

## **FY 2008 HOPE VI REVITALIZATION GRANT AGREEMENT**

This grant agreement ("Grant Agreement") is made by and between the United States Department of Housing and Urban Development ("HUD") and the public housing agency ("Grantee") identified on the signature page of this Grant Agreement and the fund obligation document (Form HUD 1044). The Grantee received a HOPE VI Revitalization Grant from fiscal year 2008 funds, for the public housing development that is the subject of this Grant Agreement ("Development"), and that is identified on the signature page and the 1044.

HUD agrees, subject to the terms of this Grant Agreement, to provide grant funds to the Grantee, in the total amount listed on the signature page of this document and the 1044, for the activities described in the Revitalization Plan as defined in Article II.

The assistance that is the subject of this Grant Agreement is authorized by, and required to be used in accordance with, Section 24 of the U.S. Housing Act of 1937 (the "HOPE VI Authorization"). Funding for the HOPE VI Authorization is appropriated by the Consolidated Appropriations Act, 2008 (Pub. L.110-161, approved December 26, 2007) under the heading "Revitalization of Severely Distressed Public Housing (HOPE VI).".

The 1044 and the Exhibits are incorporated into, and subject to the terms of, this Grant Agreement.

HUD and the Grantee hereby agree to be bound by the following terms and conditions of this Grant Agreement:

## **ARTICLE I: HOPE VI Requirements**

The Grantee agrees to conduct all activities to be assisted with funds provided under this Grant Agreement in accordance with the following requirements, as such requirements now exist or as they may hereafter be amended (hereafter collectively referred to as the "HOPE VI Requirements"):

- (A) the U.S. Housing Act of 1937 (the "1937 Act"), including the HOPE VI Authorization, and all implementing regulations;
- (B) the HOPE VI Appropriations Act, as amended by the Consolidated Appropriations Act, 2008 (Pub. L. 110-161, approved December 26, 2007);
- (C) for public housing rental units, the Annual Contributions Contract (the "ACC") entered into between the Grantee and HUD, and any amendments thereto (including, if applicable, any Mixed Finance ACC Amendment);
- (D) the Notice of Funding Availability published in the Federal Register on March 26, 2008 (73 FR 16140) (the "HOPE VI NOFA");
- (E) the SuperNOFA published in the Federal Register on March 19, 2008 (73 FR 14882, as amended through technical corrections published in the Federal Register on June 12, 2008 (73 FR 33446), as relevant;
- (F) all regulations, handbooks, notices, and policies applicable to the activities being conducted with funds provided under this Grant Agreement;
- (G) all executive orders applicable to the activities being conducted with funds provided under this Grant Agreement;
- (H) the terms and requirements of this Grant Agreement, and any amendments or addenda thereto;
- (I) all other applicable Federal requirements, including, without limitation, those set forth in Article XV Fair Housing Certifications; and
- (J) **31 U.S.C. § 1552. In accordance with this statute, all FY 2008 HOPE VI funds must be expended by September 30, 2013. Any funds that are not expended by that date will be cancelled and recaptured by the Treasury, and thereafter will not be available for obligation or expenditure for any purpose.**

## **ARTICLE II. HOPE VI Revitalization Plan**

- (A) General. The HOPE VI Revitalization Plan consists of a series of documents and submissions that are reviewed and approved by HUD to govern the revitalization of the Development under this Grant Agreement.

- (B) Components of the Revitalization Plan. The Grantee's HOPE VI revitalization plan ("Revitalization Plan") includes each of the following components, as approved by HUD. Because some of these documents may be submitted to HUD for approval throughout the implementation of the Grant Agreement, an approved Revitalization Plan shall be deemed to mean any or all of the following documents that have been submitted to HUD on a timely basis (as set forth in paragraph (E) of this Article II), and that are approved by HUD:
- (1) the Grantee's HOPE VI Revitalization application, submitted in response to the HOPE VI NOFA (the "HOPE VI Application");
  - (2) requests for funds for predevelopment costs, as described in Article VII(C);
  - (3) supplemental submissions that HUD requires the Grantee to submit following HUD's review of the HOPE VI Application and as a result of a site visit to the Development, including, but not limited to:
    - (a) any waiver requests;
    - (b) any additional information required in order for HUD to approve demolition based on the HOPE VI Application;
    - (c) certifications and assurances;
    - (d) a Program Schedule, in accordance with the timeframes established in part (E) of this Article and the format of the Quarterly Reports;
    - (e) an HOPE VI Budget (all phases), as described in Article VII(A)(1) and (C); and
    - (f) any other information or documentation that is not otherwise required under any other component of the Revitalization Plan that is requested by HUD to supplement or refine information provided in the HOPE VI Application or to meet any terms or conditions of the Grant Agreement.

(Subparagraphs (a) through (f) are hereafter collectively referred to as the "Supplemental Submissions".)
  - (4) the Community and Supportive Services Plan, as approved by HUD (the "CSS Plan");
  - (5) the Grantee's submissions to HUD in connection with an Endowment Trust, if applicable, in accordance with Article III(H) (including but not limited to submission of a HOPE VI Endowment Trust Addendum);
  - (6) a Demolition Application, if applicable, as described in Article III(D);
  - (7) a Disposition Application relating to the Development, as described in Article

- III(E), to the extent applicable;
- (8) a Section 202 Mandatory Conversion Plan, as described in Article III(D)(1)(c), to the extent applicable;
  - (9) a Standard or Mixed Finance development proposal(s), as described in Article III(A);
  - (10) a Homeownership Proposal, as applicable, as described in Article III(C); and
  - (11) any amendment or modification of the foregoing, as approved in writing by HUD.
- (C) Consistency with the Revitalization Plan. Any submissions provided to HUD as part of the Revitalization Plan under paragraph (B) of this Article, and that are approved in writing by HUD, will be deemed to amend the Revitalization Plan.
- (D) Incorporation into Grant Agreement. As each component of the Revitalization Plan is approved in writing by HUD, it will be deemed to be incorporated into this Grant Agreement.
- (E) Time Periods for Implementation. The Grantee agrees to implement its Revitalization Plan in accordance with the approved Program Schedule, including but not limited to the following time periods:
- (1) In accordance with 31 U.S.C. § 1552, and Article I(I), **all FY 2008 HOPE VI funds must be expended by September 30, 2013.** Any funds that are not expended by that date will be cancelled and recaptured by the Treasury, and thereafter will not be available for obligation or expenditure for any purpose.
  - (2) The Grantee must submit its Supplemental Submissions, as required by paragraph (B)(3) of this Article, to HUD within 90 calendar days (weekends and holidays are not excluded) from the date of HUD's written request for the Supplemental Submissions, in form and substance acceptable to HUD.
  - (3) The Grantee must start case management services as soon as possible, if they have not already, in accordance with the commitments made in the Grantee's application. If the Grantee committed to start case management within 30 days of the grant award, it must have started these services within 30 days of the date of the award letter (October 19, 2008 (30 days from the September 19, 2008 award letter)). It is imperative that case management services begin immediately so that residents who will be relocated have time to participate in and benefit from CSS activities before leaving the site; and that residents who have already been relocated are able to participate in and benefit from CSS activities.
  - (4) The Grantee must submit the CSS Plan, as required by paragraph (B)(4) of this Article, to HUD within 90 calendar days (weekends and

holidays are not excluded) from the execution of this Grant Agreement.

- (5) The Grantees must submit the development proposal for the first phase of construction within 12 months of Grant Agreement execution. A development proposal for the first phase of construction is required regardless of the type of units being built.
  - (7) The closing of the first phase must take place within 15 months of grant award. For this purpose, “closing” means all financial and legal arrangements have been executed and actual activities (construction, etc.) are ready to commence.
  - (8) The Grantee must start construction within 12 months from the date of HUD's approval of the Supplemental Submissions, which period may not exceed 18 months from the date this Grant Agreement is executed.
  - (9) The Grantee must complete construction within 48 months from the date of HUD's approval of the Supplemental Submissions, which period may not exceed 54 months from the date this Grant Agreement is executed.
  - (10) All other required components of the revitalization plan and any other submissions not mentioned above must be submitted in accordance with the Quarterly Report Administrative and Compliance Checkpoints Report, as approved by HUD.
  - (11) In accordance with Section 24(i) of the 1937 Act, if the Grantee does not proceed within a reasonable time frame, as described in Sections (E)(1) through (10) above, HUD may withdraw any unobligated grant amounts. HUD shall redistribute any withdrawn amounts to one or more other applicants eligible for HOPE VI assistance or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the Revitalization Plan of the original Grantee. HUD may also pursue actions as described in Article XXI, “Unsatisfactory Performance/Default.”
- (F) Time Extensions. All requests for extensions of the time periods for implementation listed in Article II(E)(2)-(10) above must be requested by the Grantee in advance of the deadline date. All requests for extensions must be made in writing, and will be reviewed and approved or disapproved by the Assistant Secretary of Public and Indian Housing or the Deputy Assistant Secretary for the Office of Public Housing Investments. The expenditure requirement in Article II(E)(1) is not able to be waived or extended by HUD.
- (G) Special Conditions. HUD has the right to establish special conditions with respect to the Grantee's performance of activities under this Grant Agreement, either prior to the execution of this Grant Agreement, or under the circumstances set forth in Article XXI(A).
- (H) PHA Annual Plan. The Grantee agrees that its PHA Plan and revised five-year action plan, as required under 24 CFR part 903, or MTW Annual Plan, as applicable, must

reflect the use of funds provided under this Grant Agreement for the implementation of activities under the Revitalization Plan.

- (I) Section 202 Conversion Plan. As applicable, the Grantee agrees to comply with the Section 202 Requirements, as described in Article III(D)(1)(c), with respect to the Development or other properties assisted under this Grant Agreement that are subject to Mandatory Conversion. Information provided in the Grantee's approved Revitalization Plan shall constitute an acceptable Section 202 Mandatory Conversion Plan.

### **ARTICLE III. Revitalization Activities and Requirements**

#### (A) Development Activities.

- (1) For any standard (non-mixed finance) public housing development activity under the Revitalization Plan (whether on-site reconstruction or off-site development), the Grantee must obtain HUD approval of a development proposal submitted under 24 CFR part 941 (or successor part), as this part may be amended from time to time ("Standard Development Proposal").
- (2) For mixed-finance housing development under the Revitalization Plan, the Grantee must obtain HUD approval of a mixed finance proposal submitted under 24 CFR part 941, subpart F (or successor part and subpart), as may be amended from time to time ("Mixed Finance Development Proposal").
- (3) For new construction of community facilities primarily intended to facilitate the delivery of community and supportive services for residents of the Development and residents of off-site replacement housing, the Grantee must comply with 24 CFR part 941 (or successor part) as this part may be amended from time to time. Information required for this activity must be included in either a Standard or Mixed Finance Development Proposal.

- (B) Rehabilitation Activities. For rehabilitation and physical improvement of public housing and/or community facilities primarily intended to facilitate the delivery of community and supportive services for residents of the Development and residents of off-site replacement housing under the Revitalization Plan, the Grantee will comply with 24 CFR § 968.112(b), (d), (e), and (g)-(o) and 24 CFR §§ 968.130 and 968.135(b) and (d) or successor part, as may be amended from time to time.

- (C) Homeownership Activities. For homeownership replacement activities under a Revitalization Plan, the Grantee is required to obtain HUD approval of a homeownership proposal ("Homeownership Proposal"). The Homeownership Proposal must serve low-income families consistent with the 80% Area Median Income (AMI) limitations and any other applicable provisions under the 1937 Act. The Homeownership Proposal must conform to either:

- (1) section 24(d)(1)(J) of the 1937 Act; or

(2) section 32 of the 1937 Act (see 24 CFR part 906).

(D) Demolition.

(1) The Grantee must submit one of the following to HUD for approval, as applicable, before demolition activities under the Revitalization Plan may be carried out:

- (a) any additional information required in order for HUD to approve demolition based on the HOPE VI Application, in accordance with Article II(B)(3)(b) ("HOPE VI Demolition Information");
- (b) a demolition application under Section 18 of the Act, as approved by HUD, to the extent applicable (the "Section 18 Demolition Application"); or
- (c) a Section 202 Mandatory Conversion Plan, in compliance with the regulations at 24 CFR part 971 and other applicable HUD requirements, if the Development or other property assisted under this Grant Agreement is subject to Mandatory Conversion (section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. No. 104-134, approved on April 26, 1996)), which concerns the required conversion of certain distressed public housing to vouchers (the "Section 202 Requirements").

(2) For the purposes of this Grant Agreement, the HOPE VI Demolition Information described in subparagraph (D)(1)(a), the Section 18 Demolition Application described in subparagraph (D)(1)(b), and the Section 202 Requirements described in subparagraph (D)(1)(c) shall heretofore collectively be referred to as the "Demolition Application."

(3) The Grantee will not carry out, nor permit others to carry out the demolition of the Development or any portion thereof until HUD approves, in writing, the demolition of the development. In order for HUD to approve the demolition HUD must also have 1) approved a Request for Release of Funds submitted in accordance with 24 CFR part 58, or, 2) if HUD performs an environmental review under 24 CFR part 50, approved the property for demolition, in writing, following its environmental review.

(E) Disposition.

(1) The Grantee will comply with the provisions of section 18 of the 1937 Act, 24 CFR part 970, as may be modified or amended from time to time, and the provisions of its approved disposition application (the approved "Disposition Application"), unless otherwise modified in writing by HUD.

(2) A lease of one year or more which is not incident to the normal operation of a Development is considered to be a disposition that is subject to section 18 of the 1937 Act.

(F) Relocation.

- (1) General. The Grantee will provide suitable, decent, safe, and sanitary housing for each family required to relocate as a result of revitalization activities under the Revitalization Plan.
- (2) Standard Relocation Plan. The Grantee must carry out its relocation activities in compliance with a relocation plan that conforms with the following statutory and regulatory requirements, as applicable (the “Standard Relocation Plan”):
  - (a) Relocation or temporary relocation carried out as a result of **rehabilitation** under an approved Revitalization Plan is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*; 49 CFR part 24) (URA) and regulations at 24 CFR § 968.108 or successor part.
  - (b) Relocation carried out as a result of **acquisition** under an approved Revitalization Plan is subject to the URA and regulations at 24 CFR § 941.207 or successor part.
  - (c) Relocation carried out as a result of **disposition** under an approved Revitalization Plan is subject to section 18 of the 1937 Act as amended.
  - (d) Relocation carried out as a result of **demolition** under an approved Revitalization Plan is subject to the URA.
- (3) HOPE VI Relocation Plan.
  - (a) In addition to the requirements under subparagraph (F)(2) of this Article, the Grantee is required to implement a HOPE VI relocation plan (as certified to in its FY 2008 HOPE VI Revitalization application) that describes the assistance and the services to be provided to affected families and otherwise conforms with the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs Final Rule, which was published in the Federal Register on January 4, 2005 at 70 FR 590 and became effective February 3, 2005.
  - (b) The HOPE VI Relocation plan is intended to ensure that PHAs adhere to the URA and that all residents who have been or will be temporarily or permanently relocated from the site are tracked for the term of the Grant Agreement and are provided with CSS activities such as mobility counseling and direct assistance in locating housing. Your HOPE VI Relocation plan must serve to minimize permanent displacement of current residents of the public housing site who wish to remain in or return to the revitalized community. Your HOPE VI



Relocation plan must also furnish alternative permanent housing for current residents of the public housing site who do not wish to remain in or return to the revitalized community. Your CSS program must provide for the delivery of community and supportive services to residents prior to any relocation, temporary or permanent.

(G) Acquisition.

- (1) Rental Units. The Grantee will comply with 24 CFR part 941 or successor part for acquisition of rental units in existing or new apartment buildings, single family subdivisions, etc., with or without rehabilitation, for use as public housing replacement units.
- (2) Land for Off-Site Replacement Units. Before the Grantee may undertake acquisition activities of land for public housing or homeownership development with HOPE VI or other public housing funds, the Grantee must submit an acquisition proposal to HUD that meets the requirements of 24 CFR § 941.303.
- (3) Land for Economic Development. The Grantee will comply with 24 CFR part 941, subpart F, or successor part for acquisition of land for economic development-related activities. The Grantee may, with HUD approval, use funds provided under this Grant Agreement for acquisition of land and for limited infrastructure and site improvements associated with developing retail, commercial, or office facilities. The Grantee must enter into a restrictive covenant to govern the development and use of land acquired for economic development purposes. The Grantee may **not** use funds provided under this Grant Agreement to pay hard development costs or to buy equipment for retail, commercial, or office facilities.

(H) Community and Supportive Services.

- (1) Funding. Consistent with sections 24(d)(1)(L) and 24(j)(3) of the 1937 Act and the HOPE VI NOFA, the Grantee may use an amount up to 15 percent of the total HOPE VI Grant to pay the costs of community and supportive service programs. The Grantee may spend additional sums on community and supportive services programs using donations, HUD funds made available for that purpose, or other PHA funds.
- (2) CSS Plan. The Grantee must develop and submit to HUD for approval a CSS Plan (see Article II). The Grantee must provide current public housing residents, relocated public housing residents, and returning and new public housing residents with community and supportive services for the term of the Grant Agreement. CSS programs and services must be carefully planned so that they will be sustainable after the HOPE VI grant period ends. The Grantee is responsible for tracking and providing CSS programs and services to residents currently living on the targeted public housing site (as of the grant award date) and residents already relocated from the site. It is imperative that case management services begin immediately so that residents who will be

relocated have time to participate in and benefit from CSS activities before leaving the site; and that residents who have already been relocated are able to participate in and benefit from CSS activities. CSS activities must be well integrated with the physical development process, both in terms of timing and the provision of facilities to house on-site service and educational activities.

- (3) CSS Endowment Trust. The Grantee may deposit up to 15 percent of the HOPE VI Grant amount (the maximum amount of the grant allowable for CSS programs) into an endowment trust to provide CSS activities (the "Endowment Trust").
  - (a) The Grantee may not draw down funds provided under this Grant Agreement for deposit into an Endowment Trust until it has a HUD-approved Endowment Trust plan and has executed with HUD an addendum to this Grant Agreement (the "HOPE VI Endowment Trust Addendum"), as directed by HUD. The HOPE VI Endowment Trust Addendum establishes the requirements governing the establishment, operation, and management of an Endowment Trust.
  - (b) In reviewing the amount of the Grantee's proposed allocation of HOPE VI Grant funds to an Endowment Trust, HUD will take into account the Grantee's demonstrated ability to pay for current CSS activities with HOPE VI or other funds, and the projected long-term sustainability of the Endowment Trust to carry out such activities.
  - (c) Endowment Trust funds (including any non-HOPE VI funds donated or otherwise made available to the Endowment Trust, and any interest earned on HOPE VI and non-HOPE VI funds) may only be used for eligible and necessary CSS activities, as set forth in the approved CSS Plan.
- (I) Necessary management improvements, including transitional security activities.
- (J) Leveraging other resources, including additional housing resources, supportive services, job creation, and other economic development uses on or near the project that will benefit future residents of the site.
- (K) Reasonable costs for administration, planning, technical assistance, and fees and costs, as established by HUD guidance and policies regarding cost controls. These costs are limited to the costs of implementing the Revitalization Plan, as specifically approved by HUD, such as fees for architectural and engineering work, program management (if any), and reasonable legal fees.
- (L) Administration, Fees and Costs.
  - (1) Cost Controls. The Grantee will comply with HUD guidance and policies regarding cost controls that establish reasonable costs for administration, planning, technical assistance, and fees and costs.

- (a) These costs are limited to the costs of implementing the development as specifically approved by HUD, such as fees for development services, architectural and engineering work, program management (if any), and reasonable legal fees.
  - (b) You may not use HOPE VI Revitalization Grant funds to pay for any revitalization activities carried out on or before the date of the letter announcing the award of the HOPE VI Grant (September 19, 2008).
- (2) Lobbying. The Grantee hereby certifies that no funds provided under this Grant Agreement will be expended for lobbying activities, as prohibited by Section 319 of Public Law 101-121 (which prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government), and implemented for HUD at 24 CFR part 87, as the same may be amended from time to time. The Grantee will disclose promptly any commitment or expenditure of non-appropriated funds for lobbying activities if those activities would be prohibited if paid with appropriated funds.
- (M) Eminent Domain and Public Use. Pursuant to Title II of the 2008 Consolidated Appropriations Act (Public Law 110-161) (the “2008 Appropriations Act”), under which this HOPE VI Grant is funded, no funding made available under that Act shall be used for purposes specifically excluded by the 2008 Appropriations Act. Title IV, Section 411 of the 2008 Appropriations Act prohibits any use of these funds “to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is used only for a public use.” The term “public use” is expressly stated not “to include economic development that primarily benefits private entities.” Accordingly, grantees may not propose mixed-use projects in which housing is complemented appreciably with commercial facilities (i.e., economic development) if eminent domain is used for the site.

#### **ARTICLE IV. Changes to the Revitalization Plan**

- (A) Changes Requiring Prior HUD Approval. If the following activities in the Revitalization Plan are to be modified or amended, the Grantee must request and obtain prior HUD approval:
- (1) the Program Schedule. The Grantee must inform HUD immediately, in writing, of any problems, delays or adverse conditions that will impair materially the Grantee's ability to comply with the Program Schedule, and include a statement of action taken, or proposed to be taken, and any assistance needed to resolve the situation. HUD must approve any proposed changes to the Program Schedule that would modify any date or time period.
  - (2) the form of program oversight;
  - (3) the procedures for community involvement;

- (4) the approved Disposition Application;
  - (5) the approved Demolition Application;
  - (6) the total number of public housing units and other housing units on-site and to be developed or rehabilitated, whether or not there is an associated budgetary revision requiring prior approval;
  - (7) changes in any HOPE VI Budget or phase budget that propose an increase or decrease in any line item, except as permitted by Article VIII(C) (Drawdowns);
  - (8) an extension of the period of availability of the HOPE VI Grant funds provided under this Grant Agreement, not to go beyond the statutory timeframes;
  - (9) changes in the entities or individuals specified in the Revitalization Plan as having key responsibilities for carrying out the Revitalization Plan (or any component(s) of the Revitalization Plan). Subgranting, subcontracting or otherwise obtaining the services of a third party to perform activities that are central to the purposes of the Revitalization Plan will constitute such a change in entities or individuals; and
  - (10) changes requested by a subgrantee that relate to any of the itemized categories listed in this paragraph (A) of this Article.
- (B) Changes Requiring Grant Agreement Amendment. For the following types of revisions to the Revitalization Plan, the Grantee must request prior approval in writing to HUD. Upon HUD approval, the change will be implemented by the execution of an amendment to this Grant Agreement, and shall consist of a revised Form HUD-1044 that defines the changes.
- (1) change in the total dollar amount of the grant; and/or
  - (2) change in the Development for which funds provided under this Grant Agreement are made available.

## **ARTICLE V. Replacement Units**

- (A) General.
- (1) ACC. The Grantee acknowledges that the Development currently is subject to an ACC with HUD and agrees that the ACC will remain in full force and effect with respect to the Development for so long as the Development is required by the Revitalization Plan to remain as public housing.
  - (2) Compliance with HOPE VI Requirements. The Grantee agrees that any replacement units that are developed under the Revitalization Plan will be

developed, operated, and maintained in accordance with the HOPE VI Requirements for the requisite time period.

(B) Rental Units.

Implementing Agreements. After HUD approves the Grantee's Development Proposal(s), the Grantee agrees to take promptly all steps necessary to enable HUD to approve the execution of an implementing agreement to cover the replacement housing.

- (1) Mixed Finance Development. For each mixed finance phase of development of public housing rental units, the Grantee will enter into a Mixed-Finance ACC Amendment with HUD in accordance with 24 CFR part 941 subpart F or successor part.
- (2) Standard Development. For Development Proposals involving the development of public housing rental units (but not mixed finance public housing units), the Grantee and HUD will execute an ACC Amendment.

(C) Homeownership Units.

- (1) For each phase of development of mixed finance homeownership replacement housing (which does not include the provision of HOPE VI funds for only subordinate mortgage assistance to eligible families), the Grantee will enter into an Addendum to this HOPE VI Grant Agreement for the Mixed Finance Development of Homeownership Replacement Units.
- (2) Homeownership units may only be deemed to be replacement units if such units do not exceed the total number of units that have been or will be demolished and/or disposed of at the targeted severely distressed project and otherwise meet the requirements listed in Article III(C) of this Grant Agreement.

- (D) Market Rate Units. The Grantee **may not** use funds provided under this Grant Agreement to develop market rate units or affordable housing units which do not qualify as public housing or homeownership replacement units described in paragraphs (B) or (C) of this Article.

**ARTICLE VI. Revitalized Public Housing**

(A) Waiver Requests.

- (1) Standard for Approval. The activities to be conducted under this Grant Agreement are subject to the terms of this Grant Agreement and the HOPE VI Requirements. Nevertheless, HUD seeks innovative solutions under the HOPE VI Program to the long-standing problems of severely distressed public housing developments, and will consider granting a waiver of specific regulatory requirements, provided that:

- (a) such a waiver would be consistent with applicable statutory requirements; and
  - (b) the Grantee is able to demonstrate good cause to support HUD's granting of such a waiver.
- (2) Waiver Request Procedure. If the Grantee wants HUD to approve a waiver of a regulatory requirement, it must submit a request with sufficient information and justification to enable HUD to make a determination of good cause for granting any such request to deviate from existing regulations. Until such time as the Grantee requests and HUD, in its discretion, approves any such requests in writing, the Grantee does not have authority to implement the activities described in the HOPE VI Application to which the request for approval applies (or for which a request for approval is needed).
- (B) Special Conditions for Revitalized Housing. The following is an overview of certain issues that may be important to the Grantee as it seeks to develop its Revitalization Plan. The Grantee is reminded that this information is accurate and current as of the time this Grant Agreement was issued by HUD. The Grantee must, however, ensure that the provisions described below have not been modified by subsequent statutory or regulatory enactments before implementing them. Any authority exercised by the Grantee under this Article must also be set forth in the Grantee's Revitalization Plan, and PHA Plan (or MTW Annual Plan, as applicable), as required.
  - (1) Site and Neighborhood Standards for Replacement Housing.
    - (a) Goals of the HOPE VI Program. The HOPE VI Program provides resources to address the needs of severely distressed public housing developments within an administrative framework of less intrusive Federal oversight and increased reliance on informed local decision making. HOPE VI Grants are made so that Grantees can develop and implement comprehensive strategies that address not only the physical and management needs of the developments, but also the social and economic needs of the residents and the surrounding community. The Grantee is expected to ensure that its Revitalization Plan will expand assisted housing opportunities in non-poor and non-minority neighborhoods and/or will accomplish substantial revitalization in the Development and its surrounding neighborhood. The Grantee is also expected to ensure that eligible households of all races and ethnic groups will have equal and meaningful access to the housing.
    - (b) Objectives in Selecting HUD-Assisted Sites. The fundamental goal of HUD's fair housing policy is to make full and free housing choice a reality. Housing choice requires that households of all races can freely decide the type of neighborhood where they wish to reside, that minority neighborhoods are no longer deprived of essential public and private resources, and that stable, racially-mixed neighborhoods are available as a meaningful choice for all. To make full and free housing

choice a reality, sites for HUD-assisted housing investment should be selected so as to advance two complementary goals:

- (i) expand assisted housing opportunities in non-minority neighborhoods, opening up choices throughout the metropolitan area for all assisted households; and
  - (ii) reinvest in minority neighborhoods, improving the quality and affordability of housing there to represent a real choice for assisted households.
- (c) Compliance with Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. The Grantee must comply with the Fair Housing Act and Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and implementing regulations in determining the location of any replacement housing.
- (d) Grantee's Election of Requirements. A Grantee may, at its election, separately with regard to each site it proposes, comply with the development regulations regarding Site and Neighborhood Standards (24 CFR § 941.202), or with the Site and Neighborhood Standards contained in this Article.
- (e) Replacement Housing Located on Site or in the Surrounding Neighborhood. Because the objective of the HOPE VI program is to alleviate distressed conditions at the Development and in the surrounding neighborhood, replacement housing under HOPE VI that is located on the site of the existing Development or in its surrounding neighborhood will not require independent approval by HUD under Site and Neighborhood Standards. The term "surrounding neighborhood" means the neighborhood within a three-mile radius of the site of the existing development.
- (f) Replacement Housing Located Outside of the Surrounding Neighborhood. Unless the Grantee demonstrates that there are already significant opportunities in the metropolitan area for assisted households to choose non-minority neighborhoods (or these opportunities are under development), HOPE VI replacement housing not covered by subparagraph (B)(1)(e) of this Article may not be located in an area of minority concentration (as defined below) without the prior approval of HUD. Such approval may be granted if the Grantee demonstrates to the satisfaction of HUD that:
- (i) the Grantee has made determined and good faith efforts, and found it impossible with the resources available, to acquire an appropriate site(s) in an area not of minority concentration; or
  - (ii) the replacement housing, taking into consideration both the

community and supportive services or other revitalizing activities included in the Revitalization Plan, and any other revitalization activities in operation or firmly planned, will contribute to the stabilization or improvement of the neighborhood in which it is located, by addressing any serious deficits in services, safety, economic opportunity, educational opportunity, and housing stock; or

(iii) the replacement housing is located in a neighborhood that is not an area of high poverty rate (30 percent or more).

(g) Area of Minority Concentration. The term "area of minority concentration" is any neighborhood in which:

(i) The percentage of households in a particular racial or ethnic minority group is at least 20 points higher than the percentage of that particular minority group for the housing market area; i.e., the Metropolitan Statistical Area (MSA) in which the proposed housing is to be located; or

(ii) The neighborhood's total percentage minority is at least 20 points higher than the total percentage of all minorities for the MSA as a whole; or

(iii) In the case of a metropolitan area, the neighborhood's total percentage of minority persons exceeds 50 percent of its population.

(2) Admission to Redeveloped HOPE VI Units. The 1937 Act applies to public housing units, including the Development to be revitalized and any replacement units developed as public housing. One objective of the HOPE VI Program is to explore alternative methods for operating successfully revitalized public housing within the statutory framework, including the Fair Housing Act and Title VI of the Civil Rights Act of 1964.

(a) Preferences for Admission.

(i) Authority. The Grantee is permitted to establish a local system of preferences in accordance with applicable HUD requirements, including those governing the PHA Agency Plan (see 24 CFR part 903), as may be amended.

(ii) Applicability of Civil Rights Requirements. The Grantee is reminded that, in adopting any local preference, it must comply with all applicable civil rights requirements, including the Fair Housing Act and Title VI of the Civil Rights Act of 1964 and all implementing regulations. Because of the overriding importance of fair housing rights and the likelihood of private litigation or a public enforcement action if fair housing laws are



violated, the Grantee is strongly encouraged to consult with HUD (including Fair Housing staff) prior to establishing preferences that may involve fair housing issues (such as neighborhood preferences).

- (b) Resident Screening. The Grantee is permitted to implement a screening process that uses a resident advisory board and/or advisory board. However, the Grantee must establish objective and reasonable criteria to determine if an applicant is likely to be a suitable resident, and must develop adequate procedures to verify information concerning each applicant. The Grantee also should amend its admissions policies and PHA Plan, or MTW Annual Plan and MTW Agreement, as applicable, to reflect any such changes in its procedures.
- (c) Site-Based Waiting Lists. The Grantee may establish a separate, site-based waiting list. The method of establishment and operation must comply with the PHA Agency Plan requirements at 24 CFR § 903.7, as may be amended, or MTW Annual Plan and MTW Agreement, as applicable.

## **ARTICLE VII. HOPE VI Budget and Funding Requests**

- (A) Types of Budgets. The Grantee must ensure that funds provided under this Grant Agreement are expended in accordance with the HOPE VI Requirements and:
  - (1) a HOPE VI Budget. Each Grantee must submit to HUD for approval a HOPE VI Budget as part of the Supplemental Submissions. The HOPE VI Budget allocates ALL HOPE VI Grant funds, for ALL phases, into Budget Line Items. The HOPE VI Budget will serve as the primary budget and may be subject to revision; and
  - (2) a budget for each phase of a Standard, Mixed Finance, or Homeownership Development Proposal, as approved by HUD.
- (B) Budget Form. Each budget submitted in accordance with paragraph (A) of this Article must be submitted on Form HUD-52825-A, Parts I and II ("HOPE VI Budget Form"). Part I must be signed and dated by the Executive Director, and Part II must include a detailed description of the uses of the funds.
- (C) Predevelopment Costs.
  - (1) Funding Requests. Before receiving HUD's written approval of the Supplemental Submissions, the Grantee may submit a HOPE VI Budget for the purpose of requesting HOPE VI Grant funds for predevelopment costs. Upon written approval by HUD of the HOPE VI Budget (with any modifications required by HUD), funds may be drawn down for eligible Predevelopment Costs (as defined in subparagraph (2) below), subject to the

requirement for an environmental review under Article VIII(B), in accordance with the provisions of this Grant Agreement.

- (2) Eligible Predevelopment Costs. Eligible predevelopment costs ("Predevelopment Costs") may include funds for:
    - (a) administration costs related to having additional and/or existing staff work on the HOPE VI Grant;
    - (b) fees and costs related to procuring goods and services from third parties in connection with eligible predevelopment activities such as architectural and engineering (A&E) fees;
    - (c) resident relocation;
    - (d) limited community and supportive services costs, including costs dedicated to case management and services and the cost of preparing the CSS Plan;
    - (e) costs associated with carrying out environmental reviews, in accordance with 24 CFR § 58.23; and
    - (f) site remediation and demolition costs, provided that HUD has notified the Grantee in writing of the approval of the Grantee's Demolition Application.
  - (3) Pre-Grant Agreement Execution Costs. After the execution of this Grant Agreement, the Grantee may include in its HOPE VI Budget, and draw down funds for, costs that were incurred under the Revitalization Plan prior to execution of this Grant Agreement, provided that such costs:
    - (a) were incurred after the date of HUD's notification letter awarding this HOPE VI Revitalization Grant to the Grantee (September 19, 2008); and
    - (b) are directly associated with the activities under the Revitalization Plan to be funded HOPE VI Grant funds.
  - (4) Predevelopment Funds. Upon review and approval of the HOPE VI Budget, as described in Article VII(C)(1), HUD will make the approved predevelopment funds available to the Grantee for drawdown in LOCCS. The Grantee will ensure that the funds are expended in conformance with the HUD-approved Predevelopment Budget.
- (D) Program Income. Unless otherwise approved by HUD in accordance with 24 CFR § 85.25, if the Grantee receives program income prior to grant closeout (e.g., from repayment of loans or sale of homeownership replacement units) the program income:
- (1) must be reinvested in the Development and used for low-income housing

purposes, as approved by HUD; and

- (2) must be used for eligible activities authorized under this Grant Agreement before the Grantee may draw down additional cash payments from the HOPE VI Grant.

#### **ARTICLE VIII. Project Drawdowns**

- (A) LOCCS Payment System. Notwithstanding any contrary provisions of 24 CFR § 85.21, the Grantee will request all drawdowns of HOPE VI Grant funds under the Line of Credit Control System (e-LOCCS), unless and until another payment system is designated by HUD. The Grantee will comply with all rules, guidelines, and notices established for HOPE VI under LOCCS, or any substitute system, in connection with any drawdown of HOPE VI Grant funds. If HUD designates a different payment system, it will be based upon the provisions of section 85.21 (subject to the provisions of Article XIX(D)).
- (B) Environmental Review. The Grantee may not carry out activities with respect to demolition, disposition, acquisition, development, and/or any off-site replacement public housing until HUD has approved a request for release of funds in accordance with 24 CFR part 58 or has completed an environmental review on each affected site in accordance with 24 CFR part 50. The costs of environmental reviews are eligible expenses in accordance with an approved HOPE VI Budget (as provided in Article VII(C)(2)(e)).
- (C) Drawdowns.
  - (1) Without HUD approval, the Grantee may draw down HOPE VI Grant funds for a Budget Line Item (BLI) in an amount up to 110 percent of the amount of that BLI that HUD has approved and made available for drawdown.
  - (2) With HUD approval, the Grantee may request funds that exceed 110 percent of a BLI, provided that any such change does not cause, or result from, a revision to the scope or objectives of the Revitalization Plan and that:
    - (a) HUD's total grant obligation will not be increased;
    - (b) the average per unit hard costs for units to be reconstructed or rehabilitated will not exceed 100 percent of the Total Development Cost Limits ("TDC Limits") and the Housing Construction Cost Limits ("HCC Limits"); and
    - (c) the Grantee will comply with the requirements of Article IX(B), relating to the percentage of funding that may be expended for community and supportive service activities.
  - (3) Notwithstanding sections (C)(1) and (C)(2) above, the Grantee may not request more than 100 percent of the amount authorized for BLIs 1408

(Management Improvements/Community and Supportive Services) and 1410 (Administration).

- (4) Any request for funds in excess of 5 percent of the entire grant amount in any month must be approved by HUD.

(D) Drawdown Consequences of Default.

- (1) Withholding of Payments. HUD may withhold payments in accordance with 24 CFR § 85.21(g).
- (2) Grantee Representations. Each drawdown request by the Grantee will constitute, and be deemed to be, a representation that the Grantee is not in default under this Grant Agreement (except as the Grantee previously may have disclosed to HUD in writing).
- (3) Overdue Reports. No funds provided under this Grant Agreement may be released during any period in which the Grantee has failed to file with HUD any overdue Quarterly Report.

**ARTICLE IX. Matching Funds**

- (A) Overall Match. The Grantee agrees to provide resources, other than HOPE VI Grant funds, in an amount that is not less than 5 percent of the HOPE VI Grant amount. Matching funds must be directly applicable to the revitalization of the site and the transformation of the lives of residents.
- (B) Additional Community and Supportive Services Match. In addition to the amount provided in paragraph (A) above, if the Grantee uses more than 5 percent of the HOPE VI Grant for community and supportive services programs, the Grantee will provide resources other than HOPE VI Grant funds in an amount equal to the amount of HOPE VI Grant funds used that is over 5 percent.
- (C) Eligible Match Contributions. Matching funds may include amounts from other Federal sources, any State or local government sources, any private contributions, the value of any donated material or building, the value of any lease on a building, the value of the time and services contributed by volunteers, and the value of any other in-kind services or administrative costs provided. Other Federal sources may include funds provided by the MROP, Public Housing Capital Fund Program, or other HUD-provided public housing funds, including funds derived from program income. You may not include as match amounts from HOPE VI program funding, including HOPE VI Revitalization, HOPE VI Demolition, and HOPE VI Neighborhood Networks grants.
- (D) Enforcement of Leveraged Resources. The Grantee agrees that it will pursue and enforce any commitment (including commitments for services) obtained from any public or private entity for any contribution or commitment to the Development or surrounding area, as included in its HOPE VI Application.

**ARTICLE X. Finance and Accounting**

- (A) Commingling of Grant Funds. The Grantee agrees that, in its accounts and recordkeeping, it will not commingle HOPE VI Grant funds with funds from any other sources including, but not limited to, other HUD program funds or funds from other Federal, State or local government agencies. (Such other funds may be used to carry out the Revitalization Plan, so long as they are not commingled in the Grantee's accounts and recordkeeping.)
- (B) Duplication of Funding. The Grantee will ensure that HOPE VI Grant funds are not used to duplicate work that is funded with any other HUD funds, funds from any other Federal program, or from any other funding source identified under the Revitalization Plan, and will establish controls to assure non-duplication of funding.
- (C) Cost Limitations.
- (1) HOPE VI Grant funds may be used for eligible expenditures, as authorized under this Grant Agreement and the HOPE VI Requirements. HUD's TDC Limits and HCC Limits apply to the expenditure of public housing funds (including funds provided under this Grant Agreement) for the development of replacement housing units under this Grant Agreement.
- (2) If funds provided under this Grant Agreement are used in combination with other HOPE VI funds or with Capital Funds to carry out the Revitalization Plan, the TDC limits and the HCC Limits that apply to this HOPE VI Grant Agreement will apply to the expenditure of all such funds.
- (D) HUD Reform Act. The Grantee will comply with Section 102 of the Department of Housing and Urban Development Reform Act of 1989, as implemented at 24 CFR part 4, subpart A, which contains provisions regarding documentation of funding decisions to subgrantees, the disclosure of any pecuniary interest of any interested party, and the amount of government assistance made available to the Grantee. A subsidy layering review will be performed to ensure that the Grantee will not provide to the development or any off-site replacement housing more assistance under the HOPE VI Program than is necessary to provide affordable housing after taking into account other governmental assistance provided.

**ARTICLE XI. Recordkeeping**

- (A) Recordkeeping Authorities. The Grantee will comply with and be subject to all Federal recordkeeping requirements, including, but not limited to:
- (1) the retention and access requirements for records under 24 CFR § 85.41;
- (2) the non-Federal audit requirements under 24 CFR § 85.26, including, without limitation, the requirements relating to each subgrantee to which the Grantee

- provides \$300,000 or more of HOPE VI Grant funds in any fiscal year; and
- (3) the requirements of 24 CFR § 85.20 that facilitate an effective audit to determine compliance with program requirements.
- (B) Recordkeeping Requirements. Grantees must retain records in accordance with the requirements of paragraph (A) of this Article, including, but not limited to:
- (1) the amount and disposition of funds received under this HOPE VI Grant, including sufficient records that document the reasonableness and necessity of each expenditure;
  - (2) the amount and nature of any other assistance, including cash, services, or other items contributed in accordance with the Revitalization Plan or as a condition of receiving this HOPE VI Grant;
  - (3) any other proceeds received for, or otherwise used in connection with, the Revitalization Plan; and
  - (4) fair housing and equal opportunity data, including racial and ethnic beneficiary data, information on the affirmative marketing strategy and any other information to demonstrate compliance with the fair housing and equal opportunity requirements of this program as identified in Article XV.
- (C) Access to Records. For the purpose of audit, examination, monitoring, and evaluation, the Grantee will give HUD (including any duly authorized representatives and the Inspector General) access, and will ensure that any participating party will give HUD such access, to any books, documents, papers, and records of the Grantee, or such participating party, that are pertinent to assistance received under this HOPE VI Grant or under the Revitalization Plan, including all records required to be kept by paragraph (B) of this Article.

## **ARTICLE XII. Subgrantees and Contractors**

- (A) General Grantee Responsibilities.
- (1) Implementation Team. The Grantee agrees to promptly assemble a competent implementation team, if they have not already, to assist the Grantee in working with the Grantee's partners and collaborators and coordinating all phases of the development process. HUD reserves the right to require a Grantee to procure program management services from an independent private entity.
  - (2) HOPE VI Requirements. The Grantee shall ensure that any entity to which it makes grant funds available will comply with the HOPE VI Requirements.
  - (3) Administrative Requirements. Administrative requirements applicable to PHAs are:

- (a) 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments), as modified by 24 CFR part 941 or successor part, subpart F, relating to the procurement of partners in mixed finance developments; and
  - (b) OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments).
- (4) Required Certifications.
- (a) The Grantee must ensure that all subgrantees and contractors execute an original document in the form of Exhibit A or B, as appropriate, to this Grant Agreement at the time the Grantee executes any contract with any subgrantee or contractor to provide goods or services under this Grant Agreement. The Grantee will retain the executed original certification together with the executed contract documents.
  - (b) The Grantee must ensure that the requirements contained in the General Conditions for Construction Form (Form 5370) are included in any solicitation for bids related to a construction contractor that will be made by the Grantee and paid for with assistance under this Grant Agreement. Such conditions must also be included in any construction contract entered into by the Grantee. If a construction contract is solicited by the Grantee's Developer, Form 5370 is recommended but not required. The Developer may use any General Conditions form that has been approved by the American Institute of Architects.
  - (c) The Grantee must ensure that the requirements contained in the General Conditions for Non-Construction Form (Form 5370-C) are included in any solicitation in connection with non-construction contracts that will be made by the Grantee and paid for with assistance under this Grant Agreement. Such conditions must also be included in any non-construction contract entered into by the Grantee. If a construction contract is solicited by the Grantee's Developer, Form 5370-C is recommended but not required. The Developer may use any General Conditions form that has been approved by the American Institute of Architects.
- (5) Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects. Consistent with Executive Order 13202, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," as amended, it is required that neither the Grantee nor any subrecipient or program beneficiary receiving funds under an award granted under the FY 2008 HOPE VI Revitalization Notice of Funding Availability (NOFA), nor any construction manager acting on behalf of the

Grantee or any such subrecipient or program beneficiary, may require bidders, offerors, contractors, or subcontractors to enter into or adhere to any agreement with any labor organization on any construction project funded in whole or in part by such award or on any related federally funded construction project; or prohibit bidders, offerors, contractors, or subcontractors from entering into or adhering to any such agreement on any such construction project; or otherwise discriminate against bidders, offerors, contractors, or subcontractors on any such construction project because they become or refuse to become or remain signatories or otherwise to adhere to any such agreements. Contractors and subcontractors are not prohibited from voluntarily entering into such agreements. A recipient or its construction manager may apply to HUD under Section 5(c) of the Executive Order for an exemption from these requirements for a project where a construction contract on the project had been awarded as of February 17, 2001, and was subject to requirements that are prohibited under the Executive Order.

(B) Subgrant Agreements

- (1) Community and Supportive Services Providers. The Grantee may enter into subgrant agreements with non-profit entities or state or local governments (as defined in 24 CFR part 85) for the performance of CSS activities under the Revitalization Plan. Although the Grantee is not required to undertake a competitive procurement under 24 CFR part 85 to select a non-profit or state or local government subgrantee, the Grantee affirms that before it executes any subgrant agreements, it will:
  - (a) evaluate alternative service providers for the specific services to be provided;
  - (b) select the entity that it reasonably believes will most effectively provide such services; and
  - (c) ensure that the amount to be awarded under the subgrant agreement is consistent with the cost principles of OMB Circular A-87.
- (2) Grantee Responsibilities Regarding Subgrantees. The Grantee will be responsible for:
  - (a) ensuring that subgrantees are aware of the requirements imposed upon them by Federal statutes, regulations, and this Grant Agreement;
  - (b) ensuring that all subgrant agreements between HOPE VI Grantees and non-profit subgrantees contain all the provisions required by 24 CFR § 84.48 and Appendix A to Part 84;
  - (c) ensuring that subgrant agreements include any clauses required by Federal statutes and executive orders, and their implementing regulations; and



- (d) monitoring subgrantees' performance to ensure compliance with the HOPE VI Requirements.
  - (3) State or Local Subgrantee Requirements. State or local government subgrantees are subject to, and required to comply with, the Administrative requirements at 24 CFR part 85 ("Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments") and the cost principles of OMB Circular A-87 ("Cost Principles for State, Local and Indian Tribal Governments").
  - (4) Nonprofit Subgrantee Requirements. Nonprofit subgrantees are subject to, and required to comply with, the provisions and standards set forth in the regulations at 24 CFR part 84 ("Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations" or the "Nonprofit Administrative Requirements") and OMB Circular A-122 ("Cost Principles for Nonprofit Organizations" or the "Nonprofit Cost Principles").
- (C) Contractors and Subcontractors
- (1) For-Profit Entities and CSS Coordinator
    - (a) The Grantee may not enter into a subgrant agreement with a for-profit entity, or an entity that has the responsibility for coordinating all of the community and supportive services to be provided under the Revitalization Plan.
    - (b) The Grantee must obtain the services of an entity described in subparagraph (C)(1)(a) of this Article through a competitive procurement under 24 CFR part 85. However, if the Grantee can demonstrate to HUD that the services to be provided by the for-profit entity or by the proposed community and supportive services coordinator can be obtained only from that one source, the Grantee may request HUD approval to select the applicant under a sole-source procurement in accordance with 24 CFR § 85.36(d)(4).
  - (2) Consultant services provided under an independent contractor relationship are governed by the procurement requirements in 24 CFR § 85.36 and the principles of cost reasonableness contained in OMB Circular A-87.
  - (3) Administrative Requirements. Administrative requirements applicable to for-profit organizations are:
    - (a) 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations; and
    - (b) 48 CFR part 31 (contract cost principles and procedures).
  - (4) Trigger for the Submission of Contracts. The Grantee will submit to HUD,

for prior approval, the contract documents for any contract if such approval is required by HUD under the Grantee's contract approval threshold amount (as established for the Grantee under the Comprehensive Grant Program or the Capital Fund Program, as applicable). Alternatively, contract documents must be submitted to HUD for prior approval if otherwise required or requested by HUD under 24 CFR § 85.36. Any modification of such contracts is also subject to HUD's approval before execution.

- (5) Debarred or Suspended Parties. Prior to executing any contract, the Grantee will comply with, and ensure compliance with, 24 CFR § 85.35 and 24 CFR part 24, which prohibit the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, or contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.
- (6) Minority, Women's, and Resident-Controlled Business Enterprises. In accordance with Executive Orders 11246, 11625, 12432, and 12138, the Grantee will adopt the goal of awarding a specified percentage of the dollar value of the total of the HOPE VI contracts to be awarded as a result of this grant to minority business enterprises and take appropriate affirmative action to assist resident-controlled and women's business enterprises.

### **ARTICLE XIII. Resident and Community Involvement**

#### (A) General.

- (1) The HOPE VI Program is designed to involve full consultation and collaboration among the Grantee, affected residents, and the broader community. The term "affected residents" includes residents of public housing units that are subject to revitalization under this HOPE VI Grant Agreement. The Grantee is required to involve affected residents and the broader community into the revitalization process, beginning with the Grantee's preparation of its HOPE VI Application and throughout the implementation of activities under this Grant Agreement and the Revitalization Plan. The Grantee shall consider the advice, counsel, recommendations, and input of affected residents and the broader community in its decisionmaking. Nevertheless, the Grantee retains the final decisionmaking authority to assure fiscal responsibility and accountability for funds provided under this Grant Agreement. Where affected residents and/or community representatives are included on selection panels, the Grantee must constitute the majority of the panel membership.
- (2) Residents and members of the community shall be involved in the HOPE VI process in accordance with the provisions of the Grant Agreement and other resident and community participation guidelines as issued by HUD.

- (B) Resident Involvement. The Grantee will foster the involvement of, and gather input and recommendations from, affected residents throughout the entire development

process. This involvement of affected residents is broader than resident participation in the Community Task Force provided for in paragraph (C) of this Article. The Grantee's specific responsibilities for involving affected residents in revitalization efforts include:

- (1) providing substantial opportunities for affected residents to provide input, advice, counsel, recommendations, and opinions as the Grantee plans and carries out its revitalization efforts;
- (2) providing reasonable resources, as approved by HUD, for technical assistance, training, and capacity building to prepare affected residents to participate meaningfully in the planning and implementation of the Grantee's revitalization efforts;
- (3) holding regular meetings with affected residents and their representatives to provide the status of revitalization efforts and to obtain comments, opinions, advice, and recommendations from affected residents; and
- (4) providing affected residents with access to a contact person who can answer their questions about the Grantee's Revitalization Plan and also ensure that affected residents receive accurate information in languages that they understand.

(C) Community Involvement. The Grantee will facilitate and convene a Community Task Force as one means of developing collaboration among the Grantee, affected residents, and the broader community. The Grantee also will provide information to keep the Community Task Force fully apprised of the planning and implementation of revitalization efforts. The Community Task Force shall be comprised of affected public housing residents, local government officials, service providers, community groups, and others. The Community Task Force will provide advice, counsel and recommendations to the Grantee on all aspects of the HOPE VI development process, including shaping the goals and outcome of the Community and Supportive Services Plan. Community Task Force participants also will disseminate information throughout the community about the Grantee's revitalization efforts. The Grantee's responsibilities with regard to the Community Task Force include:

- (1) convening and participating in the Community Task Force and other advisory groups;
- (2) ensuring that regular meetings of the Community Task Force are held to apprise participants of the status of the development process and to solicit comments, opinions, advice, and recommendations on the planning and implementation of the Grantee's revitalization efforts; and
- (3) if requested by HUD, entering into a memorandum of understanding with the members of the Community Task Force setting forth the manner and frequency of task force meetings, the method (if any) for designating resident and community participants, and the issues that the task force will discuss and develop.

- (D) Neighborhood Networks Centers (NNCs). The Grantee must establish a Neighborhood Networks Center. The Neighborhood Networks Centers are community centers or rooms that provide public housing and other Low-Income HOPE VI Revitalization Development residents access to computers and the internet for the purpose of:
- (1) Training in digital technology. Digital technology can consist of items such as interactive computer learning sessions, Internet web access, Internet web telecasts, and producing and receiving satellite broadcasts; and
  - (2) Accessing information about Community and Supportive Services.
- (E) No Third Party Rights. The Grantee and HUD are the sole parties to this Grant Agreement and do not intend to create any third party beneficiaries to this Grant Agreement. Notwithstanding the provisions set forth in this Grant Agreement concerning consultations with residents and dissemination of information to residents, nothing in this Grant Agreement may be construed as conferring the status of third party beneficiary upon the residents or the Community Task Force; and in no event shall any entity other than the Grantee have direct rights to the HOPE VI funds provided for under this Grant Agreement.

#### **ARTICLE XIV. Environmental Review**

- (A) Requirement for Review. The Grantee may not undertake any actions that are choice-limiting or could have environmentally adverse effects, including demolition, disposition, development, and/or any off-site replacement public housing, and may not expend HUD or local funds for such activities, until HUD has approved a Request for Release of Funds following a responsible entity's environmental review under 24 CFR part 58 or until HUD has completed an environmental review and given approval for the action under 24 CFR part 50.
- (B) Responsible Entity.
- (1) Environmental review responsibilities for projects funded with assistance under this Grant Agreement must be assumed by the "responsible entity." As defined in 24 CFR § 58.2(a)(7), the responsible entity for public housing agencies is the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State.
  - (2) If the Grantee objects to the responsible entity conducting the environmental review, on the basis of performance, timing, or compatibility of objectives, HUD will review the facts and determine who will perform the environmental review. At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing, or compatibility of objectives, or in accordance with 24 CFR § 58.77(d)(1).

- (3) If a responsible entity objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50. After selection by HUD for Review, the Grantee shall provide any documentation to the responsible entity (or HUD, where applicable) that is needed to perform the environmental review.
- (C) Review. The Grantee must have a Phase I environmental site assessment completed in accordance with the American Society for Testing and Material (ASTM) Standards E 1527-00, as amended, for each affected site. A Phase I assessment is required whether the environmental review is completed under 24 CFR part 50 or 24 CFR part 58. The results of the Phase I assessment must be included in the documents that must be provided to the responsible entity (or HUD) for the environmental review. If the Phase I assessment recognizes environmental concerns or if the results are inconclusive, a Phase II environmental site assessment will be required.
- (D) Documentation of Part 58 Review. Two forms are required to complete the Environmental Review under Part 58 for HOPE VI projects.
- (1) Form 7015.15 is the Request for Release of Funds and Certification (RROF), signed and dated by the Certifying Officer of the Responsible entity (typically the Mayor or City Manager of a city) and the Grantee.
- (2) Form 7015.16 authorizes the Grantee to use the funds provided under this Grant Agreement. This form is signed by HUD.
- (E) HUD Notification of Environmental Conditions. Where the environmental review is completed before HUD approval of the Supplemental Submissions and the Grantee has submitted its RROF, HUD's letter approving the Supplemental Submissions shall state any conditions, modifications, or prohibitions as a result of the environmental review, including the need for any further environmental review. The Grantee must carry out any mitigating or remedial measures required by HUD, or select an alternate eligible property, if permitted or required by HUD. If the remediation plan is not approved by HUD and a fully-funded contract with a qualified contractor licensed to perform the required type of remediation is not executed, HUD reserves the right to determine that the grant is in default.
- (F) Restrictions on Activities Pending Environmental Review Approval. Where the environmental review is not completed and/or the Grantee has not submitted the RROF before HUD approval of the Supplemental Submissions, HUD's letter approving the Supplemental Submissions shall instruct the Grantee to refrain from undertaking, or obligating or expending funds on, physical activities or other choice-limiting actions, until HUD issues the RROF and the related certification of the responsible entity (or HUD has completed the environmental review). The letter approving the Supplemental Submissions also shall advise the Grantee that the Revitalization Plan may be modified on the basis of the results of the environmental

review.

- (G) Costs of Environmental Review. In accordance with 24 CFR § 58.23, the costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in 24 CFR §§ 58.5 and 58.6, are eligible costs under this Grant Agreement.
- (H) Environmental Certifications.
- (1) Flood Hazards. The Grantee certifies neither the Development nor any property identified in the Revitalization Plan for replacement housing is located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards. HUD has relied on this certification in executing the Grant Agreement in order to comply with the Flood Disaster Protection Act of 1973 (42 U.S.C. §§ 4001-4128). The Grantee will also ensure that no property that is hereafter identified for replacement housing will be in an area identified by FEMA as having special flood hazards, unless:
- (a) the community in which the replacement housing is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and
- (b) flood insurance is obtained as a condition of approval of any demolition or disposition application.
- (2) Coastal Barriers. The Grantee certifies that neither the Development nor any property identified in the Revitalization Plan for replacement housing is located in the Coastal Barrier Resources System. HUD has relied upon this certification in executing this Grant Agreement in order to comply with the Coastal Barrier Resources Act (16 U.S.C. § 3501). The Grantee also will ensure that no property that is hereafter identified for replacement housing will be in the Coastal Barrier Resources System.
- (3) Environmental Justice. The Grantee certifies that its HOPE VI Application was consistent with Environmental Justice Executive Order 12898 and acknowledges that HUD has relied upon this certification in executing the Grant Agreement. The Grantee will ensure that:
- (a) the proposed public housing under the Revitalization Plan will be developed only in environmentally sound and desirable locations that will avoid disproportionately high and adverse environmental effects on minority and low-income communities, and
- (b) the proposed activities will not have the effect of
- (i) excluding persons (including populations) from participation in the program,
- (ii) denying persons (including populations) the benefits of the

- program, or
- (iii) subjecting persons (including populations) to discrimination because of their race, color, or national origin.
- (4) Lead-Based Paint. The Grantee agrees to assure compliance with lead-based paint testing and abatement requirements for HUD-associated housing, as provided for under the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4821, et seq.). The Grantee also will comply with 24 CFR part 35, 24 CFR § 965.701, and 24 CFR § 968.110(k), as they may be amended or revised from time to time. Unless otherwise provided, the Grantee will be responsible for testing and abatement activities.

## **ARTICLE XV. Fair Housing Certifications**

The following Federal Fair Housing requirements are applicable to HOPE VI. The Grantee will comply with all of the applicable requirements of the following, as the same maybe amended from time to time, and any additional Fair Housing requirements that may become applicable to the Development:

- (A) the Fair Housing Act (42 U.S.C. §§ 3601-19) and regulations pursuant thereto 24 CFR part 100;
- (B) Executive Order 11063 (Equal Opportunity in Housing) and regulations pursuant thereto (24 CFR part 107);
- (C) the fair housing poster regulations (24 CFR part 110) and advertising guidelines (24 CFR part 108);
- (D) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) and regulations pursuant thereto (24 CFR part 1) relating to nondiscrimination in housing;
- (E) the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07) and regulations issued pursuant thereto (24 CFR part 146);
- (F) the prohibitions against discrimination on the basis of disability, including requirements that the Grantee make reasonable modifications and accommodations and make units accessible, under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and regulations issued pursuant thereto (24 CFR part 8);
- (G) the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) and its implementing regulation at 28 CFR part 36; and
- (H) the Architectural Barriers Act of 1968, as amended (42 U.S.C. § 4151) and regulations issued pursuant thereto (24 CFR part 40).
- (I) Accessible Technology. The Rehabilitation Act Amendments of 1998 apply to all electronic information technology (EIT) used by a grantee for transmitting, receiving,

using, or storing information to carry out the responsibilities of any Federal grant awarded. It includes, but is not limited to, computers (hardware, software, word processing, email and web pages) facsimile machines, copiers and telephones. When developing, procuring, maintaining or using EIT, grantees must ensure that the EIT allows:

- (1) Employees with disabilities to have access to and use information and data that is comparable to the access and use of data by employees who do not have disabilities; and
- (2) Members of the public with disabilities seeking information or service from a grantee must have access to and use of information and data and comparable to the access and use of data by members of the public who do not have disabilities. If these standards impose on a grantee, they may provide an alternative means to allow the individual to use the information and data. No grantee will be required to provide information services to a person with disabilities at any location other than the location at which the information services are generally provided.

#### **ARTICLE XVI. Building Standards and Design**

- (A) Sustainability of Units. Because the units that are the subject of this Grant Agreement are expected to be sustainable over the long term, the Grantee is encouraged to develop physical structures that serve the needs of public housing residents over the long term and have the lowest possible life-cycle costs, taking into account future operating and replacement costs as well as original capital investments.
- (B) Construction Standards.
  - (1) Local Building Codes. The Grantee must meet or exceed local building codes for all activities that include construction, rehabilitation, lead-based paint removal, and related activities.
  - (2) Deconstruction. The Grantee is encouraged to design programs that incorporate sustainable construction and demolition practices, such as the dismantling or "deconstruction" of public housing units, recycling demolition debris, and reusing salvage materials in new construction.
  - (3) Energy Efficiency
    - (a) HUD is committed to reducing energy costs in HUD-assisted and HUD-financed housing, as codified in the Department's Energy Action Plan. The Plan can be found at: [www.hud.gov/offices/cpd](http://www.hud.gov/offices/cpd). The Plan calls for HOPE VI to be a leader in cost-effective, energy-efficient new construction. Grantees must read and follow as appropriate PIH Notice 2005-25, "Using Energy Star to Promote Energy Efficiency in Public Housing," and any successor notices. Grantees should also International Energy Conservation Code (IECC)



2006 (and any successor International Energy Conservation Code) for additional information on energy efficiency and conservation.

- (b) Accordingly, HUD strongly encourages the Grantee to set higher standards for energy and water efficiency in HOPE VI new construction, as such standards can achieve utility savings of 30 to 50 percent with minimum extra cost.
- (c) New construction or rehabilitation must comply with the latest HUD-adopted Model Energy Code (International Energy Conservation Code (IECC) 2006, or in the case of multifamily high rises, ASHRAE Standard 90.1-2004, or applicable successor codes.
- (d) New housing built through the program must achieve an Energy Star rating for new homes, unless the housing authority demonstrates that the higher standard cannot be achieved within Total Development Cost (TDC) limits.
- (e) The Grantee must use new technologies that will conserve energy and decrease operating costs where cost effective. Examples of such technologies are listed below. HUD's Energy website is located at <http://www.hud.gov/offices/cpd/energyenviron/energy/index.cfm>.
  - (i) Geothermal heating and cooling;
  - (ii) Placement of buildings and size of eaves that take advantage of the directions of the sun throughout the year;
  - (iii) Photovoltaics (technologies that convert light into electrical power);
  - (iv) Extra insulation;
  - (v) Smart windows; and
  - (vi) Energy Star appliances.
- (f) The Grantee is encouraged to negotiate with your local utility company to obtain a lower rate. Utility rates and tax laws vary widely throughout the country. In some areas, PHAs are exempt or partially exempt from utility rate taxes. Some PHAs have paid unnecessarily high utility rates because they were billed at an incorrect rate classification.
- (g) Local utility companies may be able to provide grant funds to assist in energy efficiency activities. States may also have programs that will assist in energy efficient building techniques.

(C) Design Standards.

- (1) Physical structures must be designed, constructed, and equipped so as to improve or harmonize with the neighborhoods they occupy, meet contemporary standards of modest comfort and livability, and be attractive and marketable to the people they are intended to serve.
- (2) Building design should strive to encourage in the residents a proprietary sense, whether or not homeownership is intended or contemplated.
- (3) New construction must comply with the accessibility standards of the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Architectural Barriers Act of 1968. The Grantee is also encouraged to read the policy statement and Final Report of the HUD Review of Model Building Codes that identifies the variances between the design and construction requirements of the Fair Housing Act and several model building codes.
- (4) The Grantee is encouraged to use PATH technologies in the construction and delivery of replacement housing. PATH (Partnership for Advancing Technology in Housing) is a voluntary initiative that seeks to accelerate the creation and widespread use of advanced technologies to radically improve the quality, durability, environmental performance, energy efficiency, and affordability of our Nation's housing.
- (5) The Grantee is encouraged to incorporate the principles of Universal Design when developing housing and community facilities. The intent of Universal Design is to make housing units and community facilities more usable by as many people as possible, regardless of age and ability, at little or no extra cost. Examples include designing wider doorways, installing levers instead of doorknobs, and putting bathtub/shower grab bars in all units.

## **ARTICLE XVII. Labor Standards**

- (A) The Grantee will comply with the following labor standards:
  - (1) Davis-Bacon wage rates, which apply to demolition followed by construction on the site (including any public housing rental units or homeownership units developed with assistance under this Grant agreement);
  - (2) HUD-determined wage rates, which apply to:
    - (a) the development or operation of revitalized housing to the extent required under Section 12(a) of the 1937 Act, and
    - (b) demolition followed only by filling in the site and establishing a lawn.
- (B) Exclusions. Under Section 12(b) of the 1937 Act, the wage rate requirements do not apply to individuals who:

- (1) perform services for which they volunteered;
  - (2) do not receive compensation for those services or are paid expenses, reasonable benefits, or a nominal fee for the services; and
  - (3) are not otherwise employed in the work involved (24 CFR part 70).
- (C) Other Program Requirements. If other Federal programs are used in connection with the Grantee's HOPE VI Program, such labor standards shall also apply to the extent required by the other Federal programs. In addition, if HOPE VI Grant funds will be used to develop a mixed finance Development in which public housing units are not specifically designated units, the Grantee shall ensure that applicable labor wage rates are met with respect to the development of all units in the Development that may, at any time, be used as the public housing units in accordance with 24 CFR § 941.610(a)(8)(vi).
- (D) Section 3. The Grantee will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects) and its implementing regulation at 24 CFR part 135.
- (E) Salary Cap. In accordance with section 408 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, no HOPE VI Grant funds may be used to pay (or provide reimbursement for payment of) the salary of a consultant (as opposed to a contractor) at more than the daily equivalent of the maximum rate paid to level IV of the Executive Schedule for Federal Employees.

#### **ARTICLE XVIII. Conflict of Interest**

- (A) Prohibition. In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, officer, or elected or appointed official of the Grantee and who exercises or has exercised any functions or responsibilities with respect to activities assisted under this HOPE VI Grant, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.
- (B) HUD-Approved Exception.
- (1) Standard. HUD may grant an exception to the exclusion in paragraph (A) of this Article on a case-by-case basis when it determines that such an exception will serve to further the purposes of HOPE VI and its effective and efficient administration.

- (2) Procedure. HUD will consider granting an exception only after the Grantee has provided a disclosure of the nature of the conflict, accompanied by:
  - (a) an assurance that there has been public disclosure of the conflict;
  - (b) a description of how the public disclosure was made; and
  - (c) an opinion of the Grantee's attorney that the interest for which the exception is sought does not violate State or local laws.
  
- (3) Consideration of Relevant Factors. In determining whether to grant a requested exception under paragraph (B) of this Article, HUD will consider the cumulative effect of the following factors, where applicable:
  - (a) whether the exception would provide a significant cost benefit or an essential degree of expertise to the Revitalization Plan that would otherwise not be available;
  - (b) whether an opportunity was provided for open competitive bidding or negotiation;
  - (c) whether the person affected is a member of a group or class intended to be the beneficiaries of the Revitalization Plan and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
  - (d) whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process, with respect to the specific activity in question;
  - (e) whether the interest or benefit was present before the affected person was in a position as described in paragraph (A) of this Article;
  - (f) whether undue hardship will result either to the Grantee or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
  - (g) any other relevant considerations.

## **ARTICLE XIX. Reporting Requirements**

### **(A) Quarterly Report.**

- (1) The Grantee will submit to HUD a Quarterly Report, the form and substance of which will be specified by HUD, by the due dates established by HUD.
- (2) Failure to submit to HUD a timely Quarterly Report will result in a suspension of HOPE VI Grant funds in LOCCS until such time as the report is received

and approved by HUD, and/or any other default remedy authorized by Article XXI.

- (B) Obligations and Expenditures. The Grantee must enter cumulative obligation and expenditure data into LOCCS by the due dates established by HUD, whether or not there has been any change in the cumulative amounts since the end of the last quarter.
- (C) Additional Information Requests. Subject to paragraph (D) of this Article, the Grantee will comply with all other reporting requirements from time to time established by HUD, in its sole discretion, in connection with the HOPE VI Program. The Grantee will:
  - (1) fully cooperate with all reasonable information gathering requests made by HUD or contractors of HUD in the course of authorized evaluations of the HOPE VI Program; and
  - (2) submit any post-closeout and post-revitalization reports, in the forms prescribed by HUD, for the period of years designated by HUD.
- (D) Additional Requirements. The Grantee agrees to comply with all other terms and conditions HUD may establish to administer, monitor, or evaluate the HOPE VI Program in an effective and efficient manner. Notwithstanding the foregoing, however, except as provided in Article XXI, HUD hereafter will not establish any additional terms and conditions without:
  - (1) consideration of the burden imposed on the Grantee by such conditions or requirements;
  - (2) consideration of the availability of less burdensome conditions or requirements; and
  - (3) in the case of a term or condition applicable solely to the Grantee, consulting in advance with the Grantee.

**ARTICLE XX. Technical Assistance.**

- (A) Site Visits. The Grantee acknowledges and agrees that HUD, or its designees, may conduct site visits and inspections as deemed necessary by HUD based upon the Grantee's needs under the Revitalization Plan or the needs of the HOPE VI Program. Technical assistance site visits may be provided by HUD or its designees:
  - (1) in response to requests from the Grantee; or
  - (2) based upon demonstrated needs of the HOPE VI Program; or
  - (3) as provided in paragraph (B) of this Article.
- (B) HUD Assessment. HUD representatives will visit the Development and make an

assessment of any technical assistance and/or training that the Grantee may require for the proper and effective implementation of the Revitalization Plan. HUD will consult with the Grantee in determining the Grantee's specific technical assistance and training needs, and will carry out subsequent on-site assessments as necessary.

- (C) Technical Assistance Provider. If HUD determines, in its discretion, that technical assistance and/or training is necessary for the proper implementation of the Revitalization Plan, it will assign a technical assistance provider to work with the Grantee for this purpose.
- (D) Grantee Training/TA. The Grantee agrees to use its best efforts to attend any training and to accept any technical assistance provided or sponsored by HUD.

#### **ARTICLE XXI. Unsatisfactory Performance/Default**

- (A) Special Conditions.
  - (1) General. HUD may require the Grantee, or any subgrantee, to comply with any or all of the following special conditions, in a manner satisfactory to HUD, if HUD determines that such action will assist in the proper and efficient implementation of the Revitalization Plan, regardless of whether the Grantee is in default under paragraph (B) of this Article.
  - (2) Types of Special Conditions. The special conditions that HUD may impose under paragraph (A)(1) of this Article include:
    - (a) withholding authority to proceed to the next phase of activities until it receives evidence from the Grantee of acceptable performance over such period of time as specified by HUD;
    - (b) requiring additional, more detailed financial reports;
    - (c) requiring additional project monitoring;
    - (d) requiring the Grantee (or subgrantee) to obtain technical or management assistance;
    - (e) establishing additional prior approvals; and
    - (f) making arrangements satisfactory to HUD, in its sole discretion, for use of an entity other than the Grantee to carry out activities assisted under the Revitalization Plan.
  - (3) Notice of Conditions. If HUD decides to impose any such conditions or restrictions upon the Grantee (or subgrantee), HUD will notify the Grantee (or subgrantee) in writing, as early as possible. Such notice will contain the following information:

- (a) a description of the special conditions or restrictions;
  - (b) the nature of the unsatisfactory performance and the reason for imposing such special conditions or restrictions;
  - (c) the corrective actions which must be taken before the conditions or restrictions will be removed, and the time allowed for completing the corrective actions; and
  - (d) the method for requesting reconsideration of the conditions or restrictions imposed.
- (B) Default. Each of the following events or occurrences, to the extent it constitutes a material breach or occurrence, may constitute a default by the Grantee under this Grant Agreement, as determined by HUD in its sole discretion:
- (1) use of funds provided under this Grant Agreement for any purpose, in any manner or at any time, other than as authorized by this Grant Agreement;
  - (2) failure to comply with the HOPE VI Requirements or any other Federal, State, or local laws, regulations or requirements applicable in implementing the Revitalization Plan;
  - (3) failure to make any submission under Article II(B), perform any obligation, or otherwise fail to proceed in a manner consistent with the Revitalization Plan, (including, without limitation, failure to accomplish an activity by the date specified in the Program Schedule);
  - (4) any material misrepresentation in any of the required submissions, including, without limit, any misrepresentations in any of the submissions required by Article II(B);
  - (5) failure to comply with, or any material breach of, any other requirements, conditions or terms of this Grant Agreement;
  - (6) failure to adhere to the time periods for implementation under Article II(E);
  - (7) failure to demonstrate in its Revitalization Plan that the Grantee has made necessary and appropriate arrangements, through staffing and/or contracts, to implement its Revitalization Plan; or
  - (8) failure to comply with the provisions of the ACC, which default relates to the Development or the Grantee's ability to perform all of its obligations under this Grant Agreement.
- (C) Notice of Default and Action(s) to Cure.
- (1) General. HUD will give the Grantee written notice of any default. The notice

will give the Grantee the opportunity to cure such default within 30 days of the date of the notice, or to demonstrate within this time period, by submitting substantial evidence satisfactory to HUD, that it is not in default. If the default is not able to be cured within the 30-day period, the Grantee will demonstrate, to HUD's satisfaction, that the Grantee 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 Grantee must agree to carry out such cure diligently and to complete the cure within the 90-day period.

- (2) Immediate Default. Notwithstanding the provisions of paragraph (C)(1) of this Article, HUD in its sole discretion may place the Grantee into immediate default for not being in compliance with its Program Schedule once written notification of default has been provided to the Grantee. At that time, HUD may immediately begin imposing consequences of default, including specifically the deduction of funds from the HOPE VI grant.
- (3) Failure to Submit Supplemental Submissions. Notwithstanding the provisions of subparagraph (C)(1) of this Article, if default is caused by failure to submit Supplemental Submissions acceptable to HUD within the time period required in Article II(E) of this Grant Agreement, HUD at its sole discretion may either:
  - (a) require the Grantee, within a time period established by HUD, to submit acceptable Supplemental Submissions; or
  - (b) institute any of the remedies under paragraph (C)(5) of this Article, without any grace period.
- (4) Imminent Threat. Notwithstanding the provisions of subparagraph (C)(1) of this Article concerning the opportunity to cure defaults, if HUD determines, in HUD's sole discretion, that there is an imminent threat that the Grantee will expend additional HOPE VI Grant funds in violation of the provisions of this Grant Agreement, HUD may implement the remedial action provided for under subparagraph (C)(4)(d) of this Article to prevent any such unauthorized expenditure until such time as the Grantee has complied with the cure provisions set forth above. HUD will implement such remedial action by written notice set forth either in the notice of default given under paragraph (C)(1) of this Article or by subsequent written notice to the Grantee.
- (5) Consequences of Default. If the Grantee fails to cure all defaults specified in the notice of default within the time periods set forth in paragraph (C)(1) of this Article, or fails to diligently pursue or complete any cure as provided in paragraph (C)(1), HUD may take any of the following remedial actions, upon written notice to the Grantee:
  - (a) require the Grantee, within a time period established by HUD, to prepare a revised Program Schedule, obtain HUD's approval thereto, and follow such revised Program Schedule to complete the activities



under the Revitalization Plan;

- (b) require the Grantee, within a time period established by HUD, to revise any activity under the Revitalization Plan in order to successfully complete the activities under the Revitalization Plan in a manner satisfactory to HUD, including, without limitation, exclusion or revision of affected activities, revision of the HOPE VI Budget as necessary, and substitution of other eligible activities;
  - (c) require submission of additional documentation before any additional request for funds will be approved;
  - (d) temporarily suspend the Grantee's authority to draw down HOPE VI Grant funds for affected activities, or at HUD's sole discretion for all activities, for not more than ninety (90) days, pending action to cure the defaults;
  - (e) if, after the 90 days, the default is not cured, then restrict the Grantee's authority to draw down HOPE VI Grant funds under LOCCS by prohibiting payment or reimbursement for all grant activities or, if more appropriate (in HUD's sole discretion), only for those activities affected by the default, for an unspecified period of time pending final action by HUD;
  - (f) disallow use of HOPE VI Grant funds for all or part of the cost of the activity or action not in compliance;
  - (g) recover amounts determined by HUD to have been improperly expended, including any property obtained by the Grantee with such grant funds;
  - (h) require reimbursement by the Grantee for HOPE VI Grant funds determined by HUD to have been improperly expended;
  - (i) require the Grantee to pay monetary fines in an amount determined by HUD. These fines may be in the form of deductions from the HOPE VI grant funds; and
  - (j) make arrangements satisfactory to HUD, in its sole discretion, for use of an entity other than the Grantee to carry out activities assisted under the Revitalization Plan.
- (6) Additional Enforcement Actions. If HUD determines that the remedial actions taken by HUD under paragraph (C)(4) of this Article have not been effective in curing the default, or if the Grantee has not complied with the requirements imposed by HUD under paragraph (C)(4) and has not otherwise cured the default, or if HUD exercises its discretion under subparagraph (C)(2) of this Article to institute any of the following actions, HUD may take any of the following remedial or enforcement actions (in addition to any of the remedies

permitted under paragraph (C) of this Article upon written notice to the Grantee):

- (a) petition for the appointment of a receiver (which may be a public housing agency, a private management corporation, or some other entity) for the HOPE VI Development to any district court of the United States or to any court of the State in which the Development is located;
- (b) reduce the HOPE VI Grant in the amount affected by the default;
- (c) terminate the HOPE VI Grant as to all further activities and initiate closeout procedures;
- (d) recapture any HOPE VI Grant funds not obligated by the Grantee.
  - (i) If the basis for the Grantee's default is its failure to comply with the reasonable time periods established by HUD under Article II(E), HUD shall, in accordance with section 24(i) of the 1937 Act, and unless otherwise approved by HUD under paragraph XXI(C)(4)(i), recapture any HOPE VI Grant funds not obligated by the Grantee.
  - (ii) If the Grantee fails to comply with the reasonable time periods established in Article II(E), HUD may take into account whether factors beyond the Grantee's control are the cause of the delay.
- (e) take action against the Grantee under 24 CFR part 24 and Executive Order 12549 with respect to future HUD or Federal grant awards; and
- (f) take any other available legal or equitable remedial action, including, but not limited to, any remedial actions available under the Grantee's ACC.

## **ARTICLE XXII. Project Close-Out**

- (A) Termination of Disbursements Letter. Within 90 days after completion of all Revitalization Grant funded activities, the Grantee will initiate close-out, in accordance with procedures established by HUD, by submitting a Termination of Disbursements letter, which states that:
  - (1) The Grantee has completed all activities to be performed using HOPE VI Revitalization grant funds.
  - (2) All requirements of the Grant Agreement have been met.
  - (3) All obligated HOPE VI grant funds have been disbursed;

- (4) The Grantee will abide by any continuing Federal requirements; and
- (5) The Grantee will complete non-HOPE VI funded activities associated with the revitalization effort and will continue to report in the HOPE VI Quarterly Report until all revitalization activities have been completed.

At HUD's option, the Grantee may delay initiation of close-out until the resolution of any HUD monitoring findings. If HUD exercises this option, the Grantee must promptly resolve the findings.

(B) Preliminary Closeout Materials. The Grantee must submit the following Preliminary Close-Out Materials along with the Termination of Disbursements Letter:

- (1) Final HOPE VI Budget;
- (2) Final Financial Status Report (Form SF-269-A), which contains a cumulative summary of all expenditures and indicates the balance of unexpended funds.
- (3) Actual HOPE VI Cost Certificate (AHCC) (Form HUD-53001-A), which summarizes the information on the Financial Status Report and serves as the document that officially closes out the grant.
- (4) Community and Supportive Services (CSS) Close-Out Report.

(C) HUD Review of Preliminary Close-Out Materials. HUD will review Preliminary Close-Out Materials to confirm that:

- (1) The amounts on the final HOPE VI Budget and AHCC agree as to funds approved, obligated and expended.
- (2) The amount of funds approved and disbursed on the AHCC agrees with HUD records in LOCCS.
- (3) If HUD disbursed more funds than the Grantee expended, the Grantee will immediately remit to HUD the excess funds, without waiting for completion of the final audit.

(D) Final Audit. Following HUD approval of the Preliminary Close-Out Materials, the Grantee must conduct a final audit of the Revitalization Grant in accordance with the requirements of 24 CFR 85.26 and forward the audit to HUD for approval.

(E) AHCC. Upon receipt of the final audit, the designated HUD official will execute the AHCC once HUD determines to its satisfaction that:

- (1) the expenditure of funds provided under this Grant Agreement was allowable and reasonable, as determined by the final audit;
- (2) the activities to be completed using HOPE VI Grant funds were completed, as

required by the Grant Agreement; and

(3) all Federal requirements, were satisfied.

(F) Final Close-Out. Following execution of the AHCC, any funds remaining in the Revitalization Grant will be recaptured by HUD. A Post-Audit Date will be entered into LOCC and the grant will be closed.

**ARTICLE XXIII. Effective date**

The effective date of this Grant Agreement is the date that HUD executes it by signing the signature page.

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Exhibit A: For-Profit Subgrantee and Contractor Certifications and Assurances

Exhibit B: Non-Profit Subgrantee Certifications and Assurances