



VOLUNTARY COMPLIANCE AGREEMENT/CONCILIATION AGREEMENT

Between

**United States Department of Housing and Urban Development,
Office of Fair Housing and Equal Opportunity**

and

The City of Chicago

and

**People for Community Recovery, Chicago South East Side Coalition to Ban Petcoke, and
Southeast Environmental Task Force**

under

**Title VI of the Civil Rights Act of 1964
Title VIII of the Civil Rights Act of 1968
Section 109 of the Housing and Community Development Act of 1974**

HUD Case No. 05-20-0419-6/8/9

Effective Date: May 12, 2023

I. PARTIES AND JURISDICTION

1. The Parties to this Agreement are the U.S. Department of Housing and Urban Development (“HUD”), the City of Chicago (“City”), and People for Community Recovery, Chicago South East Side Coalition to Ban Petcoke, and Southeast Environmental Task Force (together, “Complainants”).
2. The City is a recipient of federal financial assistance from HUD, as defined in 24 C.F.R. Part 1, and is subject to the provisions of Title VI of the Civil Rights Act of 1964 (“Title VI”). The City is also required to comply with Section 109 of the Housing and Community Development Act of 1974 (“Section 109”), and Title VIII of the Civil Rights Act of 1968, as amended (“Fair Housing Act”).

II. BACKGROUND

3. This Agreement arises from a complaint filed on October 2, 2020 by Complainants (“the Complaint”), alleging that the City discriminated on the basis of race and national origin in violation of Title VI, the Fair Housing Act, and Section 109, and HUD’s implementing regulations.
4. By signing this Agreement, the City does not waive its longstanding objections to HUD’s exercise of jurisdiction over this Complaint or to HUD’s factual and legal findings.
5. At the suggestion of the U.S. Environmental Protection Agency, the City conducted a Health Impact Assessment in connection with its review of a permit application for General III, LLC to operate a large recycling facility on the Southeast Side.
6. Based in part on the findings of that Health Impact Assessment, the City denied the permit application on February 18, 2022.
7. On July 19, 2022, HUD issued a Letter of Findings which included findings of noncompliance with Title VI and Section 109. The City disputes the findings and submitted a formal request for review of the letter of the findings on August 22, 2023. Following the City’s submission, the parties agreed to pursue voluntary resolution discussions.
8. The Parties enter into this Voluntary Compliance Agreement and Conciliation Agreement (“Agreement”) to voluntarily resolve the Complaint. The Parties agree that nothing contained in this Agreement shall be construed to be a final determination by HUD that the City engaged in unlawful practices in violation of Title VI, the Fair Housing Act, or Section 109. The Parties agree that nothing contained in this Agreement shall be construed as an admission of liability or noncompliance and recognize that the City expressly denies such liability or noncompliance.

III. DEFINITIONS

9. This Agreement incorporates by reference all definitions under Title VI, Section 109, and the Fair Housing Act and HUD's implementing regulations at 24 C.F.R. Part 1, Part 6, and Part 100.
10. The following terms shall have the meanings set out herein:
 - a. "Consequential Facilities" means CDPH permitted facilities that have been determined to have the greatest potential to impact surrounding communities, including consequential large recyclers; construction and demolition debris reprocessing facilities; waste handling facilities (including transfer stations and liquid waste handling facilities); and other facilities subject to the Chicago Air Quality Zoning Ordinance (including bulk material handling facilities and intensive manufacturing, production and industrial service uses).
 - b. "Days" means and refers to calendar days.
 - c. "Effective Date" refers to the date of the last signature in section IX.

IV. TERM OF AGREEMENT

11. This Agreement shall govern then conduct of the Parties for a period of three (3) years from the Effective Date of the Agreement.

V. GENERAL PROVISIONS

12. This Agreement, after it has been executed by HUD's Office of Fair Housing and Equal Opportunity ("FHEO"), is binding upon the City, including employees, contractors, agents, and successors.
13. Upon execution of this Agreement by FHEO, it is a public document.
14. This Agreement may be revised upon the mutual agreement of the Parties in writing attested to by the signatures of all Parties to the revision. If Complainants and the City mutually seek to revise the Agreement, as attested in writing, HUD will permit the modification, provided that HUD determines such modification is in the public interest. This Agreement shall not be construed to limit the City from taking additional actions to further the goals of this Agreement and such actions will not require an amendment.
15. This Agreement shall not be construed to limit or reduce the obligation of the City to comply with federal civil rights laws and implementing regulations.
16. Subject to the limitation on Complainants' rights set forth in section VII, this Agreement does not diminish the ability of any person or class of persons to exercise their rights under any federal, State, or local civil rights statute or authority with respect to any past, current, ongoing, or future actions. This Agreement does not create any private right of action for Complainants or any person or class of persons.

17. This Agreement does not in any way limit or restrict HUD's authority to investigate any other complaint involving the City or conduct a compliance review pursuant to Section 109, Title VI, the Fair Housing Act, or any other authority within HUD's jurisdiction.
18. The Parties agree that the provisions of this Agreement fully resolve the subject matter of HUD Case Nos. 05-20-0419-6 (Title VI), 05-20-0419-8 (Title VIII), 05-20-0419-9 (Section 109).
19. The City acknowledges that it is unlawful to intimidate, threaten, coerce, or retaliate against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under Title VI. *See* 24 C.F.R. § 1.7(e).

VI. REMEDIAL ACTIONS

20. The City has taken or shall take the following remedial actions which have been negotiated with HUD and which HUD has found sufficient to resolve this matter. In the event that responsibilities for any remedial actions are transferred to another department or office, that department or office shall assume the responsibilities for the transferred actions.
21. **Executive Order to Advance Environmental Justice:** The City has issued EO No: 2023-3 on May 10, 2023, which was reviewed by HUD during the negotiation of this Agreement. That order includes the following commitments:
 - a. **Environmental Equity Working Group:** The Office of Climate & Environmental Equity (OCEE) shall continue to convene the Environmental Equity Working Group (EEWG), which includes the Complainants along with community representatives, environmental leaders, and local partners, to:
 - i. **Continue to co-design the Cumulative Impact Assessment**, including all deliverables described in section 21(c)(ii), through members serving as co-chairs of and participants in the associated working groups.
 - ii. **Receive reports from OCEE on the City's progress toward the remedial actions set forth in this agreement.** The progress reports shall be provided to the EEWG and/or any formally approved community advisory body in the same form and at the same time as they are submitted to HUD pursuant to paragraph 29, and the reports shall be included as an agenda item for discussion at the next regularly scheduled meeting of the EEWG and/or any formally approved community advisory body. The EEWG and/or any formally approved community advisory body may additionally request a verbal report on progress on a quarterly basis during the term of this agreement.
 - iii. **Make recommendations for the role, membership, structure, and governance of an ongoing community advisory body, which may be formally established at a later date to replace or supplement the EEWG, to provide strategic counsel on the City's environmental initiatives.**

- b. Interagency Working Group: The OCEE and Chicago Department of Public Health (CDPH) shall continue to convene an interdepartmental group with representatives from across the various City departments with authority to address environmental impacts, including but not limited to the Chicago Department of Planning and Development (DPD) (including Zoning Administrator or designee), Public Health, Transportation, Assets Information & Services, Water Management, Buildings, Housing, Procurement Services, and Law. The group will:
- i. Receive education and support to identify actions within the scope of their authority to promote environmental justice and address cumulative impacts.
 - ii. Produce an Environmental Justice Action Plan by September 1, 2023, outlining the departments' respective commitments to reform internal policies, programs and practices to better protect Environmental Justice Neighborhoods from burdens associated with intensive industrial and transportation uses.
 - iii. Seek public input on the Environmental Justice Action Plan - including from the EEWG - and formally respond to comments received.
 - iv. Publish a report by December 31, 2023, and on an annual basis thereafter, to detail progress toward the goals enumerated in the Environmental Justice Action Plan.
- c. Baseline Cumulative Impacts Assessment ("CIA"): The OCEE and CDPH will complete a baseline CIA by September 1, 2023. The CIA will describe how environmental burdens, health conditions, and social stressors vary across Chicago, and identify neighborhoods that experience the greatest cumulative impacts ("Environmental Justice Neighborhoods").
- i. The governance structure of the CIA shall include a Project Management Team, as well as working groups for Data & Methods, Policy, and Communications & Engagement, each of which shall be co-chaired by a member(s) of the EEWG and a representative(s) of CDPH.
 - ii. The baseline CIA will include the following materials: community input summary; working group charters; set of proposed environmental, health, and social data indicators; map(s) that identify Environmental Justice Neighborhoods using the aforementioned indicators; Environmental Justice Action Plan; and recommendations for a future ordinance to achieve cumulative impacts policy reforms. These materials should be understood as subject to continuing review and refinement by the City and the EEWG, based on empirical and qualitative evidence.
 - iii. The CIA will be used by the Mayor's office and all City departments and offices to inform decision-making in policy areas such as land use and

zoning (including potential reform to the Industrial Corridor categories or implementation), transportation, permitting, enforcement, and other interventions that consider the burden of existing and proposed intensive industrial operations and better protect Environmental Justice Neighborhoods, as described in the Environmental Justice Action Plan. Until a map designating Environmental Justice Neighborhoods is adopted, departments will use currently available data such as the City's 2020 Air Quality and Health Index to identify priority communities.

- iv. Data supporting the CIA shall be made publicly available.
- d. Cumulative Impact Findings & Ordinance: Upon completion of the CIA, the Chief Sustainability Officer and the Commissioner of CDPH shall present their findings to both the Mayor and the Chair of the City Council Committee on Environmental Protection and Energy, or its successor, ("Committee") by no later than October 31, 2023. The Chief Sustainability Officer and the Commissioner of CDPH shall encourage the Committee to discuss the findings and recommendations, which will include all deliverables described in section 21(c)(ii), through one or more public hearings, including at least one subject matter hearing.
- e. Community Engagement: The Chief Sustainability Officer shall designate within the OCEE a position with the primary responsibility for coordinating all environmental justice efforts on behalf of the City of Chicago (the "EJ Project Manager"). With input from the EEWG, the EJ Project Manager shall work cross-departmentally to develop and oversee the implementation of improved internal policies and operations to support environmental justice, which must include:
 - i. An enhanced notification process so that residents of Environmental Justice Neighborhoods have greater awareness of land use/zoning, permitting, and enforcement activities.
 - ii. A public participation policy, including a language access plan, with standards for community outreach, public meetings, and hearings.
 - iii. A procedure by which residents of Environmental Justice Neighborhoods can raise complaints of discrimination based on race, color, national origin, religion, disability, income, age, or gender.

The EJ Project Manager will coordinate closely with the DPD, CDPH and other City departments responsible for aspects of planning, zoning, enforcement and policy that affect the environment. The draft cumulative impact ordinance produced as a deliverable of the CIA shall include the requirement to develop these internal policies and operations regarding environmental justice engagement, as well as to establish the EJ Project Manager and departmental role(s).

22. Actions toward reforming land use regulations, environmental permitting and enforcement, and community engagement, based on the CIA:

- a. The following commitments shall be included in the Environmental Justice Action Plan strategies submitted by DPD:
 - i. Propose updated zoning regulations, such as the alteration or elimination of permitted-by-right or special use status for manufacturing, recycling, waste-related, and other intensive industrial land uses in Commercial, Manufacturing and Planned Manufacturing zoning districts,
 - ii. Propose amendments to the Industrial Corridor System Fund Ordinance, Municipal Code of Chicago (MCC) 16-8-010 *et seq.* to provide that any funds generated by development in “conversion corridors” for use in “receiving corridors” shall be used to mitigate environmental impacts from existing and new industrial developments, and to prioritize funds for use in Environmental Justice Neighborhoods.
 - iii. Develop and submit to the Chicago Plan Commission proposed updates to the Calumet Design Guidelines, which are site guidelines adopted by Chicago Plan Commission in 2004. DPD will begin reviewing the Calumet guidelines for an update beginning in September 2023, which will include a robust engagement process, with a focus on addressing the negative impacts of air and noise pollution, using the U.S. EPA’s research on vegetative barriers as a starting point. After completion of the Calumet guidelines, DPD commits to developing an approach for site guidelines for other industrial corridors that the CIA identifies as being located in Environmental Justice Neighborhoods. Update the Chicago Sustainable Development Policy to account for changes in development codes and building technologies, and to align with local climate and decarbonization goals. The policy update will include new and revised strategies to help improve environmental performance and mitigate negative impacts of industrial projects on surrounding communities – such as renewable energy, vegetative buffers and electrification of commercial fleets.
- b. The following commitments shall be included in the Environmental Justice Action Plan strategies submitted by CDPH:
 - i. Develop standard and special conditions to attach to air pollution control permits and certificates of operation, beginning with Consequential Facilities which may impact Environmental Justice Neighborhoods. This may include a requirement for fence-line air monitoring at certain facilities.
 - ii. Update guidelines for inspection and enforcement activities to prioritize Consequential Facilities located in Environmental Justice Neighborhoods.

CDPH will meet as needed with other relevant agencies, such as the U.S. EPA and Illinois EPA, to coordinate enforcement efforts.

- iii. Adopt a compliance history review policy for Consequential Facilities that describes the factors CDPH will consider in making permit decisions on the basis of non-compliance.
- iv. Create new and updated industry-specific operational rules for certain Consequential Facilities, building on prior recent regulations for large recyclers, rock crushers, and bulk material facilities, which include strong provisions for public participation.
- v. Implement a process that provides more detail to enable tracking the City's response to non-emergency complaints, including those related to odor, dust, and air pollution.

23. Improved transparency around proposed facilities and permits for intensive industrial uses to provide residents of Environmental Justice Neighborhoods with notice and increased opportunity to participate in decision-making:

- a. The following commitments shall be included in the Environmental Justice Action Plan strategies submitted by DPD:
 - i. Continue to maintain dedicated webpages for the Industrial Corridor Modernization Initiative, the Chicago Sustainable Development Policy, Chicago Plan Commission and other land use planning initiatives.
 - ii. Initiate a review of its community engagement standards for planned developments as an implementation step for the recently adopted We Will Chicago citywide framework plan. This review process will include updates to internal checklists, materials required of applicants and possible enhancements to notices for public meetings. Per MCC 17-8-0903, all planned developments going forward need to be consistent with the goals and objectives of We Will Chicago. After completing the review process through the We Will Chicago framework, DPD will commit to putting forward a proposal for community engagement and updated materials available for public comment.
- b. The following commitments shall be included in the Environmental Justice Action Plan strategies submitted by CDPH:
 - i. Continue to update its website to include detailed information about permit actions related to Consequential Facilities.
 - ii. Apply new, expanded public engagement guidelines for Consequential Facilities, which include additional opportunities for community meetings and public comment periods.

- iii. Maintain a system by which community members can register for email notification about environmental permitting, enforcement and regulatory actions that affect their neighborhood and/or the city overall, including public engagement opportunities.

24. Improve capacity to collect and disseminate data for use in land use planning and zoning as well as environmental permitting, monitoring, and enforcement:

- a. The following commitments shall be included in the Environmental Justice Action Plan strategies submitted by CDPH:
 - i. Expand the City's community air monitoring network to increase the concentration of fence-line monitors and community sensors in Environmental Justice Neighborhoods.
 - V. This network will be co-developed with organizations representing Environmental Justice Neighborhoods.
 - VI. CDPH will pilot a program to directly fund community organizations to help install, maintain, and analyze data from the network.
 - VII. CDPH will pursue strategies to secure sustainable funding for the network, which may include increasing permit fees and/or requiring companies to fund fence-line monitors as a condition of their permit.
 - VIII. Among other potential applications, data from the network may be used to determine 'hot spots' for future regulatory monitor placement; assess cumulative impacts of air pollutants; improve targeted inspections and enforcement; develop new policies and evaluate the effectiveness of existing policies to improve air quality; create models to predict emission sources and facilitate responses to resident inquiries; and validate/calibrate air quality sensor and modeling data.
- b. Develop an electronic emission inventory collection tool to ensure up-to-date accounting of all emission sources and controls at permitted facilities.
- c. Develop tools such as real-time air-dispersion modeling that assist in the identification of pollution sources impacting local air quality. Such tools enhance compliance-monitoring of certain facilities and aid in the investigation of air quality complaints.
- d. Make environmental data, including air quality information and cumulative impact indicators, available through publicly accessible website(s) and dashboard(s). CDPH will work with the EEWG and/or any formally approved

community advisory body to co-develop the content and format of these tools to ensure that they can be readily used and understood.

VII. WITHDRAWAL OF TITLE VIII ACTION.

25. By executing this Agreement, Complainants withdraw their Complaint under the Fair Housing Act, and HUD shall close that portion of the investigation as withdrawn upon Complainants' execution of this Agreement. By executing this Agreement, Complainants also relinquish any right to refile their Complaint with HUD or to file a complaint or claim with any federal or state agency or federal or state court based on any of their allegations against the City that were asserted in this Complaint.


VIII. EXECUTION, MONITORING, AND ENFORCEMENT OF THE AGREEMENT

26. If the Large Recycling Facility permit referenced in Section 6 of this Agreement is issued by the City voluntarily and not subject to Court Order or the City otherwise voluntarily allows Southside Recycling to operate on the Southeast Site (as defined in the letter of finding), the Agreement may be voided by HUD. If this occurs, the Parties will revert to the legal positions they held prior to this Agreement. If the permit referenced in Section 6 of this Agreement is issued by the City subject to a court or administrative order, the City agrees to meet and confer with the Parties regarding appropriate mitigation measures or other steps under the circumstances.
27. Execution of this agreement may be accomplished by separate execution of consents to this Agreement, the original executed signature pages to be attached to the body of the Agreement constitute one document.
28. This Agreement and any documents incorporated by reference constitute the entire integrated Agreement of the parties. No prior or contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provisions herein in any litigation or any other proceeding.
29. The City agrees to provide its full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement. The City shall submit reports to HUD on the first day of the months of June and December for the duration of the Agreement. The reports shall be submitted to Yana Karnaukhov, Compliance Center Director (Region V), at yana.karnaukhov@hud.gov. If so requested by HUD following receipt of the progress reports, the City and HUD shall meet to discuss progress in implementing the Agreement. Meetings may be virtual.
30. If Complainants are of the belief that the City is not in compliance with a term of this Agreement, they are permitted to notify HUD of such non-compliance if they do so promptly upon discovering information that forms the basis of their belief. Upon timely notification by Complainants of compliance concerns, HUD will take the matter under advisement.

31. HUD shall determine compliance with the terms of this Agreement. Should HUD determine the City is not in compliance with this Agreement, HUD shall notify the City. The City shall have thirty (30) days to cure the breach following the date of the email notice, unless a longer time is agreed to among the parties. If failure to cure occurs, HUD may take appropriate enforcement action, including referring this Agreement to the Department of Justice. *See* 28 C.F.R. § 50.3 and 42 U.S.C. § 3610(c).
32. Failure to carry out any term of this Agreement resulting in a material breach may result in HUD seeking suspension or termination of, or refusal to grant or to continue federal financial assistance to the City under applicable law, or other actions authorized by law, including referral to the Attorney General of the United States to commence a civil action in the appropriate U.S. District Court. Nothing herein shall be construed as a waiver of the City's legal rights to challenge any allegation that it has breached this Agreement and/or any determination by HUD to withdraw or withhold grants or discontinue financial assistance to the City.
33. Failure by HUD to enforce this entire Agreement or any provision in the Agreement with regard to any deadline or any other provision herein shall not be construed as a waiver of its right to do so with regard to other deadlines and provisions of this Agreement. Furthermore, failure by HUD to enforce this entire Agreement or any provision thereof shall not be construed as a waiver of any obligation of the City under this Agreement.
34. In the event that the City fails to comply in a timely fashion with any requirement of this Agreement without obtaining advance written agreement from HUD, HUD may enforce that provision by any contractual, statutory, or regulatory remedy available to HUD.

IX. SIGNATURES

For the City:




John L. Hendricks
Acting Corporation Counsel
City of Chicago

May 11, 2023

Date

For the U.S. Department of Housing and Urban Development:



Jacy Gaige
Director, Compliance and Disability Rights Division
Office of Fair Housing and Equal Opportunity

May 12, 2023

Date

For People for Community Recovery:

[NAME]
[POSITION]
People for Community Recovery

Date

For Chicago South East Side Coalition to Ban Petcoke:



Robert A. Weinstock
Director, Environmental Advocacy Center
Northwestern Pritzker School of Law
Counsel for Chicago South East Side Coalition to Ban Petcoke

May 10, 2023

Date

For Southeast Environmental Task Force:



Robert A. Weinstock
Director, Environmental Advocacy Center
Northwestern Pritzker School of Law
Counsel for Southeast Environmental Task Force

May 10, 2023

Date

For People for Community Recovery:

Keith Harley 5/10/23
Keith Harley, Attorney for People for Community Recovery Date
Greater Chicago Legal Clinic, Inc.

For Chicago South East Side Coalition to Ban Petcoke:

[NAME] Date
[POSITION]
Chicago South East Side Coalition to Ban Petcoke

For Southeast Environmental Task Force:

Keith Harley 5/10/23
Keith Harley, Attorney for Southeast Environmental Task Force Date
Greater Chicago Legal Clinic, Inc.