

Amended and Restated Moving to Work Agreement

This Amended and Restated Moving to Work Demonstration Agreement (Restated Agreement) is entered into on this 5th day of 3/2009 by and between the United States of America through the U.S. Department of Housing and Urban Development (HUD) and the **Housing Authority of Portland** (Agency). The term of this Agreement shall begin on the Date of Execution by HUD and shall continue until the end of the Agency's 2018 Fiscal Year, subject to meeting the evaluation criteria described in Section IV, unless such term is otherwise extended by HUD; and

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

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

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

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

WHEREAS, on 13th day of January 1999, HUD and the Agency executed an MTW Agreement, and on the 28th day of January 2001, HUD and the Agency executed an MTW Extension, and on 28th day of March 2003, HUD and the Agency executed an MTW Amendment, and on the 30th day of March 2006, HUD and the Agency executed an MTW Extension, (collectively known as the Original MTW Agreement) governing the terms and conditions under which HUD authorizes the Agency to participate in MTW; and

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

WHEREAS, the parties agree to execute this Restated Agreement, which hereby amends and replaces any Original MTW Agreement between HUD and the Agency; and

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

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

I. Statutory Authorizations

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

competitive HUD notices of funding availability under which the Agency has received an award, state and local laws, Federal statutes other than the 1937 Act, and OMB Circulars and requirements (including regulations promulgated by HUD thereunder in 24 C.F.R. part 85).

- D. The MTW Agency is authorized to conduct activities in accordance with the Statement of Authorizations (Attachment C) and in accordance with the Legacy and Community-Specific Authorizations (Attachment D), as applicable. In the event of a conflict between Attachment C and Attachment D, the authorizations in Attachment D will supersede those in Attachment C.

II. Requirements and Covenants

- A. The amount of assistance received under sections 8 or 9 of the 1937 Act by an Agency participating in the demonstration shall not be diminished by the Agency's participation in the MTW demonstration.
- B. The Agency agrees that any HUD assistance that the Agency is authorized to use under the MTW demonstration shall be used in accordance with the Agency's Annual MTW Plans, as may be applicable. The Agency hereby certifies that the Agency's governing board has approved this Restated Agreement, and each Annual MTW Plan issued prior to the date hereof, as applicable, and that a copy of each such board approval has been provided to HUD.
- C. The Agency shall hold at least one public hearing per Annual MTW submission, and make the Annual MTW Plan available for public comment for at least thirty (30) days. The Agency agrees to take into account public comments on the program design, including comments from current tenants/participants, to the extent such comments were provided.
- D. The Agency shall: (i) ensure that at least 75 percent of the families assisted are very low-income families, as defined in section 3(b)(2) of the 1937 Act, (ii) assist substantially the same total number of eligible low-income families under MTW, as would have been served absent the demonstration, and (iii) maintain a comparable mix of families by family size, as would have been served or assisted had the amounts not been used under the demonstration.
- E. When providing public housing, the Agency will ensure that it is safe, decent, sanitary, and in good repair, according to an inspection protocol established or approved by the Secretary. This in no way precludes the Agency from modifying its own inspection protocol as authorized in Attachments C and/or D as long as such protocol meets the housing quality standards established or approved by the Secretary.¹

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

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

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

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

III. Rent Reform Initiatives

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

IV. Evaluation

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

V. Amendments and Continuation of Activities

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

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

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

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

C. Continuation of Activities.

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

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

VI. Funding

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

Section 8(o), 9(d)(1) and 9(e)(1) consistent with this MTW Restated Agreement.

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

VII. Administrative Responsibilities

A. Annual MTW Planning and Reporting.

1. Annual MTW Plans

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

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

- (i) The information required in Attachment B, or equivalent HUD form as approved by OMB, is not provided or is deemed insufficient;
 - (ii) The Agency's planned MTW activities are not permissible under MTW Authority or are inconsistent with requirements outside the 1937 Act³;
 - (iii) The Agency's planned MTW activities do not have a clear connection to the statutory goal of the MTW demonstration, which is to provide Agencies with the flexibility to design and test various approaches for providing and administering housing assistance that: (a) reduce cost and achieves greater cost effectiveness in Federal expenditures; (b) give incentives to families with children whose heads of household are either working, seeking work, or are participating in job training, educational or other programs that assist in obtaining employment and becoming economically self-sufficient; and (c) increase housing choices for low-income families; or
 - (iv) There are other good cause factors, such as material misrepresentation, in the submission.
- h. Once HUD approves an MTW Activity, the activity shall remain approved as long as it is included in the Agency's Annual MTW Plan submissions subsequent to the initial approval of the MTW Activity. The approval shall remain in effect until such time as the Agency proposes to modify the activity, initiative, or program.
2. Annual MTW Reports
- a. The Agency will prepare Annual MTW Reports, which will compare the Agency's activities with its Annual MTW Plan. The Annual MTW Report will provide the information necessary for HUD to assess the Agency's activities, in both regular operations and in activities authorized by MTW.
 - b. Three (3) copies of the Annual MTW Report shall be submitted to HUD: one copy will be provided to HUD Headquarters in hard-copy, one copy to HUD Headquarters in electronic format (i.e., PDF, or Word), and one copy to the Agency's local HUD Field Office.
 - c. The Annual MTW Report will be submitted to HUD for its review annually, no later than ninety (90) days after the end of the Agency's fiscal year.
 - d. Attachment B of this Restated Agreement, or equivalent HUD form as approved by OMB, provides a detailed description of the required elements of the Annual MTW Report.

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

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

B. Other Data Submission Requirements.

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

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

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

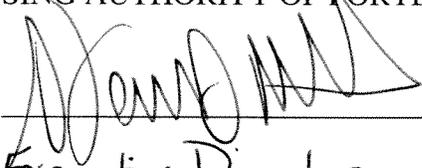
VIII. Termination and Default

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

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

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

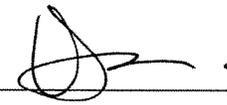
HOUSING AUTHORITY OF PORTLAND

BY:  _____

ITS: Executive Director

Date: 3.5.09

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

BY:  _____

ITS: Assistant Secretary

Date: 12.20.07

Attachment A

Calculation of Subsidies

During the term of the MTW demonstration, HUD will provide the agency with operating subsidy, modernization funds, and Section 8 assistance as described below.

Definitions in this Attachment

Initial Year = The first Agency fiscal year in which the Agency begins operating under its MTW authority, which may be the same year as that in which the Agreement is executed.

Base Year = The most recently completed Agency fiscal year prior to the Initial Year.

MTW Units = Units authorized for participation in MTW activities, as provided in Section 1 of the Appendix to this Agreement.

1. Operating Subsidy

A. Formula

Each year, the agency will calculate Operating Subsidy, in accordance with instructions provided by HUD. The intent of these instructions is as follows:

- **Utility subsidy.** The agency's utility consumption is frozen for the life of the demonstration based on the three-year rolling-base in effect in the base year. Each year thereafter, the agency multiplies this frozen consumption by utility rates that are in effect at the time of budget submission. The agency is held harmless for any changes in utility prices (resulting in year-end adjustments for actual utility rates) but takes the risk/reward for any change in consumption. Any reduction in utility rates that result from administrative actions taken by the agency will be shared equally with HUD in accordance with regulations in effect upon execution of this agreement. Alternately, a PHA may choose to keep the full savings in prices if it elects to freeze both consumption and price in the base year for utilities.
- **Non-utility subsidy.** The agency will receive under MTW an amount equal to the non-utility subsidy eligibility in the base year assuming 97 percent occupancy. This amount is then adjusted annually by both the

simplified delta and the Allowable Expense Level (AEL) inflation factor. Dwelling rental, non-dwelling rental, and add-ons are fixed in the base year, with the following adjustments.

- *Occupancy percentage.* In the base year, occupancy is calculated as 97 percent. Each year thereafter, a PHA may request an add-on for vacancies beyond the control of the PHA. If approved, these vacant units will be funded at the base year dwelling rental income, multiplied by the cumulative AEL inflation factors.
- *Add-ons.* Transition funding for demolished units, long-term vacant unit funding, and funding for deprogrammed units will not be fixed in the base year but will be treated as add-ons each subsequent year. Additionally, if a PHA fixes a Family Self-Sufficiency (FSS) add-on into the base year, it must continue to maintain an equivalent level of effort throughout the demonstration for FSS-type activities.
- *Simplified delta.* In the first year, the simplified delta (.005) is multiplied by the actual amount entered on line 2a of the HUD-52723 from the base year. The resulting figure is then carried forward to the next year and multiplied again by the simplified delta. This procedure is to be followed in years three through five.

B. Unit Months Available (UMAs)

UMAs cannot exceed those UMAs established on the Performance Funding System (PFS) worksheet for the initial year of the demonstration. An agency may draw down additional UMAs up to the number of units under Annual Contributions Contract (ACC) as of August 21, 1996, provided that the agency did not receive Section 8 replacement housing for these units and provided that the agency remains accountable for serving substantially this number of households.

C. Subsidy pro-ration

Each agency will be subject to the same subsidy proration as non-MTW agencies. Hence, if the Congress appropriates only 97 percent of PFS eligibility, an agency will receive only 97 percent of its block grant operating subsidy for that year.

D. Demolition

For any units demolished during the demonstration period, an agency will have three options:

- Retain the UMAs by serving the same number of eligible families and not receive transitional funding or Section 8 replacement housing;
- Apply for Section 8 replacement housing. Once received, the agency will no longer be eligible for transitional funding and will reduce its UMAs; or
- Receive transitional funding, but not Section 8 funding. The UMAs will then be reduced as the transitional funding becomes effective.

E. Mandatory year-end adjustments

Mandatory year-end adjustments will be performed for: actual utility rates and any change in UMAs. An agency may also request a year-end adjustment for any vacancies beyond the agency's control that were not budgeted for and if the subsidy pro-ration projection provided by HUD was later modified.

F. Financial reporting

An agency will submit a consolidated year-end financial statement for all MTW program activities and all other reports that HUD may require.

2. Comprehensive Grant Program

- a) An Agency's formula characteristics and grant amount will continue to be calculated in accordance with current law as of the date of execution of this Agreement.
- b) For modernization funds provided in years prior to the execution of this Agreement, an agency may submit, and HUD will approve, a request to reprogram, by grant year, any unobligated funds for eligible MTW purposes. Such request will be made in accordance with current procedures governing amendments to the Annual Plan under the current Comprehensive Grant Program, except that no public consultation will be necessary prior to submission of the request.

- c) All funds programmed for MTW purposes will be recorded and drawn down from MTW-designated line items on relevant HUD forms.

3. **Section 8 Tenant Based Assistance**

Units Eligible for Inclusion in Flexible Block Grant

- a) Conversion of existing Section 8 certificates and vouchers to Moving to Work units will be conducted according to instructions provided by HUD. A list of Section 8 units eligible for inclusion in the block grant ("MTW units") upon execution of this Agreement will be provided by HUD along with the instructions.
- b) The number of MTW units will not be adjusted throughout the duration of the demonstration unless: 1) any units under ACC that are not available upon execution of this Agreement become available for MTW purposes upon renewal or as otherwise authorized by HUD or 2) the Agency receives incremental Section 8 units, which the Agency may choose to convert into the block grant or to operate as a separate program, as provided in law.

Calculation of Annual Subsidy

Initial year of MTW Participation:

- a) For the certificate and voucher programs, respectively, divide Total Funds Required by the Number of Unit Months, as provided in year-end settlement data for the base year. Combine the sum of these calculations in a weighted average to calculate a weighted, base year per unit cost. Multiply this amount by the inflation factor established for the calculation of renewals to arrive at an inflation-adjusted, MTW program per unit cost (MTWPUC) for the initial year.
- b) Multiply the MTWPUC by the total number of MTW units and the number of months [MTWPUC x MTW Units x 12] to arrive at a total MTW subsidy amount to be disbursed that year.

Second and Subsequent Years of MTW Participation:

- a) Multiply the total MTW subsidy established in the previous year (excluding reserves) by the annual inflation factor established for the calculation of renewal

of Section 8 contracts to arrive at the current year's inflation-adjusted Section 8 MTW subsidy.

Reserves

- a) An amount equal to two months' program costs (MTWPUC x MTW units x 2) will be made available from existing Agency reserves for use as project reserves for MTW-eligible units.
- b) There will not be a year-end settle-up of annual funds provided for MTW units. All funds provided through this calculation will remain available for authorized purposes.



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

OFFICE OF THE ASSISTANT SECRETARY
FOR PUBLIC AND INDIAN HOUSING

FEB -3 2003

Mr. Steve Rudman
Executive Director
Housing Authority of Portland
135 SW Ash Street, Suite 600
Portland, OR 97204-3540

Dear Mr. Rudman:

RE: Change in Tenant-Based Subsidy Calculation for Housing Choice Vouchers Administered Under Moving to Work (MTW) Flexible Block Grant Funding Project # OR002MTO001

This letter affirms the U.S. Department of Housing and Urban Development's (HUD) concurrence with the Housing Authority of Portland (HAP) request to amend HAP's Moving to Work Agreement with HUD, based on a demonstrated increase in costs for tenant-based rental assistance at rates beyond current funding levels. The amendment provides for:

1. A conversion of the annual subsidy calculation for Section 8 tenant-based rental assistance units administered under HAP's Moving to Work flexible block grant, from a static base year per unit cost adjusted for inflation each year, to an adjustable annual per unit cost (PUC) methodology, as currently used in the standard Housing Choice Voucher program. HUD will include in the PUC calculation all vouchers HAP administers under its MTW program.
2. A one-time reimbursement representing the difference between the Portland Housing Authority's FY2002 actual cost (for housing assistance payments to owners for leased MTW units, plus associated administrative fees) and the FY2002 MTW subsidy amount from HUD attributable to those units.
3. The retention by HAP of any remaining funds in the HAP-held two-month project reserve created when the MTW program was established, for approved purposes, which shall not be restored by HUD under the actual cost methodology.
4. The restoration of HUD-held project reserves equal to one month's program costs in accordance with Notice PIH 2002-6.
5. The determination that new incremental units and previously excluded or subsequently awarded special purpose units that convert to MTW upon expiration of the initial funding period will be included in the calculation of HUD-held project reserves.
6. The reinstatement of a year-end settlement process in the MTW program. Settlement is necessary to determine prior year and future year actual program costs, based on calculations of

total housing assistance payments, less any MTW adjustments, plus imputed administrative fees and allowable miscellaneous fees.

Please submit a statement of your FY2002 HAP/UAP costs, by month, for your MTW voucher units, and the enclosed checklist identifying amounts attributable to any non-standard costs to the following address:

Deborah Hernandez, Acting Director
Office of Voucher Programs
451 7th St., S.W., Room 4232
Washington, D.C. 20410

HUD will determine PUCs based on FY2002 actual program costs and allowable fees, minus any excess costs resulting from HAP's use of non-standard MTW income exclusions or deductions, modifications to subsidy calculations, or non-housing assistance payments charged to housing assistance (see enclosed checklist). HUD will use these PUCs to determine FY2003 renewal and incremental funding amounts, and also to make the necessary one-time funding adjustment for the difference between MTW funds paid-to-date based on FY 2002 data and MTW funds that would have been paid out pursuant to the actual cost methodology described herein.

Once HUD provides the actual FY2002 PUCs, HAP shall submit revised budgets and requisitions, including: 1) Form HUD-52673, *Estimate of Required Annual Contributions*, 2) Form HUD-52672, *Annual Contributions Estimates Section 8 Housing*, and, 3) Form HUD-52663, *Requisition for Partial Payment of Annual Contributions for the FY 2003 year*.

Enclosed for your approval and signature is Amendment Number 1 to the MTW Agreement, which amends Attachment A, Calculation of Subsidies in accordance with this notification. After obtaining a board resolution approving the amendment, sign and date it, and return it to HUD at the following address:

Milan Ozdinec
Deputy Assistant Secretary
Office of Public Housing Investments
451 7th St., SW, Room 4130
Washington, D.C. 20410

The MTW amendment will have an effective date retroactive to the beginning of HAP's FY 2003 on April 1, 2002. You may contact Mr. Ozdinec at 202-401-8812, ext. 4166, if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael M. Liu". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael M. Liu
Assistant Secretary

Enclosure

AMENDMENT NO. 1 TO MTW AGREEMENT

Between
U.S. Department of Housing and Urban Development
And
Housing Authority of Portland

This document amends the Moving to Work Agreement signed January 13, 1999 (hereinafter the "MTW Agreement"), entered into by and between the U. S. Department of Housing and Urban Development (HUD) and the Housing Authority of Portland (HAP), and is effective as of HAP's FY 2003 (beginning April 1, 2002).

HUD and HAP hereby agree to amend the Moving to Work Demonstration Agreement as follows:

Attachment A – Calculation of Subsidies

Section 3, Page 4, Section 8 Tenant Based Assistance is hereby amended to read:

Units Eligible for Inclusion in Flexible Block Grant

Add item c):

Incremental voucher funding placed under ACC on or after April 1, 2002 will be incorporated into HAP's MTW unless such use violates the terms of the appropriation. Previously excluded special purpose voucher increments expiring on or after April 1, 2002, and special purpose voucher increments placed under ACC on or after April 1, 2002, may convert to MTW upon expiration of the initial funding period if no violation of appropriations requirements will result. HUD will make provision for the ACC reserve account for these increments, from existing reserves, in accordance with current reserve policies.

Section 3, Pages 4 and 5, Section 8 Tenant Based Assistance

Calculation of Annual Subsidy

Second and Subsequent Years of MTW Participation:

Add item b):

Funding for new and renewal voucher increments placed under ACC on or after April 1, 2002 and administered under HAP's MTW program will be calculated in accordance with the actual per-unit cost (PUC) funding methodology applicable to non-MTW housing authorities, as described below and in 24 CFR 982.102. The base, initial, and subsequent year methodologies for calculating the MTW Flexible Block Grant annual subsidies for Section 8 Tenant Based Assistance as described in sections a) and b) under Initial year of MTW Participation, and section a) of this section (MTW PUC) are terminated and replaced with the following actual per-unit cost funding methodology:

Second and Subsequent Years of MTW Participation

- b) From the effective date of this amendment, the flexible block grant funding methodology described in section a) above is replaced by the following:

For HAP's FY 2003, the Department will derive actual per-unit costs as follows:

- 1) HAP will determine the total housing assistance payments made for all tenant-based voucher programs during HAP's FY2002 (the "base year").
- 2) HAP and the Department will determine any adjustments to HAP's total housing assistance payments for the base year resulting from HAP's exercise of its MTW authority to permit non-standard MTW income exclusions or deductions, modifications to the standard subsidy calculations, and/or non-housing assistance payments charged as housing assistance. The cost of these MTW subsidy initiatives will be deducted from HAP's total housing assistance payments costs for the base year.
- 3) HAP will determine the number of unit months leased under all tenant-based voucher programs during the base year. The Department will calculate the on going administrative fee that HAP would have earned for these units under the actual cost-based funding methodology.
- 4) HAP will determine amounts paid during the base year for other administrative fees such as hard-to-house fees for large families and families with a disabled member, and for lead-based paint clearance testing and risk assessment fees.
- 5) The Department will total housing assistance payments, less the cost of any MTW subsidy initiatives, plus the imputed administrative fee and allowable miscellaneous fees for the base year. The Department will divide this total by the number of unit months leased during the base year to derive an average monthly per-unit cost.
- 6) The Department will multiply the monthly per unit cost by 12 months to obtain an annual per unit cost. This per-unit cost will be adjusted in accordance with the annual adjustment factor to determine the funding required by HAP for its FY2003.

For HAP's FY2004 and subsequent fiscal years, HAP will provide:

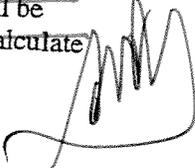
- 1) Cost information to the Department on the Year-End Statement, Form HUD-52681, and
- 2) Information on the cost of non-standard MTW exclusions, deductions, modifications to subsidy calculations and/or non-housing assistance payments charged to housing assistance payments, in the form required by HUD.

Section 3, Page 5

After section on Second and Subsequent Years of MTW Participation, add:

Amount of Budget Authority

For HAP's FY2004 and subsequent fiscal years, the annual budget authority (ABA) for all of HAP's MTW voucher units will be calculated in accordance with the actual per-unit cost funding methodology described in 24 CFR 982.102 or other applicable statutory methodology. ~~However, the cost of any HAP MTW subsidy initiatives (non-standard MTW exclusions or deductions, modifications to subsidy calculations, and/or non-housing assistance payments charged as housing assistance) will be subtracted from HAP's total housing assistance payment expense used to calculate the actual per-unit cost for renewal funding.~~



Section 3, Page 5

Reserves

Replace existing a) and b) as follows:

- a) Subject to the availability of appropriations, an amount equal to one month of program costs to be held by HUD as project reserves will be restored in accordance with Notice PIH 2002-6, and will be based on actual costs reported for the entire voucher program for the fiscal year ending March 31, 2002.
- b) Subject to the availability of appropriations, beginning with HAP's fiscal year ending March 31, 2003, HAP will be eligible for the restoration of project reserves in accordance with Notice PIH 2002-6 or subsequent HUD policy.
- c) Tenant-based subsidy funds provide to HAP for the Moving to Work program through March 31, 2002 are available for authorized purposes and will not be included in the calculation of HAP's project reserves under Notice PIH 2002-6.

Section 3, Page 5

After the section on Reserves, items a), b) and c), add the following section:

Year-End Settlement

Add item b) from original MTW agreement and modify as follows:

- b) *Through HAP's FY 2002 (ending March 31, 2002), [t]here will not be a year-end settle-up of annual funds provided under the flexible block grant funding methodology for its MTW voucher units. All funds provided through this calculation will remain available for authorized purposes.*

Add item c) as follows:



c) For HAP's FY2003 (beginning April 1, 2002) and subsequent fiscal years, HAP will be required to conduct a year-end settle-up of funds provided under the actual per-unit cost funding methodology for its MTW voucher units. HAP agrees to maintain complete and accurate internal documentation of standard and non-standard program costs, in a manner that permits a speedy and effective audit by HUD.

Section 3, Page 5

Following item b), add:

One-Time Reimbursement

For the HAP's fiscal year ending March 31, 2002, HUD will provide a one-time reimbursement for the difference between actual costs to administer the tenant-based rental assistance units and the annual MTW subsidy attributable to those units.

This Amendment is effective upon execution, except as otherwise provided herein.

THE HOUSING AUTHORITY OF PORTLAND

By *Howard Shapiro*

Chair of the HAP Board

Date of Execution by Agency 2/26/03

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

By *Michael*

Its Assistant Secretary

Date of Execution by HUD 3/28/03

MTW HOUSING CHOICE VOUCHER ACTUAL COST FUNDING CHECKLIST

MTW sites that have elected to use the standard or "actual cost" voucher funding formula are required to include the following information with their Year-End Statement. Information provided by the PHA will be used to adjust the actual per-unit HAP costs used to calculate the PHA's MTW renewal funding.

1. Average Per-Unit Cost

Please provide the following information regarding your HAP payments for the preceding fiscal year. If you have been using the actual cost method for one year or more, these costs should be the same as those reported on your Year-End Statement.

Number of unit months assisted _____
Total HAP payments _____
Average HAP payment (B/A) _____

2. Income Exclusions/Disregards

Voucher program regulations require the inclusion of all income received by all members of the assisted household -- with the exception of those exclusions specified in 24 CFR 5.609(c) (amounts not included as annual income), and 24 CFR 5.617 (self-sufficiency incentives for persons with disabilities) -- in the calculation of the households' annual income. Costs attributable to the PHA's use of additional income exclusions or disregards will be deducted from the HAP payment total used to calculate the PHA's allowable per-unit cost.

During the preceding fiscal year, has the PHA used its MTW authority to allow income exclusions or disregards -- the amounts permitted under program regulations -- in calculating the annual income of MTW households? If so, describe the income that has been excluded.

How many households have qualified for these exclusions and what is the average exclusion per family?

Were the exclusions in place for the entire fiscal year? If not, when and how did the PHA initiate its use of these exclusions?

Estimate the increase in MTW HAP payments during the preceding fiscal year that resulted from the use of additional exclusions. Show how you arrived at this figure.

3. Deductions

Voucher program regulations provide for certain mandatory deductions from the annual income of assisted households. These deductions are listed at 24CFR 5.611. Costs attributable to the PHA's use of additional deductions will be deducted from the HAP payment total used to calculate the PHA's allowable per-unit cost.

During the preceding fiscal year, has the PHA allowed any additional deductions from income in calculating the households' TFR? If so, describe the deductions.

How many households have qualified for these deductions, and what is the average deduction per family?

Were the additional deductions in place for the entire fiscal year? If not, when and how did the PHA phase out its use of these deductions?

Estimate the increase in total HAP payments during the preceding fiscal year that resulted from the use of additional deductions. Show how you arrived at this figure.

4. Subsidy Calculation

Voucher program regulations at 24 CFR 982.505 describe the method to be used for calculating the HAP payment. If the PHA has used some variation on this formula, any increased costs attributable to these changes will be deducted from the HAP payment total used to calculate the PHA's allowable per-unit cost.

During the preceding fiscal year, has the PHA used any formula other than the one described in the Housing Choice Voucher program regulations to calculate the HAP payment? If so, describe the formula used.

How many households are having their HAP calculated under this formula, and how does the HAP paid for these households compare with the amounts that would have been paid using the standard HAP calculation?

Was the revised formula in place for the entire fiscal year? If not, when and how did the PHA phase in its use of this formula?

Estimate the increase in MFLW HAP payments during the preceding fiscal year that resulted from the use of the modified HAP formula. Show how you arrived at this figure.

5. FSS Enhancements

Voucher program regulations at 24 CFR 984.305(b) describe the method to be used for calculating the escrow amount for FSS participants. If the PHA has used some variation on this formula, or has approved the use of additional credits, any increased costs attributable to these changes may be deducted from the HAP payment total used to calculate the PHA's allowable per-unit cost. (Allowing additional families to enroll in FSS and/or establish escrow accounts will not affect the PHA's per-unit cost, provided that the enrollment of these families is consistent with the PHA's MTW Agreement.)

During the preceding fiscal year, has the PHA used any formula other than the one described in FSS program regulations to calculate the FSS escrow? If so, describe the formula used.

How many households are contributing to escrow accounts under this formula and how do the amounts credited to these households under your formula compare with the amounts that would have been credited under the standard FSS formula?

Were the revised formulas and/or additional credits in place for the entire fiscal year? If not, when and how did the PHA phase in its use of these formulas/credits?

Estimate the increase in MEW/FAP payment during the preceding fiscal year that resulted from the use of modified escrow formulas and/or additional FSS credits. Show how you arrived at this figure.

6. Program Enhancements and Fund Transfers

Under the MTW program, public housing and tenant-based assistance funds are generally fungible: that is, they can be transferred from one activity or program to another without HUD approval. However, if HAP funds have been used to provide voucher program enhancements – such as security deposit assistance, owner guarantees, or services to families, or have been transferred to the PHA's public housing program, the amounts used for these non-HAP purposes will not be included in the "actual per-unit HAP costs" used to calculate the agency's MTW renewal funding.

During the preceding fiscal year, has the PHA included as HAP expenses any amounts used to provide benefits to voucher program participants that are not provided under voucher program regulations? Has the PHA included as HAP expenses any amounts used to provide benefits to public housing residents or other families? If so, describe the services or programs for which the funds were used.

FOR EACH USE, HOW MUCH WAS CHARGED AS HAP EXPENSE DURING THE YEAR?

Form 50900: Elements for the Annual MTW Plan and Annual MTW Report

Attachment B

to
AMENDED AND RESTATED MOVING TO WORK AGREEMENT
BETWEEN
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
AND
AGENCY

The information on this form is being collected so the Department is able to respond to Congressional and other inquiries regarding outcome measures obtained and promising practices learned throughout the Moving to Work (MTW) demonstration. The information reported through this form is not confidential. Respondents will report outcome information to accurately evaluate the effects of MTW policy changes on residents, the Agency's operations and the local community. The estimated burden per year per Agency is 81 hours. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The Agency may not conduct or sponsor, and are not required to respond to, a collection of information unless that collection displays a valid OMB control number. All MTW Agencies will provide the following required elements in their Annual MTW Plans and Reports, consistent with the requirements of Section VII of the standard Amended and Restated Agreement, and will follow the following order and format.

Annual MTW Plan	Annual MTW Report
I. Introduction	
A. Table of Contents, which includes all the required elements of the Annual MTW Plan; and	A. Table of Contents, which includes all the required elements of the Annual MTW Report; and

<p>B. Overview of the Agency's MTW goals and objectives for the year, including new and ongoing MTW activities. An MTW activity is defined as any activity the Agency is engaging in that requires MTW flexibility to waive statutory or regulatory requirements.</p>	<p>B. Overview of the Agency's ongoing MTW goals and objectives.</p>
<p>II. General Housing Authority Operating Information</p>	
<p>A. Housing Stock Information:</p>	
<p>Number of public housing units at the beginning of the year;</p>	<p>A. Housing Stock Information: Number of public housing units at the end of the Plan year, discuss any changes over 10%;</p>
<p>General description of any planned significant capital expenditures by development (>30% of the Agency's total budgeted capital expenditures for the fiscal year);</p>	<p>Description of any significant capital expenditures by development (>30% of the Agency's total budgeted capital expenditures for the fiscal year);</p>
<p>Description of any new public housing units to be added during the year by development (specifying bedroom size, type, accessible features, if applicable);</p>	<p>Description of any new public housing units added during the year by development (specifying bedroom size, type, accessible features, if applicable);</p>
<p>Number of public housing units to be removed from the inventory during the year by development specifying the justification for the removal;</p>	<p>Number of public housing units removed from the inventory during the year by development specifying the justification for the removal;</p>
<p>Number of MTW Housing Choice Vouchers (HCV) units authorized;</p>	<p>Number of MTW HCV authorized at the end of the Plan year, discuss any changes over 10%;</p>
<p>Number of non-MTW HCV units authorized; and</p>	<p>Number of non-MTW HCV authorized at the end of the Plan year, discuss any changes over 10%;</p>
<p>Number of HCV units to be project-based during the Plan year, including description of each separate project.</p>	<p>Number of HCV units project-based during the Plan year, including description of each separate project; and Overview of other housing managed by the Agency, eg., tax credit, state-funded, market rate.</p>
<p>B. Leasing information, Planned -- this information is estimated and may be subject to change during the Plan year.</p>	<p>B. Leasing Information - Actual</p>

Anticipated total number of MTW PH units leased in the Plan year;	Total number of MTW PH units leased in Plan year;
Anticipated total number of non-MTW PH units leased in the Plan year;	Total number of non-MTW PH units leased in Plan year;
Anticipated total number of MTW HCV units leased in the Plan year;	Total number of MTW HCV units leased in Plan year;
Anticipated total number of non-MTW HCV units leased in the Plan year; and	Total number of non-MTW HCV units leased in Plan year;
Description of anticipated issues relating to any potential difficulties in leasing units (HCV or PH).	Description of any issues related to leasing of PH or HCVs; and
Optional in Plan: Number of project-based vouchers in-use at the start of the Plan year.	Number of project-based vouchers committed or in use at the end of the Plan year, describe project where any new vouchers are placed (include only vouchers where Agency has issued a letter of commitment in the Plan year).
C. Waiting List Information	
Description of anticipated changes in waiting lists (site-based, community-wide, HCV, merged); and	Number and characteristics of households on the waiting lists (all housing types) at the end of the plan year; and
Description of anticipated changes in the number of families on the waiting list(s) and/or opening and closing of the waiting list(s).	Description of waiting lists (site-based, community-wide, HCV, merged) and any changes that were made in the past fiscal year.
III. Non-MTW Related Housing Authority Information (Optional)	
A. List planned sources and uses of other HUD or other Federal Funds (excluding HOPE VI); and	A. List planned vs actual sources and uses of other HUD or other Federal Funds (excluding HOPE VI); and
B. Description of non-MTW activities proposed by the Agency.	B. Description of non-MTW activities implemented by the Agency.
IV. Long-term MTW Plan (Optional)	
Describe the Agency's long-term vision for the direction of its MTW program, extending through the duration of the MTW Agreement.	

V. Proposed MTW Activities: HUD approval requested	
(provide the listed items below grouped by each MTW activity)	
A. Describe each proposed MTW activity;	A. Describe any activities that were proposed in the Plan, approved by HUD, but not implemented, and discuss why these activities were not implemented.
B. Describe how each proposed activity relates to at least one of the three statutory objectives;	(All proposed activities that are granted approval by HUD will be reported on in Section VI as "ongoing activities.")
C. Identify and discuss the anticipated impact of each proposed MTW activity on the stated objective;	
D. Describe baselines, proposed benchmarks, and metrics to assess outcomes, include anticipated schedules;	(All proposed activities that are granted approval by HUD will be reported on in Section VI as "ongoing activities.")
E. Describe the data collection process and the proposed metrics the Agency will use to measure how this activity will achieve one or more of the MTW statutory objectives;	
F. Cite the authorization(s) detailed in Attachment C or D of this Restated Agreement that give the Agency the flexibility to conduct the activity. Every reasonable effort will be made by the Agency to reference the complete and correct statute or regulation application to a particular initiative; however, failure to cite the correct or entire statute or regulation will not be grounds for disapproval of such initiative in an Annual MTW Plan nor will such failure invalidate the use of the MTW authority necessary to implement and support the initiative; and	
G. Provide the following information for any rent reform initiatives:	
· Agency's Board approval of policy;	
· Impact Analysis;	
· Annual reevaluation of rent reform initiative;	
· Hardship case criteria;	
· Transition period; and	

<p>Documentation of public hearing (may be same as Annual Plan hearing).</p>	
<p>VI. Ongoing MTW Activities: HUD approval previously granted (provide the listed items below grouped by each MTW activity)</p>	
<p>A. List activities continued from the prior plan year(s); specify the Plan Year in which the activity was first identified and implemented;</p>	<p>A. List activities continued from the prior Plan year(s); specify the Plan Year in which the activity was first identified and implemented;</p>
<p>B. Provide an update on the status of the activity;</p>	<p>B. Provide detailed information on the impact of the activity and compare against the proposed benchmarks, and metrics to assess outcomes, including if activity is on schedule. For rent reform initiatives, describe the result of any hardship requests. [The Agency will need to develop benchmarks and evaluation metrics for all ongoing MTW activities. For MTW activities that were implemented prior to the execution of this Amended and Restated Agreement, the Agency does not have to provide this information for past years. The Agency will establish the benchmarks and metrics in the first year that it Reports under this new format.];</p>
<p>C. For the Plan year, indicate if the Agency anticipates any changes, modifications, or additions to Attachment C authorizations; and</p>	<p>C. If benchmarks were not achieved or if the activity was determined ineffective, provide a narrative explanation of the challenges, and, if possible, identify potential new strategies that might be more effective;</p>
<p>D. Describe if the Agency is using outside evaluators.</p>	<p>D. If benchmarks or metrics have been revised; identify any new indicator(s) of activities status and impact (e.g. after 2 years of rent reform only 6 hardship cases);</p>
	<p>E. If data collection methodology has changed, describe original data collection methodology and any revisions to the process or change in data collected;</p>
	<p>F. If a different authorization from Attachment C or D was used than was proposed in the Plan, provide the new authorization and describe why the change was necessary; and</p>

	<p>G. Cite the specific provision(s) of the Act or regulation that is waived under MTW (as detailed in Attachment C or D of this Restated Agreement) that authorized the Agency to make the change, and briefly describe if and how the waived section of the Act or regulation was necessary to achieve the MTW activity. With respect to requirements related to statutory or regulatory cites, the following is agreed: Every effort will be made by the Agency to reference the complete and correct statute or regulation application to a particular initiative; However, failure to cite to the correct or entire statute or regulation will not be grounds for disapproval of such initiative in an Annual Plan nor will such failure invalidate the use of the MTW authority necessary to implement and support the initiative.</p>
<p>VII. Sources and Uses of Funding</p>	
<p>A. List planned sources (Operating, Capital, HCV) and uses of MTW funds;</p>	<p>A. List planned vs actual sources (Operating, Capital, and HCV) and uses of MTW Funds (excluding HOPE VI). Provide a narrative description of any major changes from the approved MTW Plan;</p>
<p>B. List planned sources and uses of State or local funds;</p>	<p>B. List planned vs actual sources and uses of State or local funds;</p>
<p>C. If applicable, list planned sources and uses of the COCC;</p>	<p>C. If applicable, list planned vs actual sources and uses of the COCC;</p>
<p>D. If using a cost allocation or fee-for-service approach that differs from 1937 Act requirements, describe the deviations and the reasons therefore; and</p>	<p>D. If using a cost allocation or fee-for-service approach that differs from 1937 Act requirements, describe the actual deviations that were made during the Plan year; and</p>
<p>E. List or describe use of single-fund flexibility, if applicable, describe uses across traditional program lines or special circumstances in support of an MTW activity.</p>	<p>E. List or describe planned vs actual use of single-fund flexibility.</p>
<p>F. Optional - List reserve balances at beginning of the Plan year.</p>	<p>F. Optional - List planned vs actual reserve balances at the end of the plan year.</p>

G. Optional - In Plan Appendix, provide planned sources and uses by AMP.	G. Optional - In plan appendix, provide planned vs actual sources and use by AMP.
VIII. Administrative	
The Agency will provide the following:	
A. Resolution signed by the Board of Commissioners, or other authorized PHA official if there is no Board of Commissioners, adopting the Annual MTW Plan Certification of Compliance (provided at the end of this Attachment B); and	The Agency will provide the following: A. Description of progress on the correction or elimination of observed deficiencies cited in monitoring visits, physical inspections, or other oversight and monitoring mechanisms, if applicable;
B. Description of any planned or ongoing Agency-directed evaluations of the demonstration, if applicable.	B. Results of latest Agency-directed evaluations of the demonstration, as applicable;
	C. Performance and Evaluation Report for Capital Fund activities not included in the MTW Block Grant, as an attachment to the Report; and
	D. Certification that the Agency has met the three statutory requirements of: 1) assuring that at least 75 percent of the families assisted by the Agency are very low-income families; 2) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined; and 3) maintaining a comparable mix of families (by family size) are served, as would have been provided had the amounts not been used under the demonstration.

Annual Moving to Work Plan
Certifications of Compliance
U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

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

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

1. The PHA published a notice that a hearing would be held, that the Plan and all information relevant to the public hearing was available for public inspection for at least 30 days, that there were no less than 15 days between the public hearing and the approval of the Plan by the Board of Commissioners, and that the PHA and conducted a public hearing to discuss the Plan and invited public comment.
2. The Agency took into consideration public and resident comment before approval of the Plan by the Board of Commissioners or Board of Directors in order to incorporate any public comments into the Annual MTW Plan;
3. The PHA will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
4. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and maintain records reflecting these analyses and actions.
5. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
6. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
7. The PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 8.
8. The PHA will comply with requirements with regard to a drug free workplace required by 24 CFR Part 24, Subpart F.
9. The PHA will comply with requirements with regard to compliance with restrictions on lobbying required by 24 CFR Part 87, together with disclosure forms if required by this Part, and with restrictions on payments to influence Federal Transactions, in accordance with the Byrd Amendment and implementing regulations at 49 CFR Part 24.

10. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
11. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
12. The PHA will provide HUD or the responsible entity any documentation that the Department needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58.
13. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
14. The PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
15. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act and 24 CFR Part 35.
16. The PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments) and 24 CFR Part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments.).
17. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the Moving to Work Agreement and Statement of Authorizations and included in its Plan.
18. All attachments to the Plan have been and will continue to be available at all times and all locations that the Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the PHA in its Plan and will continue to be made available at least at the primary business office of the PHA.

PHA Name

PHA Number/HA Code

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

Name of Authorized Official

Title

Date

Signature

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

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

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

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

1. Single Fund Budget with Full Flexibility

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

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

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

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

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

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

3. Definition of Elderly Family

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

4. Transitional/Conditional Housing Program

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

5. Investment Policies

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

C. Authorizations Related to Public Housing Only

1. Site Based or Geographic Area Waiting List System

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

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

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

3. Deconcentration Policy

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

4. Initial, Annual and Interim Income Review Process

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

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

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

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

6. Incentives for Underutilized Developments

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

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

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

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

8. Streamlined Demolition and Disposition Procedures

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

9. Simplification of Property Management Practices

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

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

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

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

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

11. Rent Policies and Term Limits

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

12. Design Guidelines

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

necessary to implement the Agency's Annual MTW Plan.

13. Site Acquisition

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

14. Commercial Business Venture

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

15. Available Property

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

16. Total Development Cost (TDC) limits

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

D. Authorizations Related to Section 8 Housing Choice Vouchers Only

1. Operational Policies and Procedures

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

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

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

2. Rent Policies and Term Limits

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

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

3. Eligibility of Participants

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

4. Waiting List Policies

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

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

5. Ability to Certify Housing Quality Standards

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

6. Local Process to Determine Eligibility

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

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

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

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

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

Agency's Annual MTW Plan;

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

8. Homeownership Program

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

E. Authorizations Related to Family Self Sufficiency

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

ATTACHMENT D

LEGACY AND COMMUNITY-SPECIFIC AUTHORIZATIONS

TO
 AMENDED AND RESTATED MOVING TO WORK AGREEMENT
 BETWEEN
 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
 AND THE
 HOUSING AUTHORITY OF PORTLAND

This Attachment D describes and authorizes activities which may be implemented by the Housing Authority of Portland (the "Agency") pursuant to the Amended and Restated MTW Agreement between the Agency and HUD dated MARCH 5, 2009, ~~2008~~, which together with any and all attachments, exhibits, and appendices thereto is hereinafter referred to as the "Amended and Restated Agreement." Notwithstanding any other provision of this Amended and Restated Agreement the Agency is authorized as follows:

Use of MTW Funds

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

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

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

established or approved by the Secretary, that at least 75 percent of the families assisted be very low income families, that the agency has established a reasonable rent policy that is designed to encourage employment and self-sufficiency by participating families, that the requirements of sections 12 of the 1937 Act are applied to any housing assisted under the demonstration other than housing assisted solely because of occupancy by families receiving tenant-based assistance, and that Section 18 of the 1937 Act shall continue to apply to public housing notwithstanding the use of any use of the housing under the demonstration] and have been proposed in an Agency's Annual MTW Plan and approved by HUD.

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

A. Administrative Issues.

1. Adoption of State of Oregon Investment Policies.

The Agency is authorized to adopt State of Oregon Investment Policies that will allow the Agency the flexibility to invest its financial resources productively and efficiently, provided that these policies are consistent with applicable federal law and OMB circulars. The Agency shall invest only in securities authorized under the Oregon State Housing Authority Law described in ORS 456.120 and ORS 294.035.

2. Suspension of Current Evaluation and Reporting Requirements.

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

3. Mixed Finance Flexibilities.

During the term of this Agreement, HAP is authorized to continue to implement its mixed finance program under all of the same terms and conditions applicable during its MTW Demonstration. As such, all HUD waivers and approvals obtained during the MTW Demonstration that allow the Agency to implement its mixed finance program consistent with the purposes of the MTW Demonstration shall continue to apply, including, but not necessarily limited to, the following:

- The use of the Construction Manager General Contractor (CMGC) form of construction contracting permissible under state law for public agencies, provided

however that, if the CMGC undertakes any construction work itself, it must participate in a public bidding process;

- The Agency must ensure that the requirements contained in the General Conditions for Construction Form or General Conditions for Non-Construction Form (Form 5370 and Form 5370-C) are included in any solicitations for bids related to any construction or non-construction contractor that will be made by the Agency and paid for with assistance under this demonstration. Such conditions must be in any construction or non-construction contract entered into by the Agency. If a construction or non-construction contract is solicited by the Agency's Developer, Form 5370 and Form 5370-C are recommended but not required. The Developer may use any General Conditions form that has been approved by the American Institute of Architects.

4. Utility Costs.

The Agency is authorized to devise more cost effective methods of controlling and reducing utility costs in housing authority paid units and, specifically, to terminate the practice of establishing a surcharge for excess utilities in those units as outlined in 24 CFR 965.506. To the extent that these changes result in an increase in rent paid by residents, the Agency will assure that the procedures regarding rent policies in the Amended and Restated Agreement are followed.

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

1. Single Fund Budget with Full Flexibility.

In addition to the items in Section B.1.b. of the Statement of Authorizations (Attachment C), the following are added: "ix. The operation, development or preservation of locally-developed housing programs." HAP is further authorized to maintain a reasonable operating reserve consistent with sound public and private housing management practices, however, no replacement reserve may be maintained.

2. Rent Structure and Rent Reform.

The Agency may adopt and implement any reasonable policies for setting rents for public housing, or rents or subsidy levels for tenant-based assistance, notwithstanding the U.S. Housing Act of 1937, provided that the Agency submits the policy to HUD annually, and upon any material change to the policy, and provided that:

- a. The Agency's board approves of the policy, and any material changes, and approves an analysis of the impact of the policy on current households, and on households on the waiting list, including an analysis of the severity of rent burdens on such households that would have rent burdens greater than 30 percent of adjusted income;
- b. The Agency reevaluates its rent and subsidy level policies annually, including preparing a revised impact analysis;
- c. The Agency adopts a policy for addressing hardship cases;

- d. The Agency provides a reasonable transition period for rent increases for existing tenants; and
- e. A public hearing is held regarding the policy.

The rent policy, or any material changes to the rent policy, will be effective upon submission to HUD of a board resolution as provided above.

3. Local Unit Based Subsidy Program.

The Agency is authorized to develop a Local Unit-based Subsidy Program that incorporates reasonable policies and procedures for unit-basing the Agency's single fund budget. Approved activities include, but are not limited to the following:

- a. Agency is authorized to unit-base single fund budget subsidy at buildings owned by Agency or a subsidiary of Agency that meet HQS standards, subject to HUD requirements regarding subsidy layering.
- b. Agency is authorized to establish a protocol for negotiating contracts for unit-basing single fund budget subsidy for units that meet HQS standards and that are owned by non-profit, or for-profit housing entities in Portland. The protocol will establish criteria for the selection and approval of housing entities with which to negotiate standard unit-based contract terms and conditions and a plan for publicizing the availability of such assistance within the for profit and nonprofit development community. The protocol will establish a reasonable competitive process for selecting unit-based units.
- c. As part of its criteria for the selection and approval of units and housing providers, the Agency may adopt selection criteria for units to be included in the unit-based subsidy program based upon the following factors:
 - The Agency may determine the types of units that may receive local unit-based subsidy, which may include units not permitted under Sections 8 or 9 of the 1937 Act or its implementing regulations.
 - The Agency may determine the minimum expenditure requirement and the timing of rehabilitation and construction of units.
 - The Agency may determine the type of funds that may be used to rehabilitate or construct units.
 - The Agency may adopt its own procedures to determine whether or not units meet the Agency's requirements regarding rehabilitation and construction including what information is required to be submitted by owners to the Agency.
 - The Agency shall ensure that all local unit-based subsidy units that are undergoing rehabilitation as well as any newly constructed units, which are constructed, as part of the local unit-based subsidy program shall comply with the requirements set forth in 24 CFR § 8.22, 8.23, and 8.32. In addition, where applicable, any newly

constructed units which are part of the local unit-based subsidy program will also comply with the design and construction requirements of the Fair Housing Act.

C. Authorizations Related to Public Housing Only.

1. Mixed Income Program.

The Agency is authorized to create a mixed income program in Public Housing as follows:

- a. A portion of the families in a public housing development will receive housing choice voucher assistance.
- b. The assisted families may use their vouchers to continue living in their public housing units or rent private housing elsewhere.
- c. ACC funds attributable to public housing will be applied to purposes authorized under MTW.
- d. When vacated by families, improvements may be made to the units if needed to make them attractive to unassisted families.
- e. Rent from the unassisted families will be used to offset costs of the development.

2. Site-Based or Geographic Waiting Lists.

The waiting list(s) described in Attachment C, Section C.1 may include, without limitation, site-based or geographic area waiting list(s).

D. Authorizations Related to Section 8 Housing Choice Vouchers Only

1. Establishment of a Local Section 8/Housing Choice Voucher Program.

The Agency may be authorized to determine the following for a Local Section 8/Housing Choice Voucher Program: The content of contract rental agreements.

2. Revise Section 8 Inspection Procedures.

Subject to HUD approval, the Agency is authorized to revise its tenant-based Section 8 inspection procedures with respect to owners of single-room occupancy buildings who have a record of high performance on previous inspections, and in newly constructed buildings. The Agency is further authorized to devise a system, which shall be approved by HUD, of monitoring and quality control in an effort to attract landlords to the program, increase participants' choice of units and location, and reduce the Agency inspection costs.

E. Authorizations Related to Family Self Sufficiency.

Nothing in Section E of Attachment C. *Statement of Authorizations*, shall limit the following components of the Agency's family self-sufficiency program: 1) the requirement that residents must leave public housing or Section 8 housing at graduation in order to access their escrow; and 2) the establishment of term limits for residents participating in the self-sufficiency program.

**FIRST AMENDMENT
TO THE
MOVING TO WORK AGREEMENT**

This First Amendment to the Moving to Work (MTW) Agreement (“Agreement”) is entered into by and between the United States of America through the U.S. Department of Housing and Urban Development (“HUD”) and Housing Authority of Portland (“Agency”) and is effective as of the effective date of the MTW Agreement, as defined below. Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings ascribed to them in the Agreement.

AGREEMENT

1. **Termination.** Termination of the Agreement by HUD in accordance with Section IV of the MTW Agreement may only occur in accordance with the default and cure provisions of Section VIII of the Agreement, as modified by this First Amendment. The second sentence of Section VIII of the Agreement is deleted and replaced with the following: “HUD will give the Agency written notice of any default which shall identify with specificity the measures which the Agency must take to cure the default.”
2. **Remedies and Due Process.** HUD must follow all applicable statutory and regulatory requirements relating to any defaults and enforcement actions pertaining to this Agreement.
3. **Evaluation of MTW Demonstration.** If developed by HUD, HUD’s evaluation plan for the MTW Demonstration may be reviewed by the Agency in advance of implementation by HUD. The Agency has thirty (30) days to review the evaluation criteria and any objections to the evaluation will be forwarded to HUD for further consideration.
4. **Extension of Successful Demonstration Initiatives.** HUD will consider extending successful demonstration activities beyond the term of the MTW demonstration where legally permissible. To the extent that MTW activities will not continue past the term of the demonstration, the Agency shall fully cooperate with HUD in developing and implementing a transition plan for terminating the Agency’s MTW demonstration program and providing for the continued administration of the public housing and Section 8 programs, as applicable.
5. **Section I.E.** Section I.E. of the Agreement is deleted.
6. **Local Asset Management Program Within MTW.** Section II.F. of the Agreement is deleted and the following is substituted in lieu thereof:

F. Local Asset Management Program.

1. The Agency may design and implement a local asset management program for its Public Housing Program and shall describe such program in its Annual MTW Plan (or in its Annual MTW Report, if the Agency deems it appropriate). For purposes of this

Agreement, the term “Public Housing Program” means the operation of properties owned or subsidized by the Agency that are required by the U.S. Housing Act of 1937 (42 U.S.C. 1437, et seq.) to be subject to a public housing declaration of trust in favor of HUD. The Agency’s local asset management program shall include a description of how it is implementing property-based management, budgeting, accounting, and financial management and any deviations from HUD’s asset management requirements, as described below. The Agency may use the Annual MTW Report to provide information on asset management fees, including documentation in support of fees, allocation methodologies, indirect cost rates, and related items in support of the Agency’s local asset management program for its Public Housing Program. The Agency agrees that as part of its local asset management program it will adopt cost accounting and financial reporting methods that comply with OMB Circular A-87 (regarding cost allocation, and hereinafter, “A-87”), OMB Circular A-133 (regarding audit requirements), and generally accepted accounting practices (“GAAP”).

2. HUD and the Agency agree that the following principles and understandings apply to the Agency’s local asset management program for its Public Housing Program:
 - a. Costs incurred by the Agency under this Agreement must be necessary and reasonable, meet the statutory objectives of the MTW program, and be consistent with the single-fund budget authority described in this Agreement.
 - b. Under A-87, there is no universal rule for classifying costs as either direct or indirect. A cost may be direct with respect to some specific service or function, but indirect with respect to the final cost objective.
 - c. Costs shall be accorded consistent treatment. A cost may not be assigned as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated as an indirect cost; each item of cost will be treated consistently in like circumstances as either a direct or indirect cost.
 - d. Costs shall be determined in accordance with GAAP.
 - e. Costs must be adequately documented, as agreed upon by HUD and the Agency.
 - f. Requirements under 24 CFR 990.280 (b) (5) and other HUD guidance pertaining to excess cash flow for purposes of fungibility among projects will not apply to the Agency. The Agency will retain full authority to move MTW funds and project cash flow among projects, without limitation, under its local asset management program.
 - g. The Agency agrees that in designing its local asset management program for its Public Housing Program, it will use HUD’s asset management requirements (such as the chart of accounts, balance sheet, and direct/indirect cost determinations) as a starting point; provided, however, that the Agency may, in its discretion, deviate from such requirements if it describes such deviations and the reasons for such deviations in its local asset management program.

The cost allocation plan along with the indirect cost rate shall be described in the local asset management program. The Agency agrees to justify the indirect cost rate established and that the Annual Audit shall include a review and test of the rate's reasonableness.

5. **Establishment of Cost Objectives under MTW**

- a. **Multiple cost objectives.** If the Agency establishes multiple cost objectives (such as separate cost objectives for public housing properties, vouchers, capital funds, and services) under its MTW agreement, it may elect to use a fee-for-service methodology for one objective and an indirect cost rate methodology for other objectives, provided that the same cost objective may not use both a fee-for-service and a cost allocation/indirect cost rate methodology.
- b. **Option for a Single Cost Objective.** In accordance with A-87, the Agency may propose in the Annual MTW Plan that its MTW program is a single cost objective and may establish a cost accounting plan that uses a single indirect cost rate for the entire MTW program, which may include operating funds provided for the Public Housing Program. In doing so, the Agency agrees to provide a description of the cost accounting plan as part of its local asset management program, including how the indirect cost rate is determined (such as the grouping of costs and distribution base), and how that rate is applied across major functions. Use of such a single cost objective is subject to the Annual MTW Plan or Report approval process.

7. **Financial Reporting.** The Agency agrees to describe how it has assigned costs as part of its local asset management program in its Annual MTW Plan. The Agency agrees that irrespective of the cost accounting method selected above, a project-level accounting system will be used to track costs at the asset management property level. Any differences between the local asset management program and HUD's asset management requirements will be described in its Annual MTW Plan and Report in order to facilitate recording of actual property costs and submission of such cost information to HUD.

The Agency agrees to submit information to HUD through the following reporting systems, provided that HUD, in cooperation with the Agency, shall modify such systems, as necessary, so that they are capable of accepting reports from the Agency, as to both form and content, in a manner that is consistent with the Agency's authorizations under this Agreement and with the implementation of MTW:

- (a) PIH Information Center (PIC);
- (b) Voucher Management System (VMS);
- (c) HUD Financial Data Schedule (FDS) on an annual basis; and
- (d) The Annual Audit, with necessary supplemental schedules.

All such reporting shall be to the extent necessary for the Agency to report MTW activities consistent with the MTW Agreement. Should a report not be modified for MTW the Agency will continue to submit information through the Annual MTW Plan and Report.

The Agency may, in satisfaction of the annual audit requirement, submit its independently audited Comprehensive Annual Financial Report (CAFR), prepared consistent with its MTW financial structure and GAAP, and including supplemental un-audited balance sheets and income and expense statements for public housing properties.

All reporting under this section shall be subject to and shall not interfere with the Agency's right to combine and use public housing operating funds, public housing capital funds, and Section 8 voucher funds for the activities and in the manner described in the MTW Agreement.

HUD shall not limit through any asset management requirements or otherwise, including through any other provision of this Addendum or the MTW Agreement to the extent there is a conflict with this Attachment D, the Agency's ability (as provided in the MTW Agreement), to use a single fund budget as an authority-wide funding source for MTW activities.

8. Other Reporting.

Annual Plan and Report Under Attachment B. HUD affirms that it has obtained Office of Management and Budget ("OMB") approval for the information collection currently required by Attachment B to the Agency's Original MTW Agreement (HUD Form 50900, OMB Control Number 2577-0216; and hereafter, "Original Attachment B"). The Agency is not required to use the Attachment B to this Agreement (hereafter, "Revised Attachment B"), until such time as HUD has obtained approval from OMB of such Revised Attachment B.

Subject to the paragraph immediately above, the Agency agrees to submit information in accordance with Revised Attachment B for the fiscal year following such OMB approval; provided, however, that:

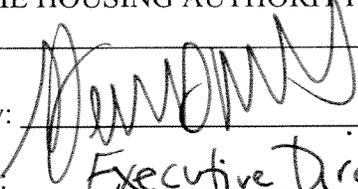
- i. if OMB does not approve a Revised Attachment B at least 120 days prior to the date for submission of the MTW Plan, then the Agency may defer compliance with Revised Attachment B until submission of the Annual MTW Plan and Report in the subsequent fiscal year;
- ii. the Annual MTW Report for a given fiscal year will use the same form of Attachment B as was used for that fiscal year's Annual MTW Plan; and
- iii. the Agency and HUD agree to use the first submission of Revised Attachment B to identify any problems and potential improvements in its use, as to both form and substance, and that HUD and the Agency will work together to modify Revised Attachment B, as necessary, in order to improve it as an information tool for subsequent fiscal years. The Agency and HUD further agree that Revised Attachment B may require modifications in subsequent years of the MTW Agreement and that HUD will facilitate a process to solicit comments from the Agency and modify Revised Attachment B as necessary.

CFDA Number. HUD affirms that it has received a Catalog of Federal Domestic Assistance ("CFDA") number from OMB for the MTW program. HUD will create a corresponding compliance supplement to assist auditors in performing the required audits of the Agency. HUD will develop such compliance supplement in consultation with the Agency and shall direct, and hereby does direct, any auditor of the Agency to consider such supplement and other related

supplements and OMB Circulars in determining the compliance requirements that could have a direct and material effect on the Agency's participation in the MTW program. The MTW compliance supplement issued by HUD shall have an effective date that provides the Agency with sufficient notice for implementation.

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

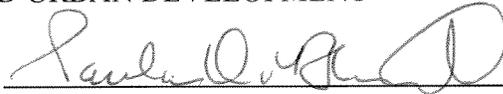
THE HOUSING AUTHORITY OF

By:  _____

Its: Executive Director

Date: 3.5.09

UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

By:  _____

Its: Assistant Secretary

Date: 3/9/09