

**§ 904.119**

**24 CFR Ch. IX (4-1-03 Edition)**

(a) *Ownership and maintenance of common property.* The common areas, sidewalks, parking lots, and other common property in the development shall be owned and maintained as provided for in the approved planned unit development (PUD) program except that the LHA shall be responsible for maintenance until such time as the homeowners association assumes such responsibility (see § 904.112(d)).

(b) *Title restrictions.* The title ultimately conveyed to each homebuyer shall be subject to restrictions and encumbrances to protect the rights and property of all other owners. The homeowners association shall have the right and obligation to enforce such restrictions and encumbrances and to assess owners for the costs incurred in connection with common areas and property and other responsibilities.

(c) *Votes in association.* There shall be as many votes in the association as there are homes in the development, and, at the outset, all the voting rights shall be held by the LHA. As each home is conveyed to the homebuyer, one vote shall automatically go to the homeowner so that, when all the homes have been conveyed, the LHA shall no longer have any interest in the homeowners association.

(d) *Voting control.* The LHA shall not lose its majority voting interest in the association as soon as a majority of the homes have been conveyed, unless the law of the state requires control to be transferred at a particular time, or the LHA so desires. If permitted by state law, provision shall be made for each home owned by the LHA to carry three votes, while each home owned by a homeowner shall carry one vote. Under this weighted voting plan, the LHA shall continue to have voting control until 75 percent of the homes have been acquired by homeowners. However, at its discretion, the LHA may transfer voting control to the homeowners when at least 50 percent of the homes have been acquired by the homeowners.

**§ 904.119 Homeowners association—condominium.**

If the development is organized as a condominium:

(a) The LHA at the outset shall own each condominium unit and its undivided interest in the common areas;

(b) All the land, including that land under the housing units, shall be a part of the common areas;

(c) The homeowners association shall own no property but shall maintain and operate the common areas for the individual owners of the condominium units except that the LHA shall be responsible for maintenance until such time as the homeowners association assumes such responsibility (see § 904.112(d));

(d) The percentage of undivided interest attached to each condominium unit shall be based on the ratio of the value of the units to the value of all units and shall be fixed when the development is completed. This percentage shall determine the homeowner's liability for the maintenance of the common areas and facilities;

(e) Each homeowner's vote in the homeowners association shall be identical with the percentage of undivided interest attached to his unit; and

(f) The LHA shall not lose its majority voting interest in the association as soon as units representing 50 percent of the value of all units have been conveyed, unless the law of the state requires control to be transferred at a particular time or the LHA so desires. For voting purposes, until units representing 75 percent of the value of all units have been acquired by homeowners, the total undivided interest attributable to the homes owned by the LHA shall be multiplied by three, if such weighted voting plan is permitted by state law. Under this plan, the LHA shall continue to maintain voting control until 75 percent of the homes have been acquired by homeowners. However, at its discretion, the LHA may transfer voting control to the homeowners when units representing at least 50 percent of the value of all units have been acquired by the homeowners.

**§ 904.120 Relationship of homeowners association to HBA.**

The HBA and the LHA may make arrangements to permit homebuyers to participate in homeowners association matters which affect the homebuyers. Such arrangements may include rights

to attend meetings and to participate in homeowners association deliberations and decisions.

**§ 904.121 Use of appendices.**

Use of the following Appendices is mandatory for Projects developed under this subpart:

**§ 904.122 Statutory preferences.**

In selecting applicants for assistance under this part, the LHA must give preference, in accordance with the authorized preference requirements described in 24 CFR 5.410 through 5.430. Notwithstanding those preferences, the LHA can limit homeownership admission to eligible homeownership candidates.

[59 FR 36651, July 18, 1994, as amended at 61 FR 9048, Mar. 6, 1996]

APPENDIX I—ANNUAL CONTRIBUTIONS CONTRACT “SPECIAL PROVISIONS FOR TURNKEY III HOMEOWNERSHIP OPPORTUNITY PROJECT”  
APPENDIX II—HOMEBUYERS OWNERSHIP OPPORTUNITY AGREEMENT (TURNKEY III)  
APPENDIX III—CERTIFICATE OF ACHIEVEMENT OF HOMEBUYER STATUS  
APPENDIX IV—PROMISSORY NOTE FOR PAYMENT UPON RESALE BY HOMEBUYER AT PROFIT

No modification may be made in format, content or text of these Appendices except (1) as required under state or local law as determined by HUD or (2) with approval of HUD.

APPENDIX I TO SUBPART B OF PART 904—  
ANNUAL CONTRIBUTIONS CONTRACT

(Subpart B)

( ) Special Provisions for Turnkey III Homeownership Opportunity Project No.

(1) The Local Authority agrees to operate the Project in accordance with requirements for the Homeownership Opportunity Program for Low-Income Families (Turnkey III) as prescribed by the Government. The Local Authority shall enter into an agreement with the occupant of each dwelling unit in the Project which agreement shall be in the form of the Homebuyers Ownership Opportunity Agreement approved by the Government, which form provides an opportunity for the acquisition of ownership of the dwelling unit by each occupant who has performed all of the obligations and conditions precedent imposed upon him by such agreement. Upon conveyance of any such dwelling unit, the Local Authority's outstanding obliga-

tions in respect to the Project shall be reduced by the amount received for such conveyance, and the Government's obligation for payment of annual contributions in respect to the Project shall be reduced by the amount allocable to the initial purchase price of the dwelling unit. The term “initial purchase price” as used in these Special Provisions shall have the same meaning as in the Homebuyers Ownership Opportunity Agreement, and the term “dwelling unit” shall have the same meaning as the term “Home” used in the Homebuyers Ownership Opportunity Agreement.

(2) Failure of the Local Authority to enter into such Homebuyers Ownership Opportunity Agreements at the time and in the form as required by the Government, failure to perform any such agreement, and failure to meet any of its obligations under these Special Provisions shall constitute a Substantial Default under this Contract.

(3) The books of account and records of the Local Authority shall be maintained to meet the requirements of the Homebuyers Ownership Opportunity Agreement as well as the other provisions of this Contract and in such manner as will at all times show the operating receipts, operating expenditures, reserves, residual receipts, and other required accounts for the Project separate and distinct from all other Projects under this Contract.

(4) As of the Date of Full Availability, or at such earlier date as the Government may require, the Local Authority shall determine and submit to the Government for its approval the amount below which the Development Cost of the Project will in no event fall. Upon approval thereof by the Government, such amount shall constitute and be known as the “Minimum Development Cost” of the Project. The Local Authority shall issue its Project Loan Notes, Permanent Notes or Project Notes as the Government may require to finance the Minimum Development Cost. On each Annual Contribution Date the Government shall pay an annual contribution for the Project in an amount equal to the Maximum Contribution Percentage of the latest approved Minimum Development Cost. The first annual contribution shall be paid or made available as of the next Annual Contribution Date following the approval of the Minimum Development Cost of the Project.

(5) Notwithstanding section 403(A)(4), the term “Development Cost” shall include interest on that portion of borrowed monies allocable to the Project for the period ending with the Date of Full Availability or such earlier date as may be specifically approved by the Government.