

Compliance

All funded project may be subject to the following federal compliance:

I. GENERAL FEDERAL CONDITIONS:

A. General Compliance.

The Developer or Contractor shall comply with the requirements of Title 24 of the Code of Federal Regulations, Part 92 (the U.S. Housing and Urban Development HOME Investments Partnership Program Final Rule). The Developer or Contractor also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Developer or Contractor further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Subcontract Requirements.

In the event that the Developer or Contractor subcontracts to another organization, the Developer or Contractor must prepare and enter into a written Subcontractor agreement or subcontract. The Developer or Contractor shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

C. General Conduct.

1. Hatch Act.

The Developer or Contractor shall ensure that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

2. Prohibited Activity.

The Developer or Contractor is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

3. Conflict of Interest.

The Developer or Contractor shall abide by the provisions of 24 CFR § § 84.42 and 85.36 or, if not applicable, § 92.356, which include (but are not limited to) the following:

a. The Developer or Contractor shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b. No employee, officer or agent of the Developer or Contractor shall participate in the selection, or in the award or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

c. No covered persons who exercise or have exercised any functions or responsibilities with respect to HOME-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or with respect to the proceeds from the HOME-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure and for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Developer, or any designated public agency.

4. Lobbying.

The Developer or Contractor hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subcontractors shall certify and disclose accordingly:

d. It will execute and comply with the Lobbying Certification obligation as follows:

"This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure."

5. Copyright.

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

6. Religious Activities.

The Developer or Contractor agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytizing.

II. ENVIRONMENTAL CONDITIONS

A. General Environmental Compliance.

The Developer or Contractor shall comply with the following requirements insofar as they apply to the performance of this Agreement:

- – Clean Air Act, 42 U.S.C. §§ 7401, et seq.;
- – Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

- – Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- – National Environmental Policy Act of 1969.
- – HUD Environmental, Review Procedures (24 CFR Part 58).

B. National Environmental Policy Act Review.

The National Environmental Policy Act of 1969 (42 USC Section 4321, et seq.) establishes national policies, goals and procedures for protecting, restoring, and enhancing environmental quality.

NEPA requires environmental reviews to be conducted before proceeding with actions that may affect the environment. In addition to NEPA regulations, other applicable federal and state environmental and historic regulations impact activities funded with HOME monies. Developers and Contractors are required to fully comply with all federal and state environmental and historic regulations. The goals of these regulations are to assure that development is compatible with environmental and historic conditions and does not adversely impact environmental and historic conditions, and that the users of the project will be given a safe, healthy, and enjoyable environment.

Nassau County has been designated by HUD to conduct NEPA Review on each activity funded with HUD funds. This entails determining the impact of the project on the environment and the historic nature of the community as well as the impact of the environment on the project. Developers and Contractors must supply the County's designated Environmental Officer with sufficient detail about each project to complete an environmental review.

To the extent to which NEPA requirements are applicable, the NEPA review process must be completed and the release of funds approved before committing any funds on any activity or project. Additionally, until the release of funds has been approved, non-federal funds can not be committed if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. The County will provide the Developer or Contractor with notification regarding the release of funds.

C. Flood Disaster Protection.

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, the Developer or Contractor shall obtain and maintain as a condition of financial assistance for acquisition or construction purposes (including rehabilitation) flood insurance under the National Flood Insurance Program.

D. Lead-Based Paint.

Housing assisted with HOME funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856)

The Developer or Contractor shall comply with HUD Lead-Based Paint Regulations found at 24 CFR 570.608 and 24 CFR Part 35, Subparts A, B, J, K, M and R when undertaking any construction or rehabilitation of residential structures with assistance provided under this Agreement.

Such regulations pertain to all HOME assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint.

Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures

may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

E. Historic Preservation.

The Developer or Contractor shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

III. EMPLOYMENT CONDITIONS

A. OSHA.

Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participants' health or safety.

B. Labor Standards.

The Developer or Contractor shall comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement.

Davis-Bacon wage requirements are made applicable to the HOME program by Section 286 of the NAHA which provides, in part, as follows:

"Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act..., shall be paid to all laborers and mechanics employed in the development of affordable housing involved,...."

HUD regulations (24 CFR 92.354) clarify that the contract for construction must contain these wage provisions if HOME funds are used for any project costs, including construction or nonconstruction costs, for housing with 12 or more HOME-assisted units.

The Developer or Contractor shall comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 et seq.) and the related implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Developer or Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

C. "Section 3" Clause.

1. General. The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and, as such is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment shall be given to lower income residents of the area of the Section 3 covered project. It also requires that, contracts for work in connection with the project be awarded to

business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

2. Compliance. Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the County as Grantee, the Developer or Contractor and any of the Developer's or Contractor's subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Developer or Contractor and any of the Developer's or Contractor's subcontractors, their successors and assigns, and subject to those sanctions specified by the Agreement through which Federal assistance is provided, and to such sanctions as are specified in 24 CFR Part 135.. The Developer or Contractor certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Developer or Contractor shall include the following language in all subcontracts executed under this Agreement:

“The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. §1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.” The Developer or Contractor shall further ensure that opportunities for training and employment arising in connection with housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located. Where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Developer or Contractor certifies that there exist no contractual or other legal incapacity that would prevent the compliance by the Developer or Contractor with these requirements.

b. Notifications.

The Developer or Contractor shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts.

The Developer or Contractor shall include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Developer or Contractor shall not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and shall not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

IV. RELOCATION, REAL PROPERTY ACQUISITION and ONE-FOR-ONE HOUSING REPLACEMENT

The Developer or Contractor shall comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Developer or Contractor shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Developer or Contractor shall also comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

V. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance.

The Developer or Contractor shall comply with: The New York State and Nassau County Civil Rights and Fair Housing Laws, Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended (the Federal Fair Housing Act), Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

As generally described by HUD:

a. Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.

b. Fair Housing Act. Title VIII of the Civil Rights Act of 1968 as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability).

c. Section 504 of the Rehabilitation Act of 1973 Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

d. Section 109 of Title I of the Housing and Community Development Act of 1974. Section 109 prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development and Block Grant Program.

e. Title II of the Americans with Disabilities Act of 1990. Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

f. Architectural Barriers Act of 1968. The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.

g. Age Discrimination Act of 1975. The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

h. Title IX of the Education Amendments Act of 1972. Title IX prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance. Fair Housing-Related Presidential Executive Orders:

i. Executive Order 11063. Executive order 11063 prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

j. Executive Order 11246. Executive Order 11246, as amended, bars discrimination in federal employment because of race, color, religion, sex, or national origin.

k. Executive Order 12892. Executive Order 12892, as amended, requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort. The Order also establishes the President's Fair Housing Council, which will be chaired by the Secretary of HUD.

l. Executive Order 12898. Executive Order 12898 requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.

m. Executive Order 13166. Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.

n. Executive Order 13217. Executive Order 13217 requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.

2. **Nondiscrimination.**

The Developer or Contractor shall comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

3. Land Covenants.

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. The Developer or Contractor shall cause or require recording of a covenant running with the land to be sold, leased, transferred, acquired, cleared or improved with assistance provided under this Agreement, along with the deed or lease for such transfer, prohibiting discrimination as herein inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Developer or Contractor, in undertaking its obligation to carry out the program assisted hereunder, shall take such measures as are necessary to enforce such covenant and shall not itself so discriminate.

4. Section 504.

The Developer or Contractor shall comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and all Federal regulations promulgated thereunder to ensure compliance with the law, which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The developer shall market seven of the units at this Project shall be accessible units. Developer shall market five of the units to households with at least one member who has mobility impairment. Additionally, the Developer shall market two of the units to households with at least one member who has a vision or hearing impairment.

B. Affirmative Action

1. Approved Plan.

The Developer or Contractor agrees that it shall be committed to carrying out an Affirmative Action Program in accordance with the County's requirements in keeping with the principles provided in President's Executive Order 11246 of September 24, 1966. The County shall provide Affirmative Action guidelines to the Developer or Contractor to assist in the formulation of such program. The Developer or Contractor shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

2. Women- and Minority-Owned Businesses (W/MBE).

The Developer or Contractor shall use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "small business" shall mean a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and the term "minority and women's business enterprise" shall mean a business that is at least fifty-one (51) percent owned and controlled by minority group members or women. The Developer or Contractor may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.