and councils of a political subdivision of the state that are established by the Code, if not otherwise provided by law, shall be gender balanced as provided by [subsection 1](#) unless the political subdivision has made a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, committee, or council in compliance with [subsection 1](#) for a period of three months but has been unable to make a compliant appointment. In complying with the requirements of [this subsection](#), political subdivisions shall utilize a fair and unbiased method of selecting the best qualified applicants. [This subsection](#) shall not prohibit an individual whose term expires prior to January 1, 2012, from being reappointed even though the reappointment continues an inequity in gender balance.

[86 Acts, ch 1245, §2041; 87 Acts, ch 218, §8; 88 Acts, ch 1150, §1; 2009 Acts, ch 162, §1, 2](#)

Referred to in §8D.3, 15F.102, 15H.3, 23.3, 28A.7, 35A.2, 80.28, 84A.1A, 84A.4, 135.43, 135.109, 142A.3, 148.2A, 155A.2A, 159A.13, 216A.12, 216A.92A, 216A.132, 216A.162, 217.43, 235B.1, 252B.22, 256.5A, 256.35A, 272.3, 273.15, 284.15, 303A.5, 314.22, 418.5, 455A.20, 455B.150, 514E.2, 542.4, 904A.2A



# Q&A

## New gender balanced boards requirements for cities

Iowa has required gender balance on state-level boards and commissions for many years, under Iowa Code section 69.16A. Last session, the General Assembly passed legislation that applies this requirement to the local level. This Q&A explains background on the legislation, the new requirements in the legislation for cities and how cities can comply.

### Q: What are the new requirements for gender balance on city boards and commissions?

A: During the 2009 legislative session, legislation (HF243) was passed that extends to cities and counties gender balance requirement for all appointive boards, commissions, committees and councils created by the Iowa code. In other words, bodies cities are required to have under Iowa code when they provide certain functions or services, such as the planning and zoning commission, library boards and the board of adjustment, with appointed (not elected) members, must be gender balanced.

### Q: What does 'gender balanced' mean?

A: Gender balance means if the body has an even number of appointees, it must be evenly made up of men and women. For example, three women and three men must serve on a six member board. If the body has an odd number of appointees, it must be "one half plus one" of either gender. For instance, if there are five members, three could be men and the other two women, or vice versa.

### Q: When do the changes go into effect?

A: Cities must have gender balanced boards, commissions, committees and councils by January 1, 2012. This does not prohibit an individual whose term expires prior to January 1, 2012, from being reappointed even though the reappointment continues an inequity in gender balance; however, cities should start planning upcoming appointments now, to ensure gender balance is reached by that date. Making a chart of existing boards and upcoming vacancies, and/or keeping track of current appointments and necessary recruiting periods would be a good start to ensuring your city is tracking gender balance, and is prepared for the January 1, 2012 implementation date.

### Q: Is there any option if my city simply cannot find a person to serve on the board or commission of the needed gender?

A: Yes. Under the new code section, cities that make a good faith effort to find a qualified person of the necessary gender to fill the position for a period of three months and are unable to do so may appoint a person to the position regardless of the gender balance requirement.

### Q: What constitutes a "good faith effort"?

A: There is no hard and fast definition, but cities should be able to demonstrate a legitimate effort during the three month time period to recruit qualified members of the necessary gender, before appointing a member that creates gender imbalance. In addition, the legislation requires that cities must always "utilize a fair and unbiased method of selecting the best qualified applicants," regardless of gender.

### Q: Is there a reporting requirement?

A: No. The legislation did not include a reporting requirement; however, many cities keep information on their boards and commissions—including current members—posted online, to better inform citizens of the makeup of local governing bodies.

### Q: How can I recruit more women or men to volunteer for these positions?

A: The Commission on the Status of Women has prepared a guide to help cities learn how to recruit gender balanced boards and commissions. This resource can be found at [www.women.iowa.gov/whats\\_new/index.html](http://www.women.iowa.gov/whats_new/index.html). The Commission also prepared a guide called the "Five Step Guide to City and County Boards and How to Get Appointed" to be used as a tool by interested women to learn more about how to get involved in city boards and commissions.

By Jessica Hyland Harder, League Government Affairs Counsel



## Celebrating an environmental victory...

FOX Engineering has received a 2008 Governor's Iowa Environmental Excellence Award in the Water Quality category. Undertaken for the city of North Liberty, this project involves a membrane bioreactor method of treating wastewater and provides a significantly higher effluent water quality compared to conventional wastewater treatment processes. Used on a limited basis in the U.S. it is the first of its kind in Iowa. The city has certainly "gone the extra mile" to improve the water quality in their receiving stream; they are to be commended for their foresight and respect for the environment. FOX would also like to acknowledge the contributions of the city's consulting engineer, Shive-Hattery Engineering and Architecture.

"Your efforts truly exhibit the leadership and innovation important for furthering environmental sustainability in Iowa." Governor Chester Culver

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**City of Dubuque  
City Council Meeting**

**Public Hearings # 01.**

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**ITEM TITLE:** Hold Public Hearing and approve the Revised Administrative Plan for the Housing Choice Voucher Program

**SUMMARY:** Proof of publication on notice of public hearing to consider City Council hold a public hearing and then adopt the revised Administrative Plan for the Housing Choice Voucher Program and grant the Housing & Community Development Director permission to submit the revised Public Housing Authority Administrative plan to the U.S. Department of Housing and Urban Development (HUD) as required for final approval and adoption, and City Manager recommending approval.

**RESOLUTION** Approving the revision of the Public Housing Authority (PHA) Administrative Plan for the Housing Choice Voucher Program

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Adopt Resolution(s)

**ATTACHMENTS:**

Description	Type
MVM Memo	City Manager Memo
Memo	Staff Memo
Resolution	Resolutions
City of Dubuque HCV Administrative Plan	Supporting Documentation



**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Hold Public Hearing and approve the Revised Administrative Plan for the Housing Choice Voucher Program

**DATE:** March 27, 2024

Housing & Community Development Director Alexis Steger is recommending City Council hold a public hearing and then adopt the revised Administrative Plan for the Housing Choice Voucher Program and grant the Housing & Community Development Director permission to submit the revised Public Housing Authority Administrative plan to the U.S. Department of Housing and Urban Development (HUD) as required for final approval and adoption.

The Housing & Community Development Department has conducted a full review of the entire Housing Choice Voucher Administrative Plan. The Housing & Community Development Department has revised all chapters (1-19) in order to adapt to modern practices, HUD guidance and create program efficiency.

Changes to the administrative plan were presented to and approved by the Housing Commission on January 23, 2024. The draft administrative plan was then presented to the Resident Advisory Board on February 28, 2024. The Resident Advisory Board had no additional comments or revision recommendations. The draft administrative plan has been posted on the City's website and available at the Housing & Community Development Department for review since the February 5, 2024 City Council Meeting wherein the Administrative Plan was set for Public Hearing on April 1, 2024. The draft administrative plan will go before the Housing Commission at that time for official approval before being submitted to HUD for final approval and adoption. I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv

Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Alexis Steger, Housing & Community Development Director



**TO:** Michael C. Van Milligen, City Manager

**FROM:** Alexis M. Steger, Housing and Community Development Director

**DATE:** March 27, 2024

**RE:** Hold Public Hearing and approve the Revised Administrative Plan for the Housing Choice Voucher Program

### **INTRODUCTION**

The purpose of the memorandum is to hold a Public Hearing for the purpose of accepting the revision to the City of Dubuque's Housing Choice Voucher Administrative Plan.

### **BACKGROUND**

Federal regulations require Housing Authorities to prepare and maintain an Administrative Plan. The authority for Public Housing Authority policies is derived from federal statutes, federal regulations, guidance issued by HUD, state law, and local policy.

Changes to the administrative plan were presented to and approved by the Housing Commission on January 23, 2024. The draft administrative plan was then presented to the Resident Advisory Board on February 28, 2024. The Resident Advisory Board had no additional comments or revision recommendations. The draft administrative plan has been posted on the City's website and available at the Housing & Community Development Department for review since the February 5, 2024 City Council Meeting wherein the Administrative Plan was set for Public Hearing on April 1, 2024. The draft administrative plan will go before the Housing Commission at that time for official approval before being submitted to HUD for final approval and adoption.

### **DISCUSSION**

The Housing & Community Development Department has conducted a full review of the entire Housing Choice Voucher Administrative Plan. The Housing & Community Development Department has revised all chapters (1-19) in order to adapt to modern practices, HUD guidance and create program efficiency.

Significant changes important to note:

- Removed all references to “Violence Against Women Act of 2013” – revised as “Violence Against Women Act (VAWA)”..
- Human Trafficking added under the definition of VAWA.
- Removed references to HUD’s HCV Guidebooks and replaced with PIH Notice 2023-27
- HUD required updates regarding HOTMA Policy
  - Chapter 6 – Income & Subsidy Determination – changed in its entirety.
  - Chapter 7 – Verification – changes to correlate with Chapter 6.
  - Chapter 11 – Reexaminations – changed to correlate with Chapters 6 & 7.

The revised administrative plan is attached as Exhibit A.

### **RECOMMENDATION**

I respectfully request that City Council hold public hearing and then approve the revised Administrative Plan for the Housing Choice Voucher Program on April 1, 2024. Thus, granting the Housing & Community Development Director permission to submit the revised Public Housing Authority Administrative plan to the U.S. Department of Housing and Urban Development (HUD) as required for final approval and adoption.

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING THE REVISION OF THE PUBLIC HOUSING AUTHORITY (PHA) ADMINISTRATIVE PLAN FOR THE HOUSING CHOICE VOUCHER PROGRAM**

Whereas, the City of Dubuque is designated as a Public Housing Authority; and

Whereas, the City of Dubuque maintains a comprehensive Public Housing Authority Administrative Plan; and

Whereas, the City of Dubuque desires to revise said Public Housing Authority Administrative Plan; and

Whereas, the Housing Commission held several public meetings to review each Chapter revisions of the plan from January 2024 through April 2024; and

Whereas, on January 23, 2024 the Housing Commission approved and recommended City Council adoption of the revised Administrative Plan; and

Whereas, the Resident Advisory Board convened on February 28, 2024 to review changes and accept the revised Administrative Plan; and

Whereas, the Housing & Community Development Department will submit the revised Administrative Plan to the U.S. Department of Housing & Urban Development for final approval, after City Council approval.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:**

Section 1. The Public Housing Authority (PHA) has revised the Administrative Plan for the Housing Choice Voucher Program and the City Council has approved all revisions to the Public Housing Authority Administrative Plan for the Housing Choice Voucher Program.

Section 2. The City Council has approving the revision to the Public Housing Authority Administrative Plan for the Housing Choice Voucher Program.

Section 3. The Housing & Community Development Director is hereby directed to submit the revised Public Housing Authority Administrative plan to the U.S. Department of Housing and Urban Development as required.

Passed, approved and adopted this 1st day of April, 2024.

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Brad M Cavanagh, Mayor

Attest:

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Adrienne Breitfelder, City Clerk

PUBLIC NOTICE

**PROPOSED FISCAL YEAR 2024 PUBLIC HOUSING AGENCY (PHA)  
ADMINISTRATIVE PLAN**

Notice is hereby given that the Dubuque City Council will conduct a public hearing on Monday, April 1, 2024 at a meeting to commence at 6:30 p.m. in City Council Chambers, 350 West 6th Street, Dubuque, Iowa.

The City Council will consider proposed updates to the PHA Administrative Plan.

Interested parties may examine the contents of the proposed Plan at the City Clerk's Office, City Hall, 50 West 13<sup>th</sup> Street; and the Housing and Community Development Department, 350 West 6<sup>th</sup> Street, Suite 312, Dubuque Iowa, and the City Website at [www.cityofdubuque.org/adminplan](http://www.cityofdubuque.org/adminplan).

Written comments may be submitted on or before the time of the public hearing to the City of Dubuque Housing and Community Development Department, 350 W 6<sup>th</sup> St, Suite 312, Dubuque Iowa 52001 (563-690-6096) or [ghodgson@cityofdubuque.org](mailto:ghodgson@cityofdubuque.org).

At said time and place of public hearing all interested citizens and parties will be given an opportunity to be heard for or against said plan.



# HCV ADMINISTRATIVE PLAN

EFFECTIVE  
JANUARY 1, 2024

City of Dubuque Housing & CD



# HCV Administrative Plan

CITY OF DUBUQUE HOUSING & CD

Approved by the HA Board of Commissioners:

Submitted to HUD:

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## **Introduction**

### **ABOUT THE ADMINISTRATIVE PLAN**

#### **REFERENCES CITED IN THE ADMINISTRATIVE PLAN**

The authority for PHA policies is derived from many sources. Primary among these sources are federal statutes, federal regulations, and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop policy as long as it does not conflict with federal requirements or prohibitions.

#### **HUD**

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

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

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

#### **State Law**

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

#### **Industry Practice**

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

#### **RESOURCES CITED IN THE ADMINISTRATIVE PLAN**

The administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the administrative plan may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations that are referenced in the administrative plan or that may be helpful to you.



## HUD HCV Guidebook

In November 2019 HUD began issuing a new version of the HCV Guidebook chapter-by-chapter. Unlike the previous version of the HCV Guidebook in which chapters were numbered, the new version of the guidebook includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the HCV Guidebook is cited in the policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *HCV GB* with a chapter/page reference (example: HCV GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New HCV GB* with a chapter title and page reference (example: New HCV GB, *Payment Standards*, p. 11). On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portions of the guidebook, specifically the chapters on eligibility, denials, and annual reexaminations and interim reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to cite the HCV Guidebook.

## Abbreviations

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

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

## Resources and Where to Find Them

The HUD website is <https://www.hud.gov/>.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: [https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips).

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

<b>Document and Location</b>
Code of Federal Regulations <a href="https://www.ecfr.gov/">https://www.ecfr.gov/</a>
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule <a href="http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf">http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf</a>
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data <a href="https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF">https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF</a>
Executive Order 11063 <a href="https://www.archives.gov/federal-register/codification/executive-order/11063.html">https://www.archives.gov/federal-register/codification/executive-order/11063.html</a>
Federal Register <a href="https://www.federalregister.gov/">https://www.federalregister.gov/</a>
Housing Choice Voucher Program Guidebook (7420.10G), Updated Chapters <a href="https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook">https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook</a>
HOTMA Final Rule <a href="https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email">https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email</a>
HOTMA Implementation Notice, PIH 2023-27 <a href="https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf">https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf</a>
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 <a href="https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf">https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</a>
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 <a href="https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf">https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf</a>
Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice <a href="https://www.hud.gov/sites/documents/DOC_8993.PDF">https://www.hud.gov/sites/documents/DOC_8993.PDF</a>
Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System <a href="https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF">https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF</a>
VAWA Resources <a href="https://www.hud.gov/vawa">https://www.hud.gov/vawa</a>



## **Chapter 1**

### **OVERVIEW OF THE PROGRAM AND PLAN**

#### **INTRODUCTION**

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

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

There are three parts to this chapter:

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

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

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

#### **PART I: THE PHA**

##### **1-I.A. OVERVIEW**

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

## **1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA**

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the City of Dubuque Housing and Community Development Department for the jurisdiction of City of Dubuque, Iowa.

The officials of a PHA are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

Formal actions of the PHA are taken through written resolutions, adopted by the board of commissioners and entered into the official records of the PHA.

The principal staff member of the PHA is the executive director (ED), hired and appointed by the board of commissioners. The executive director is directly responsible for carrying out the policies established by the board and is delegated the responsibility for hiring, training and supervising the PHA staff in order to manage the day-to-day operations of the PHA. The executive director is responsible for ensuring compliance with federal and state laws and directives for the programs managed. In addition, the executive director's duties include budgeting and financial planning for the agency.

## **1-I.C. PHA MISSION**

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

### PHA Policy

The PHA's mission is to provide decent, safe, and affordable rental housing and to provide opportunities that promote self-sufficiency, economic independence, and homeownership opportunities for eligible participants.

### **1-I.D. THE PHA'S PROGRAMS**

The following programs are included under this administrative plan:

#### **PHA Policy**

The PHA's administrative plan is applicable to the operation of the Housing Choice Voucher program.

### **1-I.E. THE PHA'S COMMITMENT TO ETHICS AND SERVICE**

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

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

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



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

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

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

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

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

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality (“housing quality standards”) and was within certain HUD-established rent limitations (“fair market rents”), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family’s adjusted income, with the remainder of the rent paid by the program.

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

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

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



From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as “conforming” rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

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

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

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

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.

## **1-II.B. HCV PROGRAM BASICS**

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. The PHA is afforded choices in the operation of the program which are included in the PHA's administrative plan, a document approved by the board of commissioners of the PHA.

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

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

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

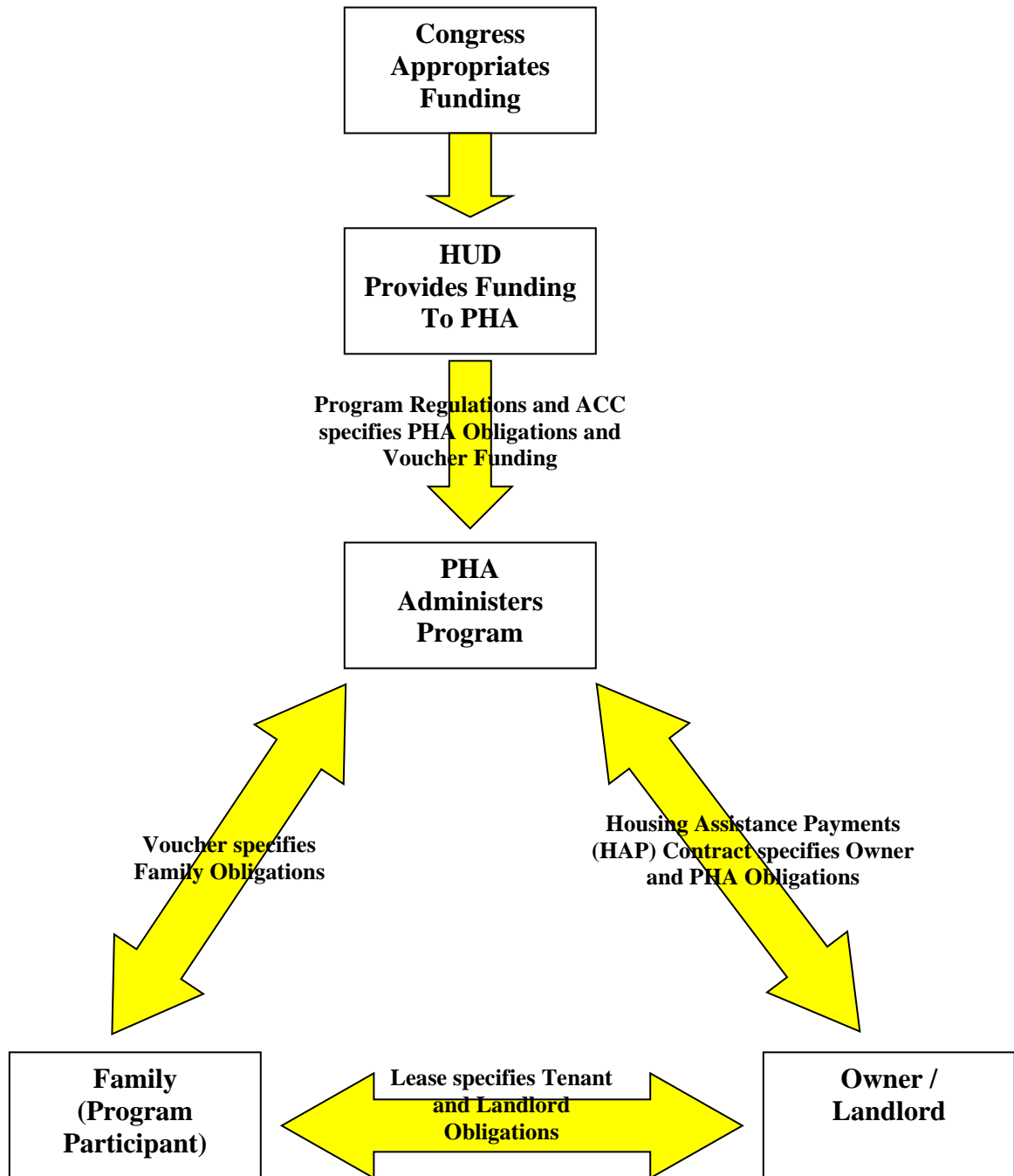
## **1-II.C. THE HCV PARTNERSHIPS**

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

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

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

## The HCV Relationships:



## **What Does HUD Do?**

HUD has the following major responsibilities:

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

## **What Does the PHA Do?**

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

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

## **What Does the Owner Do?**

The owner has the following major responsibilities:

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

## **What Does the Family Do?**

The family has the following responsibilities:

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

## **1-II.D. APPLICABLE REGULATIONS**

Applicable regulations include:

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

## **PART III: THE HCV ADMINISTRATIVE PLAN**

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

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

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

The PHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

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

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

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

- Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapter 4);
- Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions of the voucher term. If the PHA decides to allow extensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions, and how the PHA determines the length of any extension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);



- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards, including policies on administering decreases in the payment standard during the HAP contract term (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8);
- PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3);
- Policies governing the project-basing of vouchers in both the standard Project-Based Voucher (PBV) program (Chapter 17) and the RAD Project-Based Voucher program (Chapter 18); and
- Special policies governing any special purpose vouchers issued by the PHA (Chapter 19).

## **Mandatory vs. Discretionary Policy**

HUD makes a distinction between:

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

HUD expects PHAs to adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the PHA discretion. The PHA's administrative plan is the foundation of those policies and procedures. HUD's directions require PHAs to make policy choices that provide sufficient guidance to staff and ensure consistency to program applicants and participants.

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

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

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

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

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

#### PHA Policy

The PHA will review and update the plan as needed, to reflect changes in regulations, PHA operations, or when needed to ensure staff consistency in operation.



## Chapter 2

### FAIR HOUSING AND EQUAL OPPORTUNITY

#### INTRODUCTION

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

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

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

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

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



## **PART I: NONDISCRIMINATION**

### **2-I.A. OVERVIEW**

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

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Orders 11063 and 13988
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Act (VAWA)

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

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

#### PHA Policy

No state or local nondiscrimination laws or ordinances apply.

## **2-I.B. NONDISCRIMINATION**

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

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

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

The PHA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12; Executive Order 13988].

### PHA Policy

The PHA does not identify any additional protected classes.

The PHA will not use any of these factors to:

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

## **Providing Information to Families and Owners**

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

## **2-I.C. DISCRIMINATION COMPLAINTS**

### **General Housing Discrimination Complaints**

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. The PHA should make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action.

In all cases, the PHA will advise the family that they may file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

#### **PHA Policy**

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

Within 10 business days of receiving the complaint, the PHA will investigate and attempt to remedy discrimination complaints made against the PHA. The PHA will also advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The fair housing poster, posted in conspicuous and accessible locations in PHA lobbies, will reference how to file a complaint with FHEO.

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

### **Complaints under the Equal Access Final Rule [Notice PIH 2014-20]**

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that PHAs provide equal access regardless of marital status, gender identity, or sexual orientation. The PHA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.



### PHA Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify the PHA either orally or in writing.

Within 10 business days of receiving the complaint, the PHA will provide a written notice to those alleged to have violated the rule. The PHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

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

Within 10 business days following the conclusion of the PHA's investigation, the PHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

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

### **VAWA Complaint Processing [Notice FHEO 2023-01]**

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

### PHA Policy

Applicants or tenant families who wish to file a VAWA complaint against the PHA may notify the PHA either orally or in writing.

The PHA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The PHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

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

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

## **PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

### **2-II.A. OVERVIEW**

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

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

#### **PHA Policy**

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

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority.”

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

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

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

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

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

### **Types of Reasonable Accommodations**

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

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

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

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

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

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

### **PHA Policy**

The PHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the PHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

## **2-II.D. VERIFICATION OF DISABILITY**

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

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

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

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

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

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

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

The PHA must approve a request for an accommodation if the following three conditions are met:

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

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

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

**PHA Policy**

After a request for an accommodation is presented, the PHA will respond in writing within 10 business days.

If the PHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the PHA's decision through an informal review (if applicable) or informal hearing (see Chapter 16).

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

If the PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PHA will notify the family in writing of its determination within 10 business days from the date of the most recent discussion or communication with the family.

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

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

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

### **PHA Policy**

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

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

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

## **2-II.G. PHYSICAL ACCESSIBILITY**

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

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

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

- This plan describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

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

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.



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

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

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

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

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

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

### **2-III.A. OVERVIEW**

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

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

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

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

## **2-III.B. ORAL INTERPRETATION**

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

### PHA Policy

The PHA will utilize a language line for telephone interpreter services.

When exercising the option to conduct remote briefings, informal reviews, or hearings, however, the PHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the PHA. The PHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the PHA will not rely on the minor to serve as the interpreter.

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

Where feasible and possible, according to its language assistance plan (LAP), the PHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

## **2-III.C. WRITTEN TRANSLATION**

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

### PHA Policy

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

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

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

## **2-III.D. IMPLEMENTATION PLAN**

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

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

### **PHA Policy**

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

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



<b>EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]</b>
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A person with a disability, as defined under federal civil rights laws, is any person who:

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

## **Chapter 3**

### **ELIGIBILITY**

#### **INTRODUCTION**

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

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.
  - Not currently be receiving a duplicative subsidy.
  - Meet net asset and property ownership restriction requirements.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

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

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

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g., criminal activity) that can cause the PHA to deny assistance as well as the asset limitation for HCV.





## **PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS**

### **3-I.A. OVERVIEW**

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

### **3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.403; FR Notice 02/03/12; Notice PIH 2014-20; and FR Notice 2/14/23]**

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

#### **Family**

To be eligible for assistance, an applicant must qualify as a family. *Family* as defined by HUD includes, but is not limited to the following, regardless actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together. Such group includes but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, and the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

*Gender Identity* means actual or perceived gender characteristics.

*Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

#### **PHA Policy**

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application and must notify the PHA if the family's composition changes.

#### **Household**

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

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

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

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

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

#### PHA Policy

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

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

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

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

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

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

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

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

#### PHA Policy

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

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

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

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].

*Spouse* means the marriage partner of the head of household.

#### PHA Policy

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

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

#### PHA Policy

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

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

### **3-I.F. DEPENDENTS AND MINORS [24 CFR 5.603]**

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

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

#### **Joint Custody of Dependents**

##### PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

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

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

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

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

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

#### **Elderly Persons**

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

#### **Near-Elderly Persons**

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

#### **Elderly Family**

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance as described in Chapter 6.

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

#### **Persons with Disabilities**

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

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

#### **Disabled Family**

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

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

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

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to so consent.

#### **PHA Policy**

A guest can remain in the assisted unit no longer than 15 consecutive days or a total of 30 cumulative calendar days during any 12-month period. Tenants must have landlord permission and notification to the PHA, guests may be allowed to stay up to 90 cumulative days in a 12-month period. Requests should be made in writing when possible and approved by the PHA prior to the individual staying in the unit.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

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

### **3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]**

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a *foster adult* under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A *foster child* is a member of the household who meets the definition of a *foster child* under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

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

#### **PHA Policy**

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

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

### **3-I.L. ABSENT FAMILY MEMBERS**

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

#### **Definitions of Temporarily and Permanently Absent**

#### **PHA Policy**

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

#### **Absent Students**

#### **PHA Policy**

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

### **Absences Due to Placement in Foster Care [24 CFR 5.403]**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

#### PHA Policy

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

### **Absent Head, Spouse, or Cohead**

#### PHA Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member **as long as at least one household member remains in the assisted unit.**

### **Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]**

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

#### PHA Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

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

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

#### PHA Policy

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



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

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

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

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

#### PHA Policy

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

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

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

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

- The person commits drug-related criminal activity or violent criminal activity; or

- The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

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

## PART II: BASIC ELIGIBILITY CRITERIA

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

#### Income Limits

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

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

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

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

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

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

#### Using Income Limits for Eligibility [24 CFR 982.201 and Notice PIH 2023-27]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards. In order to be income eligible, an applicant family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been “continuously assisted” under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4; 24 CFR 982.201(b)]

#### PHA Policy

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

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

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

HUD permits the PHA to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA's jurisdiction.

#### PHA Policy

The PHA has not established any additional categories of eligible low-income families.

#### **Using Income Limits for Targeting [24 CFR 982.201]**

At least 75 percent of the families admitted to the PHA's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts, but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not counted for income targeting purposes.

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

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

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

#### **Declaration [24 CFR 5.508]**

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

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

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

#### **PHA Policy**

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

#### ***Eligible Noncitizens***

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

### ***Ineligible Noncitizens***

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

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

### **Mixed Families**

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

### **Ineligible Families [24 CFR 5.514(d), (e), and (f)]**

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

#### **PHA Policy**

The PHA will not provide assistance to a family before the verification of at least one family member.

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

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

Informal hearing procedures are contained in Chapter 16.

### **Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]**

For new occupants joining the assisted family, the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

#### **PHA Policy**

The PHA will verify the citizenship status of applicants at the time other eligibility factors are determined.

### **3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract. A detailed discussion of acceptable documentation is provided in Chapter 7.

*Note:* These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

### **3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.232; HCV GB, p. 5-13]**

HUD requires that each adult family member, and the head of household, spouse, or cohead, regardless of age, sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, the form HUD-52675 Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3) and 24 CFR 5.232(a)].

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]

#### PHA Policy

The PHA has established a policy that revocation of consent to access financial records will result in denial of admission.

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

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

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

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

#### **Definitions**

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

#### ***Dependent Child***

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

## ***Independent Student***

### **PHA Policy**

The PHA will consider a student “independent” from their parents and the parents’ income will not be considered when determining the student’s eligibility if the following four criteria are all met:

The individual is of legal contract age under state law.

The individual has established a household separate from their parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.

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

The individual is at least 24 years old by December 31 of the award year for which aid is sought

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s state of legal residence

The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes

The individual is a graduate or professional student

The individual is married

The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)



The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

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

A financial aid administrator

The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances

The individual was not claimed as a dependent by their parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.

The individual provides a certification of the amount of financial assistance that will be provided by their parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

If the PHA determines that an individual meets the definition of a *vulnerable youth* such a determination is all that is necessary to determine that the person is an *independent student* for the purposes of using only the student's income for determining eligibility for assistance.

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

### ***Institution of Higher Education***

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

### ***Parents***

#### **PHA Policy**

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

### ***Person with Disabilities***

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

## ***Veteran***

### **PHA Policy**

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

## ***Vulnerable Youth***

### **PHA Policy**

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

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

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

A financial aid administrator

## **Determining Student Eligibility**

If a student is applying for assistance on their own, apart from their parents, the PHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the PHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from their parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

### PHA Policy

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

Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program

Determine whether the student is independent from their parents in accordance with the definition of *independent student* in this section

Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

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

## ***Determining Parental Income Eligibility***

### **PHA Policy**

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

If the student's parents are married and living together, the PHA will obtain a joint income declaration and certification of joint income from the parents.

If the student's parent is widowed or single, the PHA will obtain an income declaration and certification of income from that parent.

If the student's parents are divorced or separated, the PHA will obtain an income declaration and certification of income from each parent.

If the student has been living with one of their parents and has not had contact with or does not know where to contact their other parent, the PHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The PHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

## **3-II.F. EIV SYSTEM SEARCHES [EIV FAQs; EIV System Training 9/30/20; and Notice PIH 2023-27]**

### **Existing Tenant Search**

Prior to admission to the program, the PHA must search for all household members using the EIV Existing Tenant Search module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

### **PHA Policy**

The PHA will contact the other PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The PHA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

## **Debts Owed to PHAs and Terminations**

All adult household members must sign the form HUD-52675 Debts Owed to Public Housing and Terminations. Prior to admission to the program, the PHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

### **PHA Policy**

The PHA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

The PHA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the PHA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

## **Income and Income Validation Tool (IVT) Reports**

For each new admission, the PHA is required to review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. The PHA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

## **PART III: DENIAL OF ASSISTANCE**

### **3-III.A. OVERVIEW**

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. A PHA may deny assistance for an applicant because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553. In this section we will discuss other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA.

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, PHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

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

Denial of assistance includes any of the following:

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

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

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

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

### **3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a) and 24 CFR 982.552(b)(6)]**

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

- Any member of the household has been evicted from federally assisted housing in the last three years for drug-related criminal activity. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

#### PHA Policy

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

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

#### PHA Policy

*Currently engaged in* is defined as any use of illegal drugs during the previous three months.

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

#### PHA Policy

In determining reasonable cause, the PHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis of determining reasonable cause. The PHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.
- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.



### **3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]**

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed \$100,000 (adjusted annually by HUD).

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property; and
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

#### PHA Policy

The PHA defines *not sufficient for the size of the family* as being overcrowded based on the PHA's subsidy standards in Chapter 5 of this policy.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

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

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

#### **Criminal Activity [24 CFR 982.553]**

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

##### PHA Policy

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

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

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

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

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

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse; or

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

If the applicant or any household member has an active warrant in the NCIC system the applicant will be deemed ineligible to receive a Voucher until the warrant has been satisfied. The applicant file will be held for 60 days to allow satisfaction of the active warrant.

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

Any conviction for drug-related or violent criminal activity within the past three years.

Records of arrests for drug-related or violent criminal activity within the past three years, although a record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

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

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

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing.

PHAs are not permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [24 CFR 984.101(d)].

#### **PHA Policy**

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

The family does not provide information that the PHA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to the PHA.

Any family member has been evicted from federally assisted housing in the last three years.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family owes rent or other amounts to any PHA in connection with Section 8 or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

The family has breached the terms of a repayment agreement entered into with the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

When denying admission due to family debts as shown in HUD's EIV system, the PHA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.

If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the PHA to support the family's claim. The PHA will consider the information provided by the family prior to issuing a notice of denial.

A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

*Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

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

### **3-III.E. SCREENING**

#### **Screening for Eligibility**

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

##### PHA Policy

The PHA will perform a criminal background check through local law enforcement for every adult household member.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the PHA will request a fingerprint card and will request information from the National Crime Information center (NCIC).

While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose.

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

##### PHA Policy

The PHA will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

The PHA will request applicants disclose states or localities of previous residency for the purpose of criminal background checks only.

Additionally, PHAs must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

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

## **Screening for Suitability as a Tenant [24 CFR 982.307]**

The PHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The PHA has the authority to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

### PHA Policy

The PHA will not conduct additional screening to determine an applicant family's suitability for tenancy.

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

HUD requires the PHA to provide prospective owners with the family's current and prior address (as shown in PHA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the PHA to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

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

### PHA Policy

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

### **3-III.F. CRITERIA FOR DECIDING TO DENY ASSISTANCE**

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

##### PHA Policy

The PHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

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

##### PHA Policy

The PHA will consider the following facts and circumstances prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.H.) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

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

- Any statements made by witnesses or the applicant not included in the police report

- Whether criminal charges were filed

- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

- Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

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

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

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



## **Removal of a Family Member's Name from the Application**

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

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

### PHA Policy

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

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

## **Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]**

If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

### PHA Policy

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

### **3-III.G. NOTICE OF ELIGIBILITY OR DENIAL**

If the family is eligible for assistance, the PHA will notify the family in writing and schedule a tenant briefing, as discussed in Chapter 5.

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

#### **PHA Policy**

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

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

#### **PHA Policy**

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible the PHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the PHA to dispute the information within that 10-day period, the PHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

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

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

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

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

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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

#### **Notification**

VAWA requires PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

#### **PHA Policy**

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

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

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

## **Documentation**

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

#### **PHA Policy**

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

### ***Perpetrator Documentation***

#### **PHA Policy**

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

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

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



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

### Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

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

#### (A) In General

The term “developmental disability” means a severe, chronic disability of an individual that:

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

**(B) Infants and Young Children**

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

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

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

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

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

(1) Physical or mental impairment includes:

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

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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

(4) *Is regarded as having an impairment* means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
- (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.





<p style="text-align: center;"><b>EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION</b> <b>[20 U.S.C. 1001 and 1002]</b></p>
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**Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]**

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

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

- (a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that
  - (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
  - (2) Is legally authorized within such State to provide a program of education beyond secondary education;
  - (3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
  - (4) Is a public or other nonprofit institution; and
  - (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.
- (b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” also includes—
  - (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
  - (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

*Definition of “Institution of Higher Education” From 20 U.S.C. 1002*

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

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

(A) A proprietary institution of higher education (as defined in subsection (b) of this section);

(B) A postsecondary vocational institution (as defined in subsection (c) of this section); and

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

(2) Institutions outside the United States

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

(i) In the case of a graduate medical school located outside the United States—

(I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

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

- (ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.
- (B) Advisory panel
  - (i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—
    - (I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and
    - (II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.
  - (ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.
- (C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.
- (D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.
- (3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—
  - (A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;
  - (B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

- (C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or
  - (D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.
- (4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—
- (A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or
  - (B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.
- (5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.
- (6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

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

(c) Postsecondary vocational institution.

- (1) Principal criteria. For the purpose of this section, the term “postsecondary vocational institution” means a school that—
  - (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
  - (B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and
  - (C) Has been in existence for at least 2 years.
- (2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.



## **Chapter 4**

### **APPLICATIONS, WAITING LIST AND TENANT SELECTION**

#### **INTRODUCTION**

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

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

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

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

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the PHA will handle the applications it receives.

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

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





## **PART I: THE APPLICATION PROCESS**

### **4-I.A. OVERVIEW**

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

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

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

#### PHA Policy

Depending upon the length of time that applicants may need to wait to receive assistance, the PHA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the PHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Families may obtain application forms from the PHA's office during normal business hours. Families may also request – by telephone or by mail – that an application be mailed to them via first class mail.

Completed applications must be returned to the PHA by mail, electronically, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by the PHA for processing. If an application is incomplete, the PHA will notify the family of the additional information required.

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

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

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

##### **Limited English Proficiency**

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

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

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

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

#### **Ineligible for Placement on the Waiting List**

##### PHA Policy

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

#### **Eligible for Placement on the Waiting List**

##### PHA Policy

##### PHA Policy

##### Program Specific Waiting List

The City of Dubuque shall maintain waiting lists for the Project Based Voucher Program, and the Housing Choice Voucher Program.

Project-Based Voucher Program Waiting List: The Project-Based Voucher Program Waiting List shall be a separate waiting list. The Rose PBV Contract:

All families selected for occupancy must qualify according to the very low-income guidelines. The project-based voucher units are designated for occupancy by elderly or disabled families requiring assisted living services. Prior to and as a condition of occupancy, the Owner or its designated service provider shall evaluate the proposed applicant's status to determine the qualification for residency of the assisted living facility. When vacancies occur in the project-based voucher program, the City refers income eligible families for participation in the project-based voucher program from its waiting list to the owner. The owner selects a family for occupancy of a particular unit after screening the family. The City of Dubuque will select eligible applicants from the Waiting List and determine income eligibility. Once determined income eligible, applicant will be referred to The Rose for final eligibility determination.

Housing Choice Voucher Program Waiting List(s): The City of Dubuque shall open the Housing Choice Voucher waiting list when it is reduced to less than 50 applications, on

the 2nd Tuesday of each month. However, if the need identified for the month is greater than 50 applicants, the waiting list may be reopened with more than 50 applicants on the waiting list. The HCV waiting list will be opened to accept pre-applications for one (1) calendar day. Interested individuals/families will be required to complete a written pre-application form for admission and placement on the waiting list. Pre-applications submitted online shall be considered written pre-applications. The City of Dubuque will use the pre-application form to collect only the information necessary to make a preliminary determination of eligibility.

An applicant will be assigned one (1) preference point for being a resident of the City of Dubuque defined by HUD as the jurisdiction that the PHA is allowed to serve. The residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, national origin, gender, religion, disability, or age of any member of an applicant family. Applicants who are working or who have been notified that they are hired to work in the residency preference area will receive the residency preference point.

Title VI of the Civil Rights Act requires that an administrative decision must not have the effect of discrimination, or what HUD defines as a “disparate impact”. To ensure a residency preference does not have the effect of discrimination, the PHA will keep the following data to ensure the baseline demographics of those receiving assistance without residency preference points does not deviate by more than one and one-half (1.50) the standard deviation by applying a residency preference point:

- Demographics of pre-applicants
- Demographics of the head of household placed on the waiting list
- Demographics of those successfully leasing in the PHA Jurisdiction

Should a 1.50 or greater standard deviation be realized, the residency preference point will be suspended until a consultation with HUD's Office of Fair Housing and Equal Opportunity occurs.

After residency preference points are allocated, a lottery system will be used to randomly determine which applicants are placed on the waiting list once the waiting list is closed. The lottery system will assign households with a preference point onto the list before those without a preference point. Using the lottery system, the number of applicants selected to be placed on the waiting list will be determined based on anticipated need of applicants using HUD's two-year tool. Only the head of household should apply. Duplicate pre-applications will not be allowed. Applicants that are not selected to be placed on the waiting list will not be notified and will need to re-apply to the waiting list the next time the waiting list is open.

The family will be required to provide all of the information necessary to establish final family eligibility and level of assistance when the family is selected from the waiting list.

When the waiting list is open, individuals/families may obtain pre-application forms from the PHA's office during normal business hours or may complete online applications at the City of Dubuque website at [www.cityofdubuque.org/hcv](http://www.cityofdubuque.org/hcv) . Applicants may also

request – by telephone, mail, or e-mail– an application be sent to them via first class mail or FAX or e-mail.

Pre-applications received by mail, fax, or e-mail during the time the waiting list is open must be received by 4:30pm CT. The City of Dubuque shall open the waiting list for one (1) calendar business day to allow applicants the opportunity to contact the City of Dubuque Housing Authority staff if the applicant has questions.

If the pre-application is incomplete, the PHA will notify the family of the additional information required. HA staff will make reasonable efforts to contact the applicant and inform him/her of the additional information required the day the waiting list is open. Reasonable efforts shall be in the form of one telephone call or one e-mail. If the HA staff is unable to contact the applicant, the application will be removed from the lottery selection process or if the applicant is contacted and fails to respond by 4:30 pm CT on the day the waiting list is opened, the applicant will be removed from the lottery selection process. A record of those efforts shall be maintained with the application.

Family Unification Program referrals will be added to the Housing Choice Voucher waiting list and then selected from that list to receive a FUP voucher.

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

Applicants will be selected to be placed on the waiting list according to a computer-generated Lottery/random selection process after the residency preference point is allocated. The PHA will send written notification of successful placement on the waiting list upon completion of the lottery selection process to only those selected in the lottery.

#### Final Application

On an ongoing basis, the PHA will select a number of households from the waiting list based upon the number of Vouchers that may be issued by utilizing leasing data and turnover rates and selecting the applicants from the HCV waiting list based on date and time of application. The applicants selected from the waiting list will be mailed a full application packet to determine final eligibility.

Completed applications must be received by the PHA by mail, FAX, e-mail or submitted in person during normal business hours within 14 business days of the date on the PHA letter requesting the updated application. For applications received by mail, the received date shall be determined by the date the application has been post marked. For applications received by Fax or e-mail, the received date shall be determined by the date the FAX or the e-mail is received by the City of Dubuque. Applications must be complete in order to be accepted by the PHA for processing. An application shall only be considered complete if accompanied by proof of identity; copy of SSN; citizenship, eligible immigration status or non-contending declaration; and all mandatory release forms along with a completed application. The final “Application” form must be completely filled out and must not contain any blanks or unanswered questions.

All applications must be accompanied by proof of identity from a third party for all household members. Acceptable forms shall include birth certificates; current driver’s

license; identification card issued by a federal, state, or local agency; identification card issued by a medical insurance company or provider (including Medicare and Medicaid); or Court records. All applications must be accompanied by copies of social security cards of all household members.

If the applicant is unable to provide documentation/verification of the SSN but is otherwise determined eligible, the applicant may retain the applicant's place on the waiting list for the program but cannot become a participant until the applicant provides the required verification. The applicant will be provided 30 days to obtain the required verification while retaining the applicant's place on the waiting list.

However, if a child under the age of 6 years was added to the applicant household within the 6-month period prior to the household's date of voucher issuance, the applicant may become a participant, so long as the documentation/verification is provided within 90 calendar days from the date of admission to the program. One additional 90-day extension period will be granted if the PHA determines that the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were not due to the fault of the applicant.

If the applicant family fails to produce the required social security documentation/verification required within the allotted time period as stated above, the PHA shall follow the policies as stated in Chapter 3, Part III: Denial of Assistance if the applicant has not become a participant of the program or Chapter 12, 12-I.D. Mandatory Termination of Assistance if the applicant has been admitted to the program.

If the final application is incomplete, the PHA will notify the family of the additional information required. HA staff will make reasonable efforts to contact the applicant and inform him/her of the additional information required and provide the applicant 14 days to correct the deficiency. Reasonable efforts shall be in the form of one letter, one telephone call or one e-mail. If the HA staff is unable to contact the applicant, the application will be removed from the waiting list or if the applicant is contacted and fails to respond within the time period specified or any extensions of time, the applicant will be removed from the waiting list without further notice. A record of those efforts shall be maintained with the application. A record of all applications received (even incomplete applications) shall be maintained by the PHA indicating all attempts to contact the applicant.





## **PART II: MANAGING THE WAITING LIST**

### **4-II.A. OVERVIEW**

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

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

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

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

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

- Applicant name;
- Family unit size;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

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

#### **PHA Policy**

The PHA will maintain a single waiting list for the HCV program. The PHA will maintain a separate waiting list for the Project Based Voucher program.

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

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

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

#### **PHA Policy**

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

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

##### **Closing the Waiting List**

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

##### **PHA Policy**

The PHA will open and close the HCV Waiting List as defined in Chapter 4, Section 4.I.D Placement on the Waiting List. Once the waiting list is closed according to the procedure in the section noted above, the PHA shall utilize a lottery system to randomly select applicants to be placed on the waiting list after the residency preference is applied. Where the PHA has particular selection or funding criteria, such as specialized vouchers that require a specific category of family, the PHA may elect to continue to accept applications from these applicants while closing the HCV waiting list to others.

##### **Reopening the Waiting List**

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

##### **PHA Policy**

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

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

***City of Dubuque Website***

***Telegraph Herald***

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

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

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

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

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

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

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

##### PHA Policy

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

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

##### PHA Policy

While the family is on the waiting list, the family must immediately inform the PHA of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

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

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

##### **Purging the Waiting List**

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

##### PHA Policy

The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely.

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

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the PHA not later than 15 business days from the date of the PHA letter.

If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the PHA may reinstate the family if it is determined that the lack of response was due to PHA error, or to circumstances beyond the family's control, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including an adverse factor resulting from such abuse.

## **Removal from the Waiting List**

### PHA Policy

If at any time an applicant family is on the waiting list, the PHA determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

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



## **PART III: SELECTION FOR HCV ASSISTANCE**

### **4-III.A. OVERVIEW**

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

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

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

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

#### **Special Admissions [24 CFR 982.203]**

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

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

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

#### **PHA Policy**

The PHA administers the following types of targeted funding:

***Non-Elderly Disabled Vouchers***

***Project-Based Assisted Living***

***Tenant Protection***

***Family Unification Program***

***VASH Program***

### **Regular HCV Funding**

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

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

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

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

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

##### **PHA Policy**

The PHA will use the following local preferences:

1. The PHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding.
2. The PHA will offer a preference to families that include victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking who have either been referred by a partnering service agency or consortia or are seeking an emergency transfer under VAWA from the PHA's public housing program or other covered housing program operated by the PHA.

The PHA will work with the following partnering service agencies:

**Dubuque YMCA/YWCA**

**Friends of the Family**

**Opening Doors**

**Crescent Community Health Center**

**Visiting Nurses Association**

The applicant must certify that the abuser will not reside with the applicant unless the PHA gives prior written approval.

3. When an emergency is declared that restricts movement of residents, the PHA may provide preference to applicants living within the City of Dubuque or other local area defined by the emergency restriction areas to ensure residents' ability to avoid homelessness. As soon as the emergency declaration has expired this local preference will no longer be applicable.
4. An applicant will be assigned one (1) preference point for being a resident of the City of Dubuque defined by HUD as the jurisdiction that the PHA is allowed to serve. The residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, national origin, gender, religion, disability, or age of any member of an



applicant family. Applicants who are working or who have been notified that they are hired to work in the residency preference area will receive the residency preference point.

The PHA will first assist families that have been terminated from the HCV program due to insufficient funding and then assist families that qualify for the VAWA preference.

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

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

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

#### **PHA Policy**

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

### **Order of Selection**

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

#### **PHA Policy**

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the PHA's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the PHA. Documentation will be maintained by the PHA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the PHA does not have to ask higher placed families each time targeted selections are made.

#### **4-III.D. NOTIFICATION OF SELECTION**

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

##### PHA Policy

The PHA will notify the family by first class mail when it is selected from the waiting list. The notification will include a full application packet and information about what constitutes acceptable documentation. If the applicant family fails to respond to the request for the Final Application by the deadline listed in the paperwork, a letter will be mailed giving applicant an additional 10 business days to respond. If applicant fails to respond by deadline, they will be removed from the waiting list.

Once the applicant family responds to the request with updated information and is determined eligible, the PHA will notify the family by phone, email, mail or applicant's authorized contact person to inform the family of the following:

Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview/briefing.

Who is required to attend the interview/briefing

All documents that must be provided at the interview/briefing, including information about what constitutes acceptable documentation

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

#### **4-III.E. THE APPLICATION INTERVIEW**

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

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2018-24].

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

##### PHA Policy

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

The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may

attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the PHA.

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

Pending disclosure and documentation of social security numbers, the PHA will allow the family to retain its place on the waiting list for *30 days*. If not all household members have disclosed their SSNs at the next time the PHA is issuing vouchers, the PHA will issue a voucher to the next eligible applicant family on the waiting list.

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

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

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

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide translation services in accordance with the PHA's LEP plan.

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

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

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

##### **PHA Policy**

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

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

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

## **Chapter 5**

### **BRIEFINGS AND VOUCHER ISSUANCE**

#### **INTRODUCTION**

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

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

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

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

#### **PART I: BRIEFINGS AND FAMILY OBLIGATIONS**

##### **5-I.A. OVERVIEW**

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

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

### **Notification of Briefing**

Prior to issuance of a voucher, the PHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions.

#### PHA Policy

Families will be notified of their eligibility for assistance at the time they are invited to a briefing. The notice will be sent by first class mail and will also be sent by email if the family has provided a valid email address to the PHA.

The notice will advise the family of the type of briefing, who is required to be present at the briefing, and the date and time of the briefing. The notice will also inform the family of any additional requirements for in-person or remote briefings as addressed in relevant policy elsewhere in this section.

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

### **In-Person Briefings**

At the briefing, the PHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

#### PHA Policy

In-person briefings will generally be conducted in group meetings. At the family's written request, the PHA may provide an individual briefing.

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

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

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



## *Attendance*

### PHA Policy

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

### **Remote Briefings [Notice PIH 2020-32]**

Remote briefings may be conducted over the phone, via video conferencing, or through other virtual platforms.

### PHA Policy

The PHA has the sole discretion to require that briefings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster. If the PHA schedules a remote briefing, the PHA will conduct a face-to-face briefing upon request of the applicant as a reasonable accommodation for a person with a disability if safety and health concerns can be reasonably addressed.

In addition, the PHA will conduct a briefing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the briefing, or if the applicant believes an in-person briefing would create an undue health risk. The PHA will consider other reasonable requests for a remote briefing on a case-by-case basis.

The applicant will be emailed a notice with the link to the online briefing that outlines the timeframe for completion. They will also be provided a link to the online briefing packet. They will be provided 10 business days to watch the briefing, complete the online questionnaire and return required paperwork. If PHA does not receive the questionnaire and completed required paperwork within 10 business days, applicant will be denied assistance without further notice.

### **Accessibility Requirements for Persons with Disabilities and LEP Individuals**

As with in-person briefings, the platform for conducting remote briefings must be accessible and the briefing conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

If no method of conducting a remote briefing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote briefing, and the PHA should consider whether postponing the remote briefing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances.

Limited English Proficiency (LEP) requirements also apply to remote briefings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote briefings.

## **Conducting Remote Briefings**

The PHA must ensure that the lack of technology or inability to use technology for remote briefings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA must ensure that the family has appropriate technological access in order to fully participate in the remote briefing.

### **PHA Policy**

The applicant will be emailed a notice with the link to the online briefing that outlines the timeframe for completion. They will also be provided a link to the online briefing packet. They will be provided 10 business days to watch the briefing, complete the online questionnaire and return required paperwork. If PHA does not receive the questionnaire and completed required paperwork, or notification of technology barriers from the participants within 10 business days, applicant will be denied assistance without further notice. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person briefing or have a one-on-one briefing over the phone, as appropriate.

The PHA will provide a paper copy of the briefing packet upon family request, and may reschedule the briefing to allow adequate time for the family to receive the physical briefing packet.

The PHA will ensure that all electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities and persons with LEP, and is secure, including ensuring personally identifiable information (PII) is protected.

The PHA will ensure that families who participate in remote briefings have the opportunity to ask questions as part of the briefing.

If families lose connectivity during any remote briefing or otherwise feel they were unable to access information presented during the briefing, the family may request a one-on-one briefing over the phone or in person with the PHA.

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

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction or outside the PHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- The PHA must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance;
- The advantages of areas that do not have a high concentration of low-income families; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

In briefing a family that includes a person with disabilities, PHA must also take steps to ensure effective communication.

**Briefing Packet [24 CFR 982.301(b); New HCV GB, *Housing Search and Leasing*, p. 7]**

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

- The term of the voucher, voucher suspensions, and the PHA's policies on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides (e.g., HUD brochure entitled, "A Good Place to Live").
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form, including information on how to complete the form and file a fair housing complaint.
- A list of landlords known to the PHA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the PHA that may assist the family in locating a unit. PHAs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family, and any obligations of other special programs if the family is participating in one of those programs.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families.
- The HUD pamphlet on lead-based paint entitled, “Protect Your Family from Lead in Your Home.”

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

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

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

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, Notice PIH 2017-12].

#### PHA Policy

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

Information on how to fill out and file a housing discrimination complaint form

The form HUD-5380 domestic violence certification form and the form HUD-5382 notice of occupancy rights, which contain information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking

“Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

“What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12

## **5-I.C. FAMILY OBLIGATIONS**

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

### **Time Frames for Reporting Changes Required by Family Obligations**

#### PHA Policy

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

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

### **Family Obligations [24 CFR 982.551]**

The family obligations of the voucher are listed as follows:

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

#### PHA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.

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

#### PHA Policy

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

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

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

#### PHA Policy

The family must comply with lease requirements regarding written notice to the owner.

The family must provide written notice to the PHA at the same time the owner is notified.

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

#### PHA Policy

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

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.



- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (sections I.K and I.M), and Chapter 11 (section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

PHA Policy

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

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.

- The family must promptly notify the PHA when the family is absent from the unit.

#### PHA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than two weeks or 14 calendar days.. Written notice must be provided to the PHA at the start of the extended absence.

Any absences extending beyond 14 consecutive days must have PHA approval in writing prior to the absence. The family may apply for PHA approval for an extended absence by submitting a written request to the PHA and the owner prior to the absence. The family must allow sufficient time for a written response by the HA (no less than two weeks.) Absences of 14 days or longer without prior written HA approval shall be considered abandonment of the unit. Approval for absences from residence and address usage longer than 14 days shall be given due to physician-approved medical causes. However, in no instance shall the tenant be absent from the assisted unit for more than 180 consecutive calendar days. Absences for longer than 180 consecutive calendar days shall be cause for termination.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- PHA Policy
- All utilities and services for which the participant is responsible shall be provided in an approved family member's name (approved member of an assisted family) unless prior authorization is granted by the Housing Agency. Any violation of this policy shall be cause for termination.
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]



## **PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE**

### **5-II.A. OVERVIEW**

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

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

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

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

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

- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

#### PHA Policy

The PHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Head of Household residing with an adult who is not considered a co-head or spouse shall be allocated a separate bedroom resulting in a 2 bedroom voucher. A Head of Household who is residing with a minor child shall be allocated a bedroom apart from the minor child resulting in a 2 bedroom voucher. A Head of Household who is residing with more than one adult or minor child shall be allocated a voucher for a bedroom size that factors two persons per bedroom with the following considerations:

Persons of the opposite sex (other than spouses, and children under age 5) will be allocated separate bedrooms.

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

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

<b>Voucher Size</b>	<b>Persons in Household (Minimum – Maximum)</b>
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	3-6
4 Bedrooms	4-8
5 Bedrooms	6-10

Adding additional persons to the household shall not increase the voucher issuance until the annual recertification or unit change, if needed, as long as adding the person does not overcrowd the current unit. The dwelling unit must have at least one bedroom or living/sleeping room for each two persons.

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

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

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

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

#### PHA Policy

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

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related need for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

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

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

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

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

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

### PHA Policy

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

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

### PHA Policy

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

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



## **5-II.E. VOUCHER TERM AND EXTENSIONS**

### **Voucher Term [24 CFR 982.303]**

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

#### PHA Policy

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the PHA grants an extension.

### **Extensions of Voucher Term [24 CFR 982.303(b)]**

The PHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the PHA can approve. Discretionary policies related to extension and expiration of search time must be described in the PHA's administrative plan [24 CFR 982.54].

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose. The family must be notified in writing of the PHA's decision to approve or deny an extension. The PHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

#### PHA Policy

The PHA will approve additional extensions only in the following circumstances:

It is necessary as a reasonable accommodation for a person with disabilities.

It is necessary due to reasons beyond the family's control, as determined by the PHA. Following is a list of extenuating circumstances that the PHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

Serious illness or death in the family

Other family emergency

Obstacles due to employment

Whether the family has already submitted requests for tenancy approval that were not approved by the PHA

Whether family size or other special circumstances make it difficult to find a suitable unit

Any request for an additional extension must include the reason(s) an additional extension is necessary. The PHA may require the family to provide documentation to support the request or obtain verification from a qualified third party.

All requests for extensions to the voucher term must be made in writing and submitted to the PHA prior to the expiration date of the voucher (or extended term of the voucher).

The PHA will decide whether to approve or deny an extension request within 10 business days of the date the request is received, and will immediately provide the family written notice of its decision.

The maximum voucher term would be 120 days.

### **Suspensions of Voucher Term [24 CFR 982.303(c)]**

The PHA must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied.

### **Expiration of Voucher Term**

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

#### PHA Policy

If an applicant family's voucher term or extension expires before the PHA has approved a tenancy, the PHA will require the family to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, the PHA will notify the family in writing that the voucher term has expired and that the family must reapply when the waiting list is open in order to be placed on the waiting list.



## Chapter 6

### INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

#### INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.

Part III: Adjusted Income. Once annual income has been established, HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to adopt additional permissive deductions. These requirements and PHA policies for calculating adjusted income are found in Part III.

Part IV: Calculating Family Share and PHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

## PART I: ANNUAL INCOME

### 6-I.A. OVERVIEW [24 CFR 5.609]

Annual income includes:

- All amounts, not specifically excluded in **24 CFR 5.609(b)**;
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

### Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and PHA policies in Chapter 11. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)].  All sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)].
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)].  All sources of unearned income, except those specifically excluded by the regulations, are included.

## **Temporarily Absent Family Members**

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence.

### PHA Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

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

## ***Absent Students***

### PHA Policy

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

## ***Absences Due to Placement in Foster Care***

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family [24 CFR 5.403].

### PHA Policy

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

## ***Absent Head, Spouse, or Cohead***

### PHA Policy

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



## **Family Members Permanently Confined for Medical Reasons**

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

### PHA Policy

The PHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

## **Joint Custody of Dependents**

### PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

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

## **Caretakers for a Child**

### PHA Policy

The approval of a caretaker is at the owner and PHA's discretion and subject to the owner and PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the PHA will take the following actions.

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the PHA will extend the caretaker's status as an eligible visitor.
- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

## 6-I.C. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

### **Anticipating Annual Income [24 CFR 5.609(c)(1)]**

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

#### PHA Policy

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.

#### ***Known Changes in Income***

If the PHA verifies an upcoming increase or decrease in income, annual income will be projected by applying each income amount to the appropriate part of the 12-month period.

**Example:** An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the new admission or interim reexamination. In such a case the PHA would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$ .

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then, should the change in income require the PHA to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 11.

**Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2);  
Notice PIH 2023-27]**

At annual reexamination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 11 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rental assistance. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 11.

## **6-I.D. EARNED INCOME**

### ***Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]***

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

*Earned income* means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A *seasonal worker* is defined as an individual who is hired into a short-term position( e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

### **PHA Policy**

The PHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or interim reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately.

### ***Military Pay***

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

***Earnings of a Minor [24 CFR 5.609(b)(3)]***

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

***Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]***

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

**6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES  
[24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16;  
Notice PIH 2023-27]**

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

**Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.

**Calculation Method**

***Initial 12-Month Exclusion***

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

PHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

***Second 12-Month Exclusion***

During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

PHA Policy

During the second 12-month exclusion period, the PHA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

***Lifetime Limitation***

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

## **6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]**

Annual income includes “net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.”

### **PHA Policy**

To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.

### **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

### **Business Expansion**

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

### **PHA Policy**

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.



## **Capital Indebtedness**

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

### PHA Policy

*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the PHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

## **Negative Business Income**

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

## **Withdrawal of Cash or Assets from a Business**

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

### PHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, the PHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

## **Co-owned Businesses**

### PHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

## **Assets Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

## **6-I.G. STUDENT FINANCIAL ASSISTANCE [FR Notice 2/14/23 and Notice PIH 2023-27]**

### **Introduction**

Section 479B of the HEA requires that all assistance under Title IV of the HEA and Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations.

For Section 8 programs only, however, for over 10 years through FY 2022, HUD appropriations have included a provision that for certain students receiving Section 8 assistance, any amounts received in excess of tuition and any other required fees and charges are considered income (with the exception of students who lived with their parents or who were over the age of 23 with a dependent child).

While the language in various consolidated appropriations acts is limited to federal fiscal year covered by the act, this does not rule out the possibility that similar language will be included in future years' appropriations bills.

- For any funds from a year where HUD's appropriations acts include this limitation, it will apply with respect to Section 8 participants. The PHA will follow the pre-HOTMA Section 8 student financial assistance limitation described below.
- During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all Section 8 students defaults to the methodology described for the public housing program and listed below.

### **Pre-HOTMA Section 8 Student Financial Assistance Limitation [FR 4/10/06; Notice PIH 2015-21]**

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Chapter 3, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition and fees* are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].
  - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.
  - The amount represents what a typical student would be charged and may not be the same for all students at an institution.
  - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
  - Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
  - Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

Any student financial assistance not subject to inclusion under the regulations is fully excluded from annual income, whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child, as defined in section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

### **HOTMA Student Financial Assistance Requirements [24 CFR 5.609(b)(9)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students.

## Types of Assistance

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. *Actual covered costs* are defined as the actual costs of:

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government ;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed; (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

### **Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]**

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

## PHA Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the PHA will exclude the full amount of the assistance received under Title IV from the family's annual income. The PHA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The PHA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The PHA will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

### **Example 1**

- Actual covered costs: \$20,000
- Other student financial assistance: \$25,000
- Excluded income: \$20,000 (\$25,000 in financial assistance - \$20,000 in actual covered costs)
- Included income: \$5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

### **Example 2**

- Actual covered costs: \$25,000
- Title IV HEA assistance: \$26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: \$5,000
- Excluded income: The entire Title IV HEA assistance of \$26,000
- Included income: All other financial assistance of \$5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the PHA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

### **Example 3**

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$15,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

### **Example 4**

- Actual covered costs: \$18,000
- Title IV HEA Assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$3,000 (\$18,000 in actual covered costs - \$15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: \$5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000 (\$3,000 in actual covered costs - \$5,000 in other financial assistance).
- Included income: \$2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

## **6-I.H. PERIODIC PAYMENTS**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

#### PHA Policy

The PHA will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family reports this during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time the PHA is processing an annual reexamination, then the PHA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the PHA will conduct an interim in accordance with PHA policies in Chapter 11. If not, the PHA will consider the amount when processing the family's next annual recertification.



### **Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

### **Social Security Benefits [Notice PIH 2018-24]**

The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

#### **PHA Policy**

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the PHA will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

## **Alimony and Child Support**

### PHA Policy

The PHA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

The PHA will count court-awarded amounts for alimony and child support unless the family certifies and the PHA verifies that the payments are not being made.

In order to verify that payments are not being made, the PHA will review child support payments over the last three months.

If payments are being made regularly, the PHA will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the PHA will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the PHA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If the PHA determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If the PHA determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, the PHA will not include alimony or child support in annual income.

## **6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]**

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

## **6-I.J. WELFARE ASSISTANCE**

### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

#### ***Covered Families***

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

#### ***Imputed Income***

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

#### ***Offsets***

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

#### **6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

#### **6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

## **6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]**

Other exclusions contained in 24 CFR 5.609(b) that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(i)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.609 I(12)(ii)].

Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

### PHA Policy

The PHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

The PHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the PHA’s interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.



HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
- (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
- (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
- (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
- (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
- (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)
- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- (aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

## PART II: ASSETS

### 6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

#### PHA Policy

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The PHA will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

## **6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

### **[24 CFR 5.603(b)(2)]**

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset. An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

#### ***Minimum Threshold***

The *HCV Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

##### PHA Policy

The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

#### ***Separation or Divorce***

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

##### PHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

#### ***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

#### ***Asset Owned by a Business Entity***

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

## ***Family Declaration***

### **PHA Policy**

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value.

The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

## **6-II.C. ASSET INCLUSIONS AND EXCLUSIONS**

### ***Checking and Savings Accounts [Notice PIH 2023-27]***

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

### ***ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]***

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds  
[24 CFR 5.603(b)(1)]***

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

**PHA Policy**

The PHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

***Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]***

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually by HUD). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
<p>Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</p> <p>Furniture, carpets, linens, kitchenware</p> <p>Common appliances</p> <p>Common electronics (e.g., radio, television, DVD player, gaming system)</p> <p>Clothing</p> <p>Personal effects that are not luxury items (e.g., toys, books)</p> <p>Wedding and engagement rings</p> <p>Jewelry used in religious/cultural celebrations and ceremonies</p> <p>Religious and cultural items</p> <p>Medical equipment and supplies</p> <p>Health care–related supplies</p> <p>Musical instruments used by the family</p> <p>Personal computers, phones, tablets, and related equipment</p> <p>Professional tools of trade of the family, for example professional books</p> <p>Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</p> <p>Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</p>	<p>Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs))</p> <p>Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</p> <p>Recreational boat/watercraft</p> <p>Expensive jewelry without religious or cultural value, or which does not hold family significance</p> <p>Collectibles (e.g., coins/stamps)</p> <p>Equipment/machinery that is not used to generate income for a business</p> <p>Items such as gems/precious metals, antique cars, artwork, etc.</p>

### PHA Policy

In determining the value of non-necessary personal property, the PHA will use the family's estimate of the value. The PHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.



***Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]***

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 11. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

**PHA Policy**

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

### ***Jointly Owned Assets [Notice PIH 2023-27]***

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

### ***Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]***

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

### ***Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]***

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

### ***Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]***

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).

### ***Asset Exclusions [24 CFR 5.603(b)]***

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];

- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

## 6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

### *Net Family Assets*

*Net family assets* are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

#### PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

### ***Actual Income from Assets***

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The PHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

### ***Imputed Income from Assets***

When net family assets exceed \$50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.





## PART III: ADJUSTED INCOME

### 6-III.A. INTRODUCTION

#### Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions*

- (1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (2) \$525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
  - (i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

#### Anticipating Expenses

##### PHA Policy

Generally, the PHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the PHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the PHA will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations*, p. 30]. For annual reexaminations, the PHA will use information for the previous 12-month period.

### **6-III.B. DEPENDENT DEDUCTION**

An allowance of \$480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

### **6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of \$525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

### **6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)]**

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent of annual income.

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

#### **Definition of *Medical Expenses***

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.” Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD’s mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD’s definition of *health and medical care expenses*.

#### **Families That Qualify for Both Health and Medical and Disability Assistance Expenses**

##### PHA Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

### **6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]**

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ten percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

#### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

#### **PHA Policy**

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

#### ***Eligible Auxiliary Apparatus [Notice PIH 2023-27]***

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type or special equipment to assist a person who is deaf or hard of hearing.

### ***Eligible Attendant Care [Notice PIH 2023-27]***

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

#### **PHA Policy**

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Payments to Family Members***

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

### ***Necessary and Reasonable Expenses***

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

#### **PHA Policy**

The PHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the PHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the PHA will consider, the family's justification for costs that exceed typical costs in the area.

### ***Families That Qualify for Both Health and Medical and Disability Assistance Expenses***

#### **PHA Policy**

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## **6-III.F. CHILD CARE EXPENSE DEDUCTION**

HUD defines *child care expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

### **Clarifying the Meaning of *Child* for This Deduction**

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family’s household are included when determining the family’s child care expenses [HCV GB, p. 5-29].

### **Qualifying for the Deduction**

#### ***Determining Who Is Enabled to Pursue an Eligible Activity***

##### PHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### ***Seeking Work***

##### PHA Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the child care expense being allowed by the PHA.

## ***Furthering Education***

### **PHA Policy**

If the child care expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

## ***Being Gainfully Employed***

### **PHA Policy**

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

## **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

### **PHA Policy**

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

## **Eligible Child Care Expenses**

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

### ***Allowable Child Care Activities***

#### **PHA Policy**

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Necessary and Reasonable Costs***

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

#### **PHA Policy**

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the PHA will use the schedule of child care costs from a qualified local entity that either subsidizes child care costs or licenses child care providers. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.



### **6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

#### **Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]**

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

#### **Phased-In Relief**

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review. The family must receive phased-in relief if they are determined to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA. When a family moves with continued assistance or ports to a new PHA, the family must continue to receive the phased-in relief. The family must receive the remaining calendar months of the percentage phase-in. The PHA must use the existing phase-in documentation to determine the remaining calendar months and the percentage phase-in.

#### PHA Policy

The PHA will not continue the phased-in relief for families who move from public housing to HCV. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

#### **General Relief**

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

#### PHA Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The PHA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with PHA policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the PHA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

#### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a hearing.

If the family qualifies for an exemption, the PHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions.

PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

#### **Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]**

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

### PHA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The PHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request an informal grievance hearing.

If the family qualifies for an exemption, the PHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

### **6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(ii)]**

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the administrative plan. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

A PHA that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A PHA will not be eligible for an increase in HCV renewal funding for subsidy costs resulting from such deductions.

#### PHA Policy

The PHA has opted not to use permissive deductions.

## **PART IV: CALCULATING FAMILY SHARE AND PHA SUBSIDY**

### **6-IV.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS**

#### **TTP Formula [24 CFR 5.628]**

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

#### ***Welfare Rent [24 CFR 5.628]***

##### PHA Policy

Welfare rent does not apply in this locality.

#### ***Minimum Rent [24 CFR 5.630]***

##### PHA Policy

The minimum rent for this locality is \$0.

#### **Family Share [24 CFR 982.305(a)(5)]**

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-IV.C.)

**PHA Subsidy [24 CFR 982.505(b)]**

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-IV.C.)

**Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]**

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

**PHA Policy**

The PHA will make utility reimbursements to the family.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

**PHA Policy**

The PHA will issue all utility reimbursements monthly.



## **6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]**

### PHA Policy

The financial hardship rules described below do not apply in this jurisdiction because the PHA has established a minimum rent of \$0.

### **Overview**

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

### **HUD-Defined Financial Hardship**

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

### PHA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

### PHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

PHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the PHA.

PHA Policy

The PHA has not established any additional hardship criteria.

**Implementation of Hardship Exemption**

***Determination of Hardship***

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

PHA Policy

The PHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b>Example: Impact of Minimum Rent Exemption</b>	
Assume the PHA has established a minimum rent of \$50.	
<b>Family Share – No Hardship</b>	<b>Family Share – With Hardship</b>
\$0 30% of monthly adjusted income	\$0 30% of monthly adjusted income
\$15 10% of monthly gross income	\$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
\$50 Minimum rent	\$50 Minimum rent
Minimum rent applies. TTP = \$50	Hardship exemption granted. TTP = \$15

PHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The PHA will make the determination of hardship within 30 calendar days.

### ***No Financial Hardship***

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

#### **PHA Policy**

The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.

### ***Temporary Hardship***

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

#### **PHA Policy**

The PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

### ***Long-Term Hardship***

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

#### **PHA Policy**

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

## **6-IV.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)]**

### **Overview**

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. The establishment and revision of the PHA's payment standard schedule are covered in Chapter 16.

*Payment standard* is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the PHA has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

### **Changes in Payment Standards**

When the PHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

#### ***Decreases***

If a PHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the PHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the PHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the PHA may either reduce the payment standard to the current amount in effect on the PHA's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The PHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the PHA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The PHA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

#### PHA Policy

If a PHA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the PHA will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

The PHA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

#### ***Increases***

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

#### ***Changes in Family Unit Size (Voucher Size)***

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

#### **Reasonable Accommodation**

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

## **6-IV.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]**

### **Overview**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using PHA subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the PHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

### **Reasonable Accommodation and Individual Relief**

On request from a family that includes a person with disabilities, the PHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. (See Chapter 2 for policies regarding the request and approval of reasonable accommodations.)

Further, the PHA may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA an explanation of the need for individual relief and an explanation about the amount of additional allowance required [see HCV GB, p. 18-8].

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company.

#### **PHA Policy**

The family must request the higher allowance and provide the PHA with information about the amount of additional allowance required.

The PHA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the PHA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or PHA may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all families at admission as part of the information on payment standards and utility allowances in the briefing packet. The PHA will also provide information on utility relief programs or medical discounts (sometimes referred to as “Medical Baseline discounts”) that may be available through local utility providers.

At its discretion, the PHA may reevaluate the need for the increased utility allowance at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or PHA-supplied equipment that is beyond the family’s control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

### **Utility Allowance Revisions**

At reexamination, the PHA must use the current utility allowance schedule [HCV GB, p. 18-8].

#### **PHA Policy**

Revised utility allowances will be applied to a family’s rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

#### **6-IV.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at \$500 and two of four family members are ineligible, the PHA subsidy would be reduced to \$250.



## EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

### 24 CFR 5.609

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

*(b) Annual income does not include the following:*

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

- 1) The Federal government;
- (2) A State, Tribe, or local government;
- (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- (5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (
- 3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such

accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

## EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

### 24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement

arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

## EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

### 24 CFR 5.615

#### **Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

*(a) Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

*(b) Definitions.* The following definitions apply for purposes of this section:

*Covered families.* Families who receive welfare assistance or other public assistance benefits (“welfare benefits”) from a State or other public agency (“welfare agency”) under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

*Economic self-sufficiency program.* See definition at Sec. 5.603.

*Imputed welfare income.* The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

*Specified welfare benefit reduction.*

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) “Specified welfare benefit reduction” does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

*(c) Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

*(d) Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the

basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

*(e) PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.



## **Chapter 7**

### **VERIFICATION**

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2023-27]

#### **INTRODUCTION**

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

#### **PART I: GENERAL VERIFICATION REQUIREMENTS**

##### **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516; 982.551; CFR 5.230; and Notice PIH 2023-27]**

###### **Consent Forms**

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

## **Form HUD-9886 [24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5); and Notice PIH 2023-27]**

All adult applicants and participants sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

### PHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the PHA must deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

#### **PHA Policy**

The PHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with PHA policy.

In order for a family to revoke their consent, the family must provide written notice to the PHA.

Within 10 business days of the date the family provides written notice, the PHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the PHA will notify their local HUD office.

## **7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS**

### **[24 CFR 5.609(c)(3) and Notice PIH 2023-27]**

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

#### PHA Policy

When available and applicable, the PHA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The PHA will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the PHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the PHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the PHA will obtain third-party verification of all sources of income and assets (as applicable).

The PHA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the PHA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;

- State the family size

- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the PHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the PHA will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the PHA will use the most recent income determination, unless the family presents acceptable evidence that the PHA should consider an alternative verification from a different Safe Harbor source.

When the PHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PHA. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the PHA receives the Safe Harbor documentation and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, the PHA will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 11. In this case, the PHA will use third-party verification to verify the change.

**7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c);  
Notice PIH 2023-27]**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.



When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

#### PHA Policy

The PHA chooses not to streamline the annual reexamination process for fixed-income sources. The PHA will obtain third-party verification, where applicable, of all sources of income annually in accordance with PHA policies in the chapter and HUD regulations.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

- Of all assets when net family assets exceed \$50,000;
- Of all deductions and allowances from annual income;
- If a family member with a fixed source of income is added;
- If verification of the COLA or rate of interest is not available;
- During the intake process and at least once every three years thereafter.

## **7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]**

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

In order of priority, the forms of verification that the PHA will use are:

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "family-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

### **File Documentation**

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

## **7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

#### ***EIV Income and IVT Reports***

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

#### PHA Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the PHA will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. The PHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

#### ***New Hires Report [Notice PIH 2023-27]***

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

#### PHA Policy

In accordance with PHA policies in Chapter 11, the PHA does not process interim reexaminations for families who have increases in earned income. Except for instances in which the PHA uses Safe Harbor income determinations to determine a family's annual income, the PHA will only review the New Hires Report at annual reexamination.

### ***No Income Reported by HHS or SSA Report***

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. PHAs obtain written, third-party verification of any income reported by the participant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

#### **PHA Policy**

The PHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The PHA will re-verify the status of participants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the PHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity

### ***EIV Identity Verification Report***

The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

#### **PHA Policy**

The PHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The PHA will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist as a result of PHA errors such as spelling errors or incorrect birth dates, it will correct the errors promptly.

### ***Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]***

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

#### **PHA Policy**

The PHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must notify the owner in writing of the deceased head of household.

PHAs may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

#### **PHA Policy**

The PHA will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

### ***Other EIV Reports [Notice PIH 2023-27]***

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

### **Upfront Income Verification Using Non-HUD Systems**

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

#### **PHA Policy**

The PHA will inform all applicants and participants of its use of the following UIV resources:

HUD's EIV and IVT System

## **7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]**

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

### **EIV +\_Self-Certification**

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

#### PHA Policy

At annual reexamination, if the PHA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the PHA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The PHA will use an average of the last two quarters of income listed in EIV to determine income from employment. The PHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the PHA will use written third-party verification from the source as outlined below.

The PHA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

### **Written Third-Party Verification from the Source**

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### PHA Policy

In general, the PHA will use third-party verification from the source in the following circumstances:

- At annual reexamination when EIV + self-certification is not used;

- For all new admissions; and

- For all interim reexaminations.

The PHA will not use this method if the PHA is able to use an income determination from a means-tested federal assistance program or if the PHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the PHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the PHA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the PHA will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.



### **7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM** **[Notice PIH 2023 -27]**

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as “traditional third-party verification.” PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

#### PHA Policy

Typically, the PHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the PHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

### **7.I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

#### PHA Policy

In general, the PHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the PHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the PHA chooses to obtain oral third-party verification, the PHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

### **When Third-Party Verification is Not Required [Notice PIH 2023-27]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

#### PHA Policy

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

#### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### **7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]**

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total \$50,000 or less and the PHA has adopted a policy to accept self certification
- The family declares that they do not have any present ownership in any real property
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the PHA was required to obtain third-party verification but instead relies self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

#### **PHA Policy**

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."



## PART II: VERIFYING FAMILY INFORMATION

### 7-II.A. VERIFICATION OF LEGAL IDENTITY

#### PHA Policy

The PHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a participant.

## **7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2023-27]**

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

### **PHA Policy**

The PHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

#### PHA Policy

The PHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

#### PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the PHA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

#### PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

#### PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

#### PHA Policy

The PHA will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

#### PHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the PHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

### **7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

#### PHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.



## **7-II.D. FAMILY RELATIONSHIPS**

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

### PHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

## **Marriage**

### PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

## **Separation or Divorce**

### PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a separation or divorce, the PHA will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

## **Absence of Adult Member**

### PHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the PHA so requests.

## **Foster Children and Foster Adults**

### PHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

## **7-II.E. VERIFICATION OF STUDENT STATUS**

### **General Requirements**

#### PHA Policy

The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family reports full-time student status for an adult other than the head, spouse, or cohead.

The family reports child care expenses to enable a family member to further their education.

The family includes a student enrolled in an *institution of higher education*.

### **Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

#### PHA Policy

In accordance with the verification hierarchy described in section 7-1.B, the PHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see section Exhibit 3-2).

The student is at least 24 years old.

The student is a veteran, as defined in section 3-II.E.

The student is married.

The student has at least one dependent child, as defined in section 3-II.E.

The student is a person with disabilities, as defined in section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents' income eligibility (see section 7-III.J) or the student's independence from their parents (see below).

## ***Independent Student***

### **PHA Policy**

The PHA will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0, except in cases in which the PHA determines that the student is a *vulnerable youth* (see section 3-II.E)

## **7-II.F. DOCUMENTATION OF DISABILITY**

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at <http://www.hhs.gov/ocr/privacy/>.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

Inquiry into an applicant's ability to meet the requirements of ownership or tenancy

Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability

Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability

Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance

Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

## **Family Members Receiving SSA Disability Benefits**

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

### PHA Policy

For family members claiming disability who receive disability benefits from the SSA, the PHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter they will be required to provide it to the PHA.

## **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

### PHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

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

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

#### **PHA Policy**

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.

## **Eligible Immigrants**

### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

### ***PHA Verification*** [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

## **7-II.H. VERIFICATION OF PREFERENCE STATUS**

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

### **PHA Policy**

The PHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The PHA will verify this preference using the PHA's termination records.

The PHA also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as described in Section 4-III.C. To verify that applicants qualify for the preference, the PHA will follow documentation requirements outlined in Section 16-IX.D.

## **PART III: VERIFYING INCOME AND ASSETS**

Chapter 6 of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

### PHA Policy

The following policies do not apply when the PHA uses a safe harbor income determination from a means-tested federal assistance program.

## **7-III.A. EARNED INCOME**

### **Tips**

#### PHA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

### **Wages**

#### PHA Policy

When the PHA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

## **7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

### PHA Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not to file tax returns, The PHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the PHA will provide a format for the individual to declare their income and expenses. The PHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as the Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.



### **7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

#### **Social Security/SSI Benefits [Notice PIH 2023-27]**

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

#### **7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]**

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

##### PHA Policy

The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 12 months prior to PHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

**Note:** Families are not required to undertake independent enforcement action.

#### **7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]**

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

##### PHA Policy

The PHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the PHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

## **7-III.F. ASSETS AND INCOME FROM ASSETS**

### **Net Family Assets [24 CFR 5.603]**

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### PHA Policy

For families with net assets totaling \$50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the PHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

### **Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]**

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 12. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

#### PHA Policy

Both at admission and reexam, the PHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

### **7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

#### **PHA Policy**

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The PHA will verify the value of assets disposed of only if:

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

### **7-III.H. NET INCOME FROM RENTAL PROPERTY**

#### **PHA Policy**

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### **7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS**

**[Notice PIH 2023-27]**

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

### **7-III.J. RETIREMENT ACCOUNTS**

#### PHA Policy

The PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

### **7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]**

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy. For fully excluded income, the PHA is **not** required to document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

#### PHA Policy

The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

### **7-III.L. ZERO INCOME STATUS REVIEWS [Notice PIH 2023-27]**

A *zero income review* is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

#### **PHA Policy**

The PHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc., are not being received by families claiming to have zero annual income.

The PHA will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The PHA will only conduct interims in accordance with PHA policy in Chapter 11.

### **7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

#### **PHA Policy**

The PHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the PHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.



### **7-III.N. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a *vulnerable youth* in accordance with PHA policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

#### **PHA Policy**

If the PHA is required to determine the income eligibility of a student's parents, the PHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in section 3-II.E). The PHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the PHA. The required information must be submitted (postmarked) within 10 business days of the date of the PHA's request or within any extended timeframe approved by the PHA.

The PHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.



## **PART IV: VERIFYING MANDATORY DEDUCTIONS**

### **7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

See Chapter 6 for a full discussion of this deduction. The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

#### **Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The PHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

## **7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION**

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) ([Pub. L. 104-191](#), 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

### **Amount of Expense**

#### PHA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

When income is projected at new admission or interim, the PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

When income is projected at new admission or interim, if third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

### **Eligible Household**

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

### **Qualified Expenses**

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the PHA's policy on what counts as a medical expense.

### **Unreimbursed Expenses**

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

#### PHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

### **Expenses Incurred in Past Years**

#### PHA Policy

At new admission and interim reexam, when anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

## **7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

### **Amount of Expense**

#### ***Attendant Care***

##### PHA Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

When income is projected at new admission or interim, if third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

## ***Auxiliary Apparatus***

### **PHA Policy**

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

### **Family Member(s) Permitted to Work**

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

#### PHA Policy

The PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

#### PHA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.



#### **7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

##### **Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

##### **Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

##### PHA Policy

The family (and the care provider) will be required to certify that the child care expenses are not paid or reimbursed to the family from any source.

## **Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

### PHA Policy

#### *Information to be Gathered*

The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### *Seeking Work*

Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request family-provided verification from the agency of the member's job seeking efforts to date, and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

#### *Furthering Education*

The PHA will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

#### *Gainful Employment*

The PHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

## **Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

### PHA Policy

The PHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

## **Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

### PHA Policy

The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

<b>EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]</b>	
<ul style="list-style-type: none"> <li>• <b>All</b> noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.</li> <li>• Except for persons 62 or older, all noncitizens must sign a verification consent form</li> <li>• Additional documents are required based upon the person's status.</li> </ul>	
<b>Elderly Noncitizens</b> <ul style="list-style-type: none"> <li>• A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.</li> </ul>	
<b>All other Noncitizens</b> <ul style="list-style-type: none"> <li>• Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.</li> </ul>	
<ul style="list-style-type: none"> <li>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> <li>• “Admitted as a Refugee Pursuant to Section 207”</li> <li>• “Section 208” or “Asylum”</li> <li>• “Section 243(h)” or “Deportation stayed by Attorney General”</li> <li>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> <li>• A final court decision granting asylum (but only if no appeal is taken);</li> <li>• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>• A court decision granting withholding of deportation; or</li> <li>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</li> </ul>	<ul style="list-style-type: none"> <li>• Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</li> </ul>
<ul style="list-style-type: none"> <li>• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or</li> <li>• Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i></li> </ul>	

## Chapter 8

### HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

#### INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

## **PART I: PHYSICAL STANDARDS**

### **8-I.A. GENERAL HUD REQUIREMENTS**

#### **HUD Performance and Acceptability Standards**

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

#### **Tenant Preference Items**

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

## **Modifications to Provide Accessibility**

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

### PHA Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the PHA for review.

## **8-I.B. ADDITIONAL LOCAL REQUIREMENTS**

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

### **PHA Policy**

The PHA shall utilize the Property Maintenance Code of the City of Dubuque. Any references within the Admin Plan referring to the Property Maintenance Code and HQS shall be considered one and the same. Housing governed by this code shall meet the housing quality standards promulgated by the United States Department of Housing and Urban Development (HUD), title 24, Code of Federal Regulations, part 982.401 (a) through (n).

Only units with current rental licenses issued in accordance with the Property Maintenance Code of the City of Dubuque will be acceptable.

## **Thermal Environment [HCV GB p.10-7]**

The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

### **PHA Policy**

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.



### **8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]**

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of PHA notification.

#### **PHA Policy**

The PHA defines life-threatening conditions as a structure or condition that may endanger the life, health, or safety of the occupant and meets the criteria in Sections 108 & 109 of the International Property Maintenance Code as:

1. An unsafe structure
2. Unsafe equipment
3. A structure unfit for human occupancy
4. An unlawful structure
5. A dangerous structure or premises
6. Imminent danger of structural failure or collapse

If an owner fails to correct life-threatening conditions as required by the PHA, the PHA will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by the PHA, the PHA will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

## **8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**

### **Family Responsibilities**

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

### **Owner Responsibilities**

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

### **8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]**

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330; 40 CFR 745.227]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

### **8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]**

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

A unit that does not meet these HQS space standards is defined as *overcrowded*.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

## **PART II: THE INSPECTION PROCESS**

### **8-II.A. OVERVIEW [24 CFR 982.405]**

#### **Types of Inspections**

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.
- *Annual/Biennial Inspections.* HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

#### **Inspection of PHA-Owned Units [24 CFR 982.352(b)]**

The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

## **Inspection Costs [Notice PIH 2016-05]**

The PHA may not charge the family for unit inspections or reinspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for reinspections in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

### PHA Policy

The PHA will not charge a fee for failed reinspections.

## **Remote Video Inspections (RVIs) [Notice PIH 2020-31]**

As an alternative to some or all on-site inspections, the PHA may, but is not required to, perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site. Since there may be some circumstances in which the application of technology provides insufficient information or evidence to allow the PHA to make appropriate determinations about whether a condition violates HQS, Notice PIH 2020-31 requires that if a PHA chooses to implement RVIs, the PHA should have policies and procedures in place to address such limitations.

### PHA Policy

The PHA will not conduct any HQS inspection using RVI.

## **Notice and Scheduling**

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

### PHA Policy

Both the family and the owner will be given reasonable notice of all inspections, as defined in the City of Dubuque Property Maintenance Code. In the case of a life-threatening emergency, the PHA will give as much notice as possible, given the nature of the emergency. All attempts will be made to inform the landlord of all inspections, however; inspections consisting of immediate health and safety items may be performed if the PHA is unable to contact the landlord.

Except in the case of any contagious illness, cancellations by the tenant or landlord of scheduled inspections must be approved by the landlord. Cancellations or rescheduling

required by the PHA will be acknowledged in writing to both the landlord and tenant, when practicable.

## **Owner and Family Inspection Attendance**

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

### PHA Policy

When a family occupies the unit at the time of inspection an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the PHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted but is not required.

## **8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]**

### **Initial Inspections [FR Notice 1/18/17]**

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

### PHA Policy

The unit must pass the HQS inspection on or before the effective date of the HAP contract.

The PHA will not rely on alternative inspections and will conduct an HQS inspection for each unit prior to executing a HAP contract with the owner.

### **Timing of Initial Inspections**

HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

### PHA Policy

The PHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).



## **Inspection Results and Reinspections**

### PHA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the PHA for good cause. The PHA will reinspect the unit within five business days of the date the owner notifies the PHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any PHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the PHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The PHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval for the same unit after the owner has made repairs, if they are unable to locate another suitable unit.

## **Utilities**

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

### PHA Policy

All utility services must be available for testing at the time of the initial inspection to ensure the utilities are operational before the HAP contract is executed and before the dwelling unit is determined to be acceptable.

## **Appliances [Form HUD-52580]**

### PHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the PHA. The PHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

## **8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]**

### PHA Policy

Each unit under HAP contract must be inspected biennially within 24 months of the last full HQS inspection. The PHA reserves the right to require annual inspections of any unit or owner at any time.

The PHA will not rely on alternative inspection standards.

### **Scheduling the Inspection**

#### PHA Policy

If an adult cannot be present on the scheduled date, the family should request that the PHA reschedule the inspection. The PHA and family will agree on a new inspection date that generally should take place within five business days of the originally scheduled date. The PHA may schedule an inspection more than five business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the PHA will automatically schedule a second inspection. If the family misses two scheduled inspections without PHA approval, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

## **8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]**

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

### PHA Policy

During a special inspection, the PHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual/biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the PHA may elect to conduct a full annual/biennial inspection.

## **8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); 24 CFR 985.3(e); HCV GB, p. 10-32]**

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

## **8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT**

### **Notification of Corrective Actions**

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

#### PHA Policy

When life-threatening conditions are identified, the PHA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the PHA's notice.

When failures that are not life-threatening are identified, the PHA will send the owner and the family a written notification of the inspection results within five business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any PHA-approved extension), the owner's HAP will be abated in accordance with PHA policy (see 8-II.G.).

Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any PHA-approved extension, if applicable) the family's assistance will be terminated in accordance with PHA policy (see Chapter 12).

## **Extensions**

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

### **PHA Policy**

Extensions will be granted in cases where the PHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

A repair cannot be completed because required parts or services are not available.

A repair cannot be completed because of weather conditions.

A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

## **Reinspections**

### **PHA Policy**

The PHA will conduct a reinspection immediately following the end of the corrective period, or any PHA approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the PHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with PHA policies. If the PHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

The PHA will not accept self-certification of HQS repairs.

## **8-II.G. ENFORCING OWNER COMPLIANCE**

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

### **HAP Abatement**

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

#### PHA Policy

The PHA will make all HAP abatements effective the first of the month following the expiration of the PHA specified correction period (including any extension).

Once the housing assistance payment has been abated, if it is necessary to relocate the family, the HAP contract shall be terminated, and the family shall be issued a Voucher to find another unit. Any HAP contract with a unit under abatement for 60 days shall be terminated and the family shall be issued a Voucher to find another unit.

The PHA will inspect abated units within five business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

### **HAP Contract Termination**

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

#### PHA Policy

The maximum length of time that HAP may be abated is 90 days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP contract, the PHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the PHA is 30 days.

HAP contracts will be terminated immediately, without application of the rent abatement process described above, in cases of owner failure to repair life-threatening conditions within the required 24-hour time period. This applies only to cases in which the owner is responsible for the situation not when the tenant has caused the violation.

#### **8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]**

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

## **PART III: RENT REASONABLENESS [24 CFR 982.507]**

### **8-III.A. OVERVIEW**

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

#### **PHA-Owned Units [24 CFR 982.352(b)]**

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

## **8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED**

### **Owner-Initiated Rent Determinations**

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

#### PHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the PHA will consider unit size and length of tenancy in the other units.

The PHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after the PHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

### **PHA and HUD-Initiated Rent Reasonableness Determinations**

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

#### PHA Policy

In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the PHA determines that the initial rent reasonableness determination was in error or (2) the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.



## **LIHTC and HOME-Assisted Units [24 CFR 982.507(c)]**

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

### **8-III.C. HOW COMPARABILITY IS ESTABLISHED**

#### **Factors to Consider**

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

#### **Units that Must Not Be Used as Comparables**

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

**Note:** Notice PIH 2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

**Rents Charged for Other Units on the Premises**

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

## **8-III.D. PHA RENT REASONABLENESS METHODOLOGY**

### **How Market Data Is Collected**

#### PHA Policy

The PHA will collect and maintain data on market rents in the PHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

### **How Rents Are Determined**

#### PHA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The PHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the PHA may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference—not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows:  $\$500 \times 11 \text{ months} = 5500/12 \text{ months} = \text{actual monthly rent of } \$488$ .

The PHA will notify the owner of the rent the PHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The PHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within five business days of the PHA's request for information or the owner's request to submit information.



## **EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS**

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

### **Sanitary Facilities**

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

### **Food Preparation and Refuse Disposal**

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

### **Space and Security**

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

### **Thermal Environment**

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

### **Illumination and Electricity**

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

### **Structure and Materials**

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

## **Interior Air Quality**

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

## **Water Supply**

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

## **Lead-Based Paint**

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities within 30 days when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint
- Maintain covered housing without deteriorated paint if there is child under six in the family

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, an environmental investigation must be conducted (paid for by the PHA). If lead hazards are identified during the environmental investigation, the owner must complete hazard reduction activities within 30 days.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

## **Access**

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

## **Site and Neighborhood**

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

**Sanitary Condition**

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

**Smoke Detectors**

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

**Hazards and Health/Safety**

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.





<b>EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY</b>
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Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

## Chapter 9

### GENERAL LEASING POLICIES

#### INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

## **9-I.A. TENANT SCREENING**

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA must also inform the owner or manager of their rights and obligations under the Violence against Women Act (VAWA) [24 CFR 5.2005(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records) and the name and address (if known to the PHA) of the landlord at the family's current and prior address [24 CFR 982.307(b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the tenancy history or drug trafficking of family members [24 CFR 982.307(b)(2)].

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

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

### **PHA Policy**

The PHA will not screen applicants for family behavior or suitability for tenancy.

The PHA will not provide additional screening information to the owner.

### **9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]**

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

### PHA Policy

The RTA must be signed by both the family and the owner.

The owner may submit the RTA on behalf of the family.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, by email, or by fax.

The family may not submit, and the PHA will not process, more than one (1) RTA at a time.

When the family submits the RTA the PHA will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the PHA will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the PHA will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, the PHA will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the PHA will attempt to communicate with the owner and family by phone, fax, or email. The PHA will use mail when the parties cannot be reached by phone, fax, or email.

## **9-I.C. OWNER PARTICIPATION**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the PHA must disapprove an owner. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

## **9-I.D. ELIGIBLE UNITS**

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

### **Ineligible Units [24 CFR 982.352(a)]**

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

### **PHA-Owned Units [24 CFR 982.352(b)]**

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

#### PHA Policy

The PHA does not have any eligible PHA-owned units available for leasing under the voucher program.

### **Special Housing Types [24 CFR 982 Subpart M]**

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

**Duplicative Assistance [24 CFR 982.352(c)]**

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

**Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]**

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.



## **Unit Size**

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

## **Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]**

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

## **Rent Burden [24 CFR 982.508]**

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

## **9-I.E. LEASE AND TENANCY ADDENDUM**

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

### **Lease Form and Tenancy Addendum [24 CFR 982.308]**

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

#### PHA Policy

The PHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

### **Lease Information [24 CFR 982.308(d)]**

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

### **Term of Assisted Tenancy**

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

#### **PHA Policy**

The PHA will not approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

### **Security Deposit [24 CFR 982.313 (a) and (b)]**

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

#### **PHA Policy**

The PHA will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

## **Separate Non-Lease Agreements between Owner and Tenant**

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the PHA minus the PHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

### PHA Policy

The PHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

## **PHA Review of Lease**

The PHA will review the dwelling lease for compliance with all applicable requirements.

### PHA Policy

If the dwelling lease is incomplete or incorrect, the PHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the PHA will attempt to communicate with the owner and family by phone, fax, or email. The PHA will use mail when the parties can't be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

### PHA Policy

The PHA will not review the owner's lease for compliance with state/local law.

### **9-I.F. TENANCY APPROVAL [24 CFR 982.305]**

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must be reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

#### **PHA Policy**

The PHA will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the PHA, the PHA will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept corrections over the phone.

If the PHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The PHA will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability or rent reasonableness, the PHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

## **9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]**

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the PHA may not pay any housing assistance payment to the owner.

### **PHA Policy**

Owners who have not previously participated in the HCV program must attend a meeting with the PHA in which the terms of the Tenancy Addendum and the HAP contract will be explained. The PHA may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the PHA. The PHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the PHA will execute the HAP contract. The PHA will not execute the HAP contract until the owner has submitted IRS form W-9. The PHA will ensure that the owner receives a copy of the executed HAP contract.

As required under VAWA, once the HAP contract and lease have been executed and the family has been admitted to the program, the PHA will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

See Chapter 13 for a discussion of the HAP contract and contract provisions.

### **9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]**

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify the PHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

#### **PHA Policy**

Where the owner is requesting a rent increase, the PHA will determine whether the requested increase is reasonable.. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the PHA of the rent change or on the date specified by the owner, whichever is later.



## Chapter 10

### MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

#### INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

#### PART I: MOVING WITH CONTINUED ASSISTANCE

##### 10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.354(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)].

##### PHA Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the PHA a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.354(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the move is needed to protect the health or safety of the family or family member [see 24 CFR 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.354(b)(4), 24 CFR 982.353(b)]. The PHA must adopt an emergency transfer plan as required by regulations at 24 CFR 5.2007(e).

### PHA Policy

If a family requests permission to move with continued assistance to another unit within the PHA's jurisdiction based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA will request that the resident request the emergency transfer using form HUD-5383, and the PHA will request documentation in accordance with section 16-IX.D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the PHA will document the waiver in the family's file.

The PHA may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

Before granting an emergency transfer, the PHA will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

The PHA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan and discusses external transfers to other covered housing programs.

- The PHA has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].
- The PHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

## **10-I.B. RESTRICTIONS ON MOVES**

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

### **Denial of Moves**

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

#### ***Insufficient Funding***

The PHA may deny a family permission to move either within or outside the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance [24 CFR 982.354(e)(1)]. However, Notice PIH 2016-09 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

#### **PHA Policy**

The PHA will deny a family permission to move on grounds that the PHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) the PHA can demonstrate that the move will, in fact, result in higher subsidy costs (c) the PHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving PHA is not absorbing the voucher.

If the PHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is within the PHA's jurisdiction. The PHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

For both moves within the PHA's jurisdiction and outside under portability, the PHA will not deny a move due to insufficient funding if the PHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The PHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

The PHA will create a list of families whose moves have been denied due to insufficient funding. The PHA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The PHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).

The PHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

### ***Grounds for Denial or Termination of Assistance***

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.354(e)(2)].

#### **PHA Policy**

If the PHA has grounds for denying or terminating a family's assistance, the PHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

### **Restrictions on Elective Moves [24 CFR 982.354(c)]**

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.) In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-09].

#### **PHA Policy**

The PHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the PHA's jurisdiction or outside it under portability.

The PHA will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the PHA's jurisdiction.

The PHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the PHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

## **10-I.C. MOVING PROCESS**

### **Notification**

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.354(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.354(d)(2)]. The notices must be in writing [24 CFR 982.5].

### **Approval**

#### PHA Policy

Upon receipt of a family's notification that it wishes to move, the PHA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. The PHA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

### **Reexamination of Family Income and Composition**

#### PHA Policy

For families approved to move to a new unit within the PHA's jurisdiction, the PHA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the PHA's jurisdiction under portability, the PHA will follow the policies set forth in Part II of this chapter.

### **Voucher Issuance and Briefing**

#### PHA Policy

For families approved to move to a new unit within the PHA's jurisdiction, the PHA will issue a new voucher within 10 business days of the PHA's written approval to move. No briefing is required for these families. The PHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the PHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the PHA's jurisdiction under portability, the PHA will follow the policies set forth in Part II of this chapter.

### **Housing Assistance Payments [24 CFR 982.311(d)]**

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

### **Zero HAP Families Who Wish to Move [24 CFR 982.455]**

A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. The PHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if the PHA determines no subsidy would be paid at the new unit, the PHA may refuse to enter into a HAP contract on behalf of the family.

#### **PHA Policy**

If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, the PHA will not enter into a HAP contract on behalf of the family for the new unit.

## PART II: PORTABILITY

### 10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the **initial PHA**. The PHA that has jurisdiction in the area to which the family wants to move is called the **receiving PHA**.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016-09].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

## **10-II.B. INITIAL PHA ROLE**

### **Allowable Moves under Portability**

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which receiving PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family [24 CFR 982.255(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and PHA policy determine whether a family qualifies.

### ***Applicant Families***

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

#### **PHA Policy**

In determining whether or not to deny an applicant family permission to move under portability because the PHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established in section 10-I.B of this chapter. If the PHA does deny the move due to insufficient funding, the PHA will notify HUD in writing within 10 business days of the PHA's determination to deny the move.

In addition, the initial PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

#### **PHA Policy**

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the initial PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

The PHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.



### ***Participant Families***

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [see 24 CFR 982.353(b)].

#### **PHA Policy**

The PHA will determine whether a participant family may move out of the PHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The PHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

### **Determining Income Eligibility**

#### ***Applicant Families***

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.353(d)(1), 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-09].

#### ***Participant Families***

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

### **Reexamination of Family Income and Composition**

No new reexamination of family income and composition is required for an applicant family.

#### **PHA Policy**

For a participant family approved to move out of its jurisdiction under portability, the PHA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The PHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

## **Briefing**

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

### **PHA Policy**

No formal briefing will be required for a participant family wishing to move outside the PHA's jurisdiction under portability. However, the PHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).

The PHA will provide the name, address, and phone of the contact for the PHAs in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, the PHA will advise the family that the family selects the receiving PHA and notify the initial PHA of which receiving PHA was selected. The PHA will provide the family with contact information for all of the receiving PHAs that serve the area. The PHA will not provide any additional information about receiving PHAs in the area. The PHA will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. In this case, the PHA will not provide the family with information for all receiving PHAs in the area.

The PHA will advise the family that they will be under the receiving PHA's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

## **Voucher Issuance and Term**

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5.

### **PHA Policy**

For participating families approved to move under portability, the PHA will issue a new voucher within 10 business days of the PHA's written approval to move.

The initial term of the voucher will be 90 days.

## **Voucher Extensions and Expiration**

### PHA Policy

The initial PHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the PHA's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 90 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

### **Preapproval Contact with the Receiving PHA**

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [24 CFR 982.355(c)(3)].

### PHA Policy

The PHA will use email, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

### **Initial Notification to the Receiving PHA**

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family [24 CFR 982.355(c)(3); 24 CFR 982.355(c)(7)]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(6)].

### PHA Policy

Because the portability process is time-sensitive, the PHA will notify the receiving PHA by phone, fax, or email to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The PHA will pass this information along to the family. The PHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

## **Sending Documentation to the Receiving PHA**

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2016-09]
- A copy of the family's voucher [Notice PIH 2016-09]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(7), Notice PIH 2016-09]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2016-09]

### **PHA Policy**

In addition to these documents, the PHA will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)

Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system

Documentation of legal identity

Documentation of citizenship or eligible immigration status

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a family self-sufficiency (FSS) program

The PHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

### **Initial Billing Deadline [Notice PIH 2016-09]**

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the receiving PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

If the initial PHA will honor the late billing, no action is required.

#### PHA Policy

The initial PHA's decision as to whether to accept late billing will be based on internal PHA factors, including the initial PHA's leasing or funding status. If the PHA has not received an initial billing notice from the receiving PHA within the billing deadline and does not intend to honor the late billing, it will contact the receiving PHA to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. In this case, the PHA will send the receiving PHA a written confirmation of its decision by mail.

Among other considerations as to whether to accept late billing will be if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

## **Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-09]**

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of overleasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

### **PHA Policy**

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

## **Annual Updates of Form HUD-50058**

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

## **Denial or Termination of Assistance [24 CFR 982.355(c)(17)]**

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

## **10-II.C. RECEIVING PHA ROLE**

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

### **Responding to Initial PHA's Request [24 CFR 982.355(c)]**

The receiving PHA must respond via email or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA (24 CFR 982.355(c)(4)).

#### **PHA Policy**

The PHA will use email, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

### **Initial Contact with Family**

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2016-09]. (For more on this topic, see later under "Denial or Termination of Assistance.")

## **Briefing**

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2016-09].

### PHA Policy

The PHA will not require the family to attend a briefing. The PHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the PHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

The PHA will suggest that the family attend a full briefing at a later date.

## **Income Eligibility and Reexamination**

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)]. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

### PHA Policy

For any family moving into its jurisdiction under portability, the PHA will conduct a new reexamination of family income and composition. However, the PHA will not delay issuing the family a voucher for this reason. Nor will the PHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the PHA cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the PHA will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.



## **Voucher Issuance**

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)].

### ***Timing of Voucher Issuance***

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2016-09].

#### **PHA Policy**

When a family ports into its jurisdiction, the PHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures. The PHA will update the family's information when verification has been completed.

### ***Voucher Term***

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher [Notice PIH 2016-09].

#### **PHA Policy**

The receiving PHA's voucher will expire 30 calendar days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

### ***Voucher Extensions [24 CFR 982.355(c)(14), Notice 2016-09]***

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

#### **PHA Policy**

The PHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the PHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The PHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

### ***Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]***

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).

### **Notifying the Initial PHA**

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2016-09]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction [Notice PIH 2016-09].

### **Administering a Portable Family's Voucher**

#### ***Portability Billing [24 CFR 982.355(e)]***

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

#### **PHA Policy**

Unless the PHA negotiates a different amount of reimbursement with the initial PHA, the PHA will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

### ***Initial Billing Deadline***

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be **received** no later than 90 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-09]. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or email.

#### **PHA Policy**

The PHA will send its initial billing notice by fax or email, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is overleased) [Notice PIH 2016-09].

### ***Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]***

**Annual Reexamination.** The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

#### **PHA Policy**

The PHA will send a copy of the updated HUD-50058 by regular mail no later than 10 business days after the effective date of the reexamination.

**Change in Billing Amount.** The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

***Late Payments [Notice PIH 2016-09]***

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

***Overpayments [Notice PIH 2016-09]***

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2016-09.

### ***Denial or Termination of Assistance***

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement [HUD-52665; Notice PIH 2016-09].

#### **PHA Policy**

If the PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The PHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

## **Absorbing a Portable Family**

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that the PHA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1), Notice PIH 2016-09].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than 10 business days following the effective date of the termination of the billing arrangement [Notice PIH 2016-09].

### PHA Policy

If the PHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the PHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the PHA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice, but no later than 10 business days following the effective date of the termination of the billing arrangement.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability [24 CFR 982.355(e)(4)].

## Chapter 11

### REEXAMINATIONS

#### INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Part IV: Non-Interim Reexamination Transaction. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

#### PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

##### 11-I.A. OVERVIEW

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to streamlined income determinations and the use of safe harbor income verifications.

## **11-I.B. SCHEDULING ANNUAL REEXAMINATIONS**

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

### PHA Policy

The PHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the PHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the PHA will perform a new annual reexamination.

The PHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

## **Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

### PHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the PHA to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the PHA will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without PHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the PHA must execute a certification attesting to the role and the assistance provided by any such third party.



The City of Dubuque will only require an interview at the first annual reexamination. Annual reexaminations are conducted by mail thereafter unless the family requests a reasonable accommodation, or if the PHA has deemed an interview to be necessary to appropriately conduct the reexamination.

## **11-I.C. CONDUCTING ANNUAL REEXAMINATIONS**

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

### PHA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a PHA-designated reexamination form as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview or initial review by the caseworker. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

### PHA Policy

At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the PHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

## **11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS**

### **[24 CFR 982.552(b)(5)]**

Section 327 of Public Law 109-115 established restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from their parents or is considered a *vulnerable youth* in accordance with PHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

#### PHA Policy

During the annual reexamination process, the PHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from their parents or is considered a *vulnerable youth* based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on their own income or the income of their parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on their own income and the income of their parents (if applicable), the PHA will process a reexamination in accordance with the policies in this chapter.

## **11-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]**

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

**Step 1:** The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

**Step 2:** The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

**Step 3:** If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 11-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

#### PHA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the PHA or other agency's determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.

## 11-I.F. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

### PHA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

## **PART II: INTERIM REEXAMINATIONS [24 CFR 982.516; Notice PIH 2023-27]**

### **11-II.A. OVERVIEW**

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

### **11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

#### **Reporting**

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition [24 CFR 960.257(b)(5)].

#### PHA Policy

All families must report all changes in family and household composition that occur between annual reexaminations within 10 business days of the change.

The PHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

#### **New Family Members Not Requiring PHA Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].



## **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

Although the PHA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that PHAs conduct a reexamination of income whenever a new family member is added. The PHA may state in policy that an income reexamination will be conducted.

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

### PHA Policy

Families must request PHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 15 consecutive days or 30 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The PHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the PHA determines an individual meets the PHA's eligibility criteria and documentation requirements, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The PHA will promptly make its determination after receiving all information required to verify the individual's eligibility.

## **Departure of a Family or Household Member**

Families must promptly notify the PHA if any household member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

### PHA Policy

If a household member ceases to reside in the unit, the family must inform the PHA within 30 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

## **11-II.C. CHANGES AFFECTING INCOME OR EXPENSES**

### **Overview**

Interim reexaminations for changes in income or expenses may be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

### **Interim Decreases [24 CFR 982.516(c)(2) and Notice PIH 2023-27]**

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

#### **PHA Policy**

The PHA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

## **Interim Increases [24 CFR 982.516(c)(3) and Notice PIH 2023-27]**

### ***Increases Less than 10 Percent***

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

### ***Increases 10 Percent or Greater***

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

### **PHA Policy**

When a family reports an increase in their earned income between annual reexaminations, the PHA will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

The PHA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

The PHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies in Chapter 14.

### ***Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]***

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

### ***Cumulative Increases [Notice PIH 2023-27]***

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

## ***Family Reporting***

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 982.516(d)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

### PHA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, the PHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the PHA will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification within 10 business days of making this determination informing the family that the PHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the PHA will determine the documentation the family will be required to submit based on the type of change reported and PHA policies in Chapter 7. The PHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, fax, or in person. The PHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

## **11-II.D. EFFECTIVE DATES [24 CFR 982.516(e) and Notice 2023-27]**

### **Changes Reported Timely [Notice PIH 2023-27]**

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

### **Changes Not Reported Timely [Notice PIH 2023-27]**

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

#### PHA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the PHA will apply the decrease the first of the month following completion of the interim reexamination.

However, the PHA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to PHA management operations. The PHA will decide to apply decreases retroactively on a case-by-case basis.

When the PHA applies the results of interim decreases retroactively, the PHA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with PHA policies.

The PHA will also clearly communicate the effect of the retroactive adjustment to the owner.





## **PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT**

### **11-III.A. OVERVIEW**

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### **11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES**

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

#### **Payment Standards [24 CFR 982.505]**

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has *increased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has *decreased*, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's *second annual* reexamination, the PHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard).
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

### **Subsidy Standards [24 CFR 982.505(c)(4)]**

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

### **Utility Allowances [24 CFR 982.517(d)]**

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB, p. 18-8].

#### PHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

### **11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

The amount and effective date of the new HAP payment

The amount and effective date of the new family share of the rent

The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

#### PHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.

The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing. The notice will include the procedures for requesting an informal hearing.

#### **11-III.D. DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.



#### **PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS [Notice PIH 2023-27]**

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report to HUD via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12- month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.



**EXHIBIT 11-1: CALCULATING INCOME AT ANNUAL REEXAMINATION**

**Example 1: Calculating Annual Income at Annual Reexamination Using EIV**

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.	
<u>Last reexamination – 3/1/2023 Annual Reexamination</u>	
<u>Ruby:</u>	<u>Georgia:</u>
<u>Wages: \$30,000</u>	<u>SSI: \$10,980 (\$915 monthly)s</u>

The EIV report pulled on 12/15/2023

Ruby:

Wages Total: \$33,651

Quarter 3 of 2023: \$8,859 (City Public School)

Quarter 2 of 2023: \$8,616 (City Public School)

Quarter 1 of 2023: \$8,823 (City Public School)

Quarter 4 of 2022: \$7,353 (City Public School)

Georgia:

SSI Total: \$10,980

2023 benefit \$915 monthly



<u>Income Reported on Reexamination Application</u>	
Ruby: <u>Wages at City Public School: \$32,000</u> (switched jobs but no permanent change to amount)	Georgia: <u>SSI benefits: \$10,980 (no changes)</u>
<u>Calculating Ruby's wages:</u> Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.	<u>Calculating Georgia's SSI benefit:</u> Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination: COLA: \$64.05 (\$915 x 0.07) New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.	
<u>Summary of Annual Income (as reported on the HUD-50058)</u>	
Ruby (Head of Household): Other Wage: \$33,651 Myers Family Total Annual Income: \$45,399	Georgia (Other Youth Under 18): SSI: \$11,748

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV:  
Family Disagrees with EIV**

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

5/1/2023 Annual Reexamination

Wages: \$28,000

The EIV report pulled on 1/15/2024

Wages Total: \$18,271

Quarter 3 of 2023: \$2,500 (Viking Bakery)

Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: \$1,300 (Sasha's Sweets)

Quarter 2 of 2023: \$584 (Larry's Concessions)

Quarter 2 of 2023: \$2,401 (Viking Bakery)

Quarter 1 of 2023: \$6,500 (Sasha's Sweets)

Quarter 4 of 2022: \$600 (Sasha's Sweets)

SS/SSI: No history of benefits

<p style="text-align: center;"><u>Income Reported on Reexamination Application</u></p>
<p><u>Wages: \$0 (permanent change; no longer receiving)</u></p>
<p><u>Social Security: \$14,400 (\$1,200 monthly)</u></p>
<p>Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.</p>
<p style="text-align: center;"><u>Calculating Wages and SS Benefit</u></p>
<p>Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)</p> <p>Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.</p> <p>Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.</p> <p>Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.</p>
<p style="text-align: center;"><u>Summary of Annual Income (as reported on the HUD-50058)</u></p>
<p>Paul (Head of Household): \$14,400 (SS)</p> <p>Hewson Family Total Annual Income: \$14,400</p>

### Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

#### Last reexamination – 11/1/2023 Annual Reexamination

##### Samantha:

Business income: \$28,000

VA disability pension: \$12,000

Child support: \$2,400

##### Fergus:

Wages: \$8,250

Other non-wage income: \$3,000 (Go Fund Me online fundraiser)

#### The EIV report pulled on 9/16/2024

##### Samantha:

Wages Total: \$0 (no wage data reported since Q1 2023)

##### Fergus:

Wages Total: \$8,600

Quarter 1 of 2024: \$2,100 (Ian's Fish 'n' Chips)

Quarter 1 of 2024: \$500 (Claire's Healthcare Supplies)

Quarter 4 of 2023: \$1,000 (Claire's Healthcare Supplies)

Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)

Quarter 2 of 2023: \$3,200 (Ivar's Fish Haus)

### Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:

Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)

VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)

Fergus:

Wages: \$6,000

### Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

### Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

### Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

### Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

Calculating Fergus' Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD– 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a “Go Fund Me” online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn’t solicited funds online and doesn’t plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.

Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household):

Own business: \$18,000

Pension: \$12,300

Child support: \$1,200

Fergus (Co-head):

Wages: \$9,360

Poole Family Total Annual Income: \$40,860

## Chapter 12

### TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take, and the steps the PHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

#### PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

##### 12-I.A. OVERVIEW

HUD requires the PHA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the PHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA.

##### 12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

##### PHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.



## **12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE**

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

### PHA Policy

The request to terminate assistance should be made in writing and signed by the head of household, and spouse or cohead if applicable. Before terminating the family's assistance, the PHA will follow the notice requirements in Section 12-II.F.

## **12-I.D. MANDATORY TERMINATION OF ASSISTANCE**

HUD requires the PHA to terminate assistance in the following circumstances.

### **Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]**

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

### PHA Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making its decision, the PHA will consider the factors described in sections 12-II.D and 12-II.E. Upon consideration of such factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

### **Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

**Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]**

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

**Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

**PHA Policy**

The PHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

**Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]**

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

**Lifetime Registered Sex Offenders [Notice PIH 2012-28]**

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

### **Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with their parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the PHA must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

### **Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]**

The PHA must immediately terminate program assistance for deceased single member households.

## **12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

### **Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

## ***Use of Illegal Drugs and Alcohol Abuse***

### **PHA Policy**

The PHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The PHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

*Currently engaged in* is defined as any use of illegal drugs during the previous three months.

The PHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

***Drug-Related and Violent Criminal Activity [24 CFR 5.100]***

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

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

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

**PHA Policy**

The PHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The PHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

**Other Authorized Reasons for Termination of Assistance**  
**[24 CFR 982.552(c), 24 CFR 5.2005(c), 24 CFR 984.101(d)]**

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E, the Violence against Women Act prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, stalking, or human trafficking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per 24 CFR 984.101(d), PHAs are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation.

**PHA Policy**

The PHA **will** terminate a family's assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related PHA policies.

Any family member has been evicted from federally assisted housing in the last three years.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family currently owes rent or other amounts to any PHA in connection with Section 8 or public housing assistance under the 1937 Act.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the PHA.

A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

*Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

***Family Absence from the Unit [24 CFR 982.312]***

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

**PHA Policy**

The family may not be absent from the unit for an extended period. An extended period is defined as any period greater than two weeks or 14 calendar days. Any absences extending beyond 30 consecutive days must have PHA approval in writing prior to the absence. If the family's absence is in violation of the PHA policy, the family's assistance will be terminated.

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

### ***Insufficient Funding [24 CFR 982.454]***

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

#### **PHA Policy**

The PHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the PHA determines there is a shortage of funding, prior to terminating any HAP contracts, the PHA will determine if any other actions can be taken to reduce program costs.

In the event that the PHA decides to stop issuing vouchers as a result of a funding shortfall, and the PHA is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when the PHA resumes issuing vouchers, the PHA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the PHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA's annual budget authority.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in accordance with the following criteria and instructions:

Families who have been assisted in the HCV program the longest will be the first to be terminated, excluding families that include elderly or disabled family members.

Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and family unification program (FUP) will be the last to be terminated.





## **PART II: APPROACH TO TERMINATION OF ASSISTANCE**

### **12-II.A. OVERVIEW**

The PHA is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the PHA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the PHA's intent to terminate assistance.

### **12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]**

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

### **12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE**

#### **Change in Household Composition**

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

##### PHA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon PHA request.

#### **Repayment of Family Debts**

##### PHA Policy

If a family owes amounts to the PHA, as a condition of continued assistance, the PHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the PHA of the amount owed. See Chapter 16 for policies on repayment agreements.

## **12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE**

### **Evidence**

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

#### **PHA Policy**

The PHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

### **Use of Criminal Conviction Records after Admission [24 CFR 5.903]**

The regulation at 24 CFR 5.903 governs a PHA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes PHA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission a PHA's use of records to terminate assistance for participants. While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars a PHA from using non-federal sources to conduct criminal background checks of program participants.

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

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

#### **PHA Policy**

The PHA will consider the following facts and circumstances when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

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

- Any statements made by witnesses or the participant not included in the police report

- Whether criminal charges were filed

- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

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

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

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

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

### **Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]**

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

#### PHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

## **12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING**

This section describes the protections against termination of assistance that the Violence against Women Act (VAWA) provides for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

### **VAWA Protections against Termination**

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [see 24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [see 24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking [see 24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

## **Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]**

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault, stalking, or human trafficking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

### PHA Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the PHA will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, stalking or human trafficking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the PHA's determination that they are an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

## **Documentation of Abuse [24 CFR 5.2007]**

### **PHA Policy**

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking claims protection under VAWA, the PHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file.

### **Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [FR Notice 3/16/07].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

### PHA Policy

The PHA will terminate assistance to a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, the PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and section 16-IX.D. The PHA will also consider the factors in section 12-II.D. Upon such consideration, the PHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the PHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.



## **12-II.F. TERMINATION NOTICE**

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

### **PHA Policy**

Whenever a family's assistance will be terminated, the PHA will send a written notice of termination to the family and to the owner. The PHA will also send a form HUD-5382 and form HUD-5380 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

When the PHA notifies an owner that a family's assistance will be terminated, the PHA will, if appropriate, advise the owner of their right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. VAWA requires PHAs to provide notice of VAWA rights and the HUD 5382 form when a PHA terminates a household's housing benefits.

### **PHA Policy**

Whenever the PHA decides to terminate a family's assistance because of the family's action or failure to act, the PHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-5382 and form HUD-5380. The PHA will request in writing that a family member wishing to claim protection under VAWA notify the PHA within 14 business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the PHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].
- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

## **PART III: TERMINATION OF TENANCY BY THE OWNER**

### **12-III.A. OVERVIEW**

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

### **12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]**

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

#### **Serious or Repeated Lease Violations**

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, and human trafficking and the victim is protected from eviction by the Violence against Women Act of 2013 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

#### **Violation of Federal, State, or Local Law**

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

#### **Criminal Activity or Alcohol Abuse**

The owner may terminate tenancy during the term of the lease if any *covered person*—meaning any member of the household, a guest, or another person under the tenant's control—commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises
- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

### ***Evidence of Criminal Activity***

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking.

### **Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision
- The owner’s desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent)

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant’s lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. See Section 13-II.G for a discussion of PHA policies relating to units in foreclosure.

### **12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]**

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

#### **PHA Policy**

If the eviction action is finalized in court, the owner must provide the PHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

#### **12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]**

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault, stalking, or human trafficking is limited by the Violence against Women Act (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

#### **12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

## EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

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

### PHA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

### PHA Policy

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

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

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

### PHA Policy

The family must comply with lease requirements regarding written notice to the owner.

The family must provide written notice to the PHA at the same time the owner is notified.

- The family must promptly give the PHA a copy of any owner eviction notice.

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

#### PHA Policy

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

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

#### PHA Policy

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

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

#### PHA Policy

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

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).

- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]





## **Chapter 13**

### **OWNERS**

#### **INTRODUCTION**

Owners play a major role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.



## **PART I. OWNERS IN THE HCV PROGRAM**

### **13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6; HCV Landlord Strategy Guidebook for PHAs]**

#### **Recruitment**

PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

If the PHA will be conducting outreach events, the PHA must ensure that notices and communications during outreach events are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. PHAs must also take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency.

#### **PHA Policy**

The PHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The PHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers

- Contacting property owners and managers by phone or in-person

- Holding owner recruitment/information meetings at least once a year

- Participating in community-based organizations comprised of private property and apartment owners and managers

- Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations

- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

- Attending meetings with representatives of Dubuque Landlord Association

Outreach strategies will be monitored for effectiveness and adapted accordingly.

## **Retention**

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

### PHA Policy

All PHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The PHA will provide owners with a handbook that explains the program, including HUD and PHA policies and procedures, in easy-to-understand language.

The PHA will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated PHA contact person.

- Coordinating inspection and leasing activities between the PHA, the owner, and the family.

- Initiating telephone contact with the owner to explain the inspection process and providing an inspection booklet and other resource materials about HUD housing quality standards.

- Providing other written information about how the program operates through a landlord handbook, including answers to frequently asked questions.

- Contacting owners via emails or texts to disseminate information.

Additional services may be undertaken on an as-needed basis, and as resources permit.

### **13-I.B. BASIC HCV PROGRAM REQUIREMENTS**

HUD requires the PHA to assist families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

#### PHA Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the PHA. The PHA will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential unassisted tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate requirements for the approval of an assisted tenancy.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit at least annually to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards and policies for HQS inspections at initial lease-up and throughout the family's tenancy.

The PHA must determine that the proposed rent for the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, the PHA must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. The HUD Tenancy Addendum includes the HUD requirements governing the tenancy and must be added word-for-word to the owner's lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

### **13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]**

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Complying with all of the owner's obligations under the housing assistance payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence against Women Act (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family [see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); 24 CFR 982.452(b)(1); and FR Notice 1/4/23]



### **13-I.D. OWNER QUALIFICATIONS**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

#### **Owners Barred from Participation [24 CFR 982.306(a) and (b)]**

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

#### **Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]**

The PHA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

#### **Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19; Form HUD-52641, Section 13]**

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner)
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

Such “covered individual” may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual or for one year thereafter.

*Immediate family member* means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister, or brother (including a stepsister or stepbrother) of any covered individual.

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include the following [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of their duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

#### PHA Policy

In considering whether to request a conflict of interest waiver from HUD, the PHA will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

## **Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]**

HUD regulations permit the PHA to disapprove a request for tenancy for various actions and inactions of the owner.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

### **PHA Policy**

The PHA will refuse to approve a request for tenancy if the PHA becomes aware that any of the following are true:

The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The owner has engaged in any drug-related criminal activity or any violent criminal activity;

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

- (i) Threatens the right to peaceful enjoyment of the premises by other residents;
- (ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing;
- (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
- (iv) Is drug-related criminal activity or violent criminal activity;

The owner has a history or practice of renting units that fail to meet state or local housing codes; or

The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the PHA may, on a case-by-case basis, choose to approve an owner.

### **Legal Ownership of Unit**

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

#### **PHA Policy**

The PHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

### **13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.



## **PART II. HAP CONTRACTS**

### **13-II.A. OVERVIEW**

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family approved by the PHA to occupy the unit.

The HAP contract is used for all HCV tenant-based program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home. See chapter 15 for a discussion of any special housing types included in the PHA's HCV program.

When the PHA has determined that the unit meets program requirements and the tenancy is approvable, the PHA and owner must execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

### **13-II.B. HAP CONTRACT CONTENTS**

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic contract information: the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the PHA representative and owner [HCV Guidebook, pp. 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in Chapter 9.

PHAs also have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

#### **PHA Policy**

The PHA has not adopted a policy that defines when the housing assistance payment by the PHA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.



## **13-II.C. HAP CONTRACT PAYMENTS**

### **General**

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6 and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

### **Owner Certification of Compliance**

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By accepting the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

### **Late HAP Payments [24 CFR 982.451(a)(5)]**

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for late penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

### **Termination of HAP Payments [24 CFR 982.311(b)]**

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

#### **PHA Policy**

The owner must inform the PHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the PHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide the PHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the PHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the PHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

### **13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]**

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

#### **PHA Policy**

Before the PHA invokes a remedy against an owner, the PHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the PHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the PHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

### **13-II.E. HAP CONTRACT TERM AND TERMINATIONS**

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

#### **PHA Policy**

The PHA may elect to terminate the HAP contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];

The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;

The unit does not meet HQS [24 CFR 982.404] – see chapter 8;

The family breaks up [HUD Form 52641] – see chapter 3;

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

#### PHA Policy

Generally, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives written notice to the owner.

The PHA cannot make any HAP payment for any month after the month the family vacates the unit.

The owner is not entitled to any housing assistance payment after this period and must return to the PHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

### **13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]**

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

#### PHA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The PHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the PHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the PHA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;

- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

- The effective date of the HAP contract assignment;

- A written agreement to comply with the terms of the HAP contract; and

- A certification that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the PHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the PHA will process the leasing in accordance with the policies in Chapter 9.

### **13-II.G. FORECLOSURE [Notice PIH 2010-49]**

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

Any state or local law that provides longer time periods or other additional protections for tenants also applies.

#### **PHA Policy**

If a property is in foreclosure, the PHA will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.

The PHA will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.

The PHA will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.

In the event that the PHA is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the new owner, the PHA will either use the funds to pay:

The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, the PHA shall notify the owner within a reasonable time after making the utility payment; or

For the family's reasonable moving costs, including security deposit costs.

The PHA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

## Chapter 14

### PROGRAM INTEGRITY

#### INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.





## **PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE**

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and detecting program abuse. PHAs are required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

#### PHA Policy

To ensure that the PHA’s HCV program is administered according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The PHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The PHA will provide each applicant and participant with a copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

The PHA will provide each applicant and participant with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The PHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family or owner.

PHA staff will be required to review and explain the contents of all HUD- and PHA-required forms prior to requesting family member signatures.

At every regular reexamination, PHA staff will explain any changes in HUD regulations or PHA policy that affect program participants.

The PHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The PHA will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.

The PHA will provide each PHA employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

#### **14-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

##### **Quality Control and Analysis of Data**

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

##### PHA Policy

In addition to the SEMAP quality control requirements, the PHA will employ a variety of methods to detect errors and program abuse.

The PHA routinely will use HUD and other non-HUD sources of up-front income verification. This includes The Work Number and any other private or public databases available to the PHA.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The PHA will compare family-reported income and expenditures to detect possible unreported income.

##### **Independent Audits and HUD Monitoring**

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

##### PHA Policy

The PHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the PHA's error detection and abuse prevention efforts.

##### **Individual Reporting of Possible Errors and Program Abuse**

##### PHA Policy

The PHA will encourage staff, program participants, and the public to report possible program abuse.

## **14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **When the PHA Will Investigate**

#### PHA Policy

The PHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the PHA to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The PHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

### **Consent to Release of Information [24 CFR 982.516]**

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to sign consent forms for the release of additional information.

### **Analysis and Findings**

#### PHA Policy

The PHA will base its evaluation on a preponderance of the evidence collected during its investigation.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the PHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the PHA, and (3) what corrective measures or penalties will be assessed.

## **Consideration of Remedies**

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

### PHA Policy

In the case of family-caused errors or program abuse, the PHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the PHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

## **Notice and Appeals**

### PHA Policy

The PHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the PHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS**

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

#### **Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

##### PHA Policy

Increases in the family share will be implemented on the first of the month following a written 30-day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

#### **Reimbursement**

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

## **14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

### **Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]**

#### PHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the PHA will terminate the family's assistance in accordance with the policies in Chapter 12.

### **PHA Reimbursement to Family [HCV GB p. 22-12]**

#### PHA Policy

The PHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

## **Prohibited Actions**

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

### **PHA Policy**

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the PHA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the PHA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g. income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

## **Penalties for Program Abuse**

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.



## **14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE**

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

### **Owner Reimbursement to the PHA**

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

#### PHA Policy

In cases where the owner has received excess subsidy, the PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

### **Prohibited Owner Actions**

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

## PHA Policy

Any of the following will be considered evidence of owner program abuse:

Charging the family rent above or below the amount specified by the PHA

Charging a security deposit other than that specified in the family's lease

Charging the family for services that are provided to unassisted tenants at no extra charge

Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit

Knowingly accepting incorrect or excess housing assistance payments

Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA

Residing in the unit with an assisted family

Committing sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2

Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2

## **Remedies and Penalties**

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

#### **14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

##### **De Minimis Errors [24 CFR 5.609(c)(4)]**

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

##### PHA Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

## **Prohibited Activities**

### PHA Policy

Any of the following will be considered evidence of program abuse by PHA staff:

Failing to comply with any HCV program requirements for personal gain

Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner

Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the PHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of PHA activities, policies, or practices

Misappropriating or misusing HCV funds

Destroying, concealing, removing, or inappropriately using any records related to the HCV program

Committing any other corrupt or criminal act in connection with any federal housing program

## **14-II.E. CRIMINAL PROSECUTION**

### PHA Policy

When the PHA determines that program abuse by an owner, family, or PHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the PHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

## **14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES**

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

### **IMPORTANT: PLEASE READ**

Allowing special housing types is optional for PHAs, except where necessary as a reasonable accommodation. Therefore, for ease of use, policy language is included in this chapter where relevant in the event the PHA does grant use as a reasonable accommodation. Be sure to delete this box before finalizing your document.

## **Chapter 15**

### **SPECIAL HOUSING TYPES**

[24 CFR 982 Subpart M; New HCV GB, *Special Housing Types*]

#### **INTRODUCTION**

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

#### PHA Policy

Families will not be permitted to use any special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

However, policy language is included in this chapter where relevant in the event the PHA does grant use as a reasonable accommodation.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601]. A single unit cannot be designated as more than one type of special housing. The PHA cannot give preference to households that wish to live in any of these types of housing and cannot require households to select any of these types of housing [New HCV GB, *Special Housing Types*, p. 3].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

#### Part I: Single Room Occupancy

#### Part II: Congregate Housing

#### Part III: Group Homes

#### Part IV: Shared Housing

#### Part V: Cooperative Housing

#### Part VI: Manufactured Homes (including manufactured home space rental)

#### Part VII: Homeownership



## **PART I: SINGLE ROOM OCCUPANCY**

[24 CFR 982.602 through 982.605; Form HUD-52641; New HCV GB,  
*Special Housing Types*, p. 4]

### **15-I.A. OVERVIEW**

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Single room occupancy (SRO) housing.”

### **15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on the PHA’s payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

### **15-I.C. HOUSING QUALITY STANDARDS (HQS)**

HQS requirements described in Chapter 8 apply to SRO housing except that sanitary facilities, and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

- *Access:* Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety:* All SRO facilities must have a sprinkler system that protects major spaces. “Major spaces” are defined as hallways, large common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply [24 CFR 982.605].



- *Sanitary Facilities:* At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to males, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security:* An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

## **PART II: CONGREGATE HOUSING**

[24 CFR 982.606 through 982.609; Form HUD-52641; New HCV GB,  
*Special Housing Types*, p. 6]

### **15-II.A. OVERVIEW**

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Congregate housing."

## **15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area for the assisted family. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

## **15-II.C. HOUSING QUALITY STANDARDS**

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below. Congregate housing must have a refrigerator of appropriate size in the private living area of each resident, a central kitchen and dining facilities located within the premises and accessible to the residents, and food service for the residents, that is not provided by the residents themselves.

The congregate housing must contain adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

## **PART III: GROUP HOME**

[24 CFR 982.610 through 982.614; Form HUD-52641; New HCV GB,  
*Special Housing Types*, p. 8]

### **15-III.A. OVERVIEW**

A group home is a state-approved (licensed, certified, or otherwise approved in writing by the state) facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Group home."

### **15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

Unless there is a live-in aide, the family unit size (voucher size) for an assisted occupant of a group home must be zero- or one-bedroom. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the pro rata share of the payment standard for the group home size. The pro rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home. The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in aide.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the pro rata share of the family unit size to the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro rata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA must consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

### **15-III.C. HOUSING QUALITY STANDARDS**

The entire unit must comply with HQS requirements described in Chapter 8, except for the requirements stated below.

- *Sanitary Facilities:* A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service:* Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security:* Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. Doors and windows accessible from outside the unit must be lockable.
- *Structure and Material:* To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.

- *Site and Neighborhood:* Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from disturbing noises and reverberations, and other hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
  - Dangerous walks or steps
  - Instability
  - Flooding, poor drainage
  - Septic tank back-ups, sewage hazards
  - Mud slides
  - Abnormal air pollution
  - Smoke or dust
  - Excessive noise
  - Vibrations or vehicular traffic
  - Excessive accumulations of trash
  - Vermin or rodent infestation, and
  - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.



## **PART IV: SHARED HOUSING**

[24 CFR 982.615 through 982.618; Form HUD-52641; Notice PIH 2021-05;  
New HCV GB, *Special Housing Types*, p. 11]

### **15-IV.A. OVERVIEW**

Families in markets with tight rental conditions or with a prevalence of single-family housing may determine a shared housing living arrangement to be a useful way to secure affordable housing. PHAs offering shared housing as a housing solution may also experienced some reduction in the average per-unit-cost (PUC) paid on behalf of assisted families.

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The unit may be a house or an apartment. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons.

Shared housing may be offered in a number of ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company [Notice PIH 2021-05].

The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When shared housing is offered as a housing option, HUD encourages PHAs to consider ways in which the families may be assisted in finding shared housing, including for-profit shared housing matching (such as roommates or single-family homes) and online sites that charge a fee for their matching services, or nonprofit shared housing matching services. HUD further encourages PHAs to include information about this housing possibility in the family's voucher briefing.

#### **PHA Policy**

The PHA will provide information to families regarding the shared housing option, including a listing to families of any known for-profit or nonprofit shared housing matching services in the community at briefing, and upon request. Families will be advised they can conduct their own internet search. Families will be cautioned to not enter into any rental agreement or pay any deposit or rental payment until the tenancy is approved by the PHA.



PHAs should be aware of potential local legal barriers to HCV participants using shared housing, which can create additional obstacles for shared housing:

- Municipalities may have occupancy limits for the number of unrelated persons who may share a housing unit.
- Local zoning codes for single family housing may restrict occupancy in certain areas to households whose family members are related by blood.

PHAs should work with local jurisdictions to find solutions that encourage affordable housing and are consistent with the Fair Housing Act, Title VI, and other federal, state, and local fair housing laws. PHAs should inform HUD if they encounter barriers to shared housing that may conflict with fair housing laws.

#### PHA Policy

The PHA will work with local jurisdictions as necessary to identify solutions consistent with fair housing laws and will inform HUD if the PHA encounters barriers to shared housing that conflict with fair housing laws.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Shared housing.”

#### 15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size (voucher size) or the pro rata share of the payment standard for the shared housing unit size.

The pro rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private, non-shared space by the total number of bedrooms in the unit.

**Example:** Family holds a two-bedroom voucher.  
Shared housing unit size: bedrooms available to assisted family = 2  
Total bedrooms in the unit: 3  
2 Bedrooms for assisted family  
÷ 3 Bedrooms in the unit  
.667 pro rata share  
2 BR payment standard: \$1200  
3 BR payment standard: \$1695  $\$1695 \times .667$  (pro rata share) = \$1131 \$1131 is  
lower than the \$1200 payment standard for the 2 BR family unit size \$1131 is  
the payment standard used to calculate the HAP

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted family living in shared housing is the pro rata share of the utility allowance for the shared housing unit.

**Example:** A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals \$200  
The utility allowance for a 2-bedroom unit equals \$100  
The pro rata share of the utility allowance is \$150 (3/4 of \$200)  
The PHA will use the 2-bedroom utility allowance of \$100.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA may consider whether sanitary and food preparation areas are private or shared.

### **15-IV.C. HOUSING QUALITY STANDARDS**

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family:* Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security:* The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size (voucher size). A zero-bedroom or one-bedroom unit may not be used for shared housing.

## **PART V: COOPERATIVE HOUSING**

[24 CFR 982.619; New HCV GB, *Special Housing Types*, p. 14]

### **15-V.A. OVERVIEW**

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.” The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Cooperative housing.”

### **15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION**

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the gross rent (monthly carrying charge for the unit, plus any utility allowance) minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

### **15-V.C. HOUSING QUALITY STANDARDS**

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements. The PHA remedies described in 24 CFR 982.404 do not apply. Rather, if the unit and premises are not maintained in accordance with HQS, the PHA may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of HQS.

No housing assistance payment can be made unless unit meets HQS and the defect is corrected within the period as specified by the PHA and the PHA verifies correction (see Chapter 8).

In addition to regular breaches of HQS, breaches of HQS by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement [HCV GB].



## **PART VI: MANUFACTURED HOMES**

[24 CFR 982.620 through 982.624; FR Notice 1/18/17; New HCV GB,  
*Special Housing Types*, p. 15;]

### **15-VI.A. OVERVIEW**

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in three different ways.

- (1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.
- (2) A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program.
- (3) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

### **15-VI.B. SPECIAL REQUIREMENTS FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE**

#### **Family Income**

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

#### **Lease and HAP Contract**

There is a designated HAP Contract (form HUD-52642) and designated Tenancy Addendum (form HUD 52642-A) for this special housing type.

## **15-VLC. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR Notice 1/18/17]**

### **Payment Standards**

The PHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

### **Utility Allowance**

The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.

### **Space Rent**

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid utilities.

**Amortization Costs**

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

**Housing Assistance Payment**

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

**Rent Reasonableness**

Initially, and at least annually thereafter, the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly housing assistance payment, the owner of the manufactured home space certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the same manufactured home park or elsewhere.

If requested by the PHA, the owner must give the PHA information on rents charged by the owner for other manufactured home spaces.



## **15-VLD. HOUSING QUALITY STANDARDS**

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

### ***Manufactured Home Tie-Down***

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

## **PART VII: HOMEOWNERSHIP**

[24 CFR 982.625 through 982.643]

### **15-VII.A. OVERVIEW [24 CFR 982.625]**

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

#### PHA Policy

The PHA has instituted a minimum homeowner down payment requirement of at least three percent of the purchase price and requires that at least one percent of the purchase price come from the family's personal resources.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and single down payment assistance grants. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

#### PHA Policy

The PHA will offer the monthly homeownership assistance payments to qualified families.

The Housing Choice Voucher Home Ownership Program permits eligible participants in the HCV Program, including participants with portable vouchers, the option of purchasing a home with their voucher assistance rather than renting. The homeownership option is available to newly admitted or existing participants, who do not owe monies to the City of Dubuque Housing Services or any other Housing Agency for any outstanding debts, and who meet the eligibility criteria set forth below. Additionally, participants who are in violation of their family obligations while receiving HCV assistance shall be ineligible for participation in the Section 8 Home Ownership Program.

HCV home ownership assistance may be used to purchase the following type of homes within the City of Dubuque: new or existing single-family dwelling unit, condominium, or cooperatives. The City of Dubuque Housing will also permit portability of HCV home ownership assistance to another jurisdiction, provided the receiving jurisdiction operates an HCV home ownership program for which the participant qualifies.

The PHA may choose not to offer homeownership assistance. However, the PHA must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

## **15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]**

If the PHA offers the homeownership option, participation by the family is optional. However, the family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time, homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.

### PHA Policy

The PHA will not establish a higher minimum income standard for disabled and/or non-disabled families.

- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term *full-time employment* means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.

### PHA Policy

Families will be considered “continuously employed” if the break in employment does not exceed four months.

The PHA will count self-employment in a business when determining whether the family meets the employment requirement.

- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option

- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

### PHA Policy

The PHA will impose additional eligibility requirements. To be eligible to participate in the homeownership option, families must meet the following criteria:

The family has had no family-caused violations of HUD's Housing Quality standards within the past year.

The family is not within the initial one-year period of a HAP Contract.

The family owes no money to the PHA.

The family has not committed any serious or repeated violations of a PHA-assisted lease within the past year.

The family must be financially capable to qualify for HA approved financing of the home and must be financially capable to provide at least 3% of the purchase price as a minimum homeowner down payment. The City of Dubuque Rehabilitation Activity shall review lender qualifications and the loan terms before authorizing home ownership assistance.

The PHA requires that financing for purchase of a home under its HCV homeownership program complies with secondary mortgage market underwriting requirements; or complies with generally accepted private sector underwriting standards.

Each family, except families with a disabled member, must be a first-time homeowner. A first-time homeowner means that no member of the household has had an ownership interest in any residence during the three years prior to the home ownership assistance. However, a single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse) is considered a first-time home owner for purposes of the Section 8 Home ownership Program.

The Housing and Community Development Director may also consider whether and to what extent an employment interruption is considered permissible in satisfying the employment requirement. Generally, families will be considered "continuously employed" if the break in employment does not exceed two months. The Housing and Community Development Director may also consider self-employment to determine employment history. The employment requirement does not apply to an elderly or disabled family. In order to reasonably accommodate a family's participation in the program, families that include a person with disabilities may also be exempt from this requirement if an exemption is needed as a reasonable accommodation.

Participants in the Housing Choice Voucher Program shall be ineligible for participation in the Home Ownership Program if any debt or portion of a debt remains owed to the City of Dubuque or any other Housing Authority. Additionally, participants who are in violation of

their family obligations while receiving HCV assistance shall be ineligible for participation in the Home Ownership Program.

If the head of household, spouse, or other adult household member who will execute the contract of sale, mortgage and loan documents has previously defaulted on a mortgage obtained through the HCV Home Ownership Program, the family will be ineligible to participate in the Home Ownership Program.

### **15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]**

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate.

#### PHA Policy

The PHA will administer up to five new homeownership units per year. The PHA may exceed the number of units planned per year if it is necessary as a reasonable accommodation for a person with a disability. If this occurs, the PHA may reduce the number of homeownership units offered in subsequent years.

Families who have been participating in an economic self-sufficiency program for at least six months, or have graduated from such a program, will be given preference over other families. Elderly and disabled families will automatically be given this preference.

Within preference and non-preference categories, families will be selected according to the date and time their application for participation in the homeownership option is submitted to the PHA.

All families must meet eligibility requirements as defined in Section 15-VII.B. of this plan.

#### **15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]**

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the PHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.



Families may enter into contracts of sale for units not yet under construction. However, the PHA will not commence homeownership assistance for the family for that unit until:

1. Either the responsible entity completes the environmental review as required by 24 CFR part 58 and HUD approved the environmental certification and request for release of funds prior to commencement of construction or HUD performed an environmental review under CFR part 50 and notified the PHA in writing of environmental approval of the site prior to construction commencement; and
  2. Construction of the unit has been completed and the unit has passed the required HQS inspection and independent inspection as addressed elsewhere in this chapter.
- For PHA-owned units all of the following conditions must be satisfied:
    - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
    - The unit is not ineligible housing;
    - The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

## **15-VII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]**

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

### **PHA Policy**

The family will be allowed 120 days to identify a unit and submit a sales contract to the PHA for review. The family will be allowed an additional 120 days to close on the home. PHAs may grant extensions to either of these periods for good cause. The length of the extension(s) will be determined on a case-by-case, but in no case will an extension exceed a total of 125 days. The maximum amount of time a family will be given to locate and complete the purchase of a home under the homeownership option is 365 days.

During these periods, the family will continue to receive HCV rental assistance in accordance with any active lease and HAP contract until the family vacates the rental unit for its purchased home.

All requests for extensions must be submitted in writing to the PHA prior to the expiration of the period for which the extension is being requested. The PHA will approve or disapprove the extension request within 10 business days. The family will be notified of the PHA's decision in writing.

The family will be required to report their progress on locating and purchasing a home to the PHA every 30 days until the home is purchased.

If the family cannot complete the purchase of a unit within the maximum required time frame, and is not receiving rental assistance under a HAP contract at the time the search and purchase time period expires, the family will be issued a voucher to lease a unit.

## **15-VIL.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]**

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

### **PHA Policy**

Families will not be required to participate in ongoing counseling after commencement of homeownership assistance.

## **15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL OF SELLER [24 CFR 982.631]**

### **Home Inspections**

The PHA may not commence monthly homeownership assistance payments for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

#### PHA Policy

The unit must be inspected by a PHA inspector and pass inspection according to the Property Maintenance Code of the City of Dubuque. The unit must be inspected by an independent inspector and incipient code violations identified by the independent inspector.

To assure the home complies with the Property Maintenance Code of the City of Dubuque, home ownership assistance payments must not commence until the PHA has inspected and approved the home. Another inspection must also be completed by a professional home inspector selected by the family and approved by the PHA. 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. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. The independent inspector must provide a copy of the inspection report both to the family and to the PHA. The PHA may not pay any home ownership assistance for the family until the PHA has reviewed the inspection report of the independent inspector. Even if the unit otherwise complies with the Property Maintenance Code of the City of Dubuque, the PHA shall have discretion to disapprove the unit for assistance under the home ownership program because of information in the inspection report.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

#### PHA Policy

The family must hire an independent professional inspector, whose report must be submitted to the PHA for review. This inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer. The inspector cannot be a PHA employee or contractor.

The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

PHA Policy

The PHA will review the professional report in a timely fashion and, based on the presence of major physical problems, may disapprove the purchase of the home.

If the PHA disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval.

While the family is receiving homeownership assistance, the PHA will conduct an HQS inspection every other year.

## **Contract of Sale**

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.
- PHA Policy
- Prior to execution of the offer to purchase or sales agreement, the financing terms must be provided by the family to the PHA for approval. The purchase or sales agreement must provide for inspection by the PHA and the independent inspector and must state that the purchaser is not obligated to purchase unless the inspections are satisfactory to the PHA. The purchase or sales agreement must provide that the purchaser is not obligated to purchase if the mortgage financing terms are not approved by the PHA. A copy of the purchase or sales agreement must be submitted to the PHA for approval.
- 
- A contract for the sale of a unit not yet under construction must meet all above requirements, and requirements below. Commencement of construction in violation of the below requirements voids the purchase contract.
  - The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site received environmental approval prior to commencement of construction in accordance with 24 CFR 982.628; and
  - The construction will not commence until the environmental review has been completed and the seller has received written notice from the PHA that environmental approval has been obtained. Environmental approval may be conditioned on the contracting parties' agreement to modification to the unit design or to mitigation actions.

## **Disapproval of a Seller**

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

## **15-VII.H. FINANCING [24 CFR 982.632]**

The PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The PHA must establish policies describing these requirements in the administrative plan.

A PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

### **PHA Policy**

As a check against predatory lending, the PHA will review the financing of each purchase transaction, including estimated closing costs. The PHA will review the loans for features, such as balloon payments, adjustable rate mortgages, and unusually high interest rates, all of which are prohibited. The PHA also will not approve "seller financing" or "owner-held" mortgages. Beyond these basic criteria, the PHA will rely on the lenders to determine that the loan will be affordable to program participants.

The mortgage the family applies for must require a minimum down payment of at least three percent of the sales price with one percent of the down payment coming from the purchaser's personal funds. The PHA will not require that the family have any more than the minimum of one percent of their own money in the transaction. However, in cases where a lender is requiring a larger amount, the family may be held to the underwriting guidelines set by their lending institution.

The PHA will approve a family's request to utilize its Family Self-Sufficiency escrow account after final disbursement for down payment and/or closing costs when purchasing a unit under the HCV homeownership option.

## **15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]**

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

Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD [form HUD-52649]. In the statement, the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the PHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- The family must provide the PHA with information on any satisfaction or payment of the mortgage debt.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

### **PHA Policy**

Any inspection the PHA conducts after the initial inspection will be done on an advisory basis. The family will be encouraged to make the repairs, but will not be required to do so as a condition of ongoing assistance.

The home will be inspected for 1 biennial inspection cycle in accordance with the City of Dubuque Property Maintenance Code and must address any life safety issues to continue receiving home ownership assistance. If the PHA determines there are problems with maintaining the home in a safe and decent manner, it is up to the Housing & Community Development Director to provide supportive services to assist the homeowner as needed. the Housing and Community Development Director may require 2 on-going biennial inspections.



A family must agree, in writing, to comply with all family obligations under the HCV Program and the PHA's home ownership policies. These obligations include (1) attending ongoing home ownership counseling, if required by the PHA; (2) complying with the mortgage terms; (3) not selling or transferring the home to anyone other than a member of the assisted family who resides in the home while receiving home ownership assistance and who is approved by the PHA; (4) not refinancing or adding debt secured by the home without prior approval by the PHA; (5) not obtaining a present ownership interest in another residence while receiving home ownership assistance; (6) supplying all required information to the PHA, including but not limited to annual verification of household income, notice of change in home ownership expenses, notice of move-out, and notice of mortgage default; (7) allowing inspections of the home and maintaining the unit in a decent and safe manner; and (8) repairing any incipient code violations identified from the independent inspector's report within six (6) months of ownership.

#### **15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]**

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

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

The maximum term described above applies to any member of the family who:

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

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

## **15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]**

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of (i) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or (ii) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) must include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

The PHA does not have the discretion to exclude any of the listed homeownership expenses or to add any additional items.

Homeownership expenses for a cooperative member include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

#### PHA Policy

The PHA will use the following amounts for homeownership expenses:

**Monthly homeownership payment.** This includes principal and interest on initial mortgage debt, taxes and insurance, public assessments, and any mortgage insurance premium, if applicable.

**Utility allowance.** The PHA's utility allowance for the unit, based on the current HCV utility allowance schedule.

**Monthly maintenance/major repair/replacement allowance.** A single monthly maintenance/repair/replacement allowance will be provided at \$120 per month.

**Monthly co-op/condominium assessments.** If applicable, the monthly amount of co-op or condominium association operation and maintenance assessments.

**Monthly principal and interest on debt for improvements.** Principal and interest for major home repair, replacements, or improvements, if applicable.

**Land lease payments.** Land lease payments where a family does not own fee title to the real property on which the home is located.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

#### PHA Policy

The PHA's housing assistance payment will be paid directly to the family. It will be the family's responsibility to make the entire payment to the lender. The PHA may make an exception if the family requests the payment to go directly to the lender, and this arrangement is acceptable to the mortgage company. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

### **15-VIII. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]**

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program or bill the initial PHA.

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

## **15-VIL.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]**

A family receiving homeownership assistance may move with continued tenant-based assistance or with voucher homeownership assistance.

The PHA must determine that all initial requirements have been satisfied if a family that has received homeownership assistance wants to move with continued homeownership assistance. However, the following do not apply:

- The requirement that a family must be a first-time homeowner is not applicable.
- The requirement for pre-assistance counseling is not applicable. However, the PHA may require that the family complete additional counseling (before or after moving to a new unit with continued homeownership assistance).

Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if they own any title or other interest in the prior home.

The PHA may deny permission to move to a new unit with continued voucher assistance:

- If the PHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the PHA's policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and
- The family has moved, or will move, from the home within the period established or approved by HUD.

### PHA Policy

For families participating in the homeownership option, requests to move will be approved and/or denied in accordance with PHA policies in Chapter 10.

The PHA will not require additional counseling of any families who move with continued assistance.

## **15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]**

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy, with the exception of failure to meet obligations under the Family Self-Sufficiency program as prohibited under the alternative requirements set forth in FR Notice 12/29/14.

Homeownership assistance for a family automatically terminates 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

### **PHA Policy**

In order for the PHA to consider granting relief from the requirement to automatically terminate homeownership assistance 180 days following the PHA's last housing assistance payment on behalf of the family, the family must submit a written request to the PHA at least 30 days prior to the date of automatic termination. The request must include an explanation of the circumstances that will cause an extreme hardship for the family (e.g., the imminent loss of income or employment) as well as documentation supporting the request. The PHA will determine on a case-by-case basis whether to grant relief from the requirement and for what period of time. In no case will the PHA postpone termination beyond an additional 90 days.

The PHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

### **PHA Policy**

The PHA will terminate a family's homeownership assistance if the family violates any of the homeowner obligations listed in Section 1, as well as for any of the reasons listed in Section 2 of form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.

In making its decision to terminate homeownership assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Termination notices will be sent in accordance with the requirements and policies set forth in Section 12-II.F.

Home ownership assistance will only be provided while the family resides in the home. The home must be the family's only residence. If the family moves out of the home, the HA will not continue home ownership assistance commencing with the month after the family moves out.

A participant in the HCV Home Ownership Program shall be entitled to the same termination notice and informal hearing procedures as set forth in the Administrative Plan for the City of Dubuque.



## Chapter 16

### PROGRAM ADMINISTRATION

#### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking; and maintaining the confidentiality of information obtained from victims.



## **PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]**

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

In addition, as specified in Notice PIH 2022-18, PHAs may use administrative fee funding for both administrative and “other expenses” needed to employ strategies and undertake activities beyond regular administrative responsibilities to facilitate the successful leasing and use of housing choice vouchers by families, such as through the use of security deposit assistance and landlord recruitment and incentive payments, among other allowable expenses specified in the notice. PHAs are also permitted to use UNP for these expenses [Notice PIH 2022-18].

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

### PHA Policy

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures shall be based upon the City of Dubuque annual budget adopted by the City Council.



## **PART II: SETTING PROGRAM STANDARDS AND SCHEDULES**

### **16-II.A. OVERVIEW**

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

#### PHA Policy

Copies of the payment standard and utility allowance schedules are available for review in the PHA's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The PHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating the PHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

### **16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]**

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

## Updating Payment Standards

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high [24 CFR 982.503(g)].

### PHA Policy

The PHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" the PHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability:** The PHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The PHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

**Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the PHA will consider increasing the payment standard. In evaluating rent burdens, the PHA will not include families renting a larger unit than their family unit size.

**Quality of Units Selected:** The PHA may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

**Changes in Rent to Owner:** The PHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

**Unit Availability:** The PHA may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate:** The PHA may consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Effective dates of changes to payment standard amounts will be determined at time of update. The PHA will always ensure the payment standards will be within the basic range.

**Exception Payment Standards [24 CFR 982.503(c)(5), Notice PIH 2018-01, FR Notice 9/27/21]**

A non-SAFMR PHA may establish an exception payment standard for a zip code area of up to and including 110 percent of the SAFMR determined by HUD for that zip code area. Regardless of the level of the exception payment standard compared to the metropolitan area FMRs (MAFMRs), the PHA must send an email to [SAFMRs@hud.gov](mailto:SAFMRs@hud.gov) to notify HUD that it has adopted an exception payment standard based on the SAFMR. A PHA that adopts an exception payment standard pursuant to this authority must apply it to the entire ZIP code area, for both its HCV, and if applicable, its PBV program. For the PBV program, this means that the rent to owner may not exceed the new exception payment standard amount, provided the rent is still reasonable. A PHA that adopts an exception payment standard area must revise its briefing materials to make families aware of the exception payment standard and the area that it covers.

In addition, HUD allows PHAs to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. PHAs may go up to but no higher than 120 percent of the FMR or SAFMR specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD (See Section 19-III.E.).

**Voluntary Use of Small Area FMRs [24 CFR 982.503, Notice PIH 2018-01]**

PHAs that administer vouchers in a metropolitan area where the adoption of SAFMRs is not required may request approval from HUD to voluntarily adopt SAFMRs. SAFMRs may be voluntarily adopted for one or more zip code areas.

PHA Policy

The PHA has adopted the use of SAFMRs for zip codes 52001, 52002, and 52003.

**Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]**

Unit-by-unit exceptions to the PHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [24 CFR 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

## PHA Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the PHA must determine that:

There is a shortage of affordable units that would be appropriate for the family;

The family share would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.

### **"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

### **Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]**

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.



## **16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

### **Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

#### **PHA Policy**

The PHA has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the PHA will apply this allowance to a family's rent and subsidy calculations.

## **Reasonable Accommodation and Individual Relief**

Upon request from a family that includes a person with disabilities, the PHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation of the need for the individual relief and information about the amount of additional allowance required [see HCV GB, p. 18-8].

PHAs should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as “Medical Baseline discounts”) offered by the local utility company. Policies for granting exception utility allowances can be found in Section 6-III.D. of this plan.

## **Utility Allowance Revisions**

The PHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised [24 CFR 982.517(c)(1)].

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

## **PART III: INFORMAL REVIEWS AND HEARINGS**

### **16-III.A. OVERVIEW**

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

### **16-III.B. INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995): 34690].

#### **Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]**

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition

### PHA Policy

The PHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

### **Notice to the Applicant [24 CFR 982.554(a)]**

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

### **Scheduling an Informal Review**

#### PHA Policy

A request for an informal review must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA's denial of assistance.

The PHA must schedule and send written notice of the informal review within 10 business days of the family's request.

The participant may request to reschedule a review for good cause. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the participant. Requests to reschedule a review must be made orally or in writing prior to the review date. At its discretion, the PHA may request documentation of the conflict prior to rescheduling the review.

Any notice of the inability of the applicant to attend the review must be provided within 24 hours of the review along with third party verification of the conflict. The review officer will have the sole discretion to decide if the request is legitimate and with good cause.

If the informal review will be conducted remotely, at the time the PHA notifies the family of the informal review, the family will be informed:

Regarding the processes to conduct a remote informal review;

That, if needed, the PHA will provide technical assistance prior to and during the informal review; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

### **Informal Review Procedures [24 CFR 982.554(b)]**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

## **Remote Informal Reviews [Notice PIH 2020-32]**

There is no requirement that informal reviews be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

### **PHA Policy**

The PHA has the sole discretion to require that informal reviews be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. The PHA will consider other reasonable requests for a remote informal review on a case-by-case basis.

## **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal reviews.

## **Conducting Remote Informal Reviews**

The PHA must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

As with in-person informal reviews, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 2020-32.

### **PHA Policy**

The PHA will conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote review, the PHA will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the informal review and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person informal review.

If the informal review is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail, via email, or text. The PHA will scan and email copies of these documents to the PHA representative the same day.

Documents will be shared electronically whenever possible.

The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

## **Informal Review Decision [24 CFR 982.554(b)]**

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

### PHA Policy

In rendering a decision, the PHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family.

The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. The PHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and their representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.



### **16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed.

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

#### **Decisions Subject to Informal Hearing**

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with HQS because of family size
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

#### PHA Policy

The PHA will only offer participants the opportunity for an informal hearing when required to by the regulations, and if the PHA denies a request for a reasonable accommodation (see Chapter 2).

#### **Remote Informal Hearings [Notice PIH 2020-32]**

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

#### PHA Policy

The PHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have child care or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

## **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal hearing, and the PHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

## **Conducting Informal Hearings Remotely**

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements, and will be in compliance with HUD regulations at 24 CFR 982.555 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

### **PHA Policy**

The PHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

## **Informal Hearing Procedures**

### ***Notice to the Family* [24 CFR 982.555(c)]**

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

### **PHA Policy**

In cases where the PHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the PHA.

- A brief statement of the reasons for the decision, including the regulatory reference.

- The date the proposed action will take place.

- A statement of the family's right to an explanation of the basis for the PHA's decision.

- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

- A deadline for the family to request the informal hearing.

- To whom the hearing request should be addressed.

- A copy of the PHA's hearing procedures.

- That the family may request a remote informal hearing.

### ***Scheduling an Informal Hearing [24 CFR 982.555(d)]***

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

#### **PHA Policy**

The request for an informal hearing will only be considered if the family contests that the information provided by the PHA is untrue or inaccurate, or that the PHA did not follow all federal regulations, including consideration under the Violence Against Women's Act prior to their decision to act.

If the request for an informal hearing does not meet the above requirements, an informal hearing will not be provided.

A request for an informal hearing must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA's decision or notice to terminate assistance. The PHA must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

- Regarding the processes involved in a remote informal hearing;

- That the PHA will provide technical assistance prior to and during the informal hearing, if needed; and

- That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear within 20 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the PHA's decision will stand.

### ***Pre-Hearing Right to Discovery [24 CFR 982.555(e)]***

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

#### **PHA Policy**

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

If the hearing will be conducted remotely, the PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the informal hearing. The PHA will mail copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.

Documents will be shared electronically whenever possible.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

#### **PHA Policy**

For in-person hearings, the PHA will not require pre-hearing discovery by the PHA of family documents directly relevant to the hearing.

If the informal hearing is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The PHA will scan and email copies of these documents to the hearing officer and the PHA representative the same day.

Documents will be shared electronically whenever possible.

### ***Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]***

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

### ***Informal Hearing Officer [24 CFR 982.555(e)(4)]***

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

### ***Attendance at the Informal Hearing***

#### **PHA Policy**

Hearings may be attended by a hearing officer and the following applicable persons:

A PHA representative(s) and any witnesses for the PHA

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by the PHA as a reasonable accommodation for a person with a disability

### ***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

#### **PHA Policy**

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.



### ***Evidence [24 CFR 982.555(e)(5)]***

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

#### **PHA Policy**

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence:** the testimony of witnesses

**Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If either the PHA (or the family, if required in a remote hearing) fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

### ***Procedures for Rehearing or Further Hearing***

#### **PHA Policy**

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

### ***Hearing Officer's Decision [24 CFR 982.555(e)(6)]***

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

#### **PHA Policy**

In rendering a decision, the hearing officer will consider the following matters:

**PHA Notice to the Family:** The hearing officer will determine if the reasons for the PHA's decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if the PHA and the family were given the opportunity to examine any relevant documents in accordance with PHA policy.

**PHA Evidence to Support the PHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.

**Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. The report will contain the following information:

#### **Hearing information:**

Name of the participant;

Date, time and place of the hearing;

Name of the hearing officer;

Name of the PHA representative; and

Name of family representative (if any).

**Background:** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

**Order:** The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

***Issuance of Decision [24 CFR 982.555(e)(6)]***

A copy of the hearing must be furnished promptly to the family.

PHA Policy

The hearing officer will mail a "Notice of Hearing Decision" to the PHA and to the participant on the same day. This notice will be sent by first-class mail. The participant will be mailed the original "Notice of Hearing Decision" and a copy of the proof of mailing. A copy of the "Notice of Hearing Decision" will be maintained in the PHA's file.

***Effect of Final Decision [24 CFR 982.555(f)]***

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

PHA Policy

The Executive Director has the authority to determine that the PHA is not bound by the decision of the hearing officer because the PHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the PHA will mail a "Notice of Final Decision" to the PHA and the participant on the same day. The "Notice of Final Decision" will be sent by first-class mail. A copy of this notice will be maintained in the PHA's file.

#### **16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

##### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

## **USCIS Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

### **PHA Policy**

The PHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

### **PHA Policy**

The PHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

## **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

### ***Informal Hearing Officer***

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

#### **PHA Policy**

The family will be allowed to copy any documents related to the hearing at no charge. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

### ***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. Upon request, the PHA will provide competent interpretation services, free of charge.

### ***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

#### **PHA Policy**

The PHA will not provide a transcript of an audio taped hearing.

### ***Hearing Decision***

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

**Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

**Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

## **PART IV: OWNER OR FAMILY DEBTS TO THE PHA**

### **16-IV.A. OVERVIEW**

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. If the family breaches an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA, the PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement [24 CFR 982.552(c)(1)(vii)]. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

#### PHA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to the PHA.

The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

### **16-IV.B. REPAYMENT POLICY**

#### **Owner Debts to the PHA**

#### PHA Policy

Any amount due to the PHA by an owner must be repaid by the owner within 30 days of the PHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the PHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the PHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the PHA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

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

- Collection agencies

- Small claims court

- Civil lawsuit

- State income tax set-off program



## **Family Debts to the PHA**

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

### PHA Policy

Any amount owed to the PHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

## **Refusal to Enter into an Agreement**

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA must terminate assistance [Notice PIH 2018-18].

### PHA Policy

When a family refuses to repay monies owed to the PHA, in addition to termination of program assistance, the PHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

## **Repayment Agreement [24 CFR 792.103]**

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

## **General Repayment Agreement Guidelines for Families**

### ***Down Payment Requirement***

#### PHA Policy

Before executing a repayment agreement with a family, the PHA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the PHA that a down payment of 10 percent would impose an undue hardship, the PHA may, in its sole discretion, require a lesser percentage or waive the requirement

### ***Payment Thresholds***

Notice PIH 2018-18 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2018-18 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

#### **PHA Policy**

The PHA has established the following thresholds for repayment of debts:

Amounts between \$1,000 and the small claims court maximum in Iowa must be repaid within 36 months.

Amounts under \$1,000 require a minimum payment of \$25 per month unless the family can provide evidence of an undue hardship..

If a family can provide evidence satisfactory to the PHA that the threshold applicable to the family’s debt would impose an undue hardship, the PHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the PHA will consider all relevant information, including the following:

The amount owed by the family to the PHA

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control

The family’s current and potential income and expenses

The family’s current family share, as calculated under 24 CFR 982.515

The family’s history of meeting its financial responsibilities

### ***Execution of the Agreement***

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

#### **PHA Policy**

Any repayment agreement between the PHA and a family must be signed and dated by the PHA and by the head of household and spouse/cohead (if applicable).

### ***Due Dates***

#### **PHA Policy**

All payments are due by the close of business on the last business day of the month.

### ***Late or Missed Payments***

#### **PHA Policy**

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the PHA will terminate assistance in accordance with the policies in Chapter 12.

### ***No Offer of Repayment Agreement***

#### **PHA Policy**

The PHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

### ***Repayment Agreement Terms***

All repayment agreements must be in writing, dated, signed by both the family and the PHA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions, at a minimum, be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

## **PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

### **16-V.A. OVERVIEW**

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

## **16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]**

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

### **HUD Verification Method**

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

## 16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
<b>Indicator 1: Selection from the waiting list</b> <b>Maximum Score: 15</b> <ul style="list-style-type: none"><li>• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants from the waiting list.</li><li>• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control samples.</li></ul>
<b>Indicator 2: Rent reasonableness</b> <b>Maximum Score: 20</b> <ul style="list-style-type: none"><li>• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units at the required times.</li><li>• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.</li></ul>
<b>Indicator 3: Determination of adjusted income</b> <b>Maximum Score: 20</b> <ul style="list-style-type: none"><li>• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</li><li>• Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.</li></ul>
<b>Indicator 4: Utility allowance schedule</b> <b>Maximum Score: 5</b> <ul style="list-style-type: none"><li>• This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.</li><li>• Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.</li></ul>

**Indicator 5: HQS quality control inspections****Maximum Score: 5**

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

**Indicator 6: HQS enforcement****Maximum Score: 10**

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

**Indicator 7: Expanding housing opportunities****Maximum Points: 5**

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

**Indicator 8: FMR limit and payment standards****Maximum Points: 5 points**

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

**Indicator 9: Annual reexaminations****Maximum Points: 10**

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are less than two months overdue, according to data from PIC.

**Indicator 10: Correct tenant rent calculations****Maximum Points: 5**

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

**Indicator 11: Pre-contract HQS inspections****Maximum Points: 5**

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection on or before the effective date of the lease and HAP contract, according to data from PIC.

**Indicator 12: Annual HQS inspections****Maximum Points: 10**

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

**Indicator 13: Lease-up****Maximum Points: 20 points**

- This indicator shows whether the PHA enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.
- Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

**Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances****Maximum Points: 10**

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.



**Success Rate of Voucher Holders****Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

**Deconcentration Bonus Indicator****Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50<sup>th</sup> percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

## **PART VI: RECORD KEEPING**

### **16-VI.A. OVERVIEW**

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

### **16-VI.B. RECORD RETENTION [24 CFR 982.158; 24 CFR 908.101]**

During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

The PHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

#### PHA Policy

The PHA will keep for at least three years records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule, or VAWA.

The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [see 24 CFR 5.2002(e)(12)].

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

### **16-VI.C. RECORDS MANAGEMENT**

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

#### PHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

## **Upfront Income Verification (UIV) Records**

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

### **PHA Policy**

Prior to utilizing HUD's EIV system, the PHA will adopt and implement EIV security procedures required by HUD.

## **Criminal Records**

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

## **Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

## **Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking**

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking see section 16-IX.E.



## **PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL**

### **16-VII.A. OVERVIEW**

The PHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

### **16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13]**

The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days. The PHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

#### PHA Policy

Upon notification by the owner, the PHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, the PHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

### **16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an elevated blood lead level.

If the PHA obtains names and addresses of elevated blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

#### PHA Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the PHA is not providing such a report.



## **PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

### **16-VIII.A. OVERVIEW**

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.354(e)(1) and 982.454]. If a PHA denies a family a portability move based on insufficient funding, the PHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

### **16-VIII.B. METHODOLOGY**

#### PHA Policy

The PHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the PHA's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the PHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority and funding reserves, or if the PHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the PHA will be considered to have insufficient funding.





## **PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY**

### **16-IX.A. OVERVIEW**

The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Stalking and Human Trafficking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking"; and 12-II.F, "Termination Notice."

### **16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]**

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship

- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term economic abuse means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies
  - Any other emergency technologies

#### **16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]**

##### **Notification to Public**

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

##### PHA Policy

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the PHA's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

## **Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]**

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

### **PHA Policy**

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at the time the family is admitted to the program. The PHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The PHA will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. The PHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

### **PHA Policy**

Whenever the PHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PHA may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

## **Notification to Owners and Managers**

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

### PHA Policy

The PHA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation.

#### **16-IX.D. DOCUMENTATION [24 CFR 5.2007]**

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, stalking, human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [FR Notice 11/16/16].

##### **PHA Policy**

Any request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

### **Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

#### **PHA Policy**

If presented with conflicting certification documents from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documents, the PHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions) the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the PHA will hold separate hearings for the applicants or tenants.

### **Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

#### **PHA Policy**

If the PHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA will document acceptance of the statement or evidence in the individual's file.



**Failure to Provide Documentation [24 CFR 5.2007(c)]**

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

**16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, stalking, and human trafficking, including the fact that an individual is a victim, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

**PHA Policy**

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

<b>EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380</b>
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**[Insert Name of Housing Provider]**

**Notice of Occupancy Rights under the Violence Against Women Act<sup>1</sup>**

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The U.S. Department of Housing and Urban Development (HUD) is the federal agency that oversees that the housing choice voucher program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under the housing choice voucher program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under the housing choice voucher program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

## **Removing the Abuser or Perpetrator from the Household**

The PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the PHA must follow federal, state, and local eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

## **Moving to Another Unit**

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- 1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

- 2. You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

- 3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The PHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The PHA's emergency transfer plan provides further information on emergency transfers, and the PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

### **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The PHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PHA must be in writing, and the PHA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The PHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PHA as documentation. It is your choice which of the following to submit if the PHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the PHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PHA does not have to provide you with the protections contained in this notice.

## **Confidentiality**

The PHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PHA must not allow any individual administering assistance or other services on behalf of the PHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The PHA must not enter your information into any shared database or disclose your information to any other entity or individual. The PHA, however, may disclose the information provided if:

- You give written permission to the PHA to release the information on a time limited basis.
- The PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PHA or your landlord to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

## **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PHA can demonstrate the above, the PHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

## **Other Laws**

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

### **Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

### **For Additional Information**

You may view a copy of HUD's final VAWA rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, the PHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

**Attachment:** Certification form HUD-5382 **[form approved for this program to be included]**



<b>EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382</b>
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**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286

Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.



**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

<p><b>EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (HCV VERSION)</b></p>
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Attachment: Certification form HUD-5382

**[Insert name of covered housing provider]**

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking  
Housing Choice Voucher Program**

**Emergency Transfers**

The PHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>3</sup> the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>4</sup> The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and housing choice voucher (HCV) programs** are in compliance with VAWA.

**Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

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<sup>3</sup>Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>4</sup>Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### **Confidentiality**

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

## **Emergency Transfers: Housing Choice Voucher (HCV) Program**

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the PHA will assist you to move to a safe unit quickly using your existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required.

At your request, the PHA will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

You may also request an emergency transfer under the following programs for which you are required to apply:

- Public housing program
- PBV assistance in another development not owned by the PHA
- **[Insert other programs the PHA provides, such as LIHTC or HOME]**

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the PHA will refer you to organizations that may be able to further assist you.

## **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at: <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at: <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**Attachment:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.



<b>EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383</b>
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**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_

2. Your name (if different from victim's) \_\_\_\_\_

3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_

5. Address of location from which the victim seeks to transfer: \_\_\_\_\_

6. Address or phone number for contacting the victim: \_\_\_\_\_

7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. \_\_\_\_\_

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: \_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_





<b>EXHIBIT 16-5: MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS</b>
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[Insert Name of Housing Provider]

**NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS  
UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault, stalking and human trafficking.

**Purpose**

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through [insert name of housing provider] HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

**Denial of Tenancy**

*Protections for applicants:* Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

**Eviction**

*Protections for HCV participants:* Incidents or threats of domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (see 24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, stalking, or human trafficking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, stalking, or human trafficking (24 CFR 5.2005(b)(2)).

*Limitations of VAWA protections:*

a. Nothing in VAWA limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

- 1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking; or
- 2) The distribution or possession of property among members of a household in a case.

b. Nothing in VAWA limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in VAWA limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)

ii. Any eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

### **Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD’s regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

- a. Form HUD-55383 (Self-Certification Form); or
- b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking, or the effects of abuse:  
2) Signed by the applicant or tenant; and  
3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, stalking, or human trafficking under 24 CFR 5.2003; or
- c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, stalking, or human trafficking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14 business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking at eviction or termination proceedings.

Owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWAs (See FR Notice 1/4/23.)

## **Moves**

A victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

## **Lease Bifurcation**

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

## **Evictions Due to “Actual and Imminent Threat” or Violations Not Premised on Abuse**

VAWA generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, VAWA does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking that is in question against the tenant or an affiliated individual of the tenant. Nor does VAWA prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur; and
- The length of time before the potential harm would occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

## Confidentiality

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

## Service Providers

[insert name of housing provider] has extensive relationships with local service providers. [insert name of housing provider] staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in [insert name of housing provider] Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

## Definitions

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Affiliated individual**, with respect to an individual, means:

- (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- (2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Dating violence** means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (i) The length of the relationship;
  - (ii) The type of relationship; and
  - (iii) The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.

**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**Attached:**

Legal services and the domestic violence resources for the Metro area  
Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking  
[insert name of housing provider] VAWA Notice of Occupancy Rights

## Chapter 17

### PROJECT-BASED VOUCHERS

#### INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.





## **PART I: GENERAL REQUIREMENTS**

### **17-I.A. OVERVIEW [24 CFR 983.5; FR Notice 1/18/17; Notice PIH 2017-21]**

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

#### **PHA Policy**

The PHA will operate a project-based voucher program using up to 20 percent of its authorized units for project-based assistance.

The PHA currently operates a project-based voucher program for the Rose of Dubuque and meets the community needs of offering an affordable, assisted living facility for the benefit of low- and moderate income seniors. The contract provides for the availability of seventeen (17) assisted living units.

See Exhibit 17-1 for information on projects to which the PHA has attached PBV assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the PHA is not required to reduce the number of these units if the number of authorized units is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the PHA has vouchers available for project-basing [FR Notice 1/18/17].

### **Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]**

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap.

For units under a HAP contract that was first executed on or after April 18, 2017, units qualify under this exception if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
- Are specifically made available to house families that are comprised of or include a veteran.
  - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.

- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

PBV units that house eligible youth receiving FUPY/FYI assistance are also covered by this 10 percent exception authority if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance. FYI TPVs that were awarded under Notice PIH 2019-20 are not part of this exception since PHAs are prohibited from project-basing FYI TPVs. Units added after December 27, 2020, through an amendment of a HAP contract that became effective after December 27, 2020, are eligible for this 10 percent exception authority. In contrast, units added after December 27, 2020, through an amendment of a HAP contract that became effective on or prior to December 27, 2020, are not eligible for this 10 percent exception authority [FR Notice 1/24/22]. See Chapter 19 for policies specific to project-basing FUPY vouchers.

#### PHA Policy

The PHA may project-base up to an additional 10 percent of its authorized units, up to 30 percent, in accordance with HUD regulations and requirements.

#### **Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]**

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

#### PHA Policy

The PHA may project-base units not subject to the 20 percent cap in accordance with HUD regulations and requirements.

### **17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]**

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

#### **PHA Policy**

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

### **17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]**

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

### **17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).



## **PART II: PBV OWNER PROPOSALS**

### **17-II.A. OVERVIEW**

With certain exceptions, the PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

### **17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]**

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

- PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The PHA may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

### **Units Selected Non-Competitively [FR Notice 1/18/17; Notice PIH 2017-21; 24 CFR 983.51(b)]**

For certain public housing projects where the PHA has an ownership interest or control, the PHA may attach PBV assistance non-competitively without following one of the two processes above.

This exception applies when the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory within five years of the date on which the PHA entered into the AHAP or HAP.

If the PHA is planning rehabilitation or new construction on the project, a minimum threshold of \$25,000 per unit in hard costs must be expended.

If the PHA plans to replace public housing by attaching PBV assistance to existing housing in which the PHA has an ownership interest or control, then the \$25,000 per unit minimum threshold does not apply as long as the existing housing substantially complies with HQS.

The PHA must include in the administrative plan what work it plans to do on the property or site and how many PBV units will be added to the site.

#### PHA Policy

The PHA will not attach PBVs to projects owned by the PHA as described above.

#### **Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]**

PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

#### PHA Policy

##### PHA Request for Proposals for Rehabilitated and Newly Constructed Units

The PHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

##### **Dubuque Telegraph Herald.**

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition, the PHA will post the RFP and proposal submission and rating and ranking procedures on its website.

The PHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Proposals will be due in the PHA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the PHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.



The PHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;

- Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;

- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

- In order to promote partially assisted projects, projects where less than 25 percent of the units will be assisted will be rated higher than projects where 25 percent or more of the units will be assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the PHA will rate partially assisted projects on the percentage of units assisted. Projects with the lowest percentage of assisted units will receive the highest score.

#### PHA Requests for Proposals for Existing Housing Units

The PHA will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

##### **Dubuque Telegraph Herald**

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition, the PHA will post the notice inviting such proposal submission and the rating and ranking procedures on its website.

The PHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

- Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;

- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

- Extent to which units are occupied by families that are eligible to participate in the PBV program.

PHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The PHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The PHA may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

**Dubuque Telegraph Herald**

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition to, or in place of advertising, the PHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The PHA will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities; and

- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community.

## **PHA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]**

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. This also applies to noncompetitive selections. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations, the term of the HAP contract, and inspections.

In the case of PHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD-approved independent entity. In addition, an independent entity must determine the initial rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

### PHA Policy

The PHA does not own public housing units.

The PHA may only compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA and independent entity may not charge the family any fee for the appraisal or the services provided by the independent entity.

### **PHA Notice of Owner Selection [24 CFR 983.51(d)]**

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

#### **PHA Policy**

Within 10 business days of the PHA making the selection, the PHA will notify the selected owner in writing of the owner's selection for the PBV program. The PHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the PHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the PHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The PHA will also post the notice of owner selection on its electronic web site.

The PHA will make available to any interested party its rating and ranking sheets and documents that identify the PHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The PHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The PHA will make these documents available for review at the PHA during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

### **17-II.C. HOUSING TYPE [24 CFR 983.52]**

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

## **17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS**

### **Ineligible Housing Types [24 CFR 983.53]**

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

### **Subsidized Housing [24 CFR 983.54]**

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

#### **17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, Notice PIH 2013-11, and FR Notice 3/13/23]**

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

HUD requires new construction and rehabilitation housing that will include forms of governmental assistance other than PBVs to undergo a subsidy layering review (SLR) prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP). Subsidy layering requirements do not apply to existing housing, when PBV is the only governmental assistance, or for projects already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

When a PHA selects a new construction or rehabilitation project, the PHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using Form HUD-2880. Appendix A of FR Notice 3/23/23 contains a list of all required documentation.

Either HUD or a HUD-approved housing credit agency (HCA) in the PHA's jurisdiction performs the subsidy layering review. The PHA must request an SLR through their local HUD Field Office or, if eligible, through a participating HCA.

If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify the PHA. The PHA may proceed to execute an AHAP at that time if the environmental approval is received.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

## **17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT**

### **25 Percent per Project Cap [24 CFR 983.56, FR Notice 1/18/17, and Notice PIH 2017-21]**

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

### **Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]**

As of April 18, 2017, units are not counted against the 25 percent or 25-unit per project cap if:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
  - If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services.

Under the Fostering Stable Housing Opportunities (FSHO) amendments, units exclusively made available to youth receiving FUPY/FYI assistance may be excepted from the project cap for HAP contracts first effective after December 27, 2020. For more information on excepted units for FUPY, see Chapter 19.

Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) or FSHO (contract in effect on or prior to December 27, 2020) may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

### ***Supportive Services***

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. As of April 18, 2017, the project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit, although the family must be eligible to receive the supportive services. It is not necessary that the services be provided at or by the project but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. A PHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

#### **PHA Policy**

Excepted units will be limited to units for elderly families.

### **Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]**

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance.

#### **PHA Policy**

The PHA does not have any PBV units that are subject to the per project cap exception.

### **Promoting Partially Assisted Projects [24 CFR 983.56(c)]**

A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-project cap of less than 25 units or 25 percent of units.

#### **PHA Policy:**

Excepted units will be limited to units for elderly families.

Beyond that, the PHA will not impose any further cap on the number of PBV units assisted per project.



## **17-II.G. SITE SELECTION STANDARDS**

### **Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]**

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

#### PHA Policy

It is the PHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the PHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the PHA will grant exceptions to the 20 percent standard where the PHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community;

- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

- A census tract where there has been an overall decline in the poverty rate within the past five years; or

- A census tract where there are meaningful opportunities for educational and economic advancement.

### **Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]**

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

### **New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]**

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

## **17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]**

The PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.



## **PART III: DWELLING UNITS**

### **17-III.A. OVERVIEW**

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

### **17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]**

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

#### **Lead-based Paint [24 CFR 983.101(c)]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, Subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

### **17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES**

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

## **17-III.D. INSPECTING UNITS**

### **Pre-selection Inspection [24 CFR 983.103(a)]**

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with HQS.

### **Pre-HAP Contract Inspections [24 CFR 983.103(b), FR Notice 1/18/17, and Notice PIH 2017-20]**

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, or if the unit passed an alternative inspection.

#### PHA Policy

The PHA will not provide assistance on behalf of the family until the unit fully complies with HQS.

### **Turnover Inspections [24 CFR 983.103(c)]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

### **Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]**

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement. The PHA also has the option in certain mixed finance properties to rely on alternative inspections conducted at least triennially.

#### PHA Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

**Other Inspections [24 CFR 983.103(e)]**

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

**Inspecting PHA-Owned Units [24 CFR 983.103(f)]**

In the case of PHA-owned units, the inspections must be performed by an independent entity designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.





## **PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS**

### **17-IV.A. OVERVIEW [24 CFR 983.151]**

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

### **17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT**

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The PHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

#### **Content of the Agreement [24 CFR 983.152(d)]**

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.

- Any additional requirements for quality, architecture, or design over and above HQS.

#### **Execution of the Agreement [24 CFR 983.153]**

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

#### **PHA Policy**

The PHA will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

## **17-IV.C. CONDUCT OF DEVELOPMENT WORK**

### **Labor Standards [24 CFR 983.154(b)]**

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

### **Owner Disclosure [24 CFR 983.154(d) and (e)]**

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

#### **17-IV.D. COMPLETION OF HOUSING**

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

##### **Evidence of Completion [24 CFR 983.155(b)]**

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

##### **PHA Policy**

The PHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The PHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

##### **PHA Acceptance of Completed Units [24 CFR 983.156]**

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

## **PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

### **17-V.A. OVERVIEW**

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

### **17-V.B. HAP CONTRACT REQUIREMENTS**

#### **Contract Information [24 CFR 983.203]**

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

## **Execution of the HAP Contract [24 CFR 983.204]**

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

### **PHA Policy**

Prior to entering into the HAP contract the owner must certify agreement to comply with Fair Housing Laws. The owner and the City of Dubuque will execute a Housing Assistance Payments (HAP) contract for up to a ten-year term that is dependent on availability of funding under the ACC with HUD. The HAP contract establishes the initial rents and describes the responsibility of the PHA and the owner. Rents will be based upon market comparable units and may not exceed 110% of the published existing housing fair market rents. The units must meet and maintain standards set by the City of Dubuque Property Maintenance Code.

For existing housing, the HAP contract will promptly be executed – after the PHA determines that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will promptly be executed after the PHA determines that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

## **Term of HAP Contract [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]**

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

### **PHA Policy**

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 20 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that

not more than 24 months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

## PHA Policy

When determining whether or not to extend an expiring PBV contract, the PHA will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and lease(s);

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

### ***Termination by PHA [24 CFR 983.205(c) and FR Notice 1/18/17]***

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

In times of insufficient funding, HUD requires that PHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

### ***Termination by Owner [24 CFR 983.205(d)]***

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.



### **Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206, FR Notice 1/18/17, and Notice PIH 2017-21]**

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

### **Remedies for HQS Violations [24 CFR 983.208(b)]**

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

#### **PHA Policy**

The PHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

## **17-V.C. AMENDMENTS TO THE HAP CONTRACT**

### **Substitution of Contract Units [24 CFR 983.207(a)]**

At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

### **Addition of Contract Units [FR Notice 1/18/17 and Notice PIH 2017-21]**

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

#### **PHA Policy**

The PHA will add units to the contract on a case-by-case basis to ensure the availability of affordable housing as long as the addition of units does not exceed allowable project caps.

## **17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]**

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

## **17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]**

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

## **17-V.F. ADDITIONAL HAP REQUIREMENTS**

### **Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]**

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

#### PHA Policy

The PHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The PHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

### **Vacancy Payments [24 CFR 983.352(b)]**

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

#### PHA Policy

The PHA will not provide vacancy payments to the owner.



## **PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **17-VI.A. OVERVIEW**

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

### **17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]**

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, meet asset limitation requirements, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

#### **PHA Policy**

The PHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

**In-Place Families [24 CFR 983.251(b)]**

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an “in-place family.” These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA’s waiting list. Once the family’s continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

## **17-VLC. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]**

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and project-based assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

### **PHA Policy**

The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance. The PHA currently has waiting lists for the following PBV projects:

**Rose of Dubuque, 3390 Lake Ridge Drive, Dubuque, IA**

## **17-VLD. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list.

### **Income Targeting [24 CFR 983.251(c)(6)]**

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

### **Units with Accessibility Features [24 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

### **Preferences [24 CFR 983.251(d), FR Notice 11/24/08]**

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.



If the PHA has projects with “excepted units” for elderly families or supportive services, the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

#### PHA Policy

The PHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units). The PHA will not offer any additional preferences for the PBV program or for particular PBV projects or units.

## **17-VLE. OFFER OF PBV ASSISTANCE**

### **Refusal of Offer [24 CFR 983.251(e)(3)]**

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

### **Disapproval by Landlord [24 CFR 983.251(e)(2)]**

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

### **Acceptance of Offer [24 CFR 983.252]**

#### ***Family Briefing***

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

#### ***Persons with Disabilities***

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

#### ***Persons with Limited English Proficiency***

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

## **17-VI.F. OWNER SELECTION OF TENANTS**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

### **Leasing [24 CFR 983.253(a)]**

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

### **Filling Vacancies [24 CFR 983.254(a)]**

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

#### PHA Policy

The owner must notify the PHA in writing (mail, fax, or email) within five business days of learning about any vacancy or expected vacancy.

The PHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

### **Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]**

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

#### PHA Policy

If any contract units have been vacant for 120 days, the PHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The PHA will provide the notice to the owner within 10 business days of the 120<sup>th</sup> day of the vacancy. The amendment to the HAP contract will be effective the 1<sup>st</sup> day of the month following the date of the PHA's notice.

## **17-VLG. TENANT SCREENING [24 CFR 983.255]**

### **PHA Responsibility**

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

#### PHA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

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

#### PHA Policy

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

### **Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.



## **PART VII: OCCUPANCY**

### **17-VII.A. OVERVIEW**

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

### **17-VII.B. LEASE [24 CFR 983.256]**

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

#### **Form of Lease [24 CFR 983.256(b)]**

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

#### PHA Policy

The PHA will not review the owner's lease for compliance with state or local law.

#### **Lease Requirements [24 CFR 983.256(c)]**

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

**Tenancy Addendum [24 CFR 983.256(d)]**

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

**Initial Term and Lease Renewal [24 CFR 983.256(f)]**

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

**Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

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

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

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

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

### **Continuation of Housing Assistance Payments [24 CFR 982.258]**

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

#### **PHA Policy**

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.



## **Security Deposits [24 CFR 983.259]**

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

### PHA Policy

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

## **17-VII.C. MOVES**

### **Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]**

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

#### PHA Policy

The PHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

    PBV assistance in the same building or project;

    PBV assistance in another project; and

    Tenant-based voucher assistance.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

#### PHA Policy

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

**Family Right to Move [24 CFR 983.261]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

## **Emergency Transfers under VAWA [Notice PIH 2017-08]**

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

### **PHA Policy**

When the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has lived in the unit for less than one year, the PHA will provide several options for continued assistance.

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to tenant-based rental assistance (HCV).. Such a decision will be made by the PHA based on the availability of tenant-based vouchers. . Such families must be selected from the waiting list for the applicable program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking in its HCV in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

## **17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]**

As of April 17, 2018, the PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project

If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a “qualifying family” because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant’s needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

PHA Policy

The PHA will not provide PBV assistance for excepted units.



## **PART VIII: DETERMINING RENT TO OWNER**

### **17-VIII.A. OVERVIEW**

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a ten percent or greater decrease in the published FMR.

### **17-VIII.B. RENT LIMITS [24 CFR 983.301]**

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

#### **Certain Tax Credit Units [24 CFR 983.301(c)]**

For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110 percent of the fair market rent or any approved exception payment standard;

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.



## ***Definitions***

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

*Tax credit rent* is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

### **Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]**

The PHA must determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

### **PHA Policy**

The PHA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the PHA will use the higher initial rent to owner amount.

### **Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]**

When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

#### **PHA Policy**

Upon written request by the owner, the PHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The PHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the PHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the PHA determines it is necessary due to PHA budgetary constraints.

### **Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]**

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If the PHA adopts this policy, it must apply to all future PBV projects and the PHA's entire jurisdiction. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy.

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of PHA implementation, provided the owner is willing to mutually agree to doing so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

#### **PHA Policy**

The PHA will apply SAFMRs to the PHA's PBV program.

## **Redetermination of Rent [24 CFR 983.302]**

The PHA must redetermine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

### ***Rent Increase***

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

#### PHA Policy

An owner's request for a rent increase must be submitted to the PHA 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

### ***Rent Decrease***

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

### ***Notice of Rent Change***

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

#### PHA Policy

The PHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

## **PHA-Owned Units [24 CFR 983.301(g)]**

For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The PHA must use the rent to owner established by the independent entity.

### **17-VIII.C. REASONABLE RENT [24 CFR 983.303]**

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

#### **When Rent Reasonable Determinations Are Required**

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

#### **How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

#### ***Comparability Analysis***

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

#### **PHA-Owned Units**

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

### **Owner Certification of Reasonable Rent**

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

### **17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL**

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

#### **Other Subsidy [24 CFR 983.304]**

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

#### ***Combining Subsidy***

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

#### **Rent Control [24 CFR 983.305]**

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

## **PART IX: PAYMENTS TO OWNER**

### **17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]**

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

### **17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

#### PHA Policy

If the PHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

#### PHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

### **17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]**

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

#### **Tenant and PHA Responsibilities**

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

#### **Utility Reimbursements**

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

#### **PHA Policy**

The PHA will make utility reimbursements to the family.



## **17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]**

### **Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

### **Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

## **EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION**

See Rose of Dubuque Contract

## **EXHIBIT 17-2: Special Provisions Applying to TPVs Awarded as Part of a Voluntary Conversion of Public Housing Units in Projects that Include RAD PBV Units**

### **[24 CFR Part 972.200; Notice PIH 2019-05; Notice PIH 2019-23]**

Under certain circumstances, HUD allows small PHAs to reposition a public housing project (or portion of a project) by voluntarily converting units to tenant-based housing choice voucher assistance. In order to preserve affordable housing for residents of the project, the PHA is given priority to receive replacement tenant protection vouchers (TPVs). As part of the voluntary conversion, the PHA has the option to continue to operate it as rental housing. If so, the PHA or subsequent owner must allow existing families to remain in their units using the TPV in the form of tenant-based assistance. In this situation, however, the PHA may choose to project-base these TPVs in the former public housing project. Families must still be provided with the option to remain in their unit using tenant-based assistance. In order for the PHA to project-base the assistance and include these units on the PBV HAP contract, the family must voluntarily consent in writing to PBV assistance following the requirements in Appendix A of Notice PIH 2019-05. If the family fails to consent to PBV assistance and chooses to remain using tenant-based assistance, the family's unit is excluded from the PBV HAP contract until the family moves out or consents to switching to PBV assistance. In general, all applicable program regulations and guidance for the standard PBV program apply to these units.

The PHA may also convert units in the same former public housing project to the PBV program under the rental assistance demonstration (RAD) program. The RAD statute authorizes HUD to waive certain statutory and regulatory provisions governing the standard PBV program and specify alternative requirements. In order to facilitate the uniform treatment of residents and units at the project, Notice PIH 2019-23 extended some of the alternative requirements to non-RAD PBV units in the converted project (i.e., the TPV units in the project). As such, while PBV TPV units in the converted project generally follow the requirements for the standard PBV program listed in this chapter, where HUD has specified alternative requirements for non-RAD PBV units in the project, PBV TPV units will instead follow the requirements outlined in Chapter 18 of this policy for the RAD PBV program.

### **RAD Requirements Applicable to Non-RAD units in the Project**

<b>Alternative Requirement under RAD as Listed in Notice PIH 2019-23</b>	<b>Standard PBV Policy That Does Not Apply</b>	<b>Applicable Policy in Chapter 18</b>
1.6.A.4. Site Selection – Compliance with PBV Goals	17-II.G. SITE SELECTION STANDARDS applies with the exception of deconcentration of poverty and expanding	18-II.F. SITE SELECTION STANDARDS

	housing and economic opportunity requirements.	
1.6.B.5.d. PBV Site-Specific Utility Allowances	Alternative requirement under RAD. No corresponding policy in Chapter 17.	18-VII.C. UTILITY ALLOWANCES
1.6.C.1. No Rescreening of Tenants upon Conversion	Policies contained in Chapter 3 relating to eligibility do not apply to existing tenants who receive TPVs.	18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION
1.6.C.2. Right to Return	Alternative requirement under RAD. No corresponding policy in Chapter 17.	18-I.D. RELOCATION REQUIREMENTS
1.6.C.3. Phase-in of Tenant Rent Increases	Alternative requirements under RAD. No corresponding policy in Chapter 17.	18-VIII.D. PHASE-IN OF TENANT RENT INCREASES
1.6.C.4. Family Self Sufficiency (FSS) and Resident Opportunities and Self-Sufficiency Service Coordinator (ROSS-SC) Programs	Not covered in administrative plan.	18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS
1.6.C.5. Resident Participation and Funding	Alternative requirement under RAD. No corresponding policy in Chapter 17.	18-VI.D. RESIDENT PARTICIPATION AND FUNDING
1.6.C.6. Resident Procedural Rights	Policies related to hearings in Chapter 16 apply, with added procedural rights and notice requirements as outlined in Chapter 18.	18-VI.H. RESIDENTS' PROCEDURAL RIGHTS
1.6.C.7. Earned Income Disregard (EID)	Alternative requirements under RAD for in-place residents.  New admissions follow policies in Chapter 6.	18-VI.G. EARNED INCOME DISALLOWANCE
1.6.C.8. Jobs Plus	Not covered in	No corresponding policy.

	administrative plan.	
1.6.C.9. When Total Tenant Payment Exceeds Gross Rent	Alternative requirements under RAD for in-place residents.  New admissions follow policies in 17-VII.B. LEASE, Continuation of Housing Assistance Payments.	18-VI.B. LEASE, Continuation of Housing Assistance Payments
1.6.C.10. Under-Occupied Unit	Alternative requirements under RAD for in-place residents.  New admissions follow 17-VII.C. MOVES, Overcrowded, Under-Occupied, and Accessible Units	18-VI.E. MOVES, Overcrowded, Under-Occupied, and Accessible Units
1.6.D.4. Establishment of Waiting List	Alternative requirements under RAD for initial establishment of the waiting list.  Once waiting list is established, follow 17-VI.D. SELECTION FROM THE WAITING LIST	18-V.D. ORGANIZATION OF THE WAITING LIST
1.6.D.10. Initial Certifications and Tenant Rent Calculations	Alternative requirements under RAD for in-place residents. No corresponding policy in Chapter 17.	18-VIII.C. TENANT RENT TO OWNER, Initial Certifications

Note, while Notice PIH 2019-05 states that the PHA must screen families for eligibility for a tenant protection voucher and that families must be below the low-income limit (80 percent of AMI), Notice PIH 2019-23 waives these requirements for residents in projects that include RAD PBV units.



## Chapter 18

### PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

#### INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

Part I: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VI: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.



## **PART I: GENERAL REQUIREMENTS**

### **18-I.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM**

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

- Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.
- Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.



## **18-I.B. APPLICABLE REGULATIONS**

On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2019-23 (issued September 5, 2019). Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements where noted in Notice PIH 2019-23 and in this policy.

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) notices and guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), the Consolidated Appropriations Act of 2016 (Public Law 114-113, approved December 18, 2015), the Consolidated Appropriations Act, 2017 (Public Law 115-31, approved May 5, 2017), and section 237 of Title II, Division L, Transportation, Housing and Urban Development, and Related Agencies, of the Consolidated Appropriations Act, 2018 (Public Law 115-141, approved March 23, 2018) collectively, the “RAD Statute.”

Requirements specific to the RAD program may be found in the following:

- Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing. For all conversion types, HUD reserves the right, in its sole discretion and upon request from the applicant, to apply provisions from previous versions of this notice to program participants that are near conversion.
  - Notice PIH 2023-19 amends Notice PIH 2019-23 and Notice PIH 2021-07, and was effective immediately.
  - Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Notice PIH 2019-23 was published on September 5, 2019.
    - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
  - Notice PIH 2012-32, REV-3 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published January 12, 2017.
    - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which were effective after a 30-day comment period.

- Notice PIH 2012-32, REV-2 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published June 15, 2015.
  - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (6/20)
- RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)
- Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.
  - This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.
- Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component.
  - This notice may apply to projects that have converted to RAD prior to November 10, 2016, AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability.

**NOTE: The policies in this chapter follow Notice PIH 2016-17. If your project falls under PIH 2014-17, applicable policies may be found in Section 18-I.D.**

- RAD FAQs (<http://www.radresource.net/search.cfm>)

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

## **18-I.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE**

### **[24 CFR 983.2]**

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

#### **PHA Policy**

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

See Exhibit 18-1 for information on projects to which the PHA has attached RAD PBV assistance.

## **18-I.D. RELOCATION REQUIREMENTS**

For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016 or later, the following applies [Notice PIH 2016-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.

- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.
- Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.
- If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.
- Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:
  - Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
  - The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
  - Income limit eligibility requirements associated with the LIHTC program or another program; and
  - Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.
- Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

- In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident's consent in writing.
- Alternative housing options may involve a variety of housing options, including but not limited to:
  - Transfers to public housing
  - Admission to other affordable housing properties subject to the applicable program rules
  - Housing choice voucher (HCV) assistance
  - Homeownership programs subject to the applicable program rules
  - Other options identified by the PHA

However, for projects that applied for conversion prior to November 10, 2016, the following applies [Notice PIH 2014-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. While the PHA is not required to have a written relocation plan, HUD strongly encourages PHAs to prepare one. Appendix I of Notice PIH 2014-17 contains recommended contents for a relocation plan.
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

**18-I.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; 24 CFR 5.105; Notice PIH 2016-17]**

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated. See the *RAD Fair Housing, Civil Rights, and Relocation Notice* [Notice PIH 2016-17] for more information.



## **PART II: PBV PROJECT SELECTION**

### **18-II.A. OVERVIEW**

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

### **18-II.B. OWNERSHIP AND CONTROL [Notice PIH 2019-23]**

For projects governed by Notice PIH 2019-23, the following language applies:

- Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., the PHA cannot execute a contract with itself). To avoid this situation, the PHA may either: 1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of the PHA (including to a “single-purpose entity” that owns nothing other than the property, which will typically be a requirement of a lender or investor), or 2) The PHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between the PHA (as the contract administrator) and the PHA’s related entity (as the owner for HAP contract purposes). Note that in the second scenario, both the PHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement [RAD Resource Desk FAQ 01/24/19].
- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that the PHA or a nonprofit entity preserves an interest in the profit. The requirement for a public or nonprofit entity, or preservation of an interest by a PHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) demonstrates other ownership and control arrangements approved by HUD.



- Control may be established through the terms of the project owner's governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

For projects subject to the requirements of Notice PIH 2012-32, REV-3, the following language applies:

- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. The requirement for a public or nonprofit entity is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.
- If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that the PHA preserves its interest in the property. Preservation of PHA interest in the property includes but is not limited to the following:
  - The PHA, or an affiliate under its sole control, is the general partner or managing member;
  - The PHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;
  - The PHA retains control over leasing the property and determining program eligibility;
  - The PHA enters into a control agreement by which the PHA retains consent rights over certain acts of the project owner and retains certain rights over the project;
  - Other means that HUD finds acceptable

For projects that converted assistance prior to the implementation of Notice PIH 2012-32, REV-3, the following language applies:

- During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:
  - A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or
  - A private entity, if the property has low-income tax credits. The PHA must maintain control via a ground lease.

### **18-II.C. PHA-OWNED UNITS [24 CFR 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]**

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The definition of *ownership or control* provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of *PHA-owned* under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of *ownership or control* but may not be considered PHA-owned for purposes of requiring an independent entity.

The independent entity that performs the program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

**18-II.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2019-23; Notice PIH 2012-32, REV-3; Notice PIH 2012-32, REV-2]**

For projects governed by Notice PIH 2019-23, the following language applies:

- In the case of a PHA that will no longer have ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects through the conversion. However, the PHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or successor notice regarding the administrative activities required to terminate the ACC if it has no plans to develop additional public housing.
- In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- Following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

For projects governed by Notice PIH 2012-32, REV-3, the following language applies:

- In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, the PHA may:
  - Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA closeout reserve). Any funds not needed for public housing closeout costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
  - Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that a PHA does not expend for closeout costs.

- In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- In addition, following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved “sources and uses” attached to the RCC.

For projects governed by the requirements of Notice PIH 2012-32, REV-2, the following language applies:

- In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered project. HUD will recapture any public housing funds that a PHA has not expended once it no longer has units under ACC. In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

## **18-II.E. PBV PERCENTAGE LIMITATION AND UNIT CAP [Notice PIH 2019-23 and Notice PIH 2023-19]**

### **PBV Percentage Limitation**

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. The number of PBV units excluded from the PHA's PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a covered project that replace former public housing units at the time of conversion are excluded from both the numerator and the denominator when calculating the percent of vouchers that may be project-based by a PHA. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

### **Unit Cap Limitation**

When HUD published REV-3 of Notice PIH 2012-32, the cap on the number of assisted units in each project was eliminated. Under the standard PBV program the cap is set at the greater of 25 units or 25 percent of the units in the project. HUD is waiving this requirement, and projects governed by Notice PIH 2019-23 and Notice PIH 2012-32, REV-3 have no cap on the number of units that may receive PBV assistance in a project.

However, for projects that are governed by REV-2 of Notice PIH 2012-32, the cap on the number of PBV units in the project is increased to 50 percent. In these projects, however, provided units met certain exception criteria, the PHA may have converted a larger number of units to RAD PBV. For projects governed by the requirements of Notice PIH 2012-32, REV-2 **only**, the following language applies:

- In general, the PHA may not provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 50 percent of the number of dwelling units (assisted or unassisted) in the project. However, PHAs may exceed the 50 percent limitation when units in the project are occupied by elderly and/or disabled families or families that will receive supportive services. These units are known as "excepted units" and do not count toward the project cap.
- For projects governed by the requirements of Notice PIH 2012-32, REV-2 choosing to include excepted units, additional policy decisions may be required.

#### **PHA Policy**

For projects governed by Notice PIH 2012-32, REV-2, the PHA will not provide RAD PBV assistance for any excepted units.

#### **18-II.F. SITE SELECTION STANDARDS [Notice PIH 2019-23; Notice PIH 2016-17]**

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

To facilitate the uniform treatment of residents and units, any non-RAD PBV units located in the same project are subject to the terms of this provision.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

#### **18-II.G. ENVIRONMENTAL REVIEW [Notice PIH 2019-23; *Environmental Review Requirements for RAD Conversions*, March 2019]**

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted no later than the applicant's financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2019-23. Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.



## **PART III: DWELLING UNITS**

### **18-III.A. OVERVIEW**

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

### **18-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]**

The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

#### **Lead-based Paint [24 CFR 983.101(c); Notice PIH 2019-23]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

### **18-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES [Notice PIH 2016-17]**

Federal accessibility requirements apply to all conversions, whether they entail new construction, alternations, or existing facilities. The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)



## **18-III.D. INSPECTING UNITS**

### **Initial Inspection [RAD Quick Reference Guide, Notice PIH 2019-23, and Notice PIH 2023-19]**

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC). To place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP contract instead of conducting an initial inspection. During the period of the work, HQS requirements apply. The PHA must enforce the project owner's obligations and conduct inspections when needed, (for example in response to tenant complaints or other information coming to its attention), and the owner must correct any deficiencies in accordance with HQS requirements (i.e., no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any PHA-approved extension for other defects, but no later than the date of the completion of the work as indicated in the RCC).

### **Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

### **Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]**

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

#### PHA Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

### **Alternative Inspections [24 CFR 983.103(g); Notice PIH 2016-05]**

In the case of mixed-finance properties that are subject to alternative inspections, the PHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.

#### PHA Policy

The PHA will not rely on alternative inspection standards.

**Other Inspections [24 CFR 983.103(e)]**

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

**Inspecting PHA-Owned Units [24 CFR 983.103(f); Notice PIH 2017-21]**

In the case of PHA-owned units, all required inspections must be performed by an independent entity designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.



## **PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT**

### **18-IV.A. OVERVIEW [*RAD PBV Quick Reference Guide 6/20*]**

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

### **18-IV.B. HAP CONTRACT REQUIREMENTS**

#### **Contract Information [*RAD PBV Quick Reference Guide 6/20*; Notice PIH 2019-23]**

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

The distinction between “existing housing” and “rehabilitated and newly constructed housing” is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

#### **Execution and Effective date of the HAP Contract [*RADBlast! 7/11/16*]**

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

#### **Term of HAP Contract [Notice PIH 2019-23]**

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which permits a minimum term of one year, as well as 24 CFR 983.205(a), which governs the contract term.

### **Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]**

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

### **Mandatory Contract Renewal [Notice PIH 2019-23]**

By statute, upon contract expiration, the agency administering the vouchers will offer, and the PHA will accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract, will not apply.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

### **Remedies for HQS Violations [24 CFR 983.208(b)]**

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract unit does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

#### PHA Policy

The PHA will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

## **18-IV.C. AMENDMENTS TO THE HAP CONTRACT**

### **Floating Units [Notice PIH 2019-23]**

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

#### PHA Policy

The PHA will float assistance among unoccupied units within the project.

### **Reduction in HAP Contract Units [Notice PIH 2019-23]**

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

The PHA may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units.

## **18-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(e)]**

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

#### **18-IV.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]**

When the owner executes the HAP contract, they certify that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

#### **18-IV.F. VACANCY PAYMENTS [24 CFR 983.352(b)]**

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

##### PHA Policy

The PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain the amount of the vacancy payment and the period for which the owner will qualify for these payments.

## **PART V: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **18-V.A. OVERVIEW**

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

### **18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH 2019-23]**

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.



### **18-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]**

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)], and meet asset limitation requirements. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

#### **PHA Policy**

The PHA will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3.

## **18-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2019-23]**

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. Any non-RAD PBV units located in the same project are also subject to these requirements.

### PHA Policy

The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance. The PHA currently has no waiting lists for RAD PBV projects:

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The PHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). The PHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.

The PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

## **18-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units.

### **Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2019-23]**

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any non-RAD PBV units located in the same project are also subject to these requirements.

### **Units with Accessibility Features [24 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

### **Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2019-23]**

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units.

#### PHA Policy

The PHA will not offer any preferences for the RAD PBV program. However, the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

## **18-V.F. OFFER OF PBV ASSISTANCE**

### **Refusal of Offer [24 CFR 983.251(e)(3)]**

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies
- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy
- Removing the applicant from the tenant-based voucher waiting list

### **Disapproval by Landlord [24 CFR 983.251(e)(2)]**

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

### **Acceptance of Offer [24 CFR 983.252]**

#### ***Family Briefing***

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

#### ***Persons with Disabilities***

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

#### ***Persons with Limited English Proficiency***

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

## **18-V.G. OWNER SELECTION OF TENANTS [24 CFR 983.253]**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

### **Leasing [24 CFR 983.253(a)]**

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

### **Filling Vacancies [24 CFR 983.254(a)]**

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

#### PHA Policy

The owner must notify the PHA in writing (mail, fax, or email) within five business days of learning about any vacancy or expected vacancy.

The PHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

## **18-V.H. TENANT SCREENING [24 CFR 983.255]**

### **PHA Responsibility**

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

#### PHA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

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

#### PHA Policy

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

### **Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others
- Compliance with other essential conditions of tenancy



## **PART VI: OCCUPANCY**

### **18-VI.A. OVERVIEW**

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

### **18-VI.B. LEASE [24 CFR 983.256]**

The tenant must have legal capacity to enter into a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

#### **Lease Requirements [24 CFR 983.256(c); Notice PIH 2019-23]**

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner;
- The amount of any charges for food, furniture, or supportive services; and
- For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP. Specifically, the lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease. The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD.

#### **Tenancy Addendum [24 CFR 983.256(d)]**

The tenancy addendum in the lease must state:

- The program tenancy requirements
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.



### **Initial Term and Lease Renewal [24 CFR 983.256(f); *RAD PBV Quick Reference Guide 6/20*]**

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

### **Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

### **Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2019-23]**

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner’s lease as well as the PHA’s administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease, which may not be less than:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

These provisions apply to non-RAD PBV units located in the project as well.

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

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

**Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2019-23; Notice PIH 2023-19; RAD PBV Quick Reference Guide 6/20]**

***Pre-Conversion Residents***

The unit for a family with a TTP that equals or exceeds the gross rent (which is defined as the contract rent plus any utility allowance for the unit) must be placed on the PBV HAP contract and the family must be admitted to the PBV program. In this case, and until such time as the family's TTP falls below the gross rent, the family will pay the owner the alternate rent which is defined as the lesser of:

- The family's TTP minus the utility allowance (subject to any required phase-in); or
- The Zero HAP Rent Cap, which is the lower of:
  - 110 percent of the applicable FMR minus the utility allowance; or
  - In the event the units are subject to more restrictive rent setting requirement under the LIHTC or HOME programs (or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements.

The family will continue to pay this amount until/if circumstances change, and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance in which case normal PBV rent requirements will apply to the family. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract or added back to the HAP Contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

After a family has paid the Zero HAP Rent Cap for a period of 180 days, the PHA must remove the unit from the HAP Contract and the family's participating in the PBV program ends. If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP contract unless the PHA previously substituted a different unit on the HAP contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted.

Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP contract, the family may request to return to the PBV program if the family's income subsequently decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap, and the family is otherwise eligible for PBV assistance. The PHA must, at the earliest opportunity, reinstate the family's unit back onto the HAP contract to provide rental assistance to the family. If the project was partially assisted and the PHA previously substituted a different unit on the HAP contract, the PHA must substitute the family's unit for a vacant unit on the HAP contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP contract becomes vacant if there are no vacant units on the HAP contract at the time of the family request.

### ***New Admission Families***

Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. This means a family's TTP may not equal or exceed the gross rent for the unit at admission. The PHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in 180 days.

Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit after the family has vacated the property and admit an eligible family. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207 or where floating units have been permitted.

Per the RAD Use Agreement, the owner may charge the family a rent that does not exceed 30 percent of 80 percent of the area median income. If a unit is removed from the RAD PBV HAP contract, then the lease terminates automatically, as stated in the tenancy addendum, as though the RAD PBV HAP contract had been terminated. The tenant must be offered a new lease, which must reflect the new tenant rent. A tenant in this circumstance is no longer a program participant and therefore no longer benefits from any of the rights or protections specific to RAD, or to the PBV program. Should the family subsequently lose employment, the owner may choose to reduce the family's rent, but if the family wishes to be admitted to the HCV/PBV program, then it must be admitted through the waiting list like any other applicant.

In circumstances where low RAD PBV rents may prohibit a significant number of otherwise eligible families on the waiting list from being admitted to the project because they do not require subsidy, and which could consequently create an undue concentration of poverty at the project compared to non-RAD PBV projects, a PHA may request a waiver from HUD for the covered project. The waiver will apply the alternative requirements applicable to the pre-conversion residents to new admission families.

#### **PHA Policy**

The PHA will not request waivers from HUD to apply the alternative requirements applicable to pre-conversion residents to new admission families.

If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

## **Security Deposits [24 CFR 983.259; *RAD PBV Quick Reference Guide 6/20*]**

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. If a tenant residing in a converting project has not previously provided a security deposit, then the owner may collect a security deposit at the time of initial lease execution. Otherwise, the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

### **PHA Policy**

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

#### **18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PIH 2019-23]**

Current PH FSS participants will continue to participate in the PHA's FSS program, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA) to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a nonprofit or local resident association and this consequence of a RAD conversion may impact those entities.

Any non-RAD PBV units located in the same project are also subject to these requirements.

#### **18-VI.D. RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2019-23]**

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

## **18-VI.E. MOVES**

### **Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2019-23]**

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family. Any non-RAD PBV units located in the same project are also subject to these requirements.

Following conversion, the standard PBV regulations apply. If the PHA determines that a family is occupying a wrong-size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

#### **PHA Policy**

The PHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project

PBV assistance in another project

Tenant-based voucher assistance

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

#### PHA Policy

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

#### **Family Right to Move [24 CFR 983.261]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA.



## **Choice Mobility [Notice PIH 2019-23; PRRAC Choice Mobility Implementation Guidance, 8/20]**

### ***Family's Right to Choice Mobility***

Under RAD PBV, the choice mobility option provides families with the opportunity to move with continued assistance any time after 12 months of occupancy. All residents in converted properties should be aware of their housing mobility rights and of their options in a range of neighborhoods.

#### **PHA Policy**

To ensure that residents are fully aware of and understand their rights under choice mobility, the PHA will inform families of their rights under the choice mobility option and the benefits to moving to lower poverty areas, and provide a summary of the steps necessary to exercise this option, at the time the family signs the lease for the RAD PBV unit and during their annual recertification.

Information on choice mobility will be made be accessible to persons with disabilities, ensuring any information, electronic or otherwise, is accessible for persons with vision, hearing, and other disabilities. This information will also be made available in accordance with Limited English Proficiency (LEP) requirements, including document translation and user of interpretation services. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements.

### ***Moving with Continued Assistance under Choice Mobility***

If the family wishes to move with continued tenant-based assistance under choice mobility, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

Families are eligible to move with continued assistance under choice mobility after 12 months of occupancy. If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

### PHA Policy

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

The PHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

The PHA will not subject RAD PBV families applying for choice mobility vouchers to any additional rescreening requirements in order to receive a tenant-based voucher.

Families exercising choice mobility will not be required to vacate their units before a lease has been entered into using their tenant-based voucher. At the time the PHA issues a choice mobility voucher, the PHA will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher.

### ***Turnover Cap***

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

### PHA Policy

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD. Therefore, the PHA will establish a choice mobility cap. The PHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

## **Emergency Transfers under VAWA [Notice PIH 2017-08]**

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

### **PHA Policy**

When the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has lived in the unit for less than one year, the PHA will provide several options for continued assistance.

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible. If assistance is transferred to another development, the PHA will give priority to the participant on the other development's waiting list.

If no units are available for an internal transfer to a PBV development or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to tenant-based rental assistance (HCV). Such a decision will be made by the PHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking in its HCV program in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

#### **18-VI.F. REEXAMINATIONS [RAD PBV Quick Reference Guide 6/20]**

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

#### **18-VI.G. EARNED INCOME DISALLOWANCE [Notice PIH 2019-23]**

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.

Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

#### **18-VI.H. RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2019-23]**

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV requires that PHAs provide adequate written notice of termination of the lease, which is:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction.
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

## **18-VI.I. INFORMAL REVIEWS AND HEARINGS [Notice PIH 2019-23]**

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v) (See 16-III.C. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

- For any hearing required under 24 CFR 982.555(a)(1)(i)–(v), the contract administrator will perform the hearing in accordance with Chapter 16 Part III: Informal Reviews and Hearings, as is the current standard in the program.
- For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v). (See Chapter 16)

The owner must provide an opportunity for an informal hearing before an eviction.

## **PART VII: DETERMINING CONTRACT RENT**

### **18-VII.A. INITIAL CONTRACT RENTS [Notice PIH 2019-23]**

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD.

Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contact rent, the initial rents are set at the lower of:

- An amount determined by the PHA, not to exceed 110 percent of the fair market rent (FMR) or the PHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement minus any utility allowance
- The reasonable rent
- The rent requested by the owner

## **18-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH 2019-23; *RAD PBV Quick Reference Guide 6/20*; PHA Asset Repositioning “How to Apply OCAF for RAD PBV” Webinar]**

RAD PBV contract rents are adjusted differently than contract rents in the standard PBV program. At each annual anniversary of the HAP contract, contract rents will be adjusted only by HUD’s operating cost adjustment factor (OCAF) that is applied to the current contract rent, less the portion of the rent paid for debt service, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent (as determined by the PHA that administers the contract or the independent entity, as applicable), with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments at each contract anniversary date in accordance with the prevailing OCAF. The PHA who administers the contract (directly or via an independent entity) must maintain records to demonstrate how OCAF amounts were determined and how rent adjustments were calculated. HUD approval of rent adjustments is not required.

Properties are eligible to receive prior years’ OCAF adjustments for years in which the OCAF was not taken. The OCAF must be applied retroactively if it was missed. The PHA administering the contract (or the independent entity) must make sure that all OCAFs have been applied correctly since the RAD closing and calculate the current rents accordingly, including making sure that the RAD PBV contract rents do not exceed the PBV program caps.

### PHA Policy

The owner will request a contract rent adjustment from the PHA who administers the contract within 120 days, but no less than 60 days, prior to the HAP contract anniversary date by submitting a completed OCAF rent adjustment worksheet (Form HUD-9624). The independent entity will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent will only be increased up to the reasonable rent. The independent entity will notify the PHA who administers the contract in writing of the results of its review of the rent adjustment request. The PHA who administers the contract will retain a copy of the worksheet and any other records necessary to demonstrate how the OCAF was used to make rent adjustments for audit purposes. The approved rent adjustment will go into effect via written notice from the PHA that administers the project to the owner. This notice will constitute an amendment to the rents specified on Exhibit A of the RAD PBV HAP contract. The new rents to owner will take effect on the date of the contract anniversary.

### **Rent Decrease**

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

### **18-VII.C. UTILITY ALLOWANCES [Notice PIH 2019-23; *RAD PBV Quick Reference Guide* 6/20]**

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract.

After conversion, the PHA that administers the contract must maintain the utility allowance schedule. The PHA may either maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517, respectively, or the PHA may instead apply site-specific utility allowances. HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. If a site-specific utility allowance is used, the utility allowance is applicable to non-RAD PBV units in the project and is calculated consistent with Notice H 2015-04.

Each family transitions to the new utility allowance at their first recertification following conversion.

### PHA Policy

The PHA will use the HCV utility allowance schedule for the RAD PBV developments.



## **18-VII.D. REASONABLE RENT [24 CFR 983.303]**

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

### **How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

#### ***Comparability Analysis***

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

#### **PHA-Owned Units**

For PHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

## **PART VIII: PAYMENTS TO OWNER**

### **18-VIII.A. HOUSING ASSISTANCE PAYMENTS**

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

## **18-VIII.B. VACANCY PAYMENTS [24 CFR 983.352]**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

### PHA Policy

If the PHA determines that the owner is responsible for a vacancy and as a result is not entitled to keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

### PHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

### **18-VIII.C. TENANT RENT TO OWNER [24 CFR 983.353; Notice PIH 2019-23]**

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

#### **Initial Certifications [Notice PIH 2019-23]**

For the initial certification, the PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. The PHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, the PHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

#### **Tenant and PHA Responsibilities**

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

#### **Utility Reimbursements**

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

##### PHA Policy

The PHA will make utility reimbursements directly to the family.

#### **18-VIII.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2019-23; PHA Asset Repositioning “Phase-in of Tenant Rents” Webinar]**

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

The PHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions.

##### PHA Policy

The PHA will use the family’s public housing tenant rent (reflected on line 10f of the family’s most recent 50058) at the date of conversion to calculate the family’s tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.)

Year 2: Year 2 annual recertification and any interim recertification: 50 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP

Year 3: Year 3 annual recertification and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends, and tenants will pay full TTP from that point forward.

If the family’s income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

The PHA will communicate the PHA’s phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in.

Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

## **18.VIII.E. OTHER FEES AND CHARGES [24 CFR 983.354]**

### **Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

### **Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.



**EXHIBIT 18-1: PBV DEVELOPMENT INFORMATION**

(Fill out one for each development)



## Chapter 19

### SPECIAL PURPOSE VOUCHERS

#### INTRODUCTION

Special purpose vouchers are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations. Special purpose vouchers include vouchers for the following programs:

- Family Unification Program (FUP)
- Foster Youth to Independence (FYI) program
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Non-Elderly Disabled (NED)
- Stability Voucher program

#### PHA Policy

The PHA will administer the following types of special purpose vouchers: **[List special purpose vouchers administered by the PHA]**

This chapter describes HUD regulations and PHA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into five sections, as follows:

#### Part I: Family Unification Program (FUP)

#### Part II: Foster Youth to Independence (FYI) program

#### Part III: Veterans Affairs Supportive Housing (VASH)

#### Part IV: Mainstream voucher program

#### Part V: Non-Elderly Disabled (NED) vouchers

#### Part VI: Stability Voucher program

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to special purpose vouchers.

## **PART I: FAMILY UNIFICATION PROGRAM (FUP)**

### **19-I.A. PROGRAM OVERVIEW [Fact Sheet, Housing Choice Voucher Program Family Unification Program (FUP)]**

#### **Overview**

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

Youth eligible for FUP are those who:

- Are at least 18 years old and not more than 24 years of age;
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period of time defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the PHA must also form a partnership with a local PCWA who is responsible for determining the family or youth meets FUP eligibility requirements and referring them to the PHA. Once the referral is received, the PHA is responsible for placing the FUP family or youth on the PHA's waiting list and determining whether they are eligible to receive assistance under the PHA's HCV program.

## **Assigning Vouchers [FUP FAQs]**

The PHA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP youths and FUP families. Unless the PHA assigns a specific number or percentage of FUP vouchers to a designated FUP population, the PHA must serve any referrals (youths or families) that meet all program eligibility requirements up to the PHA's designated FUP program size.

### PHA Policy

The PHA has not designated any specific number or percentage of FUP vouchers for youths or families. The PHA will serve all referrals that meet program eligibility requirements, up to the PHA's FUP voucher allocation.

## **19-I.B. PUBLIC CHILD WELFARE AGENCY (PCWA)**

Families and youth do not apply directly to the PHA for FUP vouchers. They are instead referred by a PCWA with whom the PHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 19-I.C. and 19-I.D. and then refers those families or youths to the PHA.

HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

### PHA Policy

The PHA has entered into an MOU with the following partnering organizations

*Department of Human Services (PCWA), Community Solution of Eastern Iowa (CoC)*

## **Supportive Services**

The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between the PHA and the PCWA should identify the period of time in which supportive services will be provided.

### PHA Policy

The PCWA will provide supportive services for all FUP youth for a period of 36 months. Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including the PHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

- Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;
- Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

### PHA Policy

Additional supportive services will not be offered.

A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

## **19-I.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA**

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

*Lack of adequate housing* means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
  - Does not have operable indoor plumbing
  - Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth
  - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth
  - Does not have electricity, or has inadequate or unsafe electrical service
  - Does not have a safe or adequate source of heat
  - Should, but does not, have a kitchen
  - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
  - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability

- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
  - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
  - The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.
  - For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with the PHA subsidy standards in Chapter 5, Part III of this policy.

Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

## **19-I.D. FUP YOUTH VOUCHER ELIGIBILITY CRITERIA**

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

### **Eligibility Criteria**

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25<sup>th</sup> birthday);
  - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
  - *At risk of being homeless* is fully defined at 24 CFR 576.2.
    - o This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
    - o Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].
- Has an annual income at or below 30 percent of area median income; and
- Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

## **19-I.E. ASSISTANCE PERIOD [FR Notice 1/24/22]**

### **Maximum Assistance Period**

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

### **Extension of Assistance**

FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

### **Statutory Exceptions**

A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA's FSS program if they certify that they meet one of the exceptions below:

- The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

#### PHA Policy

The PHA defines *incapacitated person* as the inability of an individual to manage property or business affairs because the individual is so impaired that the individual is unable to communicate, or carry out important decisions concerning the individual's financial affairs.

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The PHA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception.



- The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

#### PHA Policy

The PHA will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

- The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

#### PHA Policy

The PHA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

## Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been “unable to enroll” in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

### PHA Policy

The PHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate’s degree, bachelor’s degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

### PHA Policy

Youth must be enrolled in education activities on at least a half-time basis, as defined by the institution that they attend. However, the PHA may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.

- The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:
  - Aligns with the skill needs of industries in the economy of the state or regional economy involved;
  - Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an *apprenticeship*, except in section 3226 of this title);
  - Includes counseling to support an individual in achieving the individual’s education and career goals;
  - Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
  - Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
  - Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
  - Helps an individual enter or advance within a specific occupation or occupational cluster.
- The youth was employed.

#### PHA Policy

The PHA will consider the youth to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the youth’s hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

### **FSS Enrollment at 24 Months**

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, HUD encourages the PHA to remind the youth at the 24-month reexamination of the education, workforce development, and employment requirements described above so that the youth has enough time to meet these requirements prior to the expiration of the 36-month time period for FUP assistance.

#### PHA Policy

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, the PHA will remind the youth at their second regular reexam of the education, workforce development, and employment requirements described above.

## **FSS Enrollment Between 36 and 48 Months**

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher.
- If the FUP youth accepts the FSS slot, the PHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been “unable to enroll” in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

## **FSS Enrollment After 48 Months**

The PHA may, but is not required to, offer a FUP youth an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the youth will have already received their second and final extension.

### PHA Policy

If an FSS slot becomes available between the 48 and 60-month marks, the PHA will not offer the FSS slot to a FUP youth.

## **Extensions of Assistance**

At the 36-month and 48-month reexamination, the PHA must extend FUP youth assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program.

In any case, the FUP youth cannot receive more than a total of 60 months of FUP youth voucher assistance, even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

## **No FSS Program or Unable to Enroll in FSS**

If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

## **Verification Prior to Annual Reexam**

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FUP youth written notification informing them that they may receive an extension of their FUP assistance and providing instructions on how the youth may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FUP youth to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FUP assistance.

### **PHA Policy**

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FUP youth's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FUP youth on the PHA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, the PHA will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 2.

The PHA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements.

In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the youth meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the PHA must provide the FUP youth the extension of voucher assistance.

### **Termination of Assistance for Failure to Meet Conditions**

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the annual reexam.

If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, the PHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 16.

## **19-I.F. REFERRALS AND WAITING LIST MANAGEMENT**

### **Referrals**

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the PHA. The PCWA must certify that the FUP applicants they refer to the PHA meet FUP eligibility requirements. The PHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

#### PHA Policy

As part of the MOU, the PHA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide the PHA with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

The PHA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

A PHA must serve any referrals (youths or families) that meet all program eligibility requirements. If a PHA determines that it has received a sufficient number of referrals from the PCWA so that the PHA will be able to lease all FUP vouchers awarded, the PHA may request that the PCWA suspend transmission of referrals. If the PHA determines that additional referrals will be needed after it has made such a request, the PHA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].



## **Waiting List Placement**

A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new FUP applicants. If necessary, the PHA may open its waiting list solely for FUP applicants, but this information must be included in the PHA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

### **PHA Policy**

Within 10 business days of receiving the referral from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the family or youth is FUP-eligible.

For those referrals not already on the waiting list, the PHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the PHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FUP-eligible.

## **Waiting List Selection**

The PHA selects FUP-eligible families or youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

## **19-I.G. PHA HCV ELIGIBILITY DETERMINATION**

Once a FUP-eligible family or youth is selected from the HCV waiting list, the PHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the family's criminal history.

### **PHA Policy**

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the PHA.

The PHA will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

### **Additional FUP Eligibility Factors [FUP FAQs]**

For FUP family vouchers, the family must remain FUP-eligible thorough lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the PHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the PHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the PHA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

### **PHA Policy**

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

### **19.I.H. LEASE UP [FR Notice 1/24/22]**

Once the PHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

#### **PHA Policy**

Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this administrative plan. FUP families will attend a standard HCV briefing in accordance with PHA policies in Part I of Chapter 5 of this administrative plan. FUP youth will be briefed individually. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

For both FUP youth and FUP families, vouchers will be issued in accordance with PHA policies in Chapter 5 Part II, except that the PHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the family or youth locate a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

## **19-I.I. TERMINATION OF ASSISTANCE**

### **General Requirements**

With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with PHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on PHA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

### **FUP Family Vouchers**

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, the PHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

#### PHA Policy

The PHA will transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

If the PHA has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, the PHA will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

## **FUP Youth Vouchers**

A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FUP youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, the PHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies and may also adopt a preference for FUP youth voucher holders who are being terminated for this reason.

### PHA Policy

The PHA will not provide a selection preference on the PHA's HCV waiting list for FUP youth who are terminated due to the time limit on assistance.

Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for the PHA's HCV program.

## **9-I.J. FUP PORTABILITY**

Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

### **Considerations for FUP Youth Vouchers**

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

## **19-I.K. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 1/24/22]**

The PHA may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program. Project-based FUP vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

The PHA may limit PBVs to one category of FUP-eligible participants (families or youth) or a combination of the two.

While FUP vouchers can be used for either families or youth, a PBV unit may only be counted towards the PHA's 10 percent exception authority under the program cap and the project's income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. The PHA must amend its administrative plan to include the limitation of these FUP PBV units to eligible youth.

### **PHA Policy**

The PHA will not project-base FUP vouchers. All FUP vouchers will be used to provide tenant-based assistance.

## **PART II: FOSTER YOUTH TO INDEPENDENCE INITIATIVE**

### **19-II.A. PROGRAM OVERVIEW [Notice PIH 2020-28; Notice PIH 2023-04; FR Notice 1/24/22]**

The Foster Youth to Independence (FYI) initiative was announced in 2019. The FYI initiative allows PHAs who partner with a Public Child Welfare Agency (PCWA) to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. Rental assistance and supportive services are provided to qualified youth for a period of between 36 and 60 months.

Funding is available either competitively through an FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2020-28, Notice PIH 2021-26, or Notice PIH 2023-04, as applicable. Under the noncompetitive process, PHAs are limited to 25 vouchers in a fiscal year with the ability to request additional vouchers. Where the PHA has a combined FYI and/or FUP size of no more than 10 vouchers, the PHA may request FYI vouchers with at least 50 percent utilization of its FUP and/or FYI vouchers. Where the PHA has a combined FYI and/or FUP size of 11 or more vouchers, the PHA may request FYI vouchers with 90 percent or greater utilization of its FUP and/or FYI vouchers. For competitive awards, the number of vouchers is dependent on PHA program size and need.

## **19-II.B. PARTNERING AGENCIES [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar]**

### **Public Child Welfare Agency (PCWA)**

The PHA must enter into a partnership agreement with a PCWA in the PHA's jurisdiction in the form of a Memorandum of Understanding (MOU) or letter of intent. The PCWA is responsible for identifying and referring eligible youth to the PHA and providing or securing a commitment for the provision of supportive services once youth are admitted to the program.

The PCWA is responsible for:

- Identifying FYI-eligible youth;
- Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;
- Providing a written certification to the PHA that the youth is eligible; and
- Providing or securing supportive services for 36 months.

### **Continuum of Care (CoC) and Other Partners**

HUD strongly encourages PHAs to add other partners into the partnership agreement with the PCWA such as state, local, philanthropic, faith-based organizations, and the CoC, or a CoC recipient it designates.



## **19-II.C. YOUTH ELIGIBILITY CRITERIA [Notice PIH 2023-04; FYI Q&As; FYI FAQs]**

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. As determined by the PCWA, eligible youth:

- Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25<sup>th</sup> birthday);
  - Youth must be no more than 24 years of age at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576;
- Are homeless or at risk of becoming homeless at age 16 and older;
  - *At risk of being homeless* is fully defined at 24 CFR 576.2.
    - o This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution). Therefore, youth being discharged from an institution may be eligible for an FYI voucher [FYI FAQs].

Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements.

#### **19-II.D. SUPPORTIVE SERVICES [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar; FYI Q&As]**

Supportive services may be provided by the PHA, PCWA, or a third party. The PCWA must provide or secure a commitment to provide supportive services for participating youth for the period of time defined in the NOFA/O for which the funding was made available. At a minimum, the following supportive services must be offered:

- Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist eligible youth to rent a unit with a voucher;
- Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED) or attendance/financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

##### PHA Policy

Additional supportive services will not be offered.

Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive services.

## **19-II.E. REFERRALS AND WAITING LIST MANAGEMENT [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar FYI FAQs]**

### **Referrals**

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. Once the PCWA sends the PHA the referral certifying the youth is program-eligible, the PHA determines HCV eligibility.

The PCWA must have a system for identifying eligible youth within the agency's caseload and reviewing referrals from other partners, as applicable. The PCWA must also have a system for prioritization of referrals to ensure that youth are prioritized for an FYI voucher based upon their level of need and appropriateness of the intervention.

Referrals may come from other organizations in the community who work with the population, but the PCWA must certify that the youth meets eligibility requirements, unless the PCWA has vested another organization with this authority.

The PHA is not required to maintain full documentation that demonstrates the youth's eligibility as determined by the PCWA but should keep the referral or certification from the PCWA. The PCWA is not required to provide the PHA with HCV eligibility documents.

### **PHA Policy**

The PHA and PCWA have identified staff positions to serve as lead FYI liaisons. These positions will be responsible for transmission and acceptance of referrals. The PCWA must commit sufficient staff and resources to ensure eligible youths are identified, prioritized, and determined eligible in a timely manner.

When vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison must provide the PHA with a list of eligible referrals, a completed release form, and a written certification for each referral indicating the referral is eligible. The list will include the name, address, and contact phone number for each adult individual who is being referred.

The PHA will maintain a copy of each certification from the PCWA in the participant's file along with other eligibility paperwork.

## **Waiting List Placement [Notice PIH 2023-04 and FYI FAQs]**

The PHA must use the HCV waiting list for the FYI program. Youth already on the HCV program may not be transferred to an FYI voucher since they are not homeless or at-risk of homelessness.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new referrals. The PHA may reopen the waiting list to accept an FYI eligible youth without opening the waiting list for other applicants; however, the requirements at 24 CFR 982.206 for giving public notice when opening and closing the waiting list apply (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

### **PHA Policy**

Within 10 business days of receiving the referral from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the applicant is FYI-eligible.

For those referrals not already on the waiting list, the PHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the PHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FYI-eligible.

## **Waiting List Selection**

The PHA selects eligible youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

#### **19-II.F. PHA HCV ELIGIBILITY DETERMINATION [FYI FAQs]**

Once an eligible youth is selected from the HCV waiting list, the PHA must determine whether the youth meets HCV program eligibility requirements. Applicants must be eligible under both FYI eligibility requirements and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the youth's criminal history.

##### PHA Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the PHA.

The PHA will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

#### **Additional Eligibility Factors**

Youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FYI voucher.

##### PHA Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing following policies in Section 3-III.F, including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

### **19-II.G. LEASE UP [FR Notice 1/24/22]**

Once the PHA determines that the family or youth meets HCV eligibility requirements, the youth will be issued an FYI voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FYI voucher holder of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- The supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FYI assistance.

#### **PHA Policy**

Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this policy. FYI youth will be briefed individually. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5.

Vouchers will be issued in accordance with PHA policies in Chapter 5, Part II, except that the PHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the youth locates a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA policy in Chapter 9.

Should a youth fail to use the voucher, the PHA may issue the voucher to another eligible youth if one has been identified [Notice PIH 2023-04].

### **Turnover [Notice PIH 2023-04]**

Awards of FYI Tenant Protection Vouchers (TPVs) continue to be administered under the requirements of Notice PIH 2019-20. This includes turnover requirements and the requirement to inform HUD should a youth not use a voucher or leave the program. For example, FYI TPVs awarded under Notice PIH 2019-20 “sunset” when a youth leaves the program. This means that the PHA cannot reissue FYI TPV assistance issued under that notice to another youth when an initial youth exits the HCV program. HUD does not have the authority to allow the voucher to be used for a youth other than the one identified in the request.

## **19-II.H. MAXIMUM ASSISTANCE PERIOD [Notice PIH 2023-04 and FYI FAQs; FR Notice 1/24/22]**

Vouchers are limited by statute to a total of between 36 months and 60 months of housing assistance. At the end of the statutory time period, assistance must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the limitation. It is not permissible to reissue another FYI TPV to the same youth upon expiration of their FYI assistance.

Participants do not “age out” of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

### **Extension of Assistance**

FYI voucher holders who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FYI voucher holders cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FYI voucher holders must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

### **Statutory Exceptions**

FYI voucher holders will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA’s FSS program if they certify that they meet one of the exceptions below:

- The FYI voucher holder is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

#### **PHA Policy**

The PHA defines *incapacitated person* as **[insert definition under state and local law]**. The PHA will apply this exception in a manner that provides extensions of FYI assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

The child or incapacitated person is not required to reside in the household in order for the FYI voucher holder to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part time may qualify the FYI voucher holder for this exception.

- The FYI voucher holder is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

#### PHA Policy

The PHA will define *regular and active participation* in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

- The FYI voucher holder is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

#### PHA Policy

The PHA will apply this requirement in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

An FYI voucher holder that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FYI voucher holders. An FYI voucher holder may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.



## Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FYI voucher holder an FSS slot during their first 36 months of receiving FYI assistance, the FYI voucher holder is considered to have been “unable to enroll” in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The FYI voucher holder was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

### PHA Policy

The PHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate’s degree, bachelor’s degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The FYI voucher holder was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

### PHA Policy

The FYI voucher holder must be enrolled in education activities on at least a half-time basis, as defined by the institution which they attend. However, the PHA may make exceptions to this requirement if the FYI voucher holder is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where they are enrolled.

- The FYI voucher holder was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).
- The FYI voucher holder was employed.

#### PHA Policy

The PHA will consider the FYI voucher holder to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the FYI voucher holder's hours are reduced due to circumstances beyond their control or the FYI voucher holder must temporarily reduce their work hours due to a verified family emergency.

### **FSS Enrollment at 24 Months**

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, HUD encourages the PHA to remind the FYI voucher holder at the 24-month reexamination of the education, workforce development, and employment requirements described above so that they have enough time to meet these requirements prior to the expiration of the 36-month time period for FYI assistance.

#### PHA Policy

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, the PHA will remind the FYI voucher holder at their second regular reexam of the education, workforce development, and employment requirements described above.

### **FSS Enrollment Between 36 and 48 Months**

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to an FYI voucher holder who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the FYI voucher holder previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the FYI voucher holder to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the FYI voucher holder is engaged in and any statutory exceptions that apply to the FYI voucher holder, as well as the remaining time on their voucher.
- If the FYI voucher holder accepts the FSS slot, the PHA must work with them to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FYI voucher holder is offered an FSS slot prior to the 36-month mark, the FYI voucher holder:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).

- Will not be considered to have been “unable to enroll” in the FSS program, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

### **FSS Enrollment After 48 Months**

The PHA may, but is not required, to offer an FYI voucher holder an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the FYI voucher holder will have already received their second and final extension.

#### **PHA Policy**

If an FSS slot becomes available between the 48 and 60-month marks, the PHA will not offer the FSS slot to an FYI voucher holder.

### **Extensions of Assistance**

At the 36-month and 48-month reexamination, the PHA must extend FYI assistance if the FYI voucher holder is participating in and in compliance with the FSS program as long as the FYI voucher holder is still eligible for the HCV program.

In any case, the FYI voucher holder cannot receive more than a total of 60 months of FYI assistance even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

### **No FSS Program or Unable to Enroll in FSS**

If a PHA does not carry out an FSS program or the FYI voucher holder has been unable to enroll in the program during the first 36 months of receiving FYI assistance, the FYI voucher holder is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the FYI voucher holder engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the FYI voucher holder may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

### **Verification Prior to Annual Reexam**

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FYI voucher holder written notification informing them that they may receive an extension of their FYI assistance and providing instructions on how the FYI voucher holder may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FYI voucher holder to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FYI assistance.

## PHA Policy

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FYI voucher holder's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FYI voucher holder on the PHA's program with a written notification informing them that they may receive an extension of their FYI assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, the PHA will provide this notification in a format accessible to FYI voucher holders with disabilities and in a translated format for FYI voucher holders with limited English proficiency in accordance with Chapter 2.

The PHA will use the following verification methods to verify an FYI voucher holder's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FYI participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FYI voucher holder was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of the 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FYI voucher holder may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FYI voucher holder will still be considered to have met the requirements.

In order for the FYI voucher holder to meet one of the statutory exceptions described above, the FYI voucher holder must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FYI voucher holder must submit in order to demonstrate that they meet one of the statutory exceptions.

An FYI voucher holder who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FYI voucher holder may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the FYI voucher holder meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the FYI voucher holder is still eligible for the HCV program, the PHA must provide the FYI voucher holder the extension of voucher assistance.

### **Termination of Assistance for Failure to Meet Conditions**

Failure of the FYI voucher holder to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FYI assistance prior to the annual reexam.

If the FYI voucher holder does not meet any of the statutory conditions described in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FYI voucher must be terminated once they reach this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the FYI voucher holder entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the FYI voucher holder, not the number of months that they are in the FYI program. Prior to termination, the PHA must offer the FYI voucher holder the opportunity to request an informal hearing, in accordance with Chapter 16.

### **19-II.I. TERMINATION OF ASSISTANCE [FYI FAQs]**

Termination of a FYI voucher is handled in the same way as with any HCV; therefore, termination of a FYI voucher must be consistent with HCV regulations at 24 CFR Part 982, Subpart L and PHA policies in Chapter 12. Given the statutory time limit that requires FYI vouchers to sunset, a PHA must terminate the youth's assistance once the limit on assistance has expired.

A PHA cannot terminate a FYI youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FYI youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of FYI voucher holders to regular HCV assistance upon the expiration of the limit on assistance. However, the PHA may issue a regular HCV to FYI voucher holders if they were selected from the waiting list in accordance with PHA policies. The PHA may also adopt a waiting list preference for FYI voucher holders who are being terminated for this reason.

#### **PHA Policy**

The PHA will not provide a selection preference on the PHA's HCV waiting list for FYI voucher holders who are terminated due to the time limit on assistance.

### **19-II.J. PORTABILITY [FYI FAQs]**

Portability for an FYI youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for an FYI youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

An FYI youth does not have to port to a jurisdiction that administers FYI vouchers.

If the receiving PHA absorbs the voucher, the PHA may absorb the youth into its regular HCV program if it has vouchers available to do so. If the receiving PHA absorbs the youth into its regular HCV program, that youth becomes a regular HCV participant with none of the limitations of an FYI voucher.

The initial and receiving PHA must work together to initiate termination of assistance upon expiration of the time limit on assistance.

### **19-II.K. PROJECT-BASING FYI VOUCHERS [FYI FAQs; FR Notice 1/24/22; Notice PIH 2024-03]**

PHAs that have initiated the selection process to project-base FYI and/or FUP vouchers may be eligible to project-base FYI and FUP units formally identified for project basing in accordance with all applicable PBV regulations and PHA policies in Chapter 17. This includes FYI vouchers awarded under Notices PIH 2020-28, PIH 2021-26, and PIH 2023-04. Assistance awarded under Notice PIH 2019-20 is prohibited from being project-based.

#### **PHA Policy**

The PHA will not project-base FYI vouchers. All FYI vouchers will be used to provide tenant-based assistance.

## **PART III: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM**

### **19-III.A. OVERVIEW**

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to the PHA;
  - The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.
- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to PHA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

VASH vouchers are awarded noncompetitively based on geographic need and PHA administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.

Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, the PHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all PHA policies as outlined in Chapter 2 of this document.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

### **19-III.B. REFERRALS [FR Notice 9/27/21 and HUD-VASH Qs and As]**

VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to the PHA for determination of program eligibility and voucher issuance. The PHA has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. The PHA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

#### **PHA Policy**

In order to expedite the screening process, the PHA will provide all forms and a list of documents required for the VASH application to the VAMC. Case managers will work with veterans to fill out the forms and compile all documents prior to meeting with the PHA and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to the PHA prior to the meeting in order to allow the PHA time to review them and start a file for the veteran.

After the VAMC has given the PHA a complete referral, the PHA will perform an eligibility screening within five business days of receipt of a VAMC referral.



### **19-III.C. HCV PROGRAM ELIGIBILITY [FR Notice 9/27/21]**

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Under VASH, PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The only reasons for denial of assistance by the PHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

#### **Social Security Numbers**

When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name and SSN of the individual along with other identifying information of the individual, is acceptable in accordance with Section 7-II.B. of this policy.

In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

#### **Proof of Age**

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA-required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

#### **Photo Identification**

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

## **Income Eligibility**

The PHA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Section 3-II.A. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

While income-targeting does not apply to VASH vouchers, the PHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

### **PHA Policy**

While income-targeting requirements will not be considered by the PHA when families are referred by the partnering VAMC, the PHA will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

## **Screening**

The PHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: the PHAs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and PHA policies on how sex offender screenings will be conducted, PHA policy in Sections 3-III.B. through 3-III.E. do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program [New HCV GB, *HUD-VASH*, p. 6].

## **Denial of Assistance [Notice PIH 2008-37]**

Once a veteran is referred by the VAMC, the PHA must either issue a voucher or deny assistance. If the PHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.

### **19-III.D. CHANGES IN FAMILY COMPOSITION**

#### **Adding Family Members [FR Notice 9/27/21]**

When adding a family member after the family has been admitted to the program, PHA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and will apply its regular screening criteria in doing so.

#### **Remaining Family Members [HUD-VASH Qs and As]**

If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. The PHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

#### **Family Break Up [HUD-VASH Qs and As]**

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides the PHA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

### **19-III.E. LEASING [FR Notice 9/27/21]**

#### **Waiting List**

The PHA does not have the authority to maintain a waiting list or apply local preferences for HUD–VASH vouchers. Policies in Chapter 4 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

#### **Exception Payment Standards**

To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows PHAs to establish a HUD-VASH exception payment standard. PHAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

#### **Voucher Issuance**

Unlike the standard HCV program which requires an initial voucher term of at least 60 days, VASH vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

##### PHA Policy

All VASH vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

The PHA must track issuance of HCVs for families referred by the VAMC or DSP in PIC as required in Notice PIH 2011-53.

#### **Initial Lease Term**

Unlike in the standard the HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, PHA policy in Section 9-I.E., Term of Assisted Tenancy, does not apply.

#### **Ineligible Housing [FR Notice 6/18/14]**

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, PHA policy in 9-I.D., Ineligible Units, does not apply for this purpose only.

## **HQS Pre-Inspections**

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units.

### PHA Policy

To expedite the leasing process, the PHA may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the RTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspections.

## **19-III.F. PORTABILITY [FR Notice 9/27/21 and Notice PIH 2011-53]**

### **General Requirements**

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, PHA policies in Section 10-II.B. about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

### **Portability within the Initial VAMC or DSP's Catchment Area**

A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial PHA's partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

- If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.
  - If the PHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.
- If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

### **Portability Outside of the Initial VAMC or DSP's Catchment Area**

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMC or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

### **Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA**

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. The initial PHA must follow its emergency transfer plan (see Exhibit 16-3). PHAs may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VAMC or DSP.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

### **19-III.G. TERMINATION OF ASSISTANCE [FR Notice 9/27/21]**

With the exception of terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Section 12-II.D. of this policy and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to the PHA but could not be considered at the time of admission due to VASH program requirements. The PHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

#### **Cessation of Case Management**

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, the PHA may offer the family continued assistance through one of its regular vouchers. If the PHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as the PHA has an available voucher for the family.

#### **VAWA [FR Notice 9/27/21]**

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.



## **19-III.H. PROJECT-BASING VASH VOUCHERS**

### **General Requirements [Notice PIH 2017-21 and FR Notice 9/27/21]**

PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit.

If the PHA project-bases VASH vouchers, the PHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. The PHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to the PHA and there is an available PBV unit that is not exclusively made available to VASH families, the PHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

The PHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps).

Policies for VASH PBV units will generally follow PHA policies for the standard PBV program as listed in Chapter 17, with the exception of the policies listed below.

### **Failure to Participate in Case Management [FR Notice 9/27/21]**

Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the PHA must provide the family a reasonable time period to vacate the unit. The PHA must terminate assistance to the family at the earlier of either the time the family vacates or the expiration of the reasonable time period given to vacate.

#### **PHA Policy**

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, the PHA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

The PHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. The PHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

### **Moves [HUD-VASH Qs and As, FR Notice 9/27/21]**

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the PHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, the PHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the PHA and owner agree to temporarily remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if no VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

## **PART IV: MAINSTREAM VOUCHER PROGRAM**

### **19-IV.A. PROGRAM OVERVIEW [Notice PIH 2020-01]**

Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, the PHA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

Funds for Mainstream vouchers may be recaptured and reallocated if the PHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for the PHA's Mainstream vouchers.

#### **19-IV.B. ELIGIBLE POPULATION [Notice PIH 2020-01 and Notice PIH 2020-22]**

All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not “age out” of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

The PHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.

#### **19-IV.C. PARTNERSHIP AND SUPPORTIVE SERVICES [Notice PIH 2020-01]**

PHAs are encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

##### PHA Policy

The PHA will implement a Mainstream program without formal partnerships.

## **19-IV.D. WAITING LIST ADMINISTRATION**

### **General Waiting List Requirements [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]**

PHAs must not have a separate waiting list for Mainstream voucher assistance since the PHA is required by the regulations to maintain one waiting list for tenant-based assistance [24 CFR 982.204(f)]. All PHA policies on opening, closing, and updating the waiting list, as well as waiting list preferences in Chapter 4, apply to the Mainstream program.

When the PHA is awarded Mainstream vouchers, these vouchers must be used for new admissions to the PHA's program from the waiting list. The PHA must lease these vouchers by pulling the first Mainstream-eligible family from its tenant-based waiting list. PHAs are not permitted to reassign existing participants to the program in order to make regular tenant-based vouchers available. Further, the PHA may not skip over Mainstream-eligible families on the waiting list because the PHA is serving the required number of Mainstream families.

Upon turnover, vouchers must be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, the PHA must determine if the families at the top of the waiting list qualify under program requirements.

### **Admission Preferences [Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]**

If the PHA claimed points for a preference in a NOFA application for Mainstream vouchers, the PHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

#### PHA Policy

The PHA did not claim a preference for a targeted group as part of an application for Mainstream vouchers under a NOFA.

#### **19-IV.E. PORTABILITY [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]**

Mainstream voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
  - If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.
  - If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

#### **19-IV.F. PROJECT-BASING MAINSTREAM VOUCHERS [FY19 Mainstream Voucher NOFA Q&A]**

The PHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and PHA policies in Chapter 17. PHAs are responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

## PART IV: NON-ELDERLY DISABLED (NED) VOUCHERS

### 19-V.A. PROGRAM OVERVIEW [Notice PIH 2013-19]

NED vouchers help non-elderly disabled families lease suitable, accessible, and affordable housing in the private market. Aside from separate funding appropriations and serving a specific population, NED vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a NED voucher differently from other applicants and participants.

Some NED vouchers are awarded to PHAs through competitive NOFAs. The NOFA for FY2009 Rental Assistance for NED made incremental funding available for two categories of NED families:

- **Category 1** vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market.
- **Category 2** vouchers enable non-elderly persons with disabilities currently residing in nursing homes or other healthcare institutions to transition into the community. PHAs with NED Category 2 vouchers were required to partner with a state Medicaid or health agency or the state Money Follows the Person (MFP) Demonstration agency.

Since 1997, HCVs for NED families have been also awarded under various special purpose HCV programs: Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans (Designated Housing), Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments (Certain Developments), One-Year Mainstream Housing Opportunities for Persons with Disabilities, and the Project Access Pilot Program (formerly Access Housing 2000).

- **Designated Housing** vouchers enable non-elderly disabled families, who would have been eligible for a public housing unit if occupancy of the unit or entire project had not been restricted to elderly families only through an approved Designated Housing Plan, to receive rental assistance. These vouchers may also assist non-elderly disabled families living in a designated unit/project/building to move from that project if they so choose. The family does not have to be listed on the PHA's voucher waiting list. Instead, they may be admitted to the program as a special admission. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.

- **Certain Developments** vouchers enable non-elderly families having a person with disabilities, who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families, to obtain affordable housing. These non-elderly families with a disabled person do not need to be listed on the PHA's HCV waiting list in order to be offered and receive housing choice voucher rental assistance. It is sufficient that these families' names are on the waiting list for a covered development at the time their names are provided to the PHA by the owner. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.
- **One-Year Mainstream Housing Opportunities for Persons with Disabilities (One-Year Mainstream)** vouchers enable non-elderly disabled families on the PHA's waiting list to receive a voucher. After initial leasing, turnover vouchers must be issued to non-elderly disabled families from the PHA's voucher waiting list.

## **19-V.B. ELIGIBLE POPULATION**

### **General Requirements [Notice PIH 2013-19]**

Only eligible families whose head of household, spouse, or cohead is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible.

In cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher, existing NED participant families do not "age out," as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract.

The definition of person with disabilities for purposes of NED vouchers is the statutory definition under Section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

The PHA may not implement eligibility screening criteria for NED vouchers that is different from that of the regular HCV program.

### **NED Category 2 [Notice PIH 2013-19 and NED Category 2 FAQs]**

In addition to being eligible for the PHA's regular HCV program and a non-elderly person with a disability, in order to receive a Category 2 voucher, the family's head, spouse, cohead, or sole member must be transitioning from a nursing home or other healthcare institution and provided services needed to live independently in the community.

Nursing homes or other healthcare institutions may include intermediate care facilities and specialized institutions that care for those with intellectual disabilities, developmentally disabled, or mentally ill, but do not include board and care facilities (e.g., adult homes, adult day care, adult congregate living).



The PHA cannot limit who can apply to just those persons referred or approved by a Money Follows the Person (MFP) Demonstration agency or state health agency. Other individuals could be placed on the waiting list if they can show, with confirmation by an independent agency or organization that routinely provides such services (this can be the MFP or partnering agency, but need not be), that the transitioning individual will be provided with all necessary services, including care or case management.

For each Category 2 family, there must be documentation (e.g., a copy of a referral letter from the partnering or referring agency) in the tenant file identifying the institution where the family lived at the time of voucher issuance.

## **19-V.C. WAITING LIST**

### **General Requirements [Notice PIH 2013-19]**

Families must be selected for NED vouchers from the PHA's waiting list in accordance with all applicable regulations and PHA policies in Chapter 4.

Regardless of the number of NED families the PHA is required to serve, the next family on the waiting list must be served. Further, the PHA may not skip over NED-eligible families on the waiting list because the PHA is serving the required number of NED families.

### **NED Category 2 Referrals [NED Category 2 FAQs]**

For NED Category 2 families, the partnering agency may make referrals of eligible families to the PHA for placement on the waiting list. The PHA will then select these families from the waiting list for voucher issuance. Because language in the NOFA established that vouchers awarded under the NOFA must only serve non-elderly disabled families transitioning from institutions, the PHA does not need to establish a preference in order to serve these families ahead of other families on the PHA's waiting list.

PHAs must accept applications from people living outside their jurisdictions or from people being referred from other Medicaid or MFP service agencies in their state.

If the PHA's waiting list is closed, the PHA must reopen its waiting list to accept referrals from its partnering agency. When opening the waiting list, PHAs must advertise in accordance with 24 CFR 982.206 and PHA policies in Section 4-II.C. In addition, the PHA must ensure that individuals living in eligible institutions are aware when the PHA opens its waiting list by reaching out to social service agencies, nursing homes, intermediate care facilities and specialized institutions in the local service area.

### **Reissuance of Turnover Vouchers [Notice PIH 2013-19]**

All NED turnover vouchers must be reissued to the next NED family on the PHA's waiting list with the following exception: A Category 2 voucher must be issued to another Category 2 family upon turnover if a Category 2 family is on the PHA's waiting list. If there are no Category 2 families on the PHA's waiting list, the PHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can the PHA reissue the voucher to another Category 2 NED family on the PHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on the PHA's waiting list, and the PHA is under the same obligation to conduct outreach to Category 2 families if no such families are on the PHA's waiting list.

For PHAs that received both Category 1 and Category 2 vouchers, if at any time the PHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, the PHA must issue the next NED voucher to that family. HUD monitors the initial leasing and reissuance of Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV a PHA believes it is not practicable to assist NED families, the PHA must contact HUD.

## **19-V.D. LEASE UP [Notice PIH 2013-19]**

### **Briefings**

In addition to providing families with a disabled person a list of accessible units known to the PHA, HUD encourages, but does not require, PHAs to provide additional resources to NED families as part of the briefing.

#### PHA Policy

In addition to providing families with a disabled person a list of accessible units known to the PHA, the PHA will provide a list of local supportive service and disability organizations that may provide such assistance as counseling services and funding for moving expenses or security deposits in the briefing packet. These organizations include state protection and advocacy agencies, Centers for Independent Living, state Medicaid agencies, and disability advocacy groups that represent individuals with a variety of disabilities.

Further, if other governmental or non-governmental agencies provide available resources such as housing search counseling, moving expenses, security deposits, and utility deposits, the PHA will include this information in the briefing packet.

The PHA will also offer specialized housing search assistance to families with a disabled person to locate accessible units if requested. Trained PHA staff or a local supportive service or disability organization may be able to provide this service.

### **Voucher Term**

While the PHA is not required to establish different policies for the initial term of the voucher for NED vouchers, HUD has encouraged PHAs with NED vouchers to be generous in establishing reasonable initial search terms and subsequent extensions for families with a disabled person.

#### PHA Policy

All NED vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

All other PHA policies on extensions and suspension of vouchers in Section 5-II.E. will apply.

## **Special Housing Types [Notice PIH 2013-19 and NED Category 2 FAQs]**

In general, a PHA is not required to permit families to use any of the special housing types and may limit the number of families using such housing. However, the PHA must permit the use of a special housing type if doing so provides a reasonable accommodation so that the program is readily accessible to and usable by a person with disabilities.

Such special housing types include single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.

Persons with disabilities transitioning out of institutional settings may choose housing in the community that is in a group or shared environment or where some additional assistance for daily living is provided for them on site. Under HUD regulations, group homes and shared housing are considered special housing types and are not excluded as an eligible housing type in the HCV program. Assisted living facilities are also considered eligible housing under the normal HCV program rules, as long as the costs for meals and other supportive services are not included in the housing assistance payments (HAP) made by the PHA to the owner, and as long as the person does not need continual medical or nursing care.

## **19-V.E. PORTABILITY [NED Category 2 FAQs]**

NED voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to NED families. However, the PHA may, but is not required to, allow applicant NED families to move under portability, even if the family did not have legal residency in the initial PHA's jurisdiction when they applied.

### **PHA Policy**

If neither the head of household nor the spouse or cohead of a NED applicant family had a domicile (legal residence) in the PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

The PHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

## **PART VI: STABILITY VOUCHER PROGRAM**

### **19-VI.A. PROGRAM OVERVIEW [Notice PIH 2022-24]**

The Consolidated Appropriations Act, 2021 (Public Law 116-260) (2021 Act) provided new incremental funding for voucher assistance through Stability Vouchers (SVs) for households who are:

- Homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a));
- At-risk of homelessness;
- Those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, or human trafficking; and
- Veterans and families that include a veteran family member that meet one of the above criteria.

HUD may waive certain statutory and regulatory provisions to administer the SVs (except for requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards and the environment) upon a finding that any such waivers or alternative requirements are necessary to facilitate the use of funds made available for SVs. Unless expressly waived below, all statutory and regulatory requirements and HUD directives regarding the HCV program are applicable to SVs, including the use of all HUD required contracts and other forms. A PHA may request additional good cause regulatory waivers as established in Notice PIH 2018-16 in connection with the use of the SVs, which HUD will consider and assess upon the request of the PHA.

### **19-VI.B. PARTNERING ORGANIZATION [Notice PIH 2022-24]**

SV funding is only awarded to PHAs that partner with eligible Continuums of Care (CoCs) or other entities that serve the targeted population, such as Victim Service Providers (VSPs) and Veteran Service Organizations (VSOs) serving the targeted population in the PHA's jurisdiction to implement coordinated approaches to reduce the prevalence of homelessness, improve service engagement, and promote housing stability while ensuring geographical need of assistance.

The PHA must enter into a Memorandum of Understanding (MOU) with the CoC to establish a partnership with the CoC to pair SVs with CoC-funded supportive services, and to collaborate with the CoC and other stakeholders to develop a prioritization plan for these vouchers.

#### **PHA Policy**

The PHA has not obtained any Stability Vouchers.

## **19-VI.C. REFERRALS [Notice PIH 2022-24]**

In general, families are issued SVs as the result of either:

- The direct referral process from the CoC or other partnering organizations; or
- A situation where the PHA makes an SV available in order to facilitate an emergency transfer for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking.

### **CoC Referrals**

The primary responsibility of the CoC under the MOU is to make direct referrals of qualifying individuals and families to the PHA and to identify any CoC-funded available supportive services that may be paired with SVs.

The CoC or other partnering agency must certify that the SV applicants they refer to the PHA meet the definition of a qualifying individual or family for SV assistance.

The referring agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for SV assistance. The PHA must retain this documentation as part of the family's file.

## **Referrals from Outside the CoC**

The PHA must also take direct referrals from outside the CoC process if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for SV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking.

If a direct referral is taken from outside of the CoC, the PHA must enter into a partnership to receive direct referrals from another entity, assuming there are such additional organizations that can certify that an individual or family is eligible for an SV.

The PHA must enter into an MOU with a partnering referral agency or may add the partnering referral agency to the MOU between the PHA and CoC.

## **19-VI.D. WAITING LIST [Notice PIH 2022-24]**

### **HCV Waiting List**

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to PHAs operating the SV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of SVs by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2022-24.

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

## **SV Waiting List**

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the SV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the SVs available, the PHA must maintain a separate waiting list for SV referrals. Upon turnover, SV vouchers must continue to remain available for eligible families.

Further, the SV waiting list is not subject to PHA policies in Chapter 4 regarding opening and closing the HCV waiting list. The PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the SV waiting list.

## **HCV Waiting List Preferences**

If local preferences are established by the PHA for HCV in Chapter 4, they do not apply to SVs. However, if the PHA has a homelessness preference or a preference for survivors of domestic violence, dating violence, sexual assault, stalking, or human trafficking for the regular HCV program, the PHA must refer any applicant on the waiting list that indicated they qualified for this preference to the CoC, or the applicable partnering referral agency.

## **SV Waiting List Preferences**

With the exception of a residency preference, which may not be applied to the PHA's SV waiting list, the PHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for SVs, or may simply choose to not establish any local preferences for the SV waiting list. The preference system may not prohibit SV admissions from any of the four qualifying categories of eligibility.



## **19-VI.E. FAMILY ELIGIBILITY [Notice PIH 2022-24]**

### **Referring Agency Determination of Eligibility**

The CoC or referring agency determines whether the individual or family meets any one of the eligibility criteria described in Notice PIH 2022-24 and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the SV program and outlined below.

In order to be eligible for an SV, a household must meet one of four eligibility criteria:

- Homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)) and 24 CFR 578.3;
- At-risk of homelessness as defined in 24 CFR 5.78.3;
- Those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, or human trafficking; and
- Veterans [as defined in 38 U.S.C. 101(2); 38 CFR 3.1(d)] and families that include a veteran family member that meet one of the above criteria.

### **Mandatory Denials**

HUD waived 24 CFR 982.552 and 982.553 in part for the SV applicants and established alternative requirements for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an SV. Instead, the SV alternative requirement listed in this section will apply to all SV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2022-24 and in this chapter, however, apply only when screening the individual or family for eligibility for an SV. When adding a family member after the family has been placed under a HAP contract with SV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

Under alternative requirements for the SV program, mandatory denials for SV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA will also deny assistance to household members already receiving assistance from another program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited SV grounds for denial of admission first.

### **Permissive Denial**

Notice PIH 2022-24 lists permissive prohibitions for which the PHA may, but is not required to, deny admission to SV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for SV families.

If the PHA intends to establish permissive prohibition policies for SV applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

Prohibitions based on criminal activity for the eligible SV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2022-24, the PHA **will not** deny an SV applicant admission regardless of whether:

Any member of the family has been evicted from federally assisted housing in the last five years

A PHA has ever terminated assistance under the program for any member of the family

The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act

The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease

The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA

The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with 24 CFR 982.553(a)(3)

The PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity

### **Self-Certification of Income at Admission**

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the SV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to SV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

### **Recently Conducted Income Determinations**

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

At the time of the family's annual reexamination, the PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and the PHA policies in Chapter 11.

## **EIV Income Validation**

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 12.

## **Social Security Number and Citizenship Status Verification**

For the SV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the SV program. Instead, PHAs may adopt policies to admit SV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

### **Age and Disability Verifications**

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

### **Income Targeting**

The PHA must determine income eligibility for SV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3; however, income targeting requirements do not apply for SV families. The PHA may still choose to include the admission of extremely low-income SV families in its income targeting numbers for the fiscal year in which these families are admitted.

## **19-VI.F. HOUSING SEARCH AND LEASING**

### **Initial Voucher Term**

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, SV vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

### **HQS Pre-Inspections**

To expedite the leasing process, PHAs may pre-inspect available units that SV families may be interested in leasing in order to maintain a pool of eligible units.

### **Initial Lease Term**

Unlike in the standard the HCV program, SV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the PHA policy in Section 9-I.E., Term of Assisted Tenancy.

## **Portability**

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to SVs. Exceptions are addressed below.

- Under SV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of PHA policy in Section 10-II.B.
- A receiving PHA cannot refuse to assist an incoming SV family, regardless of whether the PHA administers SVs under its own ACC.
- If the SV family moves under portability to another PHA that administers SVs under its own ACC:
  - The receiving PHA may only absorb the incoming SV family with an SV (assuming it has an SV voucher available to do so).
  - If the PHA does not have an SV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with SV assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's SV assistance, the SV administration of the voucher is in accordance with the receiving PHA's SV policies.
- If the SV family moves under portability to another PHA that does not administer SVs under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

## **Family Briefing**

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special SV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).



## **19-VI.G. PAYMENT STANDARDS**

### **Overview**

For the SV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for SVs. Lower SV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the SV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate SV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for SVs, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD-published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.

All rent reasonableness requirements apply to SV units, regardless of whether the PHA has established an alternative or exception SV payment standard.

### **Increases in Payment Standards**

The requirement that the PHA apply increased payment standards at the family’s first regular recertification on or after the effective date of the increase does not apply to SV. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family’s first regular reexamination following the change.

## **19-VI.H. PROJECT-BASED UNITS**

All tenant-based SV awards can be converted to Project-Based Vouchers (PBV) at any time after award without HUD approval provided all the established PBV regulations and requirements are followed.

All PBV requirements in 24 CFR Part 983 and in Chapter 17 apply to project-based SVs with the exception of 24 CFR 983.251(c)(1), which requires PHAs to select families for project-based units from its HCV or PBV waiting list. HUD is waiving this requirement and establishing an alternative requirement that PHAs receive SV referrals from CoC partners for vouchers as well as project-based assistance.

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## **GLOSSARY**

### **A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

<b>ACC</b>	Annual contributions contract
<b>ADA</b>	Americans with Disabilities Act of 1990
<b>AIDS</b>	Acquired immune deficiency syndrome
<b>BR</b>	Bedroom
<b>CDBG</b>	Community Development Block Grant (Program)
<b>CFR</b>	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
<b>CPI</b>	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
<b>EIV</b>	Enterprise Income Verification
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Federal Housing Administration (HUD Office of Housing)
<b>FHEO</b>	Fair Housing and Equal Opportunity (HUD Office of)
<b>FICA</b>	Federal Insurance Contributions Act (established Social Security taxes)
<b>FMR</b>	Fair market rent
<b>FR</b>	Federal Register
<b>FSS</b>	Family Self-Sufficiency (Program)
<b>FY</b>	Fiscal year
<b>FYE</b>	Fiscal year end
<b>GAO</b>	Government Accountability Office
<b>GR</b>	Gross rent
<b>HA</b>	Housing authority or housing agency
<b>HAP</b>	Housing assistance payment
<b>HCV</b>	Housing choice voucher
<b>HIP</b>	Housing Information Portal
<b>HOTMA</b>	Housing Opportunity through Modernization Act of 2016
<b>HQS</b>	Housing quality standards
<b>HUD</b>	Department of Housing and Urban Development
<b>HUDCLIPS</b>	HUD Client Information and Policy System

<b>IPA</b>	Independent public accountant
<b>IRA</b>	Individual retirement account
<b>IRS</b>	Internal Revenue Service
<b>IVT</b>	Income Validation Tool
<b>JTPA</b>	Job Training Partnership Act
<b>LBP</b>	Lead-based paint
<b>LEP</b>	Limited English proficiency
<b>MSA</b>	Metropolitan statistical area (established by the U.S. Census Bureau)
<b>MTW</b>	Moving to Work
<b>NOFA</b>	Notice of funding availability
<b>NSPIRE</b>	National Standards for the Physical Inspection of Real Estate
<b>OGC</b>	HUD's Office of General Counsel
<b>OIG</b>	HUD's Office of Inspector General
<b>OMB</b>	Office of Management and Budget
<b>PASS</b>	Plan to Achieve Self-Support
<b>PBV</b>	Project-based voucher
<b>PHA</b>	Public housing agency
<b>PIH</b>	(HUD Office of) Public and Indian Housing
<b>PS</b>	Payment standard
<b>QC</b>	Quality control
<b>RAD</b>	Rental Assistance Demonstration Program
<b>REAC</b>	(HUD) Real Estate Assessment Center
<b>RFP</b>	Request for proposals
<b>RFTA</b>	Request for tenancy approval
<b>RIGI</b>	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
<b>SEMAP</b>	Section 8 Management Assessment Program
<b>SRO</b>	Single room occupancy
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental security income
<b>SWICA</b>	State wage information collection agency

<b>TANF</b>	Temporary assistance for needy families
<b>TPV</b>	Tenant protection vouchers
<b>TR</b>	Tenant rent
<b>TTP</b>	Total tenant payment
<b>UA</b>	Utility allowance
<b>UFAS</b>	Uniform Federal Accessibility Standards
<b>UIV</b>	Upfront income verification
<b>URP</b>	Utility reimbursement payment
<b>VAWA</b>	Violence Against Women Act
<b>VCA</b>	Voluntary Compliance Agreement
<b>VMS</b>	Voucher Management System

## **B. GLOSSARY OF SUBSIDIZED HOUSING TERMS**

***Absorption.*** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

***Accessible.*** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

***Adjusted income.*** Annual income, less allowable HUD deductions and allowances.

***Administrative fee.*** Fee paid by HUD to the PHA for administration of the program. See §982.152.

***Administrative plan.*** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

***Admission.*** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

***Affiliated individual.*** With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual

***Amortization payment.*** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

***Annual.*** Happening once a year.

***Annual contributions contract (ACC).*** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

***Annual income.*** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

***Applicant (applicant family).*** A family that has applied for admission to a program but is not yet a participant in the program.

***Area exception rent.*** An amount that exceeds the published FMR. See 24 CFR 982.504(b).

***As-paid states.*** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

***Assets.*** (See *net family assets*.)

***Auxiliary aids.*** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

***Biennial.*** Happening every two years.

**Bifurcate.** With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

**Budget authority.** An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**Child.** A member of the family other than the family head or spouse who is under 18 years of age.

**Child care expenses.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen.** A citizen or national of the United States.

**Cohead.** An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

**Common space.** In shared housing, the space available for use by the assisted family and other occupants of the unit.

**Computer match.** The automated comparison of databases containing records about individuals.

**Confirmatory review.** An on-site review performed by HUD to verify the management performance of a PHA.

**Consent form.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

**Congregate housing.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

**Contiguous MSA.** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

**Continuously assisted.** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

**Contract authority.** The maximum annual payment by HUD to a PHA for a funding increment.



**Cooperative** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Dependent child.** In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

**Disability assistance expenses.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family.** A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person.** See *person with disabilities*.

**Disallowance.** Exclusion from annual income.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

**Domestic violence.** Felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

**Domicile.** The legal residence of the household head or spouse as determined in accordance with state and local law.

**Drug-related criminal activity.** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

**Economic abuse.** Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

**Economic self-sufficiency program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

**Elderly family.** A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly person.** An individual who is at least 62 years of age.

**Eligible family** A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

**Employer identification number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

**Extremely low-income family.** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 CFR 5.603.

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

**Fair Housing Act.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

**Family.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS program).** The program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the federal government.

**Foster child care payment.** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

**Full-time student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). See 24 CFR 5.603.

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gender identity.** Actual or perceived gender-related characteristics.

**Gross rent.** The sum of the rent to owner plus any utility allowance.

**Group home.** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

**HAP contract.** The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Household.** A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

**Housing assistance payment.** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing agency (HA).** See *public housing agency*.

**Housing quality standards (HQS).** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The U.S. Department of Housing and Urban Development.

**Human trafficking.** A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

**Imputed asset.** An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

**Imputed asset income.** The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income for eligibility.** Annual income.

**Income information** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages, and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with handicaps.** See *person with disabilities*.

**Initial PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Institution of higher education.** An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

**Jurisdiction.** The area in which the PHA has authority under state and local law to administer the program.

**Landlord.** Either the owner of the property or their representative, or the managing agent or their representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**Living/sleeping room.** A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

**Local preference.** A preference used by the PHA to select among applicant families.

**Low-income family.** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

**Manufactured home.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

**Manufactured home space.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

**Medical expenses.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** Included in the definition of *cooperative*.

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

**Net family assets.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

**Notice of funding availability (NOFA).** For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Office of General Counsel (OGC).** The General Counsel of HUD.

**Overcrowded.** A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**PHA's quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

***Payment standard.*** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

***Person with disabilities.*** *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

***Portability.*** Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

***Premises.*** The building or complex in which the dwelling unit is located, including common areas and grounds.

***Previously unemployed.*** With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

***Private space.*** In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

***Processing entity.*** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the “processing entity” is the “responsible entity.”

***Project owner.*** The person or entity that owns the housing project containing the assisted dwelling unit.

***Public assistance.*** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

***Public housing agency (PHA).*** Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.



**Qualified family** (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least \$500.

**Qualified census tract.** With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Reasonable accommodation.** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification.** Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining member of the tenant family.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Residency preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

**Residency preference area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Secretary.** The Secretary of Housing and Urban Development.

**Section 8.** Section 8 of the United States Housing Act of 1937.

**Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

**Section 214.** Section 214 of the Housing and Community Development Act of 1980, as amended.

**Section 214 covered programs.** The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

**Security deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Set-up charges.** In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

**Sexual assault.** Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

**Sexual orientation.** Homosexuality, heterosexuality or bisexuality.

**Shared housing.** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

**Single person.** A person living alone or intending to live alone.

**Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

**Small rural public housing agency (PHA).** Section 38 defines the term “small public housing agency” as a public housing agency “for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer” and “that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations.” After consideration of the public comments discussed above, HUD is interpreting “predominantly operates in a rural area” to mean a small PHA that:

- (1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or
- (2) more than 50 percent of its combined public housing units and voucher units under section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

**Social security number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person’s earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant’s waiting list position.

**Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified welfare benefit reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage partner of the head of household.

**Stalking.** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

**State wage information collection agency (SWICA).** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Subsidy standards.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension.** The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling*.

**Tax credit rent.** With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

**Technological abuse.** An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

**Tenancy addendum.** For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent to owner.** See *family rent to owner*.

**Term of lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.

**Total tenant payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unit.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**Utilities.** Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

**Utility allowance.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

**Utility hook-up charge.** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Very low-income family.** A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

**Veteran.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

**Violence Against Women Act (VAWA).** Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

**Violent criminal activity.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (housing choice voucher).** A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

**Voucher holder.** A family holding a voucher with an unexpired term (search time).

**Voucher program.** The housing choice voucher program.

**Waiting list.** A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

**Waiting list admission.** An admission from the PHA waiting list.

**Welfare assistance.** Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.



**City of Dubuque  
City Council Meeting**

**Public Hearings # 02.**

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**ITEM TITLE:** Submission of Annual Public Housing Agency (PHA) Plan – Federal Fiscal Year 2024 (PHA Fiscal Year 2025) Annual Plan

**SUMMARY:** Proof of publication on notice of public hearing to consider City Council approval to submit the Federal Fiscal Year 2024 Annual PHA Plan along with the Certification for Consistency with the Consolidated Plan, and City Manager recommending approval.

**RESOLUTION** Authorizing the Mayor to execute the Certification by State or Local Office of Public Housing Agency (PHA) Plan's consistency with the Consolidated Plan and approval of the PHA 2024 Annual Plan

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Adopt Resolution(s)

**ATTACHMENTS:**

Description	Type
MVM Memo	City Manager Memo
Memo	Staff Memo
Resolution	Resolutions
HCV Annual Plan	Supporting Documentation
RAB Minutes	Supporting Documentation
Director Approval	Supporting Documentation
Mayor Approval	Supporting Documentation
Civil Rights Certification	Supporting Documentation





**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Submission of Annual Public Housing Agency (PHA) Plan – Federal Fiscal Year 2024 (PHA Fiscal Year 2025) Annual Plan

**DATE:** March 27, 2024

Each year the City of Dubuque is required to submit a PHA (Public Housing Agency) Plan. The PHA Plan is a comprehensive guide to the policies, programs, operations and strategies for meeting local housing needs and goals. There are two parts to the PHA Plan: the 5-Year Plan which was submitted fiscal year 2020 and the Annual Plan, which is submitted this year. Part of the submission includes the Certification by State or Local Office of PHA Consistency with the Consolidated Plan (HUD-50077 Form).

Housing & Community Development Director Alexis Steger is recommending City Council approval to submit the Federal Fiscal Year 2024 Annual PHA Plan along with the Certification for Consistency with the Consolidated Plan.

To ensure public participation in the process, PHA Plans must be available for inspection by the public both during the public review period prior to the board hearing and submission to HUD. Public Notice was published 45 days in advance of the Public Hearing held on April 1, 2024. The Housing Commission voted to approve the PHA Plan on Monday, February 5, 2024. The PHA Resident Advisory Board also reviewed the PHA Plan on February 28, 2024 and all comments and minutes from their meeting is included in the plan.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv

Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Alexis Steger, Housing & Community Development Director



TO: Michael C Van Milligen, City Manager

FROM: Alexis Steger, Housing & Community Development Director

DATE: March 27, 2024

RE: Submission of Annual Public Housing Agency (PHA) Plan – Federal Fiscal Year 2024 (PHA Fiscal Year 2025) Annual Plan

### **INTRODUCTION**

Each year the City of Dubuque is required to submit a PHA (Public Housing Agency) Plan. The PHA Plan is a comprehensive guide to the policies, programs, operations and strategies for meeting local housing needs and goals. There are two parts to the PHA Plan: the 5-Year Plan which was submitted fiscal year 2020 and the Annual Plan, which is submitted this year. Part of the submission includes the Certification by State or Local Office of PHA Consistency with the Consolidated Plan (HUD-50077 Form).

### **BACKGROUND**

The PHA Plan and Certifications follow HUD approved templates and must be submitted accordingly. Any local, regional, or State agency that receives funds to operate Federal Section 8 Housing Choice Voucher programs must submit a PHA Plan.

To ensure public participation in the process, PHA Plans must be available for inspection by the public both during the public review period prior to the board hearing and submission to HUD. Public Notice was published 45 days in advance of the Public Hearing held on April 1, 2024. The Housing Commission voted to approve the PHA Plan on Monday, February 5, 2024. The PHA Resident Advisory Board also reviewed the PHA Plan on February 28, 2024 and all comments and minutes from their meeting is included in the plan.

### **RECOMMENDATION**

We are requesting approval to submit the Federal Fiscal Year 2024 Annual PHA Plan along with the Certification for Consistency with the Consolidated Plan.

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE CERTIFICATION BY STATE OR LOCAL OFFICE OF PUBLIC HOUSING AGENCY (PHA) PLAN'S CONSISTENCY WITH THE CONSOLIDATED PLAN AND APPROVAL OF THE PHA 2024 ANNUAL PLAN**

Whereas, the U.S. Department of Housing and Urban Development requires submission of the Public Housing Agency (PHA) Plan on an annual basis; and

Whereas, the U.S. Department of Housing and Urban Development requires Certification of the PHA Plan's Consistency with the Consolidated Plan; and

Whereas, the Housing commission held a public meeting to review the Annual Plan on January 23, 2024; and

Whereas, the Resident Advisory Board held a public meeting to review the Annual Plan on February 28, 2024; and

Whereas, the City Council held a public hearing to receive comment on the proposed Public Housing Authority Fiscal Year 2024 Annual Plan on April 1, 2024.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE IOWA:

Section 1: That the Mayor is hereby authorized and directed to certify the PHA Federal Fiscal Year 2024 Annual Plan's Consistency with the Consolidated Plan; and

Section 2: That the Director of Housing and Community Development is hereby authorized to submit the PHA Annual Plan and the Certification as required by the U.S. Department of Housing and Urban Development.

Passed, approved and adopted this 1st day of April, 2024.

\_\_\_\_\_  
Brad M Cavanagh, Mayor

Attest:

\_\_\_\_\_  
Adrienne Breitfelder, City Clerk

<b>Streamlined Annual PHA Plan (HCV Only PHAs)</b>	<b>U.S. Department of Housing and Urban Development Office of Public and Indian Housing</b>	<b>OMB No. 2577-0226 Expires 03/31/2024</b>
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**Purpose.** The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA’s operations, programs, and services, including changes to these policies, and informs HUD, families served by the PHA, and members of the public of the PHA’s mission, goals, and objectives for serving the needs of low- income, very low- income, and extremely low- income families

**Applicability.** The Form HUD-50075-HCV is to be completed annually by **HCV-Only PHAs**. PHAs that meet the definition of a Standard PHA, Troubled PHA, High Performer PHA, Small PHA, or Qualified PHA do not need to submit this form. Where applicable, separate Annual PHA Plan forms are available for each of these types of PHAs.

**Definitions.**

- (1) **High-Performer PHA** – A PHA that owns or manages more than 550 combined public housing units and housing choice vouchers, and was designated as a high performer on both the most recent Public Housing Assessment System (PHAS) and Section Eight Management Assessment Program (SEMAP) assessments if administering both programs, or PHAS if only administering public housing.
- (2) **Small PHA** - A PHA that is not designated as PHAS or SEMAP troubled, that owns or manages less than 250 public housing units and any number of vouchers where the total combined units exceed 550.
- (3) **Housing Choice Voucher (HCV) Only PHA** - A PHA that administers more than 550 HCVs, was not designated as troubled in its most recent SEMAP assessment and does not own or manage public housing.
- (4) **Standard PHA** - A PHA that owns or manages 250 or more public housing units and any number of vouchers where the total combined units exceed 550, and that was designated as a standard performer in the most recent PHAS and SEMAP assessments.
- (5) **Troubled PHA** - A PHA that achieves an overall PHAS or SEMAP score of less than 60 percent.
- (6) **Qualified PHA** - A PHA with 550 or fewer public housing dwelling units and/or housing choice vouchers combined and is not PHAS or SEMAP troubled.

A. PHA Information.					
A.1	<b>PHA Name:</b> <u>City of Dubuque</u> <b>PHA Code:</b> <u>IA087</u> <b>PHA Plan for Fiscal Year Beginning:</b> (MM/YYYY): <u>07/01/2024</u> <b>PHA Inventory</b> (Based on Annual Contributions Contract (ACC) units at time of FY beginning, above) <b>Number of Housing Choice Vouchers (HCVs)</b> <u>1,114</u> <b>PHA Plan Submission Type:</b> <input checked="" type="checkbox"/> Annual Submission <input type="checkbox"/> Revised Annual Submission				
	<b>Availability of Information.</b> In addition to the items listed in this form, PHAs must have the elements listed below readily available to the public. A PHA must identify the specific location(s) where the proposed PHA Plan, PHA Plan Elements, and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public. Additionally, the PHA must provide information on how the public may reasonably obtain additional information of the PHA policies contained in the standard Annual Plan but excluded from their streamlined submissions. At a minimum, PHAs must post PHA Plans, including updates, at the main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official website.				
	<input type="checkbox"/> <b>PHA Consortia:</b> (Check box if submitting a joint Plan and complete table below)				
	Participating PHAs	PHA Code	Program(s) in the Consortia	Program(s) not in the Consortia	No. of Units in Each Program
	Lead HA:				

<b>B.</b>	<b>Plan Elements.</b>
<b>B.1</b>	<p><b>Revision of Existing PHA Plan Elements.</b></p> <p>a) Have the following PHA Plan elements been revised by the PHA since its last Annual Plan submission?</p> <p>Y   N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Statement of Housing Needs and Strategy for Addressing Housing Needs.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Financial Resources.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Rent Determination.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Operation and Management.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Informal Review and Hearing Procedures.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Homeownership Programs.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Self Sufficiency Programs and Treatment of Income Changes Resulting from Welfare Program Requirements.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Substantial Deviation.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Significant Amendment/Modification.</p> <p>(b) If the PHA answered yes for any element, describe the revisions for each element(s):</p>
<b>B.2</b>	<b>New Activities.</b> – Not Applicable
<b>B.3</b>	<p><b>Progress Report.</b></p> <p>Provide a description of the PHA’s progress in meeting its Mission and Goals described in its 5-Year PHA Plan.</p> <p><b>Mission:</b> The City of Dubuque Housing &amp; Community Development Department’s mission is to provide decent, safe, and affordable rental housing and to provide opportunities that promote self-sufficiency, economic independence, and homeownership opportunities for eligible Housing Choice Voucher participants.</p> <p><b>PHA Goal:</b> Meet the need for quality, affordable rental homes: The City of Dubuque has worked with Greater Dubuque Development Corporation to identify the specific housing needs in the Community. Using that data, the City has been working with developers to address the housing needs and find ways to use Housing Tax Increment Financing as well as other possible revenue streams to help support and incentivize housing development in the City. The City of Dubuque PHA has also adopted the International Property Maintenance Code for building inspection compliance. This has helped to set the standard for quality units and fair housing opportunities for voucher holders and all tenants throughout the City. This fiscal year will focus assisting some of these new developments coming on line to lease up HCV tenants.</p> <p><b>PHA Goal:</b> Increase the Acceptance of Housing Choice Vouchers by Housing Providers: The City of Dubuque has increased landlord education about the HCV program as well as created a landlord education video to be shared among that specific group in hopes to dispel some of the HCV rumors while also providing information as to why/how HCV benefits the entire community. PHA also implemented a new, easier to use software that aides owners and tenants in communication and document transmittal, allowing the HCV program to progress with the times and provide ease of use. The voucher payments standards are reviewed yearly, and updated to reflect market changes and demand. A waiver was attained from HUD for a 1-year period to set VPS for the PHA at 120% of FMR. This was implemented 1/1/2024.</p> <p><b>PHA Goal:</b> Implement local government policies that encourage equity and decrease disparate impacts: Constant review of data surrounding voucher issuance and use in order to identify possible barriers or impacts that need to be addressed in order to run a fair and equitable program. Heavy utilization of HUD’s Budget Tool and monthly review with PHA Portfolio Manager to forecast, plan and enhance utilization. Plan to continue working with technical assistance personnel to identify approaches to further utilization of voucher funds within the community.</p> <p><b>PHA Goal:</b> Increase access to opportunity and the building of social capital: The Childcare Initiative has been working hard to identify needs of and barriers to the community’s workforce. Several needs were identified. One outcome is the opening of a new childcare facility that can address the childcare needs in the community and therefore, allowing working parents more opportunity and workforce advancement potential. The new childcare facility opened in January 2024.</p>
<b>B.4</b>	<b>Capital Improvements.</b> – Not Applicable

B.5	<p><b>Most Recent Fiscal Year Audit.</b></p> <p>(a) Were there any findings in the most recent FY Audit?</p> <p>Y   N   N/A  <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/></p> <p>(b) If yes, please describe:</p>					
C.	<p><b>Other Document and/or Certification Requirements.</b></p>					
C.1	<p><b>Resident Advisory Board (RAB) Comments.</b></p> <p>(a) Did the RAB(s) have comments to the PHA Plan?</p> <p>Y   N  <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>(b) If yes, comments must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations.</p>					
C.2	<p><b>Certification by State or Local Officials.</b></p> <p><a href="#">Form HUD 50077-SL</a>, <i>Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p>					
C.3	<p><b>Civil Rights Certification/ Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan.</b></p> <p>Form HUD-50077-ST-HCV-HP, <i>PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations Including PHA Plan Elements that Have Changed</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p>					
C.4	<p><b>Challenged Elements.</b> If any element of the PHA Plan is challenged, a PHA must include such information as an attachment with a description of any challenges to Plan elements, the source of the challenge, and the PHA's response to the public.</p> <p>(a) Did the public challenge any elements of the Plan?</p> <p>Y   N  <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>If yes, include Challenged Elements.</p>					
D.	<p><b>Affirmatively Furthering Fair Housing (AFFH).</b></p>					
D.1	<p><b>Affirmatively Furthering Fair Housing (AFFH).</b></p> <p>Provide a statement of the PHA's strategies and actions to achieve fair housing goals outlined in an accepted Assessment of Fair Housing (AFH) consistent with 24 CFR § 5.154(d)(5). Use the chart provided below. (PHAs should add as many goals as necessary to overcome fair housing issues and contributing factors.) Until such time as the PHA is required to submit an AFH, the PHA is not obligated to complete this chart. The PHA will fulfill, nevertheless, the requirements at 24 CFR § 903.7(o) enacted prior to August 17, 2015. See Instructions for further detail on completing this item.</p> <table border="1" data-bbox="180 1430 1453 1936"> <tr> <td data-bbox="180 1430 1453 1472"> <p><b>Fair Housing Goal:</b></p> </td> </tr> <tr> <td data-bbox="180 1472 1453 1514"> <p><u><i>Describe fair housing strategies and actions to achieve the goal</i></u></p> </td> </tr> <tr> <td data-bbox="180 1514 1453 1556"> <p><b>PHA Goal: Meet the need for quality, affordable rental homes</b></p> </td> </tr> <tr> <td data-bbox="180 1556 1453 1598"> <p><b>Sub Goal: Support affordable housing developments outside areas of concentrated poverty to ensure equitable access to quality housing throughout the City.</b></p> </td> </tr> <tr> <td data-bbox="180 1598 1453 1936"> <ul style="list-style-type: none"> <li>• Worked with Greater Dubuque Development Corporation to gauge the Housing needs in the Community. Using that data and knowledge, we continue to work with developers and owners looking to create and maintain affordable housing stock throughout the community.</li> <li>• Efforts continue to provide City support to developers seeking Low Income Housing Tax Credits for the creation of new affordable rental units. Stipulations of that funding outline that the developments must make a certain percentage of their units available for low-income tenants.</li> <li>• Small Area FMRs adopted and utilized in area codes 52002 &amp; 52003 in an effort to de-concentrate poverty and provide housing opportunities in all different areas of the city.</li> <li>• 1/1/2024 – 120% of FMR adopted for VPS through HUD issued waiver granted for a 12-month period.</li> </ul> </td> </tr> </table>	<p><b>Fair Housing Goal:</b></p>	<p><u><i>Describe fair housing strategies and actions to achieve the goal</i></u></p>	<p><b>PHA Goal: Meet the need for quality, affordable rental homes</b></p>	<p><b>Sub Goal: Support affordable housing developments outside areas of concentrated poverty to ensure equitable access to quality housing throughout the City.</b></p>	<ul style="list-style-type: none"> <li>• Worked with Greater Dubuque Development Corporation to gauge the Housing needs in the Community. Using that data and knowledge, we continue to work with developers and owners looking to create and maintain affordable housing stock throughout the community.</li> <li>• Efforts continue to provide City support to developers seeking Low Income Housing Tax Credits for the creation of new affordable rental units. Stipulations of that funding outline that the developments must make a certain percentage of their units available for low-income tenants.</li> <li>• Small Area FMRs adopted and utilized in area codes 52002 &amp; 52003 in an effort to de-concentrate poverty and provide housing opportunities in all different areas of the city.</li> <li>• 1/1/2024 – 120% of FMR adopted for VPS through HUD issued waiver granted for a 12-month period.</li> </ul>
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**Sub Goal: Preserve, rehabilitate, and promote quality affordable housing.**

- The City of Dubuque Housing & Community Development Department has many different programs that aid in the preservation and creation of quality, affordable housing. CDBG funds are utilized for housing rehabilitation purposes and blight reduction.
- A first-time homebuyer program is available and helps align interested clients on the path to homeownership through education, down payment assistance, and a low interest loan to allow homeownership to be attained.
- We also continue efforts to affirmatively further fair housing through our rental licensing and tiered inspections process by cracking down on non-licensed rental units and by adopting the International Property Maintenance Code to hold units to a higher standard with the goal of providing quality, healthy, and safe environments for citizens to choose to live in.

**Fair Housing Goal:**

*Describe fair housing strategies and actions to achieve the goal*

**PHA Goal: Increase the Acceptance of Housing Choice Vouchers by Housing Providers****Sub Goal: Reduce negative community perceptions of poverty that impacts fair housing and access to opportunity for low-income residents**

- Complete an Equitable Poverty Prevention Plan and implement recommendations—In fiscal year 2020 the City hired a consultant to oversee the development of the Equitable Poverty Prevention Plan. Multiple avenues of research and community engagement assisted in the creation of the final plan that was presented to the City Council in January 2021. Recommendations from that plan were used as guiding principles to form budget requests and guide resource enhancements in the community. The City created an Office of Shared Prosperity as a new department with a focus on neighborhood equitability and inclusion. Fiscal Year 2022 focused on getting that department established and for data collection to begin. Fiscal Year 2023 focused on beginning to evaluate available data while also identifying other needed data points to focus efforts on. Fiscal Year 2024 will shift efforts to begin the research and planning for the next 5-Year Annual Plan which will include a deep analysis of the community's needs and focus areas for upcoming initiatives.
- Continued efforts of re-branding the HCV Program adopted by City Council as an alternative to a Source of Income Ordinance—In fiscal year 2020 the City focused on researching ways to incentivize landlords to accept HCV Program vouchers. We are still implementing efforts to increase landlord education surrounding the HCV program, a landlord education video was released in Spring of 2022. Despite efforts to promote landlord incentives in fiscal year 2021, we learned that they were not successful in substantially increasing landlord participation. Fiscal year 2023 focused more on the landlord/PHA communication to ensure those land lords that do participate in the HCV program continued to accept vouchers. Fiscal Year 2024 aims to enhance education and training for landlords through the Successful Property Maintenance course that the PHA presents regarding the HCV Program.
- Implement communication and trust-building activities for landlords and HCV program participants—In fiscal year 2022 City staff continued to meet with the Landlord Association monthly to trouble shoot the reasons for low participation numbers and portray an accurate picture of available units willing to accept HCV payments. Educational outreach, direct deposit payments and online landlord document access continue to be utilized and help to recruit and gauge interest in program participation by landlords. Fiscal year 2023 focused on modifying the PHA website to be more user friendly and creating ease of accessibility for owners looking for information as well as locating documents, checklists, and regulations. Fiscal year 2024 will focus on recruitment of landlord participation through the Successful Property Maintenance Course and also through the networking of individuals through the Landlord Association.

**Sub Goal: Streamline processes that create barriers for housing providers to accept vouchers.**

- Produce online briefing to increase awareness of tenant responsibility-The online briefing was created and went live in the summer of 2020. This has allowed the process to be more streamlined and convenient for clients to do at their leisure within a specific time frame and has allowed many to lease up at a quicker rate due to the ease of accessibility. This continued to be a pivotal asset in 2021-2022 due to the COVID-19

Pandemic and the health risk implications face to face meetings imposed. In person or phone briefings are carried out on a request basis. Fiscal year 2023 focused on simplifying the information overload given at the briefing, with an emphasis on making sure clients understand the rules and regulations, while also answering many of the common questions/issues that arise for tenants utilizing the HCV program. Fiscal year 2024 will focus on further refining the briefing and also supplying clients with easy-to-understand tips about successfully receiving rental assistance through the HCV Program.

- Update Voucher Payment Standards and review exception rent using Small Area FMRs by zip code in order to maximize payments to match the market while enticing areas outside of the 52001-zip code to accept HCV program participants as tenants. Efforts in past fiscal years included the following: the Voucher Payment Standards were reviewed and revised to go into effect December 1, 2022. The PHA chose to increase VPS to 110% of FMR while continuing to offer exception rent areas in the form of Small Area FMRs in the 52002 & 52003 zip codes in an effort to promote lease ups in areas of the city that don't have a lot of voucher holders. The de-concentration of poverty initiative was guiding the higher VPS in the 52002 & 52003 zip codes, with the goal of allowing voucher holders the opportunity to have a choice to rent in other areas outside of the heavily voucher leased 52001 zip code area. Voucher Payments Standards continue to be reviewed based on market fluctuations due to unit demand and availability. Most recently, the PHA implemented 120% FMR for VPS effective 1/1/2024 for a 12-month period granted from a HUD waiver. This allows landlords to be paid at a closer to market rate when accepting HCV clients as tenants. In turn, the increase in VPS allows greater ability to move into other areas of the City in an effort to de-concentrate the vouchers and give more choice to the tenants.
- In fiscal year 2023 the City of Dubuque considered the implementation of a residency preference for the HCV Waiting List lottery, whereas a preference point will be added to an applicant's application if they are currently a City of Dubuque resident. At this time, the residency preference has not been implemented. PHA believes this effort could lead to quicker lease ups and greater landlord participation. A change was needed due to the low number of vacant units available. To maintain the funding levels needed, the PHA needs to serve tenants under a current lease that are in need of assistance. Currently, PHA is looking at other ways to aid clients in quicker lease ups and help with landlord participation. Examples include assessing & revising HCV general forms for readability and adapting them all to a 6-7th grade level. Helping to ensure that clients understand what they are reading, have access to all of the materials presented at an equitable level, and aiding in the quicker response from clients for paperwork – streamlining processes and leading to quicker lease up times. We are now focusing efforts on reducing our applications/forms of asking for unneeded information in order to make processes less burdensome on participants.
- Efforts implemented focusing on presenting the HCV Program information to new area landlords at the Successful Property Maintenance Course providing education regarding the HCV Program and renting to voucher holders.
- This fiscal year the PHA is also pursuing advances to obtain unit information from non-participating landlords in order to increase our rent reasonable efforts for participating landlords which will increase more rental options for applicants/participants.
- PHA researching and planning to Project Base additional units.

## **Fair Housing Goal:**

*Describe fair housing strategies and actions to achieve the goal*

**PHA Goal: Implement local government policies that encourage equity and decrease disparate impacts**

**Sub goal: Conduct audits to decrease disparate impacts**

- Audited background check process from local ordinance requirements-In fiscal year 2020 the City began researching background check processes. The City runs free background checks for landlords on prospective tenants for the HCV program. Feedback received showed that these reports were confusing and could adversely affect tenants. We had cross-departmental staff examine the documents that housing providers receive, and most people were unable to read them correctly; According to HUD guidance and the Analysis of Impediments–best practice was not to rely on arrests in making rental decisions due to potential disparities and bias. While we did not have a way to know how each landlord used the information, we determined that we were likely contributing towards bias and inequity and stopped this



practice. On October 22, 2020, arrest records were removed from the landlord background checks provided by the City. This continues to be our procedure. The background checks were reviewed again in April 2021 to ensure compliance with new forms.

- A new software to manage the HCV caseload and expenditures was implemented in the Spring of 2022. This new software enables the PHA together additional metrics and data to be available to assist in the analysis of community needs and barriers.
- Efforts continue to translate all necessary documents into Spanish and Marshallese in order to break down communication barriers and allow easier accessibility to programs and information for the entire community. PHA is focusing efforts on translation services and interpreter needs and accessibility. Assessed & revised our HCV general forms for readability and adapted them all to a 6-7th grade level. We are also working on reducing our applications/forms of asking for unneeded information in order to make the processes less burdensome on participants.
- Continued emphasis on heavy utilization of HUD's Budget Tool and monthly review with PHA Portfolio Manager to forecast, plan and enhance utilization.
- PHA plans to continue working with technical assistance personnel to identify approaches to further utilization of voucher funds within the community.
- Efforts increased to create more social media presence to engage the community through education and awareness. A landlord education video was released in Spring of 2022.
- In fiscal year 2024 City staff are also researching the potential benefits of offering a tenant education course and other possible ways to lessen the burden of moving and unit damage.

**Sub Goal: Analyze data to increase equity**

Implement quarterly review of eviction data for disparate impacts—We will not be able to track this data due to the lack of capability in the County Offices to support reporting. We will continue to work with individuals and complaints about wrongful evictions at this time.

**PHA Goal: Increase access to opportunity and the building of social capital**

**Sub Goal: Evaluate barriers that still exist, preventing residents from earning a livable wage, and address barriers to success.**

- Joined the Childcare Initiative to find ways to fund/provide childcare without 2 year waiting periods—In fiscal year 2021 we participated in many of the Childcare Coalition meetings in order to help generate ideas and identify potential barriers, resources, and solutions to assist parents in their goals of balancing a family and a career. In 2022 the City of Dubuque PHA worked with Childcare initiative to put the data and research into action, the result is a new childcare facility to address the working parent barriers was projected be opening in 2023. Update: the new childcare facility opened in January 2024.
- The City of Dubuque's Sustainability Coordinator was granted additional funding through the City's annual budget process to add a summer intern, it is a goal for that department to do some additional work to address the food deserts in the community.
- In 2023 we sought out and were awarded a USDA grant to increase the food access by partnering with three non-profits in the community. We began offering fellowship opportunities to increase the non-profits capacity to supply food in food deserts and develop innovative approaches for access to fresh/healthy foods. In 2024 we will continue these efforts to impact change and provide opportunities in different areas throughout the City.

## Instructions for Preparation of Form HUD-50075-HCV Annual PHA Plan for HCV-Only PHAs

**A. PHA Information.** All PHAs must complete this section. (24 CFR §903.4)

**A.1** Include the full **PHA Name**, **PHA Code**, **PHA Type**, **PHA Fiscal Year Beginning** (MM/YYYY), **Number of Housing Choice Vouchers (HCVs)**, **PHA Plan Submission Type**, and the **Availability of Information**, specific location(s) of all information relevant to the public hearing and proposed PHA Plan.

**PHA Consortia:** Check box if submitting a Joint PHA Plan and complete the table. [\(24 CFR §943.128\(a\)\)](#)

**B. Plan Elements.** All PHAs must complete this section. [\(24 CFR §903.11\(c\)\(3\)\)](#)

**B.1 Revision of Existing PHA Plan Elements.** PHAs must:

Identify specifically which plan elements listed below that have been revised by the PHA. To specify which elements have been revised, mark the “yes” box. If an element has not been revised, mark “no.”

☐ **Statement of Housing Needs and Strategy for Addressing Housing Needs.** Provide a statement addressing the housing needs of low-income, very low-income, and extremely low-income families and a brief description of the PHA’s strategy for addressing the housing needs of families who reside in the jurisdiction served by the PHA and other families who are on the Section 8 tenant-based assistance waiting lists. The statement must identify the housing needs of (i) families with incomes below 30 percent of area median income (extremely low-income); (ii) elderly families (iii) households with individuals with disabilities, and households of various races and ethnic groups residing in the jurisdiction or on the public housing and Section 8 tenant-based assistance waiting lists. The statement of housing needs shall be based on information provided by the applicable Consolidated Plan, information provided by HUD, and generally available data. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. Once the PHA has submitted an Assessment of Fair Housing (AFH), which includes an assessment of disproportionate housing needs in accordance with 24 CFR 5.154(d)(2)(iv), information on households with individuals with disabilities and households of various races and ethnic groups residing in the jurisdiction or on the waiting lists no longer needs to be included in the Statement of Housing Needs and Strategy for Addressing Housing Needs. (24 CFR § 903.7(a)).

The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. [\(24 CFR §903.7\(a\)\(2\)\(i\)\)](#) Provide a description of the ways in which the PHA intends, to the maximum extent practicable, to address those housing needs in the upcoming year and the PHA’s reasons for choosing its strategy. [\(24 CFR §903.7\(a\)\(2\)\(ii\)\)](#)

☐ **Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.** A statement of the PHA’s policies that govern resident or tenant eligibility, selection and admission including admission preferences for HCV. [\(24 CFR §903.7\(b\)\)](#)

☐ **Financial Resources.** A statement of financial resources, including a listing by general categories, of the PHA’s anticipated resources, such as PHA HCV funding and other anticipated Federal resources available to the PHA, as well as tenant rents and other income available to support tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each Federal program and state the planned use for the resources. [\(24 CFR §903.7\(c\)\)](#)

☐ **Rent Determination.** A statement of the policies of the PHA governing rental contributions of families receiving tenant-based assistance, discretionary minimum tenant rents, and payment standard policies. [\(24 CFR §903.7\(d\)\)](#)

☐ **Operation and Management.** A statement that includes a description of PHA management organization, and a listing of the programs administered by the PHA. [\(24 CFR §903.7\(e\)\)](#).

☐ **Informal Review and Hearing Procedures.** A description of the informal hearing and review procedures that the PHA makes available to its applicants. [\(24 CFR §903.7\(f\)\)](#)

☐ **Homeownership Programs.** A statement describing any homeownership programs (including project number and unit count) administered by the agency under section 8y of the 1937 Act, or for which the PHA has applied or will apply for approval. [\(24 CFR §903.7\(k\)\)](#)

☐ **Self Sufficiency Programs and Treatment of Income Changes Resulting from Welfare Program Requirements.** A description of any PHA programs relating to services and amenities coordinated, promoted, or provided by the PHA for assisted families, including those resulting from the PHA’s partnership with other entities, for the enhancement of the economic and social self-sufficiency of assisted families, including programs provided or offered as a result of the PHA’s partnerships with other entities, and activities subject to Section 3 of the Housing and Community Development Act of 1968 (24 CFR Part 135) and under requirements for the Family Self-Sufficiency Program and others. Include the program’s size (including required and actual size of the FSS program) and means of allocating assistance to households. [\(24 CFR §903.7\(l\)\(i\)\)](#) Describe how the PHA will comply with the requirements of section 12(c) and (d) of the 1937 Act that relate to treatment of income changes resulting from welfare program requirements. [\(24 CFR §903.7\(l\)\(iii\)\)](#).

☐ **Substantial Deviation.** PHA must provide its criteria for determining a “substantial deviation” to its 5-Year Plan. [\(24 CFR §903.7\(r\)\(2\)\(i\)\)](#)

☐ **Significant Amendment/Modification.** PHA must provide its criteria for determining a “Significant Amendment or Modification” to its 5-Year and Annual Plan.

If any boxes are marked “yes”, describe the revision(s) to those element(s) in the space provided.

**B.2 New Activities.** This section refers to new capital activities which is not applicable for HCV-Only PHAs.

**B.3 Progress Report.** For all Annual Plans following submission of the first Annual Plan, a PHA must include a brief statement of the PHA’s progress in meeting the mission and goals described in the 5-Year PHA Plan. [\(24 CFR §903.11\(c\)\(3\)\)](#), [24 CFR §903.7\(r\)\(1\)\)](#)

**B.4 Capital Improvements.** This section refers to PHAs that receive funding from the Capital Fund Program (CFP) which is not applicable for HCV-Only PHAs

**B.5 Most Recent Fiscal Year Audit.** If the results of the most recent fiscal year audit for the PHA included any findings, mark “yes” and describe those findings in the space provided. [\(24 CFR §903.7\(p\)\)](#)

## C. Other Document and/or Certification Requirements.

**C.1 Resident Advisory Board (RAB) comments.** If the RAB had comments on the annual plan, mark “yes,” submit the comments as an attachment to the Plan and describe the analysis of the comments and the PHA’s decision made on these recommendations. (24 CFR §903.13(c), 24 CFR §903.19)

**C.2 Certification by State of Local Officials.** Form HUD-50077-SL, *Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan*, must be submitted by the PHA as an electronic attachment to the PHA Plan. (24 CFR §903.15). Note: A PHA may request to change its fiscal year to better coordinate its planning with planning done under the Consolidated Plan process by State or local officials as applicable.

**C.3 Civil Rights Certification/ Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan.** Provide a certification that the following plan elements have been revised, provided to the RAB for comment before implementation, approved by the PHA board, and made available for review and inspection by the public. This requirement is satisfied by completing and submitting form HUD-50077 ST-HCV-HP, *PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations Including PHA Plan Elements that Have Changed*. Form HUD-50077-ST-HCV-HP, *PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations Including PHA Plan Elements that Have Changed* must be submitted by the PHA as an electronic attachment to the PHA Plan. This includes all certifications relating to Civil Rights and related regulations. A PHA will be considered in compliance with the certification requirement to affirmatively further fair housing if the PHA fulfills the requirements of §§ 903.7(o)(1) and 903.15(d) and: (i) examines its programs or proposed programs; (ii) identifies any fair housing issues and contributing factors within those programs, in accordance with 24 CFR 5.154; or 24 CFR 5.160(a)(3) as applicable (iii) specifies actions and strategies designed to address contributing factors, related fair housing issues, and goals in the applicable Assessment of Fair Housing consistent with 24 CFR 5.154 in a reasonable manner in view of the resources available; (iv) works with jurisdictions to implement any of the jurisdiction’s initiatives to affirmatively further fair housing that require the PHA’s involvement; (v) operates programs in a manner consistent with any applicable consolidated plan under 24 CFR part 91, and with any order or agreement, to comply with the authorities specified in paragraph (o)(1) of this section; (vi) complies with any contribution or consultation requirement with respect to any applicable AFH, in accordance with 24 CFR 5.150 through 5.180; (vii) maintains records reflecting these analyses, actions, and the results of these actions; and (viii) takes steps acceptable to HUD to remedy known fair housing or civil rights violations, impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with the local jurisdiction to implement any of the jurisdiction’s initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction. (24 CFR §903.7(o)).

**C.4 Challenged Elements.** If any element of the Annual PHA Plan or 5-Year PHA Plan is challenged, a PHA must include such information as an attachment to the Annual PHA Plan or 5-Year PHA Plan with a description of any challenges to Plan elements, the source of the challenge, and the PHA’s response to the public.

## D. Affirmatively Furthering Fair Housing (AFFH).

**D.1 Affirmatively Furthering Fair Housing.** The PHA will use the answer blocks in item D.1 to provide a statement of its strategies and actions to implement each fair housing goal outlined in its accepted Assessment of Fair Housing (AFH) consistent with 24 CFR § 5.154(d)(5) that states, in relevant part: “To implement goals and priorities in an AFH, strategies and actions shall be included in program participants’ ... PHA Plans (including any plans incorporated therein) .... Strategies and actions must affirmatively further fair housing ....” Use the chart provided to specify each fair housing goal from the PHA’s AFH for which the PHA is the responsible program participant – whether the AFH was prepared solely by the PHA, jointly with one or more other PHAs, or in collaboration with a state or local jurisdiction – and specify the fair housing strategies and actions to be implemented by the PHA during the period covered by this PHA Plan. If there are more than three fair housing goals, add answer blocks as necessary.

Until such time as the PHA is required to submit an AFH, the PHA will not have to complete section D., nevertheless, the PHA will address its obligation to affirmatively further fair housing in part by fulfilling the requirements at 24 CFR 903.7(o)(3) enacted prior to August 17, 2015, which means that it examines its own programs or proposed programs; identifies any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works 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. Furthermore, under Section 5A(d)(15) of the U.S. Housing Act of 1937, as amended, a PHA must submit a civil rights certification with its Annual PHA Plan, which is described at 24 CFR 903.7(o)(1) except for qualified PHAs who submit the Form HUD-50077-CR as a standalone document.

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This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937, as amended, which introduced the Annual PHA Plan. The Annual PHA Plan provides a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA’s operations, programs, and services, and informs HUD, families served by the PHA, and members of the public for serving the needs of low- income, very low- income, and extremely low- income families.

Public reporting burden for this information collection is estimated to average 6.02 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

**Privacy Act Notice.** The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality

**Resident Advisory Board Meeting Minutes**  
**2/29/2024**

Present:	Debra Borgstedt	Charleen Ludwig	Carol Steckel	Diamond Wilson
	Brenton Gaul	Monique Miller	John Tyler	
	Lauren Lapointe	Tiplap Rachin	Bertha Whitehorn	
	Juliane Jarrett	Patricia Stanford	Julie Wickre	
Staff:	Gina Hodgson	Tracy Doyle	Crystal Kilgore	
	Dawn Blatz	Ryan Feller	Hollie Ohnesorge	

Presenters: Gina Hodgson, Assisted Housing Supervisor, Housing & Community Development Department  
Hollie Ohnesorge, Assisted Housing Coordinator, Housing & Community Development Department

Hollie Ohnesorge, Assisted Housing Coordinator, called the meeting to order at 10:30 a.m. Ohnesorge introduced Gina Hodgson, Assisted Housing Supervisor, and herself; she continues with an overview of the meeting. The remaining staff introduced themselves.

Hodgson provided a presentation on the Annual Plan and explained it will be submitted to City Council prior to being submitted to the U.S. Department of Housing and Urban Development (HUD). The Public Hearing for the Annual Plan will be held on April 1, 2024; it's effective dated will be July 1, 2024.

Hodgson highlighted the following:

- The City has worked with the Greater Dubuque Development Corporation and developers to create affordable housing. Several developments are underway to address these needs.
- Community Development Block Grant (CDBG) funds are being used to provide low-interest loans and down payment assistance towards homeownership. Also, the Department requests data regarding whether or not landlords accept the Housing Choice Voucher program through the rental license renewal process.
- The International Property Maintenance Code (IPMC) was adopted to increase the quality of housing in Dubuque.
- In 2024, research will begin for the next 5-Year Annual Plan.
- Staff meet with the Landlord Association monthly to address questions and needs.
- Ohnesorge presents information on housing assistance at the training for new landlords--Successful Property Maintenance.
- An online briefing was rolled out a few years ago to assist with issuing vouchers quicker. Clients no longer must wait to attend an in-person meeting. This year, the online briefing will be updated to reflect commonly asked questions and to be easier to understand.
- The Department pursued the residency preference. (It has not been implemented.)
- Forms were revised so that they are on a 6<sup>th</sup>/7<sup>th</sup> grade reading level. (Staff are working to translate the forms into Spanish and Marshallese.)
- Inspection staff are working with landlords to obtain data on units for rent comparables.
- Currently, only the Rose of Dubuque offers the Project Based Voucher. The Department will be looking for additional communities for the program.
- Arrest records were removed from criminal backgrounds that the City provides to landlords.
- The YMCA recently opened a new child care facility on the West End.

**Comments:**

It was stated there was concern that the speed and terminology of the presentation on the Annual Plan may be too much for some individuals to comprehend.

*Response: Several suggestions were made to resolve the issue, which included changing to different seating so that sound from the speakers may be easier to understand, slowing down the speed of the spoken words, using lay terms, recording the session, printing the presentation slides, and emailing presentation. (Hodgson offered to print and/or email copies of the presentation to those who needed it.)*

Ohnesorge continued the meeting with a presentation on Housing Opportunities through Modernization Act (HOTMA). Effective January 1, 2024, several amendments were made to the law. Ohnesorge discussed the following:

- “Violence Against Women Act of 2013” was renamed “Violence Against Women” and human trafficking was added to it. Violence Against Women is for women, men, and binary.
- Earned Income Disallowance was discontinued effective January 1, 2024. This was for disabled individuals receiving Social Security who wanted to work.
- A new guidance for calculating annual income was provided.
- Assets increased to \$55,000.
- Deductions for children will be \$480. The medical deduction for participants will increase from \$400 to \$525; however, any unreimbursed medical expenses that exceeded 3% will now be 10%. The participants currently receiving the deduction will be phased in over several years.

Annual Reexam	Percentage
1st Reexam	5.0%
2nd Reexam	7.5%
3rd Reexam	10.0%

*\*\*If a participant has trouble with paying rent due to the implementation of the new rules for the medical deduction, the participant may request a hardship.)*

- If the family’s adjusted income increases by at least 10%, an interim reexam is required be completed by the Public Housing Agency (PHA).
- The PHA is not required to complete an interim reexam if the family’s adjusted income decreases by less than 10%.
- Families with net assets over \$100,000 will no longer be eligible for housing assistance programs.
- Families who own a home may not be eligible for housing assistance.

**Comments:**

There were questions about the medical deductions and whether transportation to and from medical offices may count towards the medical deductions.

*Response: Transportation may not be counted towards the medical deduction; it was suggested that participants reach out to their Managed Care Organization (MCO) for they may be able to assist with transportation.*

There was a suggestion to provide a newsletter that alerts participants of updates and changes.

*Response: Currently there is no availability for staff to create newsletters.*

Date: 2/28/2024

RAB Meeting Topic: Annual Plan & HOTMA

[illegible]



# Civil Rights Certification (Qualified PHAs)

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
OMB Approval No. 2577-0226  
Expires 3/31/2024

## Civil Rights Certification

### Annual Certification and Board Resolution

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairperson or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the 5-Year PHA Plan, hereinafter referred to as "the Plan", of which this document is a part, and make the following certification and agreements with the Department of Housing and Urban Development (HUD) for the fiscal year beginning July 1, 2024 in which the PHA receives assistance under 42 U.S.C. 1437f and/or 1437g in connection with the mission, goals, and objectives of the public housing agency and implementation thereof:

The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601-19), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), title II of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*), and other applicable civil rights requirements and that it will affirmatively further fair housing in the administration of the program. In addition, if it administers a Housing Choice Voucher Program, the PHA certifies that it will administer the program in conformity with the Fair Housing Act, title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, title II of the Americans with Disabilities Act, and other applicable civil rights requirements, and that it will affirmatively further fair housing in the administration of the program. The PHA will affirmatively further fair housing, which means that it will take meaningful actions to further the goals identified in the Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR § 5.150 through 5.180, that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR § 903.7(o)(3). The PHA will fulfill the requirements at 24 CFR § 903.7(o) and 24 CFR § 903.15(d). Until such time as the PHA is required to submit an AFH, the PHA will fulfill the requirements at 24 CFR § 903.7(o) promulgated prior to August 17, 2015, which means that it examines its programs or proposed programs; identifies any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and maintains records reflecting these analyses and actions.

City of Dubuque  
PHA Name

IA087  
PHA Number/HA Code

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

Name of Executive Director:	Name of Board Chairperson:
Alexis Steger	
Signature	Signature
Date	Date

The United States Department of Housing and Urban Development is authorized to collect the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 *et seq.*, and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality. The information is collected to ensure that PHAs carry out applicable civil rights requirements.

Public reporting burden for this information collection is estimated to average 0.16 hours per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

**Certification by State or Local  
Official of PHA Plans Consistency  
with the Consolidated Plan or  
State Consolidated Plan  
(All PHAs)**

U. S Department of Housing and Urban Development

Office of Public and Indian Housing

OMB No. 2577-0226

Expires 3/31/2024

**Certification by State or Local Official of PHA Plans  
Consistency with the Consolidated Plan or State Consolidated Plan**

I, Brad M Cavanagh, the Mayor of the City of Dubuque  
*Official's Name* *Official's Title*

certify that the 5-Year PHA Plan for fiscal years 2020-2024 and/or Annual PHA Plan  
for fiscal year 2024 of the City of Dubuque IA087 is consistent with the  
*PHA Name*

Consolidated Plan or State Consolidated Plan including the Analysis of Impediments (AI) to Fair  
Housing Choice or Assessment of Fair Housing (AFH) as applicable to the

City of Dubuque  
*Local Jurisdiction Name*

pursuant to 24 CFR Part 91 and 24 CFR § 903.15.

Provide a description of how the PHA Plan's contents are consistent with the Consolidated Plan or  
State Consolidated Plan.

The City of Dubuque PHA Plan and the Consolidated Plan track the number of units per census  
tract and track the location of affordable housing and type. The activities and goals include actions  
the City will take to integrate affordable housing that is fully available without regard to race,  
ethnicity, religion, national origin, sex, disability, familial status, gender, or sexual orientation.  
Both plans include specific goals to expand opportunities for Housing Choice Voucher applicants  
and participants, including strategies to increase affordability.

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

Name of Authorized Official:	Title:
Brad M Cavanagh	Mayor
Signature:	Date:

The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S.  
Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information  
are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality. This information is collected to  
ensure consistency with the consolidated plan or state consolidated plan.

Public reporting burden for this information collection is estimated to average 0.16 hours per year per response, including the time for reviewing  
instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD  
may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.



<b>Certifications of Compliance with PHA Plan and Related Regulations</b> <i>(Standard, Troubled, HCV-Only, and High Performer PHAs)</i>	<b>U.S. Department of Housing and Urban Development</b> Office of Public and Indian Housing <b>OMB No. 2577-0226</b> <b>Expires 3/31/2024</b>
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**PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations  
including PHA Plan Elements that Have Changed**

*Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairperson or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the \_\_\_ 5-Year and/or \_\_\_ Annual PHA Plan, hereinafter referred to as "the Plan", of which this document is a part, and make the following certification and agreements with the Department of Housing and Urban Development (HUD) for the PHA fiscal year beginning \_\_\_ July 1, 2024 \_\_\_, in connection with the submission of the Plan and implementation thereof:*

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located (24 CFR § 91.2).
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments (AI) to Fair Housing Choice, or Assessment of Fair Housing (AFH) when applicable, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan (24 CFR §§ 91.2, 91.225, 91.325, and 91.425).
3. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Resident Advisory Board or Boards in developing the Plan, including any changes or revisions to the policies and programs identified in the Plan before they were implemented, and considered the recommendations of the RAB (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
4. The PHA provides assurance as part of this certification that:
  - (i) The Resident Advisory Board had an opportunity to review and comment on the changes to the policies and programs before implementation by the PHA;
  - (ii) The changes were duly approved by the PHA Board of Directors (or similar governing body); and
  - (iii) The revised policies and programs are available for review and inspection, at the principal office of the PHA during normal business hours.
5. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
6. The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601-19), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), title II of the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and other applicable civil rights requirements and that it will affirmatively further fair housing in the administration of the program. In addition, if it administers a Housing Choice Voucher Program, the PHA certifies that it will administer the program in conformity with the Fair Housing Act, title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, title II of the Americans with Disabilities Act, and other applicable civil rights requirements, and that it will affirmatively further fair housing in the administration of the program.
7. The PHA will affirmatively further fair housing, which means that it will take meaningful actions to further the goals identified in the Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR § 5.150 through 5.180, that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR § 903.7(o)(3). The PHA will fulfill the requirements at 24 CFR § 903.7(o) and 24 CFR § 903.15(d). Until such time as the PHA is required to submit an AFH, the PHA will fulfill the requirements at 24 CFR § 903.7(o) promulgated prior to August 17, 2015, which means that it examines its programs or proposed programs; identifies any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and maintains records reflecting these analyses and actions.
8. For PHA Plans that include a policy for site-based waiting lists:
  - The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2011-65);

- The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
  - Adoption of a site-based waiting list would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
  - The PHA shall take reasonable measures to assure that such a waiting list is consistent with affirmatively furthering fair housing; and
  - The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR 903.7(o)(1).
9. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
  10. In accordance with 24 CFR § 5.105(a)(2), HUD's Equal Access Rule, the PHA will not make a determination of eligibility for housing based on sexual orientation, gender identify, or marital status and will make no inquiries concerning the gender identification or sexual orientation of an applicant for or occupant of HUD-assisted housing.
  11. 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.
  12. 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.
  13. 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.
  14. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
  15. The PHA will provide the responsible entity or HUD any documentation that the responsible entity or HUD needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58 or Part 50, respectively.
  16. 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.
  17. The PHA will keep records in accordance with 2 CFR 200.333 and facilitate an effective audit to determine compliance with program requirements.
  18. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 CFR Part 35.
  19. The PHA will comply with the policies, guidelines, and requirements of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Financial Assistance, including but not limited to submitting the assurances required under 24 CFR §§ 1.5, 3.115, 8.50, and 107.25 by submitting an SF-424, including the required assurances in SF-424B or D, as applicable.
  20. 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 regulations and included in its Plan.
  21. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA 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 PHA Plan and will continue to be made available at least at the primary business office of the PHA.
  22. The PHA certifies that it is in compliance with applicable Federal statutory and regulatory requirements, including the Declaration of Trust(s).

City of Dubuque  
PHA Name

IA087  
PHA Number/HA Code

X Annual PHA Plan for Fiscal Year 2024

       5-Year PHA Plan for Fiscal Years 20       - 20      

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

Name of Executive Director		Name Board Chairman	
Alexis Steger			
Signature	Date	Signature	Date

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**City of Dubuque  
City Council Meeting**

**Public Hearings # 03.**

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**ITEM TITLE:** Resolution Approving a Development Agreement by and between City of Dubuque and CBDC, LLC

**SUMMARY:** Proof of publication on notice of public hearing to consider City Council adopt the attached resolution approving a proposed Development Agreement by and between the City of Dubuque and CBDC, LLC for the development of a childcare facility at 781 Locust Street, and City Manager recommending approval.

**RESOLUTION** Approving a Development Agreement by and between the City of Dubuque, Iowa and CBDC, LLC, including the issuance of Urban Tax Increment Revenue Obligations

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Adopt Resolution(s)

**ATTACHMENTS:**

**Description**

MVM Memo

Staff Memo

Development Agreement

Resolution of Approval

**Type**

City Manager Memo

Staff Memo

Supporting Documentation

Resolutions

**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Resolution Approving a Development Agreement by and between City of Dubuque and CBDC, LLC

**DATE:** March 26, 2024

Economic Development Director Jill Connors is recommending City Council adopt the attached resolution approving a proposed Development Agreement by and between the City of Dubuque and CBDC, LLC for the development of a childcare facility at 781 Locust Street.

C&B is now one of the top employers in Dubuque and desires to continue to grow in the community where it was originally established. In order to facilitate additional growth in Dubuque, C&B intends to once again invest over \$12 million – this time to create a childcare facility. This project is furthered by a \$3,000,000 State of Iowa grant for the creation of childcare centers.

In order to incentivize C&B's continued downtown investment, City staff have negotiated a Development Agreement with CBDC, LLC. The Agreement proposes the following:

1. CBDC, LLC will make a collective capital investment in building improvements of at least \$12,000,000 by July 1, 2025 for the creation of a childcare facility.
2. The City will provide tax increment rebates to CBDC, LLC, for a total of 20 semi-annual payments. Tax increment financing incentives are not estimated to exceed \$2,525,000.
3. The City will modify on-street parking restrictions adjacent to the Facility during certain hours of operation to accommodate pick up and drop off of children.

I concur with the recommendation and respectfully request Mayor and City Council approval.

  
Michael C. Van Milligen

MCVM:sv

Attachment

cc: Crenna Brumwell, City Attorney  
Cori Burbach, Assistant City Manager  
Jill Connors, Economic Development Director  
Rick Dickinson, Greater Dubuque Development Corporation President & CEO



Economic Development  
Department  
1300 Main Street  
Dubuque, Iowa 52001-4763  
Office (563) 589-4393  
TTY (563) 690-6678  
<http://www.cityofdubuque.org>

**TO:** Michael C. Van Milligen, City Manager

**FROM:** Jill M. Connors, Economic Development Director

**SUBJECT:** Resolution Approving a Development Agreement by and between  
City of Dubuque and CBDC, LLC

**DATE:** March 21, 2024

## INTRODUCTION

This memorandum is a request for the City Council to adopt the attached resolution approving a proposed Development Agreement by and between the City of Dubuque and CBDC, LLC for the development of a childcare facility at 781 Locust Street.

## BACKGROUND

CBDC, LLC is a wholly owned subsidiary of Cottingham & Butler, Inc. Cottingham & Butler, Inc. (C&B) was established in Dubuque in 1887. Over the past 132 years, C&B has remained headquartered in Dubuque and has since grown to be the 25th largest insurance brokerage firm in the U.S.

Over the last 20 years, C&B has made a concerted effort to help revitalize Dubuque's downtown business area through significant investments in commercial buildings, which in turn have allowed for continued increases in employment. Since 2000, C&B has partnered with the City of Dubuque and the State of Iowa to invest in projects of \$3.6 million, \$11.9 million, \$2.3 million, \$2.4 million and \$2.3 million. Over that same period of time, C&B has grown from approximately 200 employees to over 1,000 employees in the U.S. with over 700 of those employees located in Dubuque and another 80 within the state of Iowa.

## DISCUSSION

C&B is now one of the top employers in Dubuque and desires to continue to grow in the community where it was originally established. In order to facilitate additional growth in

Dubuque, C&B intends to once again invest over \$12 million – this time to create a childcare facility. This project is furthered by a \$3,000,000 State of Iowa grant for the creation of childcare centers.

In order to incentivize C&B's continued downtown investment, City staff have negotiated a Development Agreement with CBDC, LLC. The Agreement proposes the following:

1. CBDC, LLC will make a collective capital investment in building improvements of at least \$12,000,000 by July 1, 2025 for the creation of a childcare facility.
2. The City will provide tax increment rebates to CBDC, LLC, for a total of 20 semi-annual payments. Tax increment financing incentives are not estimated to exceed \$2,525,000.
3. The City will modify on-street parking restrictions adjacent to the Facility during certain hours of operation to accommodate pick up and drop off of children.

**RECOMMENDATION/ ACTION STEP**

I recommend the City Council adopt the attached resolution approving a Development Agreement by and between the City of Dubuque and CBDC, LLC. for the development of a childcare facility at 781 Locust Street.



**DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF DUBUQUE, IOWA  
AND  
CBDC, LLC**

This Development Agreement, dated for reference purposes the \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the City of Dubuque, Iowa, a municipality (City), established pursuant to the Iowa Code and acting under authorization of Iowa Code Chapter 403, as amended (Urban Renewal Act) and CBDC, LLC, an Iowa limited liability corporation with its principal place of business in Dubuque, Iowa (Developer).

**WITNESSETH:**

**WHEREAS**, in furtherance of the objectives of the Urban Renewal Act, City has undertaken an Urban Renewal Project as described herein to advance the community's ongoing economic development efforts; and

**WHEREAS**, Developer is or will be the owner of the following described real estate:

Lot 625, Lot 626, and Lot 627, in the City of Dubuque, Iowa, according to the recorded deed instrument number 202300001758 thereof; locally known as 781 Locust Street; and Lot 1 of Dubuque Art Plaza according to the plat recorded on the 11<sup>th</sup> day of March, 2024, Instrument No. 2024-00001914.

(the Property); and

**WHEREAS**, the Property is located in the Greater Downtown Urban Renewal District (the Area) which has been so designated by City Council Resolution 410-23 as a slum and blighted area defined by Iowa Code Chapter 403 (the Urban Renewal Law); and

**WHEREAS**, Developer has determined that it requires a new office and childcare facility to maintain and expand its operations and employment in the Area (the Facility); and

**WHEREAS**, Developer will construct a building (the Facility) on the Property for the purpose of providing childcare services; and

**WHEREAS**, Developer will make a capital investment in building improvements, equipment, furniture and fixtures in the Facility, all of the foregoing referred to herein as the Project; and

**WHEREAS**, pursuant to Iowa Code Section 403.6(1), and in conformance with the

Urban Renewal Plan for the Area adopted on May 18, 1967 and last amended on December 18, 2023, City has the authority to enter into contracts and agreements to implement the Urban Renewal Plan, as amended; and

**WHEREAS**, the Dubuque City Council believes it is in the best interests of the City to encourage Developer in the development of the Property by providing certain incentives as set forth herein.

**NOW, THEREFORE**, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

## **SECTION 1. REPRESENTATIONS AND WARRANTIES.**

1.1 Representations and Warranties of City. In order to induce Developer to enter into this Agreement, City hereby represents and warrants to Developer that to the best of City's knowledge:

- (1) City has duly obtained all necessary approvals and consents for its execution, delivery, and performance of this Agreement and that it has full power and authority to execute, deliver and perform its obligations under this Agreement. City's attorney shall issue a legal opinion to Developer at time of closing confirming the representation contained herein, in the form attached hereto as Exhibit B.
- (2) City shall exercise its best efforts to cooperate with Developer in the development process.
- (3) City shall exercise its best efforts to resolve any disputes arising during the development process in a reasonable and prompt fashion.
- (4) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions or provisions of the charter of City, any evidence of indebtedness, agreement or instrument of whatever nature to which City is now a party or by which it or its property is bound, or constitute a default under any of the foregoing.
- (5) There are no actions, suits or proceedings pending or threatened against or affecting City in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the financial position or operations of City or which affects the validity of the Agreement or City's ability to perform its obligations under this Agreement.

(6) The representations and warranties contained in this article shall be correct in all respects on and as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of the Closing Date.

1.2 Representations and Warranties of Developer. Developer makes the following individual representations and warranties:

(1) Developer is duly organized and validly existing or authorized under the laws of the State of Iowa and has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under the Agreement in the State of Iowa.

(2) This Agreement has been duly authorized, executed and delivered by Developer, and assuming due authorization, execution, and delivery by City, is in full force and effect and is a valid and legally binding instrument of Developer enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting creditors' rights generally. Developer's counsel shall issue legal opinions to the City, at time of closing, confirming the representations contained herein, in the form attached hereto as Exhibit C.

(3) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions or provisions of the articles of incorporation or the bylaws of Developer or any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which Developer is now a party or by which it or its property is bound, or constitute a default under any of the foregoing.

(4) There are no actions, suits or proceedings pending or threatened against or affecting Developer in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business, financial position or result of operations of Developer or which affects the validity of the Agreement or Developer's ability to perform its obligations under this Agreement.

(5) Developer will perform its obligations under this Agreement in accordance with the material terms of this Agreement, the Urban Renewal Plan and all local, state and federal laws and regulations.

(6) Developer will use good faith efforts to obtain, or cause to be obtained, in a timely manner, all material requirements of all applicable local, state, and federal laws and regulations which must be obtained or met.

(7) Developer either: (a) has commitments for permanent financing for the Development Project and all of its obligations under this Agreement in an amount sufficient; and/or (b) sufficient equity commitments, to successfully complete the requirements of this Agreement and shall provide evidence thereof to City prior to the Closing Date.

1.3 Conditions to Closing. The closing of the transaction (the Closing) contemplated by this Agreement and all the obligations of Developer under this Agreement are subject to fulfillment, on or before the Closing Date, of the following conditions:

(1) The representations and warranties made by City in Section 1.1 shall be correct as of the Closing Date with the same force and effect as if such representations were made at such time. At the Closing, City shall deliver a certificate in the form of Exhibit E.

(2) Developer having obtained any and all necessary governmental approvals, including without limitations approval of zoning, subdivision, or platting which might be necessary or desirable in connection with the development of the Property. Any conditions imposed as a part of the zoning, platting or subdivision must be satisfactory to Developer, in its sole opinion. City shall cooperate with Developer in attempting to obtain any such approvals and shall execute any documents necessary for this purpose, provided that City shall bear no expense in connection therewith. In connection therewith, City agrees (a) to review all of Developer's plans and specifications for the Project and to either reject or approve the same in a prompt and timely fashion; (b) to issue a written notification to Developer, following City's approval of same, indicating that City has approved such plans and specifications, and that the same are in compliance with the Urban Renewal Plan and Developer agrees to comply with any amendments to the Urban Renewal Plan, this Agreement and any other applicable City or affiliated agency requirements, with the understanding that Developer and its lenders, if any, shall have the right to rely upon the same in proceeding with the Project; (c) to identify in writing within ten (10) working days of submission of said plans and specifications, any and all permits, approvals and consents that are legally required for the construction, use and occupancy of the Project with the intent and understanding that Developer and its lenders and attorneys will rely upon same in establishing their agreement and time frames for construction, use and occupancy, lending on the Project and issuing legal opinions in connection therewith; and (d) to cooperate fully with Developer to streamline and facilitate the obtaining of such permits, approvals and consents.

(3) Developer having acquired the Property on or before the 4th day of April, 2024.

(4) Developer and City shall be in material compliance with all the terms and provisions of this Agreement.

(5) Receipt of an opinion of counsel to Developer in the form attached hereto as Exhibit C.

(6) Developer shall have the right to terminate this Agreement at any time prior to the consummation of the closing on the Closing Date if Developer determines in its sole discretion that conditions necessary for the successful completion of the Project contemplated herein have not been satisfied to the full satisfaction of such party in such party's sole and unfettered discretion. Upon the giving of notice of termination by such terminating party to the other parties to this Agreement, this Agreement shall be deemed null and void.

(7) City agrees to grant Developer within sixty (60) days after Closing irrevocable right of way licenses for the permanent building and foundation encroachments in the City right of way easement of Locust St. and 8th St. as show on Exhibit G.

City also agrees within such sixty days to grant to Developer irrevocable right of way licenses for the private driveway pavement, storm sewer and catch basin, and pavement markings in the City alley right of way easement for the alley between 7<sup>th</sup>, 8<sup>th</sup>, Locust and Bluff Streets as shown on Exhibit H.

1.4 Closing. The closing shall take place on the Closing Date which shall be on or before the 4<sup>th</sup> day of April, 2024, or such other date as the parties shall agree in writing. Consummation of the closing shall be deemed an agreement of the parties to this Agreement that the conditions of closing shall have been satisfied or waived.

1.5 City's Obligations at Closing. At or prior to Closing Date, City shall deliver to Developer such other documents as may be required by this Agreement, all in a form satisfactory to Developer.

## **SECTION 2. DEVELOPMENT ACTIVITIES.**

2.1 Minimum Improvements. Developer will make certain minimum improvements in the buildout of a childcare facility on the Property in an amount not less than \$12,000,000.00 (the Minimum Improvements).

2.2 Timing of Improvements. Developer agrees that construction of the Minimum Improvements shall be commenced within ninety (90) days after the Closing Date and shall be substantially completed by July 1, 2025.

2.3 Security Cameras. Developer shall install security cameras on the exterior of all newly constructed buildings on the Property and register said cameras with the "Secure Dubuque Personal Surveillance System" described at <https://cityofdubuque.org/2980/Secure-Dubuque> .

## **SECTION 3. COVENANTS OF CITY.**

3.1 Parking Adjustments. City shall modify parking restrictions in the public street contiguous to the Property along the west side of Locust Street and the south side of 8th Street to facilitate the drop off and pick up of children from the Facility, as shown on Exhibit F, between the hours of 6:00 AM and 9:00 AM and between the hours of 4:00 PM and 6:00 PM, from Monday through Friday, excepting holidays. These times may be revised as mutually agreed upon in writing by the parties. City shall ensure proper signage is posted in the area regarding these restrictions.

**SECTION 4. CITY PARTICIPATION.**

4.1 Economic Development Grants.

(1) Developer Economic Development Grants

(a) For and in consideration of Developer’s obligations hereunder, and in furtherance of the goals and objectives of the Urban Renewal Plan for the Project Area and the Urban Renewal Law, City agrees, subject to Developer being and remaining in compliance with the terms of this Agreement, to make twenty (20) semi-annual payments (such payments being referred to collectively as the Developer Economic Development Grants) to Developer as follows:

November 1, 2027	May 1, 2028
November 1, 2028	May 1, 2029
November 1, 2029	May 1, 2030
November 1, 2030	May 1, 2031
November 1, 2031	May 1, 2032
November 1, 2032	May 1, 2033
November 1, 2033	May 1, 2034
November 1, 2034	May 1, 2035
November 1, 2035	May 1, 2036
November 1, 2036	May 1, 2037

Pursuant to Iowa Code Section 403.9 of the Urban Renewal Law, in amounts equal to the actual amount of tax increment revenues collected by City under Iowa Code Section 403.19 (without regard to any averaging that may otherwise be utilized under Iowa Code Section 403.19 and excluding any interest that may accrue thereon prior to payment to Developer) during the preceding six (6) month period in respect of the Property and Minimum Improvements constructed by Developer (the Developer Tax Increments). City and Developer agree that for purposes of this Section 4.1(1), the assessed value of the Property as of January 1, 2024 is \$124,300.00. Developer recognizes and agrees that the Economic Development Grants shall be paid solely and only from the incremental taxes collected by City in respect to the Property and any improvements thereon, which does not

include property taxes collected for the payment of bonds and interest of each taxing district, and taxes for the regular and voter-approved physical plant and equipment levy, instructional support levy, and any other portion required to be excluded by Iowa law, and thus such incremental taxes will not include all amounts paid by Developer as regular property taxes.

(b) To fund the Developer Economic Development Grants, City shall certify to the County prior to December 1 of each year, commencing December 1, 2025, its request for the available Developer Tax Increments resulting from the assessments imposed by the County as of January 1 of that year, to be collected by City as taxes are paid during the following fiscal year and which shall thereafter be disbursed to Developer on November 1 and May 1 of that fiscal year. (Example: If City so certifies by December 1, 2025, the Developer Economic Development Grants in respect thereof would be determined on November 1, 2027, and May 1, 2028.)

(c) The Developer Economic Development Grants shall be payable from and secured solely and only by the Developer Tax Increments paid to City that, upon receipt, shall be deposited and held in a special account created for such purpose and designated as the CBDC LLC TIF Account of City. City hereby covenants and agrees to maintain its TIF ordinance in force during the term and to apply the incremental taxes collected in respect of the Property and Minimum Improvements and allocated to the CBDC LLC TIF Account to pay the Developer Economic Development Grants, as and to the extent set forth in Section 4.1(1) hereof. The Developer Economic Development Grants shall not be payable in any manner by other tax increments revenues or by general taxation or from any other City funds. City makes no representation with respect to the amounts that may be paid to Developer as the Developer Economic Development Grants in any one year and under no circumstances shall City in any manner be liable to Developer so long as City timely applies the Developer Tax Increments actually collected and held in the CBDC LLC TIF Account (regardless of the amounts thereof) to the payment of the Developer Economic Development Grants to Developer as and to the extent described in this Section.

(2) City shall be free to use any and all tax increment revenues collected in respect of other properties within the Project Area, or any available Developer Tax Increments resulting from the termination of the annual Economic Development Grants under this Section 4.1 hereof, for any purpose for which such tax increment revenues may lawfully be used pursuant to the provisions of the Urban Renewal Law, and City shall have no obligations to Developer with respect to the use thereof.

(3) All of City's obligations under this Agreement, including but not limited to City's obligation to pay the Economic Development Grants to Developer, shall be subject to City having completed all hearings and other procedures required to

amend the Urban Renewal Plan to describe the Urban Renewal Project being undertaken in accordance with this Agreement by no later than December 31, 2024.

4.2 Other than the Economic Development Grants required by Section 4.1, City shall have no obligation to provide any other funds to Developer related to the Property except as it relates to and/or forms part of the City's performance of its obligations under this Agreement.

## **SECTION 5. NON- APPROPRIATION / LIMITED SOURCE OF FUNDING.**

### **5.1 Non-Appropriation.**

(1) Notwithstanding anything in this Agreement to the contrary, the obligation of City to pay any installment of the Economic Development Grants from the pledged tax increment revenues shall be an obligation limited to currently budgeted funds, and not a general obligation or other indebtedness of City or a pledge of its full faith and credit within the meaning of any constitutional or statutory debt limitation, and shall be subject in all respects to the right of non-appropriation by the City Council of City as provided in this Section. City may exercise its right of non-appropriation as to the amount of the installments to be paid during any fiscal year during the term of this Agreement without causing a termination of this Agreement. The right of non-appropriation shall be exercised only by resolution affirmatively declaring City's election to non-appropriate funds otherwise required to be paid in the next fiscal year under this Agreement.

(2) In the event the City Council of City elects to not appropriate sufficient funds in the budget for any future fiscal year for the payment in full of the installments on the Economic Development Grants due and payable in that future fiscal year, then City shall have no further obligation to Developer for the payment of any installments due in that future fiscal year which cannot be paid with the funds then appropriated for that purpose.

5.2 The right of non-appropriation reserved to City in this Section is intended by the parties, and shall be construed at all times, so as to ensure that City's obligation to pay future installments on the Economic Development Grants shall not constitute a legal indebtedness of City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction to create, or result in the creation of, such a legal indebtedness of City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no event of default shall be deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other



provisions of this Agreement which can be given effect without the suspended provision, and to this end the provisions of this Agreement are severable.

## **SECTION 6. COVENANTS OF DEVELOPER.**

6.1 Developer shall utilize the Property only for the purpose of operating a childcare center.

6.2 Books and Records. During the term of this Agreement, Developer shall keep at all times proper books of record and account in which full, true and correct entries will be made of all dealings and transactions of or in relation to the business and affairs of Developer in accordance with generally accepted accounting principles consistently applied throughout the period involved, and Developer shall provide reasonable protection against loss or damage to such books of record and account.

6.3 Real Property Taxes. From and after the Closing Date, Developer shall pay or cause to be paid, when due and before delinquency, all real property taxes and assessments payable with respect to all and any parts of the Property unless Developer's obligations have been assumed by another person pursuant to the provisions of this Agreement.

6.4 No Other Exemptions. During the term of this Agreement, Developer agrees not to apply for any state or local property tax exemptions which are available with respect to the Property that may now be, or hereafter become, available under state law or city ordinance during the Term of this Agreement, including those that arise under Iowa Code Chapters 404 and 427, as amended.

6.5 Insurance Requirements.

(1) Developer shall provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements and at its sole cost and expense builder's risk insurance, written on a Completed Value Form in an amount equal to one hundred percent (100%) of the building (including Minimum Improvements) replacement value when construction is completed, naming City as a lender loss payable. Coverage shall include the "special perils" form and developer shall furnish City with proof of insurance in the form of a certificate of insurance.

(2) Up to the Termination Date, Developer shall maintain, or cause to be maintained, at its cost and expense (and from time to time at the request of City shall furnish proof of insurance in the form of a certificate of insurance) property insurance against loss and/or damage to the Property and any improvements thereof under an insurance policy written in an amount not less than the full insurable replacement value the Improvements, listing City as lender loss payable. Coverage shall include the "special perils" form.

(3) The term “replacement value” shall mean the actual replacement cost of the Improvements (excluding foundation and excavation costs and costs of underground flues, pipes, drains and other uninsurable items) and equipment, and shall be reasonably determined from time to time at the request of City, but not more frequently than once every three (3) years.

(4) Developer agrees to notify City immediately in the case of damage exceeding One Hundred Thousand Dollars (\$100,000.00) in amount to, or destruction of, the Improvements or any portion thereof resulting from fire or other casualty. The net proceeds of any such insurance (the Net Proceeds) shall be paid directly to Developer as its interests may appear, and Developer shall forthwith repair, reconstruct and restore the Improvements to substantially the same or an improved condition or value as they existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, Developer shall apply the Net Proceeds of any insurance relating to such damage received by Developer to the payment or reimbursement of the costs thereof, subject, however, to the terms of any mortgage encumbering title to the Property (as its interests may appear). Developer shall complete the repair, reconstruction, and restoration of Minimum Improvements whether or not the Net Proceeds of insurance received by Developer for such Purposes are sufficient.

(5) Developer shall be responsible for deductibles and self-insured retention.

6.6 Preservation of Property. During the term of this Agreement, Developer shall maintain, preserve and keep, or cause others to maintain, preserve and keep, the Improvements in good repair and working order, ordinary wear and tear excepted, and from time to time shall make all necessary repairs, replacements, renewals and additions. Nothing in this Agreement, however, shall be deemed to alter any agreements between Developer or any other party including, without limitation, any agreements between the parties regarding the care and maintenance of the Property.

6.7 Non-Discrimination. In carrying out the project, Developer shall not discriminate against any employee or applicant for employment because of age, color, familial status, gender identity, marital status, mental/physical disability, national origin, race, religion/creed, sex, or sexual orientation.

6.8 Conflict of Interest. Developer agrees that no member, officer or employee of City, or its designees or agents, nor any consultant or member of the governing body of City, and no other public official of City who exercises or has exercised any functions or responsibilities with respect to the project during his or her tenure, or who is in a position to participate in a decision-making process or gain insider information with regard to the project, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the project, or in any activity, or benefit therefrom, which is part of this project at any time during or after such person's tenure. In connection with this obligation, Developer shall have the right to rely

upon the representations of any party with whom it does business and shall not be obligated to perform any further examination into such party's background.

6.9 Non-Transferability. During the Term of this Agreement, this Agreement may not be assigned by Developer, nor may any portion of the Property be sold or otherwise transferred by Developer without the prior written consent of City, which consent shall not be unreasonably withheld. City has no obligation to consent to any assignment or sale, but such consent will not be unreasonably withheld. The sole remedy for the Developer breach of this Section 6.9 shall be the forfeiture of any Economic Grant Payments due after the unauthorized transfer of the Property.

6.10 Restrictions on Use. Developer agrees for itself, and its successors and assigns, and every successor in interest to the Property or any part thereof that they, and their respective successors and assigns, shall:

(1) Devote the Property to, and only to and in accordance with, the uses specified in the Urban Renewal Plan (and City represents and agrees that use of the Property consistent with its current zoning is in full compliance with the Urban Renewal Plan and Developer agrees to comply with any amendments to the Urban Renewal Plan,) (however, Developer shall not have any liability to City to the extent that a successor in interest shall breach this covenant and City shall seek enforcement of this covenant directly against the party in breach of same); and

(2) Not discriminate upon the basis of age, color, familial status, gender identity, marital status, mental/physical disability, national origin, race, religion/creed, sex, or sexual orientation in the sale, lease, rental, use or occupancy of the Property or any improvements erected or to be erected thereon, or any part thereof (however, Developer shall not have any liability to City to the extent that a successor in interest shall breach this covenant and City shall seek enforcement of this covenant directly against the party in breach of same).

6.11 Release and Indemnification Covenants. City and Developer agree to indemnify each other and their respective officers, agents, and employees from any against any and all claims or damages arising out of each party's negligence in the performance of this Agreement. The provisions of this Section shall survive the termination of this Agreement.

6.12 Compliance with Laws. Developer shall comply with all federal, state, and local laws, rules and regulations relating to its businesses, other than laws, rules and regulations for which the failure to comply with or the sanctions and penalties resulting therefrom, would not have a material adverse effect on the business, property, operations, financial or otherwise, of Developer.

## **SECTION 7. EVENTS OF DEFAULT AND REMEDIES.**

7.1 Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events:

- (1) Failure by Developer to pay or cause to be paid, before delinquency, all real property taxes assessed with respect to the Improvements and the Property.
- (2) Transfer of any interest by Developer in any portion of the Property or the Improvements in violation of the provisions of this Agreement.
- (3) Failure by Developer to substantially observe or perform any other material covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement.

7.2 Remedies on Default by Developer. Whenever any Event of Default referred to in Section 7.1 of this Agreement occurs and is continuing, City, as specified below, may take any one or more of the following actions after the giving of written notice by City to Developer (and the holder of any mortgage encumbering any interest in the Property of which City has been notified of in writing) of the Event of Default, but only if the Event of Default has not been cured within sixty (60) days following such notice, or if the Event of Default cannot be cured within sixty (60) days and the Developer does not provide assurances to City that the Event of Default will be cured as soon as reasonably possible thereafter:

- (1) City may suspend its performance under this Agreement until it receives assurances from the Developer, deemed adequate by City, that the Developer will cure the default and continue the performance under this Agreement;
- (2) Until the Closing Date, City may cancel and rescind this Agreement;
- (3) City may take any action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement or to enforce performance and observance of any obligation, agreement, or covenant under this Agreement.

7.3 No Remedy Exclusive. Except as specifically identified as the sole or exclusive remedy of a Party, no remedy herein conferred upon or reserved to either Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

7.4 No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver

shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

**7.5 Agreement to Pay Attorneys' Fees and Expenses.** If any action at law or in equity, including an action for declaratory relief or arbitration, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs of litigation from the other party. Such fees and costs of litigation may be set by the court in the trial of such action or by the arbitrator, as the case may be, or may be enforced in a separate action brought for that purpose. Such fees and costs of litigation shall be in addition to any other relief that may be awarded.

**7.6 Remedies on Default by City.** If City defaults in the performance of this Agreement, Developer may take any action, including legal, equitable or administrative action that may appear necessary or desirable to collect any payments due under this Agreement, to recover expenses of Developer, or to enforce performance and observance of any obligation, agreement, or covenant of City under this Agreement. Developer may suspend performance under this Agreement until it receives assurances from City, deemed adequate by Developer, that City will cure its default and continue its performance under this Agreement.

## **SECTION 8. GENERAL TERMS AND PROVISIONS.**

**8.1 Notices and Demands.** Whenever this Agreement requires or permits any notice or written request by one party to another, it shall be deemed to have been properly given if and when delivered in person or three (3) business days after having been deposited in any U.S. Postal Service and sent by registered or certified mail, postage prepaid, addressed as follows:

If to Developer:      CBDC, LLC  
                                 Attn: David O. Becker, President and CEO  
                                 800 Main Street  
                                 Dubuque, IA 52001  
                                 Phone: 563-587-5103  
                                 Email: DBecker@Cottinghambutler.com

With copy to:         CBDC, LLC  
                                 Attn: Maureen Quann  
                                 800 Main Street  
                                 Dubuque, IA 52001  
                                 Phone: 563-207-7039  
                                 Email: MQuann@cottinghambutler.com

If to City:              City Manager  
                                 50 W. 13<sup>th</sup> Street  
                                 Dubuque, Iowa 52001  
                                 Phone: (563) 589-4110

Fax: (563) 589-4149

With copy to: City Attorney  
City Hall  
50 W. 13<sup>th</sup> Street  
Dubuque, Iowa 52001

or at such other address with respect to any party as that party may, from time to time designate in writing and forward to the other as provided in this Section.

8.2 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of City and Developer and their respective successors and assigns.

8.3 Force Majeure. A party shall be excused from its obligations under this Agreement if and to the extent and during such time as the party is prevented, impeded, or hindered, unable to perform its obligations or is delayed in doing so due to events or conditions outside of the party's reasonable control and after the party has taken reasonable steps to avoid or mitigate such event or its consequences (each a "Force Majeure Event") including, without limitation in any way, as the result of any acts of God, war, fire, or other casualty, riot, civil unrest, extreme weather conditions, terrorism, strikes and/or labor disputes, pandemic, epidemic, quarantines, government stay-at-home orders, municipal and other government orders, failure of Internet, or other matter beyond the control of such party. Upon the occurrence of a Force Majeure Event, the party incurring such Force Majeure Event will promptly give notice to the other party identifying the Force Majeure Event, explaining how it impacts performance and the estimated duration, identifying the relief requested, agreeing to limit damages to the other party and to immediately resume performance upon termination of the Force Majeure Event, and agreeing to supplement the notice as more information becomes available, and thereafter the parties shall meet and confer in good faith in order to identify a cure of the condition affecting its performance as expeditiously as possible. No obligation to make a payment required by this Agreement is excused by a Force Majeure Event. The nonperforming party shall not be entitled to any damages or additional payments of any kind for any such delay.

8.4 Termination Date. This Agreement and the rights and obligations of the parties hereunder shall terminate on June 1, 2037.

8.5 Execution By Facsimile. The parties agree that this Agreement may be transmitted among them by email or facsimile machine. The parties intend that the emailed or faxed signatures constitute original signatures and that an emailed or faxed Agreement containing the signatures (original, emailed or faxed) of all the parties is binding on the parties.

8.6 Memorandum of Development Agreement. City shall promptly record a Memorandum of Development Agreement in the form attached hereto as Exhibit E in the office of the Recorder of Dubuque County, Iowa. Developer shall pay the costs for so

recording.

**IN WITNESS WHEREOF**, City has caused this Agreement to be duly executed in its name and behalf by its Mayor and attested to by its City Clerk and Developer has caused this Agreement to be duly executed.

**CITY OF DUBUQUE, IOWA**

**CBDC, LLC**

By: \_\_\_\_\_  
Brad M. Cavanagh  
Mayor

By: David Becker  
David O. Becker  
President & CEO

Attest:

By: \_\_\_\_\_  
Adrienne N. Breitfelder, City Clerk



## **LIST OF EXHIBITS**

EXHIBIT A	Urban Renewal Plan
EXHIBIT B	City Attorney Certificate
EXHIBIT C	Opinion of Developer Counsel
EXHIBIT D	City Certificate
EXHIBIT E	Memorandum of Development Agreement
EXHIBIT F	Parking Adjustments
EXHIBIT G	Locust Street and 8 <sup>th</sup> Street Encroachments
EXHIBIT H	Alley Encroachments

**EXHIBIT A**

**URBAN RENEWAL PLAN**

(on file in City Clerk's office, 50 W. 13<sup>th</sup> Street, Dubuque, IA 52001)

**EXHIBIT B**  
**CITY ATTORNEY CERTIFICATE**

**Barry A. Lindahl, Esq.**  
Senior Counsel  
Suite 330, Harbor View Place  
300 Main Street  
Dubuque, Iowa 52001-6944  
(563) 583-4113 office  
(563) 583-1040 fax  
[balesq@cityofdubuque.org](mailto:balesq@cityofdubuque.org)



(DATE)

**RE:**

Dear \_\_\_\_\_:

I have acted as counsel for the City of Dubuque, Iowa, in connection with the execution and delivery of a certain Development Agreement by and between CBDC, LLC (Developer) and the City of Dubuque, Iowa (City) dated for reference purposes the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

The City has duly obtained all necessary approvals and consents for its execution, delivery and performance of this Agreement and has full power and authority to execute, deliver and perform its obligations under this Agreement, and to the best of my knowledge, the representations of the City Manager in his letter dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, are correct.

Very sincerely,

Barry A. Lindahl, Esq.  
Senior Counsel

BAL:JLM

**EXHIBIT C**  
**OPINION OF DEVELOPER'S COUNSEL**

Mayor and City Councilmembers  
City Hall  
13<sup>th</sup> and Central Avenue  
Dubuque IA 52001

Re: Development Agreement By and Between the City of Dubuque, Iowa, and CBDC, LLC

Dear Mayor and City Councilmembers:

I have acted as counsel for CBDC, LLC (Developer) in connection with the execution and delivery of a certain Development Agreement (Development Agreement) between Developer and the City of Dubuque, Iowa (City) dated for reference purposes the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

I have examined the original certified copy, or copies otherwise identified to our satisfaction as being true copies, of the Development Agreement and such other documents and records as I have deemed relevant and necessary as a basis for the opinions set forth herein.

Based on the pertinent law, the foregoing examination and such other inquiries as I have deemed appropriate, I am of the opinion that:

1. Developer is an Iowa limited liability company with its principal place of business at Dubuque, Iowa and has full power and authority to execute, deliver and perform in full Development Agreement. The Development Agreement has been duly and validly authorized, executed and delivered by Developer and, assuming due authorization, execution and delivery by City, is in full force and effect and is valid and legally binding instrument of Developer enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting creditors' rights generally.

2. The execution, delivery and performance by Developer of the Development Agreement and the carrying out of the terms thereof, will not result in violation of any provision of, or in default under, the articles of incorporation and bylaws of Developer, any indenture, mortgage, deed of trust, indebtedness, agreement, judgment, decree, order, statute, rule, regulation or restriction to which Developer is a party or by which Developer's property is bound or subject.

3. To the best of our knowledge, there are no actions, suits or proceedings pending or threatened against or affecting Developer in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business (present or prospective), financial position or results of operations of Developer or which in any manner raises any questions affecting the validity of the Agreement or the Developer's ability to perform Developer's obligations thereunder.

I have examined such documents and certificates of public officials and officers of the Developer as we have deemed necessary for the purposes of this opinion. As to the existence of facts which are material to this opinion, we have relied upon certificates of public officials, statements by officers and resolutions of the Members of the Developer. In rendering my opinion, I have assumed (i) the legal capacity of all natural persons and the capacity and corporate power of all parties to the documents examined by us other than the Developer, (ii) the due authorization, execution and delivery of each document examined by us, by all parties to such documents other than the Developer, (iii) the genuineness of all signatures other than the signatures of the representatives of the Developer, (iv) the authenticity of all documents submitted to us as originals; (v) the conformity to original documents of all documents submitted to me as copies; and (vi) the City has no knowledge, direct or through their counsel, which would render any of the representations set forth herein inaccurate or incorrect. I have not made any independent investigation to verify any assumptions made herein, and have not undertaken any factual investigation into the business, properties, agreements or litigation of the Developer for the purpose of rendering the opinions expressed herein. There may exist matters of a factual nature which could have a bearing on my opinions expressed herein, with respect to which I have not been consulted or am otherwise unaware. Where used herein, the language "to the best of my knowledge" or language of similar nature means to my actual knowledge with no duty to inquire further of any person or document. Said language is intended to be limited to the actual knowledge of the attorneys within our firm who have been directly involved in representing the Developer, or whom I reasonably believe have knowledge of the affairs of the Developer. I have assumed that all representations and warranties made by any party to the Development Agreement are true and correct. I have examined the law, the resolutions of the members of Developer, the Development Agreement, and such company proceedings of the Developer and such other documents, certificates, instruments and matters as we deem necessary to render this opinion.

The foregoing opinions are subject to:

- (a) Equitable principles of general applicability (including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing, public policy, equitable subordination and the possible unavailability of specific performance or injunctive relief), regardless of whether considered in a proceeding in equity or at law or whether codified by statute;
- (b) The unenforceability of provisions purporting to waive rights, claims, demands, liabilities or defenses to obligations, known or unknown, suspected or unsuspected, where such waivers are contrary to any applicable law or against public policy;
- (c) The unenforceability, under certain circumstances, of provisions of agreements to the effect that rights or remedies are not exclusive, that every right or remedy is cumulative and may be exercised in addition to or with any other right or remedy, or that the election of some particular remedy or remedies does not preclude recourse to one or another remedy;

(d) The unenforceability under certain circumstances, of provisions which purport to govern forum selection or consent to jurisdiction; and

(e) The potential to vary the terms of the Development Agreement on the basis of parol evidence.

The opinions set forth herein are given as of the date hereof. I disclaim any obligation to notify you or any other person after the date of this letter if any change in fact and/or law should change my opinion with respect to any matters set forth herein. This opinion is for your benefit only and may not be quoted in whole or in part or otherwise referred to in any documents, or delivered to or filed with any person or entity, or relied upon by any other person or entity, without my prior written consent.

Very truly yours,

Maureen Quann  
Corporate Counsel



**EXHIBIT D**  
**CITY CERTIFICATE**



City Manager's Office  
City Hall  
50 West 13<sup>th</sup> Street  
Dubuque, Iowa 52001-4864  
(563) 589-4110 office  
(563) 589-4149 fax  
ctymgr@cityofdubuque.org

(DATE)

Re: Development Agreement By and Between the City of Dubuque, Iowa, and CBDC, LLC

Dear \_\_\_\_\_:

I am the City Manager of the City of Dubuque, Iowa and have acted in that capacity in connection with the execution and delivery of a certain Development Agreement between CBDC, LLC (Developer) and the City of Dubuque, Iowa (City) dated for reference purposes the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

On behalf of the City of Dubuque, I hereby represent and warrant to Developer that:

- (1) City has duly obtained all necessary approvals and consents for its execution, delivery and performance of this Agreement and that it has full power and authority to execute, deliver and perform its obligations under this Agreement. City's attorney shall issue a legal opinion to Developer at time of closing confirming the representation contained herein, in the form attached hereto as Exhibit A.
- (2) City shall exercise its best efforts to cooperate with Developer in the development process.
- (3) City shall exercise its best efforts to resolve any disputes arising during the development process in a reasonable and prompt fashion.
- (4) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions or provisions of the charter of City, any evidence of indebtedness, agreement or instrument of whatever nature to which City is now a party or by which it or its property is bound, or constitute a default under any of the foregoing.
- (5) There are no actions, suits or proceedings pending or threatened against or affecting City in any court or before any arbitrator or before or by any governmental

body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the financial position or operations of City or which affects the validity of the Agreement or City's ability to perform its obligations under this Agreement.

(6) The representations and warranties contained in this article shall be correct in all respects on and as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of the Closing Date.

Sincerely,

Michael C. Van Milligen  
City Manager

MCVM:jh

**EXHIBIT E**

**MEMORANDUM OF DEVELOPMENT AGREEMENT**

Prepared by: Barry A. Lindahl 300 Main Street Suite 330 Dubuque IA 52001 563 583-4113  
Return to: Barry A. Lindahl 300 Main Street Suite 330 Dubuque IA 52001 563 583-4113

**MEMORANDUM OF DEVELOPMENT AGREEMENT**

A Development Agreement by and between the City of Dubuque, Iowa, an Iowa municipal corporation, of Dubuque, Iowa, and CBDC, LLC was made regarding the following described premises:

Lot 625, Lot 626, and Lot 627, in the City of Dubuque, Iowa, according to the recorded deed instrument number 202300001758 thereof; locally known as 781 Locust Street; and Lot 1 of Lot 624 according to the plat recorded on the \_\_\_\_ day of \_\_\_\_\_, 2024, Instrument No. \_\_\_\_\_

The Development Agreement is dated for reference purposes the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and contains covenants, conditions, and restrictions concerning the use of said premises.

This Memorandum of Development Agreement is recorded for the purpose of constructive notice. In the event of any conflict between the provisions of this Memorandum and the Development Agreement itself, executed by the parties, the terms and provisions of the Development Agreement shall prevail. A complete counterpart of the Development Agreement, together with any amendments thereto, is in the possession of the City of Dubuque and may be examined at its offices as above provided.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF DUBUQUE, IOWA**

By: \_\_\_\_\_  
Barry A. Lindahl, Esq., Senior Counsel

**STATE OF IOWA**

: ss:

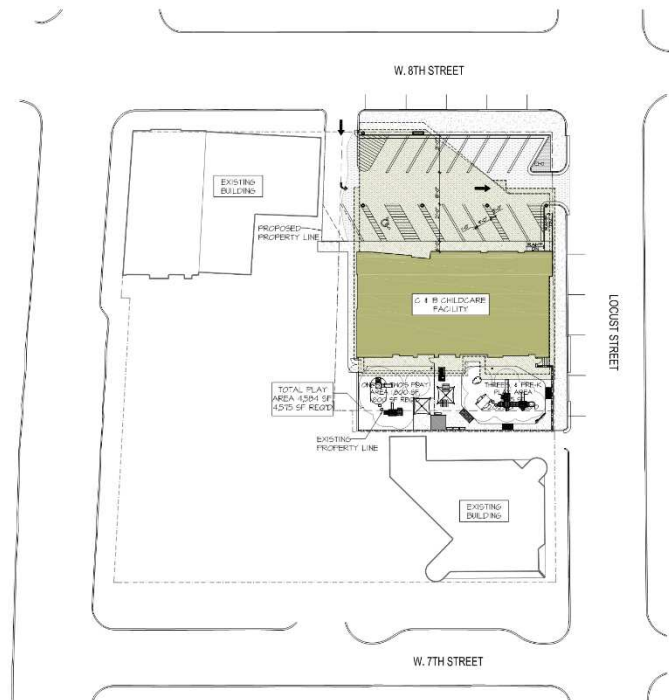
**DUBUQUE COUNTY**

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Iowa, in and for said county, personally appeared Barry A. Lindahl, , to me personally known, who being by me duly sworn did say that he is Senior Counsel of the City of Dubuque, a Municipal Corporation, created and existing under the laws of the State of Iowa and that said instrument was signed on behalf of said Municipal corporation by authority and resolution of its City Council and said Senior Counsel acknowledged said instrument to be the free act and deed of said Municipal Corporation by it voluntarily executed.

---

Notary Public, State of Iowa

**EXHIBIT F**  
**PARKING ADJUSTMENTS**



① SITE PLAN  
12-17-20

<p><b>COTTINGHAM &amp; BUTLER CHILDRENS FACILITY</b></p> <p>DESIGNER: COTTINGHAM &amp; BUTLER ARCHITECTS</p> <p>DESIGNER'S ADDRESS: 1000 N. 1ST ST., SUITE 200, MILWAUKEE, WI 53233 TELEPHONE: (414) 224-2244 FAX: (414) 224-2244</p> <p>PROJECT LOCATION: 1000 N. 1ST ST., SUITE 200, MILWAUKEE, WI 53233 PROJECT TYPE: CHILDRENS FACILITY PROJECT SIZE: 100,000 SQ. FT.</p>	<p>CONLON</p> <p>ARCHITECTS</p> <p>1903</p> <p>5000 N. 1ST ST., SUITE 200, MILWAUKEE, WI 53233 TELEPHONE: (414) 224-2244 FAX: (414) 224-2244</p>	<p>CONLON ARCHITECTS</p> <p>1903</p> <p>5000 N. 1ST ST., SUITE 200, MILWAUKEE, WI 53233 TELEPHONE: (414) 224-2244 FAX: (414) 224-2244</p>
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**EXHIBIT G**  
**LOCUST STREET AND 8TH STREET ENCROACHMENTS**





**EXHIBIT H**  
**ALLEY ENCROACHMENTS**

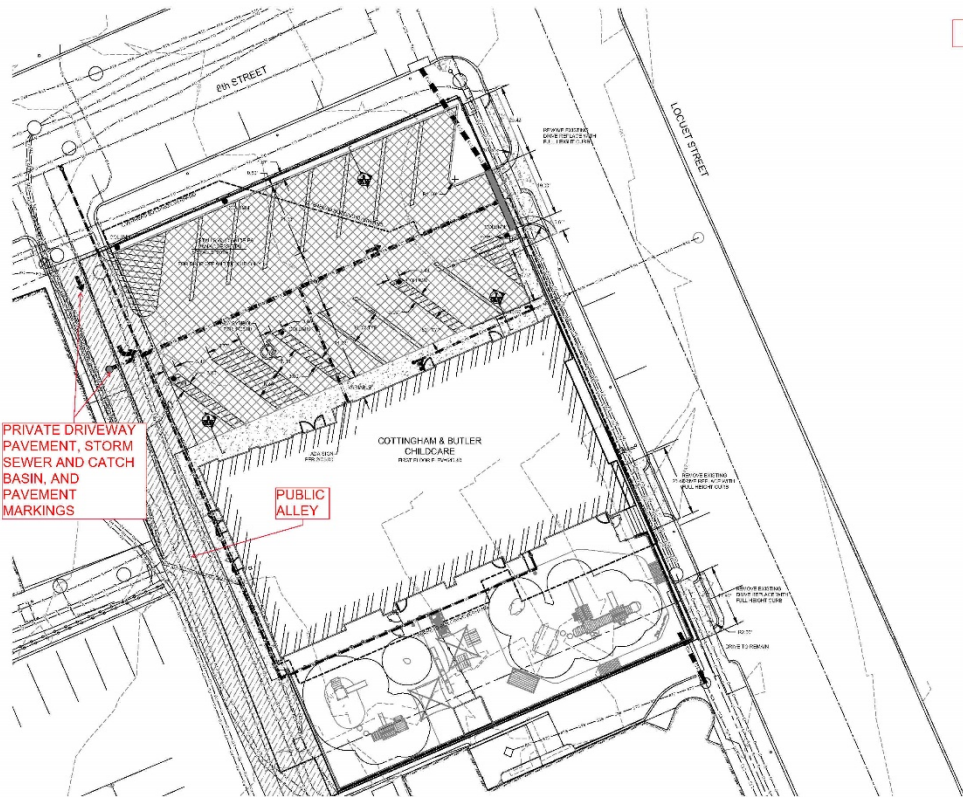


EXHIBIT H

PUESING Architects, Inc.  
ARCHITECTS

CONCOL

COTTINGHAM & BUTLER  
CHILDCARE FACILITY  
DUBUQUE, IOWA 52001

Scale: 1" = 10'-0"

North Arrow

DATE: 12/20/2024  
DRAWN BY: J. C. B.  
CHECKED BY: J. C. B.  
DATE: 12/20/2024  
SCALE: 1" = 10'-0"

Prepared by: Jill Connors, Economic Development, 1300 Main Street, Dubuque IA 52001, 563 589-4393  
Return to: Jill Connors, Economic Development, 1300 Main Street, Dubuque IA 52001, 563 589-4393

**RESOLUTION NO. \_\_\_\_-24**

**APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF DUBUQUE, IOWA AND CBDC, LLC, INCLUDING THE ISSUANCE OF URBAN TAX INCREMENT REVENUE OBLIGATIONS**

**WHEREAS**, CBDC, LLC owns or will own the property legally described as follows:

Lot 625, Lot 626, and Lot 627, in the City of Dubuque, Iowa, according to the recorded deed instrument number 2023-00001758 thereof; locally known as 781 Locust Street; and Lot 1 of Dubuque Art Plaza according to the plat recorded on the 11th day of March, 2024, Instrument No. 2024-00001914  
(the Property); and

**WHEREAS**, the City Council, by Resolution No. 64-24, dated March 18, 2024, declared its intent to enter into a Development Agreement by and between the City of Dubuque, Iowa, and CBDC, LLC, including the issuance of Urban Renewal Tax Increment Revenue Obligations; and

**WHEREAS**, pursuant to published notice, a public hearing was held on the proposed Development Agreement on April 1, 2024 at 6:30 p.m.; and

**WHEREAS**, it is the determination of the City Council that approval of the Development Agreement for redevelopment of the Property by CBDC, LLC, according to the terms and conditions set out in the Development Agreement, is in the public interest of the City of Dubuque.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:**

Section 1. That the Development Agreement by and between the City of Dubuque, Iowa, and CBDC, LLC, a copy of which is attached hereto, including the issuance of Urban Renewal Tax Increment Revenue Obligations, is hereby approved.

Section 2. That the Mayor is hereby authorized and directed to execute the Development Agreement on behalf of the City of Dubuque and the City Clerk is authorized and directed to attest to his signature.

Section 3. That the City Manager is authorized to take such actions as are necessary to comply with the terms of the Development Agreement as herein approved.

Passed, approved and adopted this 1<sup>st</sup> day of April, 2024.

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Brad M. Cavanagh, Mayor

Attest:

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Adrienne N. Breitfelder, City Clerk

**City of Dubuque  
City Council Meeting**

**Action Items # 01.**

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**ITEM TITLE:** Canadian Pacific Kansas City Limited Railroad Request to Close 15th Street Railroad Crossing

**SUMMARY:** City Manager recommending the Mayor and City Council schedule a decision on closing the 15th Street railroad crossing for the June 3, 2024, City Council Meeting.

**SUGGESTED DISPOSITION:** Suggested Disposition: Receive and File; Council

**ATTACHMENTS:**

**Description**

MVM Memo

Documentation

**Type**

City Manager Memo

Supporting Documentation





**TO:** The Honorable Mayor and City Council Members

**FROM:** Michael C. Van Milligen, City Manager

**SUBJECT:** Canadian Pacific Kansas City Limited Railroad Request to Close 15<sup>th</sup> Street Railroad Crossing

**DATE:** March 27, 2024

The City of Dubuque is examining the feasibility of creating a Railroad Quiet Zone in Dubuque. A Quiet Zone is where the trains are not required to blow their horns as they approach individual railroad crossings because the crossings have been upgraded with adequate warnings and barriers that motorists and pedestrians were adequately protected from attempting to cross the railroad tracks and therefore do not need the added warning of a train horn.

Closing a railroad crossing has a similar effect as investing in crossing improvements in that the trains do not need to blow their horns at a closed crossing.

The city has received a request from the Canadian Pacific Kansas City Limited Railroad to close the 15<sup>th</sup> Street railroad crossing.

As part of the railroad's efforts to reduce delays at railroad crossings they will be implementing expensive technology improvements at each of the railroad crossings later this year. Therefore, they are asking the city to decide quickly so they can avoid making these technology improvements at the 15<sup>th</sup> Street crossing.

There is a crossing one block to the north at 16<sup>th</sup> Street and one block to the south at 14<sup>th</sup> Street. Just north of 16<sup>th</sup> Street there is a pedestrian/bike underpass.

The city has plans to do major improvements to the 14<sup>th</sup> Street crossing with construction of a vehicle/pedestrian/bike overpass. This is contingent on receiving a \$25 million federal grant. Regardless when this overpass is built it is difficult to justify the continued existence of the 15<sup>th</sup> Street Crossing.

The railroad is offering to pay the costs of the closing of the 15<sup>th</sup> Street crossing and to provide \$100,000 to the City to help defray costs at other crossings. To implement the Quiet Zone the railroad will also support a grant application to the Iowa Department of Transportation. It is the belief of the railroad that closing the 15<sup>th</sup> Street crossing might reflect positively on the City RAISE grant application to build the 14<sup>th</sup> Street overpass.

I believe that in furtherance of the city efforts to create a Quiet Zone and end the burden of downtown residents, downtown businesses and guests at places like hotels who experience all of the train horn noise 24 hours a day, it is appropriate to close the 15<sup>th</sup> Street crossing.

I respectfully recommend that the Mayor and City Council schedule this question to be placed on the June 3, 2024, City Council Meeting to make a decision on closing the 15<sup>th</sup> Street railroad crossing.

In the interim, city staff will count the number of vehicles using this crossing and visit with the nearby property owners to hear their opinions.

  
Michael C. Van Milligen

MCVM:sv

Attachment

cc: Crenna Brumwell, City Attorney

Cori Burbach, Assistant City Manager

Gus Psihoyos, City Engineer

Chandra Ravada, East Central Intergovernmental Association Interim Executive Director



Larry Lloyd  
Senior Director  
US Government Affairs

11306 Franklin Avenue  
Franklin Park, IL  
USA 60131

E larry.lloyd@cpkcr.com  
P (224) 373-1746

March 14, 2024

Michael C. Van Milligen  
City Manager  
50 W 13th Street  
Dubuque, IA 52001

Dear Mr. Milligen,

On behalf of Canadian Pacific Kansas City (CPKC) through our subsidiary, the Dakota, Minnesota, and Eastern Railroad Corporation, I am writing to you concerning the future state of the 15<sup>th</sup> Street Highway-Rail Crossing in Dubuque (FRA Crossing ID: 376126W, on CPKC's Marquette Subdivision at Milepost 44.19). We appreciate the partnership and dialogue we have developed with Dubuque over the last couple of years in looking at various ways to enhance rail safety within the community. To that end, CPKC believes the closing of the 15<sup>th</sup> Street crossing would have many mutual benefits for us both.

As is well documented, CPKC is following through on our commitments to make significant capital improvements along our network in order to facilitate the efficient movement of additional train traffic. One of those upgrades is the completion of Centralized Traffic Control (CTC) through Dubuque by the end of 2024. These upgrades will benefit Dubuque as crossing occupancy times by trains will be reduced as the trains will not need to stop for switches to be aligned. However, those upgrades will significantly affect the crossing protection equipment in place at the 15<sup>th</sup> Street crossing, which would make its closure helpful.

CPKC hereby offers the City of Dubuque a \$100,000 crossing-closure incentive payment, on the condition that the City closes the 15<sup>th</sup> Street crossing by September 10, 2024. In such case, CPKC would further support the City's application to Iowa DOT for a crossing-closure incentive match payment of an additional \$100,000 from the State of Iowa. CPKC would also cover the costs associated with the 15<sup>th</sup> Street crossing closure. It should be noted that CPKC would consider a similar, and potentially more robust, crossing-closure incentive payment should the City consider closing the 16<sup>th</sup> Street crossing as well. Yet, we understand the City may be reluctant to do so given its current traffic-management considerations.

Finally, CPKC believes that the City should use the closure of the 15<sup>th</sup> Street crossing as a component of the Federal Railroad Administration's Rail Crossing Elimination (RCE) grant program, which could then be utilized to support a grade separation at 14<sup>th</sup> Street. The RCE grant program is tailored to look at a corridor (consisting of more than one at-grade rail-highway crossing) and gives significant consideration to communities that are willing to close a crossing in addition to grade separating one. CPKC would be willing to play a significant role in supporting that grant application.

We appreciate your consideration of this request, and the CPKC team and I are standing by to address any questions or concerns you or the Dubuque City Council may have on the matter. Be safe and well.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Lloyd", with a stylized flourish at the end.

Larry Lloyd  
Senior Director of US Government Affairs  
Canadian Pacific Kansas City Limited

Cc: Kristopher Klop - [Kristopher.Klop@iowadot.us](mailto:Kristopher.Klop@iowadot.us)

**City of Dubuque  
City Council Meeting**

**Closed Session - Bottom # 0**

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**ITEM TITLE:** Pending Litigation and Purchase or Sale of Real Estate – Chapter  
21.5(1)(c),(j) Code of Iowa

**SUMMARY:**

**SUGGESTED  
DISPOSITION:**