### **City of Corpus Christi**

# HOME INVESTMENT PARTNERSHIP PROGRAM RECAPTURE PROVISIONS

The City of Corpus Christi, HOME Down Payment Assistance Program in compliance with 24 CFR 92.254 of the HOME rule, has adopted the following recapture policy, using the HUD acceptable recapture model, *Reduction (or Forgiveness) During the Affordability Period.* 

The HOME recapture provisions are established in §92.254(a)(5) and permit the original homebuyer to sell the property to any willing buyer within the affordability period, while the City of Corpus Christi is able to recapture all or a portion of the HOME assistance provided to the original homebuyer. The recapture approach requires that all or a portion of the direct subsidy provided to the homebuyer be recaptured from the net proceeds of the sale.

Direct HOME Subsidy is the amount of HOME assistance, including any program income that enabled the homebuyer to buy the unit. It includes down payment, closing costs, interest subsidies, or other HOME assistance provided directly to the homebuyer. It also includes any assistance that reduced the purchase price from the fair market value to an affordable price. Furthermore, if HOME funds are used for the cost of developing a property and the unit is sold below fair market value, the difference between the fair market value and the purchase price is considered to be directly attributable to the HOME subsidy.

Net Proceeds is the sales price minus the superior loan repayment (other than HOME funds) and any closing costs. The City of Corpus Christi may require full or partial repayment of the direct HOME subsidy when a subsequent sale occurs during the affordability period. If there are no proceeds or insufficient proceeds to recapture the full amount of HOME investment due, the amount subject to recapture must be limited to what is available from the net proceeds.

The period of affordability is based upon the total amount of HOME funds subject to recapture, which is based on the amount of HOME assistance that enabled the homebuyer to purchase the home. This may include any HOME assistance that reduced the purchase price from fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value of the property, such as the development subsidy. The recaptured funds must be used to carry out HOME eligible activities within the City of Corpus Christi. The period of affordability for the HOME Down Payment Assistance Program is five (5) years. As per HUD regulations, the period of affordability does not begin until the activity is shown as completed in HUD's Integrated Disbursement and Information System ("IDIS"). Therefore, the period of affordability may not start until sometime after the actual execution date of the Agreement and related Deed of Trust and Promissory Note. The period of affordability will however begin on the same date as the IDIS activity completion date.

The following table outlines the required minimum HOME affordability periods:

HOME Investment Per Unit	Minimum Period of Affordability
Under \$15,000	5 Years
\$15,000 to \$40,000	10 Years

Reduction (or Forgiveness) During the Affordability Period: The City of Corpus Christi has chosen to reduce the amount of direct HOME subsidy on a pro-rata basis for the time the homebuyer has owned and occupied the dwelling, measured against the required affordability for its HOME Down Payment Assistance Program. The HOME Down Payment Assistance Program will provide a program and income eligible homebuyer with up to \$5,000 in HOME assistance.

The pro rata amount to be recaptured will be determined by the following formula:

- # of years in the home x the total direct HOME subsidy = Recapture Amount period of affordability
- -The number of years the homebuyer occupied the home, divided by the period of affordability;
- -Multiply the resulting figure by the total amount of direct HOME subsidy originally provided to the homebuyer

If there are insufficient net proceeds available to recapture the full amount pro rata amount due, then it is not required to repay the difference between the prorated direct HOME subsidy due and the amount the City of Corpus Christi is able to recapture from available net proceeds.

#### **Recapture Example:**

A homebuyer receives \$5,000 of HOME down payment assistance to purchase a home. The total direct HOME subsidy to the homebuyer is \$5,000 and requires a 5 year period of affordability. If the homebuyer sells the home in year 3 of the 5 year affordability period, the City of Corpus Christi would forgive 60 percent of the direct HOME subsidy and recapture 40 percent of the direct HOME subsidy, or \$2,000 of the HOME investment, assuming that there are sufficient net proceeds available.

#### In summary:

The City of Corpus Christi will ensure that a detailed HOME Homebuyer Assistance Program Agreement and Notice of Period of Affordability Agreement that convey the recapture provisions is executed with the homebuyer to ensure that all parties are aware of the specific HOME requirements applicable to the home, such as the period of affordability, principal residency requirement, terms; and conditions of the recapture requirement. The HOME Homebuyer Assistance Program Agreement is a separate legal document that will comply with 24 CFR 92.254 of the HOME rule. As per accordance with the terms and provisions of the HOME Homebuyer Assistance Program Agreement, the City of Corpus Christi through the Notice of Period of Affordability Agreement will provide the homebuyer with the HUD IDIS activity completion date, which is equal to the beginning date of the Period of Affordability.

## **CONTACT INFORMATION**

Housing and Community Development

Eddie Ortega, Director

1201 Leopard St.

Corpus Christi, TX 78401

(361) 826-3010