NH Community Planning Grant Program

GRANT AGREEMENT

This agreement ("Agreement"), executed this 18TH day of April, 2013, is by and between New Hampshire Housing Finance Authority, 32 Constitution Drive, Bedford, NH 03110, (hereinafter "NHHFA") and the Town of Rindge, NH (hereinafter "the Municipality").

WHEREAS, NHHFA has been granted a United States Department of Housing and Urban Development (HUD) Cooperative Agreement (Instrument Number CCPNH0061-11) with associated funding for the purpose of creating and administering the NH Community Planning Grant Program (hereinafter "the CPG Program");

WHEREAS, pursuant to a competitive application process NHHFA desires to provide a grant to the Municipality for a project to develop new or revised land use regulations as proposed in its CPG Program application (hereinafter "the Project"); and

WHEREAS, the Municipality is willing to undertake and complete the Project pursuant to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. PROJECT PERFORMANCE AND CONSULTANT SELECTION. The Municipality agrees to perform work to complete the Project pursuant to the terms and conditions of the Scope of Work (attached as Exhibit A). The Municipality's application to the CPG Program is considered part of this Agreement and any commitments included within the application shall be binding on the Municipality.

The Municipality represents, warrants, and agrees that it will subcontract with a qualified consultant to perform the work of the Project and the Municipality acknowledges that no grant funds are to be used to pay for the Municipality's staff costs or other general administrative expenses. The Municipality may contract with its Regional Planning Commission ("RPC") for Project services without engaging in a competitive process, as the RPC is deemed by NHHFA to be qualified to undertake the Project work. If the Municipality wishes to use the services of a consultant other than its RPC, it must at a minimum issue and advertise a formal Request for Qualifications ("RFQ"), to be provided to NHHFA for public Internet-based dissemination. The Municipality may choose to advertise its RFQ through other means, but this is not required; the Municipality may choose to engage in a formal Request for Proposals ("RFP") process, but this is not required.

If the Municipality choses a consultant other than its RPC, it must submit the consultant's qualifications to NHHFA for its review and written approval prior to entering into a subcontract with the consultant. NHHFA reserves the right to assess the qualifications of such consultants and to reject those it deems to be unqualified to perform the proposed work. Regardless of the

choice of consultant, whether RPC or otherwise and irrespective of NHHFA's review and approval of a consultant's qualifications, the Municipality shall at all times be responsible for Project performance under this Agreement. All Project work shall be performed in compliance with all applicable local, state and federal laws, regulations and rules.

The Municipality's contractor may subcontract Project work only upon NHHFA's review of subcontractor's qualifications and NHHFA's written approval. NHHFA reserves the right to assess the qualifications of such subcontractors and to reject those it deems to be unqualified to perform the proposed work. Any such approval for the use of a subcontractor will not release the Municipality from any of its obligations, duties or responsibilities under this Agreement and the Municipality shall insure such subcontractor's adherence to and compliance with all terms and conditions of this Agreement.

The Municipality will hold a public listening session at the outset of the Project. The Municipality will hold public hearings prior to adoption of regulatory measures as required by state statutes. Throughout the Project, the Municipality will conduct an ongoing outreach and education process to maximize input of community members, including traditionally underrepresented populations, and to ensure that the Municipality's citizens are fully informed of the Project and its resulting regulatory proposals.

2. PROGRESS REPORTS. The Municipality shall report on monthly progress toward implementing its proposed Scope of Work, completed tasks, and metrics of success including documentation on public meetings, workshops and hearings, public participation levels, and additional outreach efforts. The Municipality shall submit a progress report to NHHFA that includes a draft of any proposed regulations for the purpose of allowing NHHFA to comment on the draft prior to notice of public hearings held by the Municipality's planning board or other cognizant body.

3. POST-COMPLETION PROJECT REPORTS. If the Municipality's proposed regulations are adopted, the Municipality shall report on permitting and development activity under the regulations for a period of five (5) years after Project term completion in a form prescribed by NHHFA.

4. GRANT AMOUNT AND REIMBURSEMENT OF MUNICIPALITY'S COSTS. The amount of the grant to be made by NHHFA to the Municipality is $24, 820.00. Grant funds will be paid as reimbursement by NHHFA to the Municipality for its costs within 30 days of presentation of an invoice to NHHFA by the Municipality. NHHFA reserves the right to request further information in support of the Municipality's invoice; such requests will toll the reimbursement period until requested information is provided by the Municipality.

In addition to consulting services, the Municipality may expend grant funds for the purpose of acquiring materials and services necessary to perform tasks identified in the Scope of Work, including but not limited to costs of public notices for meetings and food and beverages for public meetings.

Food and beverage costs will qualify for grant fund reimbursement under the following circumstances and may be incurred directly by the municipality:

A. The food and beverages purchased with grant funds will be provided at a meeting where the primary purpose is to disseminate information about the municipality's project, or to gather information from the public regarding the project.
B. The meeting will be open to the general public and the general public will be provided with meaningful advance notice of the meeting.
C. Prior to the meeting, the purchase of the food and beverages is approved by NHHFA. A grantee can secure approval for a recurring series of meetings in a single request. A meeting agenda must be provided showing that items A and B above will be met.
D. The cumulative amount of funds used to purchase food and beverages will not exceed 2.5 percent of the grantee's total project budget.
E. Grant funds cannot be used for the purchase of alcoholic beverages.

5. MATCH. The Municipality must demonstrate an additional match commitment of 25% of grant funds. A minimum of one-quarter of that match must be in the form of cash expenditures for consultant services, supplies, or other costs directly associated with the proposed project, but excluding the Municipality's payment of salary or wages to staff members. The remainder of committed match (up to three-quarters) may be in the form of in-kind services, such as staff expenses or volunteer time, including participation by local board members.

For the purposes of this Agreement, "match" is defined as financial contribution toward the total project costs made by the Municipality and may consist of direct appropriations and in-kind services contributed by the Municipality specifically for the approved scope of work, financial gifts, private financial contributions, or grant funds from other sources, except that Federal funding may not be used as match under any circumstances.

In-kind services may be paid staff time or volunteer time that is directly related to implementation of the Project. Volunteer hours are valued at $21.79 per hour (Independent Sector, www.independentsector.org), unless a person is volunteering services in his or her professional capacity. In this case, the volunteer rate is the person's professional billable rate for the service.

State, local, and private funds used as match cannot be counted twice. If the Project receives funds from several sources that each require match, the same contributions (cash or in-kind services) that have been counted as a match for another source cannot be used as a match for this Project.

Proof of match must be documented and submitted with invoices. The documentation should demonstrate how the amount claimed as match was calculated. It should specify sources of match and should relate sources to completion of work tasks specified in the attached Scope of Work. Match should be expended (if cash) or documented (if in-kind) on a regular basis. Prior to requesting reimbursement for the last 25% of the grant award, the Municipality must demonstrate that at least 75% of its committed match has been expended and/or documented. At

that time, the Municipality must also demonstrate a clear plan for providing the remaining 25% of its committed match.

6. PROJECT TERM. The Municipality shall ensure that the Project work is performed in a manner that is consistent with the time periods set forth in the attached Scope of Work. The Municipality may request additional time to perform the Project work, but in no circumstance will the requested additional Project completion time extend beyond June 30, 2014.

The Municipality acknowledges that it is responsible to complete all Project work and that it shall deliver to NHHFA (a) all required work under the Scope of Work; (b) all required documentation under the Scope of Work; and (c) all other requirements, duties, obligations and responsibilities of the Municipality under the Scope of Work. The Municipality acknowledges and agrees that NHHFA shall have the sole authority and discretion to determine if the Municipality has met the requirements set forth in this Agreement.

7. COMPLIANCE WITH APPLICABLE LOCAL, STATE AND FEDERAL LAWS, REGULATIONS, AND RULES. The Municipality acknowledges and agrees that the CPG Program is governed by certain local, state and federal laws, regulations, and rules which shall include, but are not limited to, the provisions of the form HUD-1044 (attached as Exhibit B) and the Cooperative Agreement Terms and Conditions (attached as Exhibit C) and all applicable obligations and requirements under HUD and the Office of Management and Budget. The Municipality warrants and agrees that it has reviewed and familiarized itself with the terms, conditions, requirements and provisions of the form HUD-1044 and the Cooperative Agreement Terms and Conditions and all referenced laws, regulations and rules in such documents and the Municipality covenants and agrees that it shall fully comply with all applicable provisions of these documents as well as all other applicable local, state and federal laws, regulations and rules that may be applicable to the services provided hereunder.

8. LIABILITY AND HOLD HARMLESS. NHHFA shall not be liable for the action or inaction of the Municipality in the performance of its duties under this Agreement. Further, the Municipality shall indemnify and hold NHHFA and its employees, members, officers, counsel, and other representatives harmless from all claims, causes of action, liability, loss, damage, or expense arising or resulting from the Municipality's actions, including, but not limited to negligence and willful or intentional conduct in performing the work contemplated under this Agreement or arising in any way under this Agreement.

9. NHHFA'S RIGHT TO TERMINATE AGREEMENT. In the event of a violation of any term or condition of this Agreement by the Municipality, NHHFA shall have the right to terminate this Agreement by giving the Municipality ten (10) days written notice of such termination. NHHFA will reimburse the Municipality for its Project expenses incurred prior to the effective termination date indicated in its written notice.

10. MUNICIPALITY'S ADMINISTRATIVE AND FINANCIAL REPORTS AND INFORMATION. The Municipality represents, warrants and agrees that it shall maintain full and accurate accounts and records, including personnel, property and financial records, adequate to identify and account for all costs and expenses pertaining to the work performed by the Municipality pursuant to this Agreement and such other records and information as may be deemed necessary by NHHFA and/or HUD to assure proper accounting and use for all CPG Program funds whether federal, non-federal and/or matching funds. The Municipality shall provide written copies of all invoices, vouchers, statements and financial records pertaining to this CPG Program to NHHFA at the Municipality's sole expense upon written notice from NHHFA. All such information and records shall be retained for five (5) years after expiration of this Agreement unless permission to destroy them is granted in writing by NHHFA.

11. NO INTELLECTUAL PROPERTY RIGHTS. The Municipality represents, warrants and agrees that any and all reports, plans, drawings or other documents produced or generated in whole or in part under this Agreement shall not be the subject of an application for copyright or other intellectual property right in or protection by, through or on behalf of the Municipality, i.e. the Municipality shall have no intellectual property rights whatsoever in or claims upon or to such reports, plans, drawings or other documents produced or generated in whole or in part under this Agreement.

12. NO AGENCY. The Municipality acknowledges and agrees that it has no authority to act on behalf of NHHFA as its agent, representative or in any other capacity whatsoever and that it will not hold itself out as an agent or representative of NHHFA. Further, the Municipality acknowledges and agrees that the Municipality does not and shall not claim or assert to have the right to act for, bind or take any action whatsoever in any capacity whatsoever on behalf of NHHFA.

13. AUTHORITY. NHHFA is a public benefit corporation duly organized under the laws of the State of New Hampshire, and has full power and authority to enter into this Agreement. The Municipality is a political subdivision of the State of New Hampshire and has full power and authority to enter into this Agreement.

14. WAIVER. The waiver of a breach of any provision of this Agreement by either party or the failure of either party otherwise to insist upon strict performance of any provision hereof shall not constitute a waiver of any subsequent breach or of any subsequent failure to perform.

15. NOTICE. Any notice required under this Agreement shall be given as follows:

Notice to NHHFA:

Benjamin D. Frost, Esq., AICP
CPG Program Administrator
New Hampshire Housing
32 Constitution Drive
Bedford, NH 03110

Notice to the Municipality:

TOWN OF RINDGE
30 PAYSON HILL ROAD
RINDGE, NH 03461

16. APPLICABLE LAW AND VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire. Any legal proceeding relating to this Agreement shall be brought in the proper state or federal court in the State of New Hampshire.

17. SEVERABILITY. If any provision of this Agreement is for any reason held illegal, void or invalid, such illegality or invalidity shall not affect the remaining provisions hereof, and this Agreement shall be construed and enforced as if such illegal, void or invalid provisions(s) were not a part hereof.

18. ENTIRE AGREEMENT. This writing along with the exhibits and attachments constitutes the entire agreement of the parties and all other writings, statements, agreements, or representations whether oral or written are superseded and replaced hereby. No alteration, change or modification of this agreement shall be made except in writing signed by all parties.

19. BINDING EFFECT. This Agreement shall be binding upon the parties hereto and upon their successors, heirs, personal representatives and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

New Hampshire Housing Finance Authority

By: _____
Dean J. Christon, Executive Director

Town of Rindge, NH

By: _____
Signature
Duly Authorized

SELECTMAN / VICE-CHAIR
Printed Name and Title CLERK

Community Planning Grant Program
Project Budget Worksheet
Town of Rindge, New Hampshire

Task	Task Description	Time Frame	CPG Funds (consultant)	Cash Match	In-Kind Match (town staff and volunteers)	Task Total
1	Project coordination, budget management	Throughout	$2,880		$872	$3,752
2	Establish & Meet with Steering Committee	Throughout	$2,700		$697	$3,397
3	Develop outreach & public education plan *	Spring, 2013	$1,440		$261	$1,701
4	Implement outreach & education plan *	Throughout	$2,880		$349	$3,229
5	Legal Review	Fall/winter, 2013-14	$0		$2,087	$2,087
6	Data Collection: inventory existing lot dimmensions; inventory existing architectural styles; soil types, etc.	Spring, 2013	$2,180	$1,600	$87	$3,867
7	Public workshop to present existing conditions and explore architectural style preferences *	Spring, 2013	$2,160		$523	$2,683
8	Develop framework of regulatory changes and design guidelines/standards	Summer, 2013	$2,880		$283	$3,163
9	Public input session to review regulatory framework *	Early Fall 2013	$1,440		$479	$1,919
10	Draft regulatory and design amendments	Fall, 2013	$2,160		$218	$2,378
11	Public hearing on proposed amendments	Fall 2013	$720		$218	$938
12	Revise regulatory amendments and draft warrant article	Winter, 2013-4	$1,440		$218	$1,658
13	Present warrant article at town meeting	Spring, 2014	$1,440		$218	$1,658
14	Marketing materials and refreshments for Public Sessions	Throughout	$500			$500
	Totals		$24,820	$1,600	$6,511	$32,931

* Total expenditures on outreach to marginalized or disadvantaged populations: 20% of tasks 3, 4, 7, 9		$1,584		$322	$1,906

Rates & Hours	Rate	Est. Hours
Consultant	$90/hr	288
Staff	$21.79/hr	86
Volunteers	$21.79/hr	121
Legal	$200/hr	10

Match Requirements	Grant Requirement	Amount Provided
CPG Grant Request	$24,820	$24,820
Total Match 25%	$6,205	$8,111
Cash Match 25% of total match	$1,551	$1,600
Total Project Cost		$32,931
Outreach to marginalized & disadvantaged populations = 5% of Grant Request	$1,241	$1,906

Exhibit A

New Hampshire Community Planning Grant Program – Round 2
Scope of Work
Town of Rindge

Project Summary: The Town of Rindge will draft several regulatory measures for 2014 Town Meeting consideration that will set the stage for transforming West Rindge Village and the adjacent four corners (Route 202/119 intersection) into a vibrant mixed-use center of the community for social, small scale commercial and residential uses.

Project Deliverables:
The concept of this project is to implement design standards through one of several options that include design guidelines, design requirements or possibly a Neighborhood Heritage District in the West Rindge Village and Gateway Central Zones by the following:

- Development and adoption of design guidelines/standards
- Revision to the dimensional and use requirements in the Village and Gateway zoning districts to promote smaller, more compact mixed-uses
- Review of existing village lot sizes and developing new requirements that are in keeping with those characteristics
- Revising the Village and College district zoning to enable multi-family and assisted living/continuing care senior housing
- A pro-active community outreach and education effort to seeks input from all concerned residents including typically disadvantaged and underrepresented persons who traditionally do not participate in public policy discussions of this nature.

EXHIBIT B

Assistance Award/ Amendment

U.S. Department of Housing and Urban Development

Office of Administration

1. Assistance Instrument ☒ Cooperative Agreement ☐ Grant	2. Type of Action ☐ Award ☒ Amendment
3. Instrument Number CCPNH0061-11	4. Amendment Number 1
5. Effective Date of this Action **01/15/2012**	6. Control Number
7. Name and Address of Recipient New Hampshire Housing Finance Authority 32 Constitution Drive Bedford, NH: New Hampshire 03110-6000 Phone: 603-472-8623 Fax: 603-488-0893	8. HUD Administering Office HUD, Office of Sustainable Housing and Communities 451 Seventh Street, SW Room 10180 Washington, DC 20410 8a. Name of Administrator Thaddeus D. Wincek 8b. Telephone Number 202-402-6617
10. Recipient Project Manager Benjamin Frost	9. HUD Government Technical Representative Naomi E. Friedman, 202-402-3011, Naomi.E.Friedman@hud.gov
11. Assistance Arrangement ☒ Cost Reimbursement ☐ Cost Sharing ☐ Fixed Price	12. Payment Method ☐ Treasury Check Reimbursement ☐ Advance Check ☒ Automated Clearing House
13. HUD Payment Office CFO Accounting Center Administrative Accounting Division, 6AFF P.O. Box 901013 Fort Worth, TX 76101	

14. Assistance Amount			15. HUD Accounting and Appropriation Data		
Previous HUD Amount	$	0.00	15a. Appropriation Number 861/30162	15b. Reservation Number	
HUD Amount this action	$	1,000,000.00			
Total HUD Amount	$	1,000,000.00	Amount Previously Obligated	$	0.00
Recipient Amount	$	937,605.11	Obligated by this action	$	1,000,000.00
Total Instrument Amount	$	1,937,605.11	Total Obligated	$	1,000,000.00

16. Description

Employer Identification Number: 02-6046088 Program: CCP

This instrument (the HUD-1044, HUD-1044 Continuation Sheet) sets forth a legally binding agreement between the parties as to all amounts, deliverables, tasks, period of performance, terms and conditions, here within, whether implicitly stated or referenced. The Recipient certifies that all administrative and financial provisions of this instrument are in and will continue to be in compliance for the duration of the period of performance. All covenants, referenced or stated, are agreed to by the recipient upon signing this instrument.

This Cooperative Agreement instrument consists of the following, some of which are incorporated by reference:

1. Cooperative Agreement Provisions (FY2011 Terms and Conditions)
2. HUD 424-CBW, Total Budget Summary
3. Grant Deliverables (See HUD 1044 Continuation Sheet)
4. Work Plan/Logic Model (Tasks within work plan are considered deliverables)
5. OMB Circular A-87, A-133 and A-102, 24 CFR Part 85, 24 CFR Part 84
6. Notice of Funding Availability

Period of Performance is from January 15, 2012 to January 15, 2015 (36 months)

17. ☒ Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office.	18. ☐ Recipient is not required to sign this document. (Single Signer)
19. Recipient (By Name): Benjamin Frost	20. HUD (By Name): Thaddeus D. Wincek
Signature & Title Director Public Affairs EXECUTIVE DIRECTOR Date: 2/7/12 2/7/12	Signature & Title Thaddeus D. Wincek Grant Officer Date: 01/15/2012

Previous editions are obsolete

form HUD 1044 (8/90)
ref. Handbook 2210.17

HUD 1044 CONTINUATION SHEET – PAGE 1

INSTRUMENT NO: CCPNH0061-11

1. BUDGET

	Budget Line Item	HUD Amount	Match/Leverage Amount	Total
1	Direct Labor	0.00	121,004.00	121,004.00
2	Fringe Benefits	0.00	41,141.00	41,141.00
3	Travel	0.00	7,302.00	7,302.00
4	Equipment	0.00	0.00	0.00
5	Supplies/Materials	0.00	0.00	0.00
6	Consultants	0.00	0.00	0.00
7	Contracts	1,000,000.00	705,806.00	1,705,806.00
8	Construction	0.00	0.00	0.00
9	Other Direct Cost	0.00	20,000.00	20,000.00
10	Indirect Cost	0.00	42,351.00	42,351.00
	Total	**$1,000,000.00**	**$937,605.00**	**$1,937,605.00**

If the grantee's match/leverage contribution is less than **$937,605.00** the Government reserves the right to negotiate new line items and/or amounts to satisfy the grantee's requirement or to reduce the Government's share proportionally. The grantee shall notify HUD at any time it believes it will not meet its match requirement. In addition, the grantee shall obtain HUD approval regarding any changes concerning the intended use of matching funds. If the grantee exceeds the dollar amount shown above, there will be no impact on the Federal share.

2. AMOUNT OF COST SHARE

The estimated cost for the performance of this grant is **$1,937,605.00.** HUD shall not be obligated to reimburse the New Hampshire Housing Finance Authority in excess of **$1,000,000.00**. The Grantee agrees to bear without reimbursement from HUD **$937,605.00** of the total costs. However, in the event that the Grantee incurs cost in excess of the total estimated project cost of **$1,937,605.00**; all such excess costs shall be borne entirely by the Grantee.

3. DELIVERABLES IN ACCORDANCE WITH THE NOFA AND APPROVED WORK PLAN AND LOGIC MODEL

A) **Final and approved work plan** (60 days after the effective date of the award)
B) **Logic Model** (60 days after the effective date of the award)
C) **Signed and GTR-approved Consortium Agreement** (120 days after the effective date of the award) that at the minimum must include the following organizations:

Partnership(s)	Match/Leverage Contributions:
NH Preservation Alliance	22,000.00
NH Legal Assistance	25,000.00
UNH Cooperative Extension	53,072.00
NH Community Loan Fund	18,000.00
Community Development Finance Authority	40,000.00
NH Department of Environmental Services	9,500.00
NH Office of Energy and Planning	17,400.00
NH Department of Transportation	9,000.00
NH Municipal Association	15,000.00
Plan NH	13,950.00
Total	$232,922.00

D) Commitment to participate in performance measurement and evaluation conducted by third party.

E) Activities pertaining to the Fair Housing Equity Assessment as Referenced in the NOFA.

4. INDIRECT COST RATE

35.00%

Note: Grantee has agreed to process an indirect cost proposal following HUD's procedures and process should begin no later than 90 days of the execution of this grant agreement if a provisional indirect rate is provided.

5. KEY PERSONNEL

Name	Title	% of time on the grant
William Ray	Managing Director	5%
Daniel Smith	Director, Housing Research	5%
Benjamin Frost	Director, Public Affairs	25%
George Reagan	Program Administrator	15%
Bridget McMahon	Communications Administrator	5%
Cindy Morse	Administrative Assistant	5%

6. PERIOD OF PERFORMANCE

36 months

7. AUDIT INFORMATION

The New Hampshire Housing Finance Authority submitted an audit report conducted by Baker/Newman/Noyes for the year ending 06/30/2011. The audit report attests to New Hampshire Housing Finance Authority's practice of generally accepted accounting principles and compliance with laws and regulations relating to government auditing standards. The internal control structure has been reviewed in accordance with OMB Circular A-133 and found to be in compliance with requirements that are applicable to certain of its major federal programs.

8. SPECIAL CONDITIONS

N/A

EXHIBIT C

U.S. Department of Housing and Urban Development
Office of Sustainable Housing And Communities

COOPERATIVE AGREEMENT PROVISIONS

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A. GENERAL

1. Overview of Award Implementation

This cooperative agreement/grant (also referred to as *Agreement*) is between the Grantee *(Recipient)* identified in Block 7 of the form HUD-1044, and the U.S. Department of Housing and Urban Development. The award agreement consists of the form HUD-1044, any special conditions, and these Cooperative Agreement Terms and Conditions.

In signing this *Agreement*, the Grantee agrees to comply with all the requirements and conditions contained herein.

The provisions of the Notice of Funding Availability (NOFA) are hereby incorporated into this *Agreement*.

The Grantee's rights under this *Agreement* may not be assigned without the prior written approval of HUD.

The Grantee shall complete and submit a revised management and work plan, deliverables outcomes and budget within 60 calendar days after the effective date of the grant. These revisions shall update the general/basic plan submitted with the proposal and include any changes to the proposed work plan, budget, performance measures and deliverables, negotiated between HUD and the grantee. These revisions should be developed according to the instructions provided by the HUD Government Technical Representative identified on the form HUD-1044. Should you not address these specific issues, your grant may be terminated on the basis of failure to conclude negotiations or to provide HUD with requested information, in accordance with the General Section of the NOFA for which you applied.

2. Purpose

The purpose of this *Agreement* is as stated in the "Purpose of the Program" section of the NOFA.

3. Definitions

a. "Cooperative Agreement" means an agreement in which the Federal Government provides funding authorized by public statute where the government plays a substantial role in assisting the funding recipient.

b. "Equipment" means a tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

c. "DUNS" means Dun and Bradstreet Data Universal Numbering System.

d. "Grant Officer (GO)" means the HUD individual who is responsible for processing and executing grant award, change in key personnel, change of scope, budget transfers, change of period of performance, and other administrative changes that would require a modification to the agreement. This term also refers to designated HUD Officials authorized to execute and/or administer this grant.

e. "Government Technical Representative (GTR)" means the HUD individual who is responsible for the technical administration of the grant, the evaluation of performance under the grant, the acceptance of technical reports or projects, and other such specific responsibilities as may be stipulated in the grant.

f. "Government Technical Monitor (GTM)" means the individual responsible for assisting a Government Technical Representative (GTR) in the latter's performance of his/her duties. The GTM is also the responsible individual that will comply with the Office of Sustainable Housing and Communities devolution of authority under our Continuity of Operations Plan (COOP). Should the National Capital Region become non-operational due to emergency conditions, the approval of vouchers and the authority to pay vouchers will transfer to the GTM until such time as the designation is lifted. The Government Technical Representative (GTR) will continue to be the point of contact for day-to-day management issues and responsibilities described above. In a state of emergency, HUD reserves the right to designate a GTR for COOP purposes.

g. "Grantee" as used herein refers to the recipient of this cooperative agreement.

h. "NOFA" means the Notice of Funding Availability, which announced the availability of funding for this grant.

i. "NOPI"means Notice of Public Interest

j. "OSHC" means the HUD Office of Sustainable Housing and Communities, or its successor Office, if any.

k. "Publication" includes:

(1) Any document containing information for public consumption; or

(2) The act of, or any act which may result in, disclosing information to the public.

l. "Recipient" Any entity other than an individual that received grant funds in the form of a grant, cooperative agreement or loan directly from the Federal government.

m. "Subaward" means:

(1) A legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that:

(a) The recipient awards to an eligible sub-recipient; or

(b) The sub-recipient at one tier awards to a sub-recipient at the next lower tier.

(2) The term does not include the recipient's procurement of property and services needed to carry out the project or program (see, generally, §_.210 of the attachment to OMB Circular A-133 (2 CFR Part 180), "Audits of States, Local Governments, and Non-Profit Organizations").

(3) A subaward may be provided through any legal agreement, including an agreement that the recipient or a sub-recipient considers a contract.

n. "Sub-recipient" means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary to such a program. The sub-recipient may also be a recipient of other Federal awards directly from the Federal awarding agency. Guidance on distinguishing between a sub-recipient and a vendor is provided in §___.210 of OMB Circular A-133 (2 CFR Part 180).

o. "Total Instrument Amount" is the amount under line item 14 of the HUD Form-1044 (Total Instrument Amount). This is the sum of the federal award and grantee match.

p. "Work Plan" refers to the Grantee's plan for addressing a specific service delivery need, and consists of designated work activities including tasks and subtasks as required by the program office; a timeline for completing the work; performance measures; outputs and outcomes identified to achieve the performance measures/goals; budget; and resources designated to complete the work.

B. PROGRAM REQUIREMENTS

1. Allowable Costs

a. This is a cost reimbursement award; the Grantee shall be reimbursed for certain costs, as described below, incurred in the performance of work in an amount not to exceed the obligated amount shown in block 15 on the Assistance Award Form (form HUD-1044). In the event the Grantee incurs costs in excess of the prescribed amount, the excess shall be borne entirely by the Grantee.

b. HUD shall reimburse the Grantee for costs incurred in the performance of this award which are determined by the GTR and the Grant Officer to be allowable, allocable, and reasonable in accordance with applicable Federal cost principles as follows:

Cost Principles for State, Local, and Indian Tribal Governments	OMB Circular A-87	Relocated to 2 CFR, Part 225; http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html
Cost Principles for Non-profit Organizations	OMB Circular A-122	Relocated to 2 CFR, Part 230; http://www.whitehouse.gov/omb/fedreg/2005/083105_a122.pdf
Cost Principles for Educational Institutions	OMB Circular A-21	Relocated to 2 CFR, Part 220; http://www.whitehouse.gov/omb/fedreg/2005/083105_a21.pdf
Audits of States, Local Governments, and Non-Profit Organizations	OMB Circular A-133	Relocated to 2 CFR Part 180; http://www.whitehouse.gov/omb/fedreg/2005/083105_a133.pdf
Cost Principles for Commercial/For-profits	Federal Acquisition Regulations at 48 CFR Part 31.2	http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200948

c. Direct Costs are the allocable portion of allowable costs incurred directly for the purposes of the grant. Detailed explanations of direct costs are provided in applicable OMB Circulars (A-21 (2 CFR Part 220), Cost Principles for Educational Institutions, A-87 (2 CFR Part 225), Cost Principles for State, Local, and Indian Tribal Governments, or A-122 (2 CFR Part 230), Cost Principles for Nonprofit Organizations, as applicable) that can be accessed at the White House website, www.whitehouse.gov/omb/circulars_default

2. Administrative Requirements

The grantee must adhere to all respective uniform administrative rules for Federal grants and cooperative agreements and subawards as follows:

Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations	24 CFR Part 84	http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_36446.doc
Administrative Requirements for Grants	24 CFR Part 85	www.hud.gov/offices/lead/librar

and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments		y/lead/**24_CFR**PART_**85**.pdf
Grants and Cooperative Agreements with State and Local Governments	OMB Circular A-102	http://www.whitehouse.gov/omb/circulars_a102
Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations	OMB Circular A-110 (Relocated to 2 CFR Part 215)	http://www.whitehouse.gov/omb/fedreg/2005/083105_a110.pdf
Audits of States, Local Governments, and Non-Profit Organizations; and	OMB Circular A-133 (Relocated to 2 CFR Part 180),	http://www.whitehouse.gov/omb/fedreg/2005/083105_a133.pdf

3. Advance Payment By Treasury Check Or Electronic Funds Transfer

Advance payments by Treasury check or electronic funds transfer are hereby authorized under this grant. A Grantee that is subject to existing State program accreditation requirements may request an advance payment in writing, if applicable. HUD may provide to the Grantee a one-time cash advance that shall not exceed 10 percent of the grant amount, and shall be limited to the minimum amount needed for the actual, immediate cash requirements of the Grantee in carrying out the start up activities of this agreement and as agreed to by the Grant Officer. Neither these HUD funds nor non-HUD funds may be used for conducting interventions, remediation, rehabilitation, renovation or other activities that would physically alter any structure or property in any way. Refer to 24 CFR 58.34(a) for a list of exempt activities.

4. Amendments

This grant may be modified at any time by written amendment. Amendments, which reflect the rights and obligations of either party, shall be executed by both HUD (the Grant Officer) and the Grantee. Administrative amendments, such as changes in appropriation data, may be issued unilaterally by the Grant Officer.

5. Amount of Cost Share (Estimated Cost And Payment – Leveraging) (See Block 14 of form HUD-1044)

The estimated cost for the performance of this grant is the **"Total Instrument Amount".**

The Grantee shall be reimbursed by HUD for costs incurred in the performance of this grant. HUD shall not be obligated to reimburse the Grantee in excess of the "**Total HUD Amount".** HUD reserves the right to withhold five-percent (5%) of the Federal grant amount pending the receipt and approval of a final progress report. See clause entitled "Final Report" for

more information. The proposed contribution to supplement HUD funds is the "Recipient Amount." The Grantee agrees to bear without reimbursement by HUD the **"Recipient Amount"** of the total costs. The Grantee is not obligated to contribute more than the **"Recipient Amount"**. However, the Grantee shall be solely responsible for any costs in excess of the estimated cost of the **"Total Instrument Amount"**.

The Grantee must satisfy all leveraging requirements in the NOFA. If the Grantee's actual leveraging contribution is less than **"Recipient Amount"** under Block 14 of the HUD 1044, the Government reserves the right to negotiate new line items and/or amounts to satisfy the Grantee's leveraged funds requirement, or to reduce the Government's share proportionally. The Grantee shall notify the Government at any time it believes it will not meet its leveraged funds requirement by the completion of the grant. If the Grantee exceeds the leveraged amount, there will be no impact on the Federal share. HUD reserves the right to withhold payments if leveraged funds are not spent.

Any funds requested by the Grantee shall be requested in accordance with the clause entitled, "Estimated Cost and Payment - Line Of Credit Control System (LOCCS)."

HUD reserves the right to withhold payment if leveraged resources are not spent.

6. <u>Budget</u>

The Grantee shall incur costs in conformance with the original or negotiated budget, presented with the proposal for this grant. The Grantee shall not commingle any funds computed under this grant with any other existing or future operating accounts held by the Grantee.

If the Grantee has been contacted to submit documents to support the application that were not received prior to the execution of this grant, the Grantee will not be allowed to draw down funds in excess of 10% of the federal amount, until such time that the requirements have been met. HUD reserves the right to terminate an award if the required documents are not provided within 1 month from the date the written request was made.

Standard Form 425, Federal Financial Report (24 CFR Part 84.52 and/or 85.52), detailing leveraged funds or in-kind contributions shall be submitted on a bi-annual basis. As part of the closeout process a final narrative and a final Standard Form 425 detailing the progress made in achieving the purpose of the grant and adequate documentation of the total federal funds expended in support of the activities to achieve this purpose are due to the GTR 90 days after the end of the period of performance (See clause entitled "Closeout").

The Federal Financial Report (Standard Form 425) shall be submitted on a bi-annual basis and is due 30 days after the reporting period.

7. Central Contractor Registration (CCR)

Recipients and their first-tier sub-recipients must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards.

8. Certifications and Assurances

The certifications and assurances submitted in the Grantee's application are hereby incorporated into this agreement. They include:

a. Standard Form 424 or HUD 424, Application for Federal Assistance
b. Certification and Disclosure Form Regarding Lobbying (SF-LLL)
c. Applicant/Recipient Disclosure Update Report (HUD-2880)
d. Certification Regarding Parties Excluded From Procurements
e. Certification Prohibiting Excessive Force Against Non-Violent Civil Rights Demonstrators
f. Certification/Disclosure Regarding federal Debt
g. Certification Regarding a Drug-Free Workplace
h. Codes of Conduct and Conflict of Interest

A grantee must notify the GTR of any changes in the status or information on the above items.

9. Changes

In accordance with 24 CFR 85.30 or 84.25, as applicable, Grantees or sub-grantees must obtain the prior approval of the awarding agency whenever any programmatic changes are anticipated, including but not limited to the following:

a) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).
b) Budget revisions that are 10% or more of the total HUD amount among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed 10% of the current total approved budget, whenever the awarding agency's share exceeds $100,000.
c) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.
d) Under non-construction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities, which are central to the purposes of the award.

10. Closeout

The Grantee shall provide the Grant Officer with closeout documentation 90 days after to the end of the performance period, consisting of the following five elements:

- Narrative Final Report summarizing activities conducted under the award, including significant outcomes resulting from the activities and problems encountered during the performance period;
- Federal Financial Report (SF-425) of the total Federal Funds expended;
- Completed Inventions, Patents, and Copyright Statement; and
- Completed Closeout Certification.

HUD will notify the Grantee in writing when the grant is closed. The Grantee has three areas of continuing responsibility after closeout of the grant:

- Records and materials must be kept in a safe place and be accessible to auditors and other government officials for three years after the grantee and all subgrantees/subcontractors make final payments and all other pending matters are closed. (If the grant is covered by 24 CFR Part 84, see related record retention requirements in 24 CFR 84.85(c)(2).) This requirement also extends to all subcontracts the Grantee has executed.
- Accountability for property continues as long as the Grantee holds the property, or for the period of time established by the agreement. Disposal of property must be in accordance with the rules established in the Property Management Standards referred to in the award. Program income, including royalties, must be used to support eligible activities.
- Notification to the Grant Officer if, at any time during the three-year period after project completion, the Grantee organization is discontinued or changes location. The Grant Officer should be notified immediately of the new address or the address of the party retaining all records.

11. Collection Of Data

Collection of data from ten or more respondents and sponsored by HUD shall be subject to the Paperwork Reduction Act (44 U.S.C. 3501— 3520). If a survey instrument for a collection of data sponsored by HUD is proposed, it will be subject to review and approval by the Office of Management and Budget (OMB). Such review and approval must be obtained prior to the use of the survey instrument. Also, a time element is involved here, which may considerably lengthen the time required for completion of the project proposed. Careful consideration should be given to any proposal, which requires the use of a survey or other information collection sponsored by HUD. The collection of data is deemed to be sponsored by HUD only under the following conditions (5 CFR 1320.3):

a) The Grantee is conducting the collection of information at the specific request of HUD; or

b) The terms and conditions of the grant require specific approval by HUD of the collection of information or collection procedures. Note that if the Grantee decides on its own to collect information and it does not need HUD approval to do so, then HUD is not the "sponsor" of the information collection.

12. Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282) (Transparency Act)

Applicants receiving an award from HUD should be aware of the requirements of the Transparency Act. The Transparency Act requires the establishment of a central website that makes information available to the public regarding entities receiving federal financial assistance, by not later than January 1, 2008. In fulfillment of the requirements of the Act, OMB launched http://www.USAspending.gov in December 2007. The website makes information available to the public on the direct awards made by the federal government. The Transparency Act also requires, beginning not later than January 2009, that data on subawards be made available on the same website.

In anticipation of the implementation of this requirement, HUD is placing awardees of its FY2010 competitive funding on notice of these requirements and that, once implemented, grantees will be required to report their subaward data to HUD or a central federal database. The only exceptions to this requirement under the Transparency Act are:

1) Federal transactions below $25,000;
2) Credit card transactions prior to October 1, 2008;
3) Awards to entities that demonstrate to the Director of OMB that the gross income of such entity from all sources did not exceed $300,000 in the previous tax year of such entity; and
4) Awards to individuals. Guidance for receiving an exception under item (3) above has not been finalized by OMB.

HUD is responsible for placing award information for direct grantees on the government website. The reporting of subaward data is the responsibility of the grantee. Grantees should be aware that the law requires the information provided on the federal website to include the following elements related to all subaward transactions, except as noted above:

1) The name of the entity receiving the award;
2) The amount of the award;
3) Information on the award, including the transaction type, funding agency, the North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
4) The location of the entity receiving the award and primary location of performance under the award, including the city, state, congressional district, and country;

5) A unique identifier of the entity receiving the award and of the parent entity of the recipient (the DUNS number), should the entity be owned by another entity; and
6) Any other relevant information specified by OMB.

13. Conduct of Work

During the effective period of this grant, the GTR and/or the GTM identified in Block 9 of the HUD-1044 shall be responsible for monitoring the technical effort of the Grantee, unless the Grantee is notified in writing by the Grant Officer of a replacement.

Only the Grant Officer has the authority to authorize deviations from this grant, including deviations from the Work Plan. In the event the Grantee does deviate without written approval of the Grant Officer, such deviation shall be at the risk of, and any costs related thereto shall be borne by, the Grantee.

14. Confidentiality

The service provider (e.g., the Grantee and any subgrantees, subcontractors or vendors) must maintain confidential files on individual program beneficiaries served. Recipient staff must keep paper files in a locked filing cabinet and protect all electronic files related to individual beneficiaries with a personal password.

The service providers shall maintain primary access to individual beneficiary files. Other project management staff may have access to these files only if they contain a "release of information" consent form signed by the individual beneficiary. A release of information form must clearly indicate which parties may have access to an individual beneficiary's file. Such parties might include the management staff and HUD staff. Recipient staff must only share individual beneficiary files with those parties listed on the signed form. If an individual beneficiary has not signed the consent form the parties listed may not read that individual beneficiary's file.

These categories serve as guidelines to recipient staff and management staff. The recipient must determine if the individual beneficiary's confidential information will significantly affect the safety and security of that individual or the recipient organization itself.

15. Contact Information Updates

The Grantee shall inform the Grant Officer and GTR of any changes in contact information, including the organization's name, address, telephone, e-mail, and key personnel.

16. Copyrights

HUD reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for Federal government purposes: (a) the copyright in any work developed under this award, sub-award, or contract awarded under this

grant; and (b) any rights of copyright to which a Grantee or sub-grantee or a contractor purchases ownership with award funds.

17. Default and Disputes

The Grantee is in default if one or more of the following occurs:

1. Any use of award agreement funds for a purpose other than as authorized by this Agreement;
2. Any material noncompliance with Federal, State, or local laws or regulations as determined by HUD;
3. Any other material breach of this award agreement, or
4. Any misrepresentation in the application submissions which, if known to HUD, would have resulted in this award not being provided.
5. Failure to meet any reporting requirement.

If HUD determines preliminarily that the recipient is in default as described in items 1-5, above, HUD will give the recipient notice of this determination and the corrective or remedial action proposed by HUD. The recipient shall have an opportunity to demonstrate, within the time prescribed by HUD (not to exceed 30 days from the date of the notice), and on the basis of facts and data, that it is not in default, or that the proposed corrective or remedial action is inappropriate, before HUD implements the corrective or remedial action.

Where HUD determines that corrective or remedial actions by the recipient have not been undertaken as instructed, or will not be effective to correct the default and to prevent further default, HUD may take the following additional corrective and remedial actions under this award agreement:

1. Reduce the award in the amount affected by the default.
2. Take action against the recipient under 24 CFR Part 24 and Executive Order 12549 with respect to future HUD or Federal grant awards.
3. Demand repayment of all award amounts.
4. Initiate litigation or other legal proceedings designed to require compliance with the statute, regulations, any terms or conditions of this award agreement, or other pertinent authorities.
5. Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee.
6. Withhold further payments.
7. Take any other remedial action legally available.

During performance of the grant, disagreements may arise between the Grantee and the Grant Officer on various issues. If a dispute concerning a question of fact arises, the Grant Officer shall prepare a final decision, taking into account all facts and documentation presented. The decision shall be mailed to the Grantee. The Grantee may appeal the decision in writing within thirty (30) days to the Deputy Secretary of HUD, or his or her designated representative,

the Director, Office of Sustainable Housing and Communities.

Failure to comply with the requirements established in the award and these provisions, including failure to submit reports on time and in accordance with the requirements contained in these provisions, may result in HUD taking action to limit access to program funds. Actions by HUD may include, but are not limited to: requiring that reports and financial statements be submitted to the Grant Officer/GTR for approval before drawing down any funds; removing the Grantee from the eLOCCS; suspending the ability to incur costs or draw funds; and/or suspending or terminating the Grant for non-performance.

HUD may, on reasonable notice to the Grantee, temporarily suspend the award and withhold further payments pending corrective action by the Grantee. The award may be terminated in whole or in part before the end of the performance period for cause when the Grantee has failed to comply with the terms, conditions, standards, or provisions of this award. The award may be terminated for convenience when both parties agree that the continuation of the award would not produce beneficial results.

18. Deliverable Products

During the performance period, the recipient is required to submit to the GTR Official Work Products. These include but are not limited to progress reports; financial reports, closeout documentation; products specified in the Work Plans, such as reports for HUD and the public on activities conducted and results achieved, etc. Failure to submit required documents on time may cause the Grant Officer to take action to suspend or terminate the award.

19. Equipment

When acquiring equipment, the Grantee shall comply with the requirements set forth in 24 CFR 84.34 or 24 CFR 85.32, whichever is applicable, OMB Circular A-87 (2 CFR Part 225), and OMB Circular A-122 (2 CFR Part 230).

20. Estimated Cost and Payment - Line Of Credit Control System (LOCCS/eLOCCS)

The Grantee shall be reimbursed for costs incurred in the performance of work under this grant in an amount not-to-exceed **"Total HUD Amount"** in Block 14 of the HUD 1044. In the event the Grantee incurs cost in excess of this amount, the excess shall be borne entirely by the Grantee.

Incurred costs shall be reimbursed through HUD's Line of Credit Control System (LOCCS) using the eLOCCS web based system. Each day LOCCS generates a payment tape for the Department of the Treasury, which disburses the payments via the Automated Clearinghouse (ACH) Payment System and a Voucher and Schedule of Payments. All payments are certified by HUD and forwarded to Treasury for processing.

Before receiving funds from the eLOCCS, the Grantee must designate a financial institution for HUD to make direct deposit payments through the ACH system. In the event the Grantee, during the performance of this grant, elects to designate a different financial institution for the receipt of any payments, notification of such change and the related information must be received by the Grant Officer 30 days prior to the date such change is to become effective.

To have access to LOCCS and the eLOCCS, the Grantee shall obtain a Security ID and Password from HUD's LOCCS Security Officer, using the form HUD-27054, LOCCS Voice Response /eLOCCS Access Authorization Form.

The Grantee shall submit the original vouchers for work performed to the GTR identified in Block 9 of the form HUD-1044. The voucher shall be supported by a detailed breakdown of the cost(s) claimed (Grantees are to use the Part 3 Financial Reporting Attachment included in Policy Guidance 2001-03). In order to assure proper payment, it is important that the voucher is in accordance with the payment amount requested through the eLOCCS. Payment requires the Grantee to go to eLOCCS and provide the Security ID number and requested information. Detailed instructions for using the LOCCS/eLOCCS were provided in HUD's Transmittal Letter for your award.

Funds advanced to the Grantee shall be maintained in an interest bearing account. Any interest earned by the Grantee as a result of the advanced funds shall be promptly returned to HUD.

All check remittances should be sent to the new Miscellaneous Lockbox as follows:

Bank of America
DHUD P.O. Box 277303
Atlanta, GA 30384-7303

If the Grantee is a State, local government or Indian Tribe, the Grantee may retain up to $100.00 of interest earned per Grantee's fiscal year for administrative expenses (24 CFR 85.21).

If the Grantee is a University, non-profit or for profit organization, the Grantee may retain up to $250.00 of interest earned per Grantee's fiscal year for administrative expenses (24 CFR 84.22).

State universities and hospitals shall comply with the Cash Management Improvement Act (CMIA), as it pertains to interest.

Other funds due to HUD after the end date of the grant or close-out, as a result of internal audit or other reasons, will be returned to the GTR identified in Block 9 of the form HUD-1044 of this grant.

Should the Grantee demonstrate an unwillingness or inability to establish procedures that will minimize the time elapsing between advances and disbursements, or fail to provide any

required progress report in a timely manner, the authorization for advance payments may be revoked. The Grantee may then be required to finance the project with its own working capital and payment to the Grantee may be made by Treasury check to reimburse it for actual cash disbursements that are approved by the GTR.

21. Environmental Review

This Environmental Review section applies to grantees that will conduct site control or land acquisition (Category 2- Detailed Execution Plans and Programs), as described in the NOFA.

Activities that involve site control or acquisition are subject to HUD environmental review under 24 CFR Part 50. For projects involving these activities, HUD's notification of award constituted only a preliminary approval by HUD subject to the completion of an environmental review of the proposed site(s). Selection for participation and the execution of this Agreement do not constitute approval of the proposed site(s). Each proposal involving site control or acquisition is subject to a HUD environmental review, and the Grantee's proposal may be modified or the proposed sites rejected as a result of that review.

The Grantee shall not acquire, rehabilitate, demolish, convert, lease, repair, or construct property, nor commit or expend HUD or local funds for these program activities with respect to any eligible property, until HUD approval of the property is received. An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by HUD on the desirability of the property for the project as a result of the completion of the HUD environmental review and the cost of the option is a nominal portion of the purchase price.

The Grantee shall assist HUD in complying with 24 CFR Part 50; shall supply HUD with all available, relevant information necessary for HUD to perform an environmental review for each property, as requested by HUD; and, shall carry out mitigating measures required by HUD or select alternate eligible property if required by HUD..

22. Fair Housing and Civil Rights Laws

a) The Grantee represents, warrants, and certifies to HUD that it shall comply with all applicable Federal statutes, regulations, and requirements relating to non-discrimination and equal opportunity identified in HUD's regulations at 24 CFR § 5.105(a), and assure such compliance of any of its sub-grantees under this Agreement, including the following:

    1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d-2000d-4) and implementing regulations at 24 CFR part 1, Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development - Effectuation of Title VI of the Civil Rights Act of 1964;

2. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681:1683, 1685:1688) and implementing regulations at 24 CFR part 3, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;

3. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 CFR part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development;

4. Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*) and implementing regulations at 28 CFR part 35;

5. The Fair Housing Act (42 U.S.C. §§ 3601-19) and implementing regulations at 24 CFR Part 100, Discriminatory Conduct Under the Fair Housing Act;

6. Executive Order 11063, as amended by Executive Order 12259, and implementing regulations at 24 CFR part 107, Nondiscrimination and Equal Opportunity in Housing Under Executive Order 11063; and

7. The Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107) and implementing regulations at 24 CFR part 146, Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance.

b) The Grantee represents, warrants, and certifies to HUD that it shall administer its grant in a manner that affirmatively furthers fair housing and that, at a minimum, it shall carry out all actions to affirmatively further fair housing as proposed in its application for financial assistance under the Sustainale Communities Initiative Grant Programs.

c) The Grantee represents, warrants, and certifies to HUD that it shall ensure that employment, contracting, and other economic opportunities generated by the Sustainale Communities Initiative Grant Programs shall, to the greatest extent feasible, be directed to low- and very low-income persons pursuant to Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and HUD's implementing regulations at 24 CFR part 135.

d) Grantees are required to cooperate and assist HUD in its nondiscrimination and equal opportunity compliance activities and are required to maintain and submit racial, ethnic, disability, and other demographic data pursuant to HUD's nondiscrimination and equal opportunity regulations including those at 24 CFR §§ 1.6, 8.55, 107.30, and 121.2.

23. Flow Down Provisions

If the Grantee contracts or subawards funds under this agreement with a person or entity to perform work under this award, the Grantee shall include in the contract or subaward agreement such provisions as may be necessary to ensure that all contractors and subgrantees comply with the requirements of the grant and reporting provisions as set forth in these terms and conditions or as established by HUD and the Office of Management and Budget (OMB)

The Terms and Conditions of this agreement flow down to all tiers of subgrantees. First tier sub-grantees are required to obtain a DUNS numbers (or update its existing DUNS record), and register with the Central Contractor Registration (CCR; www.ccr.gov) no later than 120 days after execution of this agreement.

24. HUD's Right to Audit and Disallow and Recover Funds

The government reserves the right to seek recovery of any funds that were not expended in accordance with the requirements or conditions of this agreement based upon HUD review, the final audit, or any other special audits or reviews undertaken. HUD has the right to order a special audit, even if the Grantee's auditor or a cognizant agency has already conducted one.

25. HUD's SUBSTANTIAL INVOLVEMENT

HUD's Office of Sustainable Housing and Communities will work in partnership with its grantees to advance the program objectives of the grant program. The Cooperative Agreement allows for substantial involvement of HUD staff to enhance the performance of the grantee in the completion of their deliverables.

Anticipated substantial involvement by HUD staff may include, but will not be limited to:
Studies and Reports

- Review potential amendment recommendations to the study design and/or Workplan.
- Review and provide recommendations in response to bi-annual progress reports (e.g., amendments to study design based on preliminary results).
- Review and provide recommendations on the final report/study, including final interpretation of study results.

Approvals and Reviews

- Authority to halt activity if specifications or work statements are not met;
- Review and approval of one stage of work before another can begin;
- Review and approval of substantive provisions of proposed sub-grants or contracts beyond existing Federal policy;
- Approval of workplan adjustments based on changing conditions and needs documented in the cohort targeted for capacity building.
- Review and approval of key personnel

Participation and Monitoring

- Monitoring to permit specified kinds of direction or redirection of the work because of interrelationships with other projects;
- HUD and recipient collaboration or joint participation;
- Implementing HUD requirements which limit recipient discretion;
- Coordination of complementary activities from respective capacity building intermediaries, including determining if workplans require adjustments based on changing conditions;
- Where appropriate substantial, direct HUD operational involvement or participation during the assisted activity.

26. Incurrence of Costs

The Grantee is allowed to incur costs for activities beginning the effective date of the award as stated on the HUD-1044 under period of performance. Any costs incurred before the date are not allowable unless specifically authorized in writing by the Grant Officer or GTR.

At a minimum, grantees are required to drawdown funds on a quarterly basis. An e-LOCCS Request Voucher for Grant Payment (HUD form 27053) must be used to be reimbursed for award funds. Any funds requested by the Grantee shall be requested in accordance with the clause entitled, "Estimated Cost and Payment - Line of Credit Control System (LOCCS)."

27. Indirect Costs

For grantees without a federally approved indirect cost rate, a provisional indirect cost rate, pending establishment of a final rate, will be applied to this grant. Reimbursement will be made on the basis of the provisional rate. By accepting this agreement, the Grantee agrees to bill at the provisional indirect cost rate until an approved indirect rate agreement becomes effective. Adjustments will be made from the provisional rate to the final rate. However, such adjustments must be within the total amount of the award as stated in Block #15 of the HUD-1044.

28. Inspection and Acceptance

Inspection, review, correction, and acceptance of all deliverables under this award shall be the responsibility of the GTR. The GTR may receive recommendations from assigned GTMs.

29. Inspector General Referrals

The Grantee or any subgrantee, subcontractor or other sub-recipient awarded funds shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

30. Limitation on Consultant Payments

Per the requirements of the NOFA, federal funds may not be used to pay or to provide reimbursement for payment of the salary of a consultant, whether retained by the federal Government or the Grantee, at a rate more than the equivalent of General Schedule 15, Step 10 base pay rate. See the Office of Personnel Management Website, www.opm.gov, and its Salaries and Wages link for the current base rate, which may be lower than the local rate.

31. Limitation on Payments to Influence Certain Federal Transactions

Section 1352 of Title 31 of the U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: 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, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

32. Lobbying Activities Prohibition

The Grantee is subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), implemented in HUD regulations at 24 CFR Part 87 and to the provisions of the Lobbying Disclosure Act of 1995, P.L. 104-65 (December 19, 1995).

33. Management and Work Plan

The management and work plan, deliverables and budget revisions shall comply with the requirements established by the NOFA. The Grantee shall complete and submit a detailed management and work plan within 60 days after the effective date of the grant; this plan is subject to review and approval by HUD. The revisions to the general plan submitted in the proposal shall include any negotiated changes of the work plan or budget if applicable. The plan shall be developed according to the instructions that will be provided by the GTR.

The management and work plan consist of the goals and time-phased objectives and deliverables for each of the major tasks to be undertaken by the program. A revised budget, in accordance with the final negotiation, shall be submitted (if necessary).

34. Monitoring

The responsible Departmental official, GTR, or designee may review and monitor the practices of the Grantee to determine whether it is in compliance with this Agreement or other requirements that arise as a result of the Grant Award. The GTR will also provide performance monitoring by tracking Grantee's progress in meeting the goals and objectives of the program.

35. Order of Precedence

In the event of any inconsistency among any provisions of this grant, the following order of precedence shall apply:

a) HUD 1044 Cooperative Agreement
b) NOFA
c) Management and Work Plan.
d) Uniform Administrative Requirements.
e) Grantee's Proposal (if incorporated)

36. Patent Rights (Small Business Firms And Nonprofit Organizations)

Patent rights are as specified in 37 CFR Part 401, entitled "Rights to Inventions made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements." Inquiries regarding this Patent Rights clause should be in writing and directed to:

Grant Officer
Office of Sustainable Housing and Communities
U.S. Department of Housing and Urban Development
451 Seventh Street SW, Room 10180
Washington, DC 20410-3000

37. Period of Performance and Extensions and Incurring Costs or Obligating Federal Funds Beyond the Expiration Date

a) The Grantee shall provide all services stipulated in this cooperative agreement for the period of months specified in the form HUD 1044, "Assistance Award/Amendment," or its Continuation Sheet, from the effective date stipulated in Block #5 of the HUD 1044. Grantees are to comply with the requirements of 24 CFR 84.28 or 24 CFR 85.23 (Period of availability of funds), as applicable, in charging costs to the grant. All obligations incurred under the award must be liquidated within the period of performance.

b) The Grantee shall not incur costs or obligate federal funds for any purpose pertaining to the operation of the project or program, 30 days prior to the end of the period of performance. The only costs which are authorized during the last 30 days of the period of performance are those strictly associated with closeout activities. Closeout activities are normally limited to the preparation of final progress, financial, and required project audit reports unless otherwise approved in writing by the Grant Officer.

The Office of Sustainable Housing and Communities has no obligation to provide any additional prospective funding. Any amendment of the award to increase funding is at the sole discretion of that Office.

38. Personnel

The personnel, specified as key personnel in the original or amended HUD form 2010 (Rating Factor Form), Factor 1, Capacity of the Applicant and Relevant Organizational Experience, are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other work, the Grantee shall notify the Grant Officer and GTR reasonably in advance in writing and shall submit justification (including proposed substitutions (with the qualifications and experience of the substitute personnel)) in sufficient detail to permit evaluation of the impact on the work effort. No diversion shall be made by the Grantee without the written consent of the Grant Officer.

39. Profit/Fee

No increment above cost, fee, or profit may be paid to the Grantee or any subgrantee under this award.

40. Program Income

Any program income derived as a result of this award shall be added to funds committed under the award to further activities eligible for assistance under this agreement. If not contained in the Work Plan or under Special Conditions itemized in these provisions, prior to using program income to further the objectives of the grant program, the parties shall mutually agree by written amendment on the use of program income. Program income received after the period of performance must be used to further the objectives of the applicable grant program for which this grant is awarded in accordance with 24 CFR 84.24 or 85.25, as applicable.

41. Prohibited Use of Funds

You may not use funds for the following ineligible activities:

(a) Ineligible administrative activities under OMB Circular A-102 (24 CFR Part 85), Grants and Cooperative Agreements with States and Local Governments; OMB Circular A-110 (2 CFR Part 215) Uniform Administrative Requirements for Grants and Cooperative Agreement with Institutions of Higher Education, Hospitals and other Non-Profit Organizations;

(b) Ineligible costs under OMB Circular A-87 (2 CFR Part 225), Cost Principles for State and Local and Indian Tribal Governments; and OMB Circular A-122 (2 CFR Part 230), Cost Principles for Non-Profit Organizations;

(c) Developing plans that would assist business or industry to relocate to an area to the detriment of communities where the business or industry is currently located. This funding restriction does not apply to businesses that are displaced as a result of Category 2 projects. The requirements of the Uniform Relocation Assistance and Real

Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) (codified at 49 CFR Part 24) cover any person who moves permanently from real property or moves personal property from real property as a result of direct acquisition, rehabilitation, or demolition for a program or project receiving HUD assistance (See the General Section).

(d) Substitution of Sustainable Communities funds for funding already pledged to support community development; housing; watershed, air and water quality; transportation planning; food production and distribution planning; and other planning activities eligible under the sustainable communities planning program.

42. Publications and News Releases and Social Media

The results of work conducted under the award may be made available to the public through dedication, assignment by HUD, or other means, as HUD shall determine.

All interim and final reports and any other specified deliverables shall be owned by the government and held for the benefit of the public which shall include Grantee and Grantee's sub-recipients.

Interim and final reports (including, if applicable, scientific manuscripts) may not be published by the Grantee or any sub-recipients participating in the work for a period of sixty days after acceptance of the deliverables by the GTR.

All deliverables, or any part thereof, and any independent products and special products arising from this award, when published by the Grantee or other participants in the work shall contain the following acknowledgment and disclaimer:

The work that provided the basis for this publication was supported by funding under an award with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Government."

Copies of all press releases, formal announcements, and other planned, written issuances containing news or information concerning work products or activities of this award that may be made by the Grantee or its staff, or any sub-grantee or other person or organization participating in the work of the award, shall, be provided to the GTR for review and comment before the planned release. Whenever possible, these should be provided to the GTR for review and comment at least two weeks before the planned release, but in no event simultaneously with the release.

The use of Social Media, such as web feeds, wikis, blogs, photo and video-sharing, podcasts, and microblogs is acceptable under OSHC grant programs. Information to be released

through Social Media must be provided to the GTR for review and comment at least 2 business days before the planned release.

43. Reporting

a) Deliverables

The Grantee shall include a schedule listing all significant project milestones, and dates for submission of all project deliverables including biannual project reports, interim reports where appropriate, the final report, and financial reports utilizing Standard Form 425, the Federal Financial Report. Upon approval of the Work Plan, the Grantee should ensure all deliverables identified in the Work Plan are delivered on time.

b) Bi-Annual Progress Reports

A template to be used in the preparation of each biannual report will be provided by HUD after grant award. Bi-annual reports must reflect activities undertaken, obstacles encountered and solutions achieved, and accomplishments. Contracts, training materials and protocols, rosters of persons trained, outreach and educational materials prepared, and other significant products developed to implement, analyze or control the project or disseminate information are to be submitted with the biannual reports as attachments.

Grantees shall submit reports as specified in this clause. The reports submitted to HUD require the submission of a work plan with specific, time phased, and realistic goals, objectives established. Bi-annual status reports that show progress and measure performance of the program in meeting approved work plan goals, objectives are to be submitted.

Grantees are advised that failure to submit timely biannual progress reports will result in not having their "eLOCCS Request Voucher for Grant Payment" processed and also may result in a low performance rating, which could result in grant termination. Reports are due 30 days after the reporting period.

c) Required Reports

- Grantees are required to submit biannual progress reports. Reporting requirements are specified in the Notice of Funding Availability and these Terms and Conditions. In case of conflict, the more-stringent provisions apply.

- Economic Opportunities for Low- and Very Low-Income Persons (Section 3). The HUD Form 60002, Economic Opportunities for Low- and Very Low-Income Persons (Section 3) must be submitted by January 10th, and yearly thereafter.

- Federal Financial Report (Standard Form 425)

d) Final Report

A final report shall be submitted. The final report shall summarize the applicant's plans, execution of the plans, achievements noted, and lessons learned. The report need not be lengthy, but should be of a quality and detail to provide freestanding description to any outside reader of all of the applicant's work and achievement under the grant. See clause entitled "Closeout" for the specific elements to be included with your final report. Specific and detailed guidance on preparing the forms and the narratives may be obtained from the GTR.

44. Reproduction of Reports

BRANCH PROCUREMENT OF CERTAIN KINDS OF PRINTING; "PRINTING" DEFINED

Pub. L. 102-392, title II, Sec. 207(a), Oct. 6, 1992, 106 Stat. 1719, as amended by Pub. L. 103-283, title II, Sec. 207, July 22, 1994, 108 Stat. 1440; Pub. L. 104-201, div. A, title XI, Sec. 1112(e)(1), Sept. 23, 1996, 110 Stat. 2683, provided that:

1) None of the funds appropriated for any fiscal year may be obligated or expended by any entity of the executive branch for the procurement of any printing related to the production of Government publications (including printed forms), unless such procurement is by or through the Government Printing Office.

2) Paragraph (1) does not apply to (A) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, and, as certified by the Public Printer, if the work is included in a class of work which cannot be provided more economically through the Government Printing Office, (B) printing for the Central Intelligence Agency, the Defense Intelligence Agency, National Imagery and Mapping Agency, or the National Security Agency, or (C) printing from other sources that is specifically authorized by law.

As used in this section, the term "printing" includes the processes of composition, platemaking, presswork, duplicating, silkscreen processes, binding, microform, and the end items of such processes.

45. Review of Deliverables

a) Definition - For the purpose of this clause, "Deliverables" include:

1) All interim and final reports;
2) Survey instruments required by Work Plan, if applicable;
3) Other physical materials and products produced directly under the Work Plan of this grant, if applicable; and
4) In-kind and leverage commitments, if applicable.

b) General

1) The GTR shall have the sole responsibility for HUD review, correction, and acceptance of the deliverables of this grant. Such review(s) shall be carried out promptly by the GTR, so as not to impede the work of the Grantee.
2) The Grantee shall carry out the required corrections, if any, provided by the GTR and shall promptly return a revised copy of the product to the GTR.
3) The basis for acceptance shall be the Grantee's good faith efforts to complete the deliverables of this grant.
4) The GTR's review, correction, and acceptance of deliverables shall be limited to: (i) corrections of omissions or errors of fact, methodology, or analysis; ii) deletion of irrelevant materials; and (iii) improvements in style readability.
5) In the review and acceptance of deliverables, the GTR may not require any change in the Grantee's stated views, opinions, or conclusions.
6) Should there be any disagreement between the Grantee and the GTR as to any correction, or the methodology or analysis on which any conclusion is based, the GTR may require the Grantee to insert a Government dissent(s) in the appropriate place(s). The inclusion of such dissent(s) in an Official Product of Work, otherwise found acceptable by GTR, and the return to the GTR of a revised copy containing the dissent(s), shall satisfy the requirements for acceptance of the Official Product of Work under this clause. Such dissent(s) shall not apply to any independent publication by the Grantee of Independent Products that may arise from the work or findings of this grant.

46. Scope of Services

The Grantee shall furnish the necessary personnel, materials, services, equipment, facilities (except as otherwise specified herein) and otherwise do all things necessary for or incidental to the performance of the work set forth in the original/revised application under the this NOFA, as well as the subsequent Management and Work Plan schedule.

47. Section 508 Compliance

Section 508 of the Rehabilitation Act of 1973 requires all Federal electronic and information technology to be accessible by people with disabilities. All Products of Work that will be posted on HUD's website must meet HUD's Web Publication Standards and Procedures at www.**hud**.gov/assist/webpolicies.cfm.

48. Single Audit Transparency Transactions Listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Sub-recipients.

a) Uniform Administrative Requirements for Grants and Agreements" and OMB A-102 (24 CFR Part 85) Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of funds.

b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133 (2 CFR Part 180), "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133 (2 CFR Part 180).

c) Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of funds.

d) Recipients agree to require their sub-recipients to include on their SEFA. This information is needed to allow the recipient to properly monitor sub-recipient expenditure of as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

49. Special Conditions

Special Conditions to this award are listed in the form HUD-1044 Continuation Sheets.

50. Sub-recipient Monitoring and Management

Recipients will be responsible for the monitoring and management of all sub-recipient awards. Management and reporting requirements applied to direct recipients tier-down to employees, affiliates, sub-recipients, and subcontractors, and recipients will be responsible for ensuring compliance and submitting required reports to HUD. Recipients may incorporate all sub-recipient reporting into a consolidated report with the exception of the requirements established for compliance with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282) also known as FFATA or the Transparency Act.

51. Whistleblower Protection

Each grantee or sub-grantee awarded funds made available shall promptly refer to the HUD Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. Complaints can be made to the HUD Office of Inspector General through any of the following means:

Calling toll-free at 1-800-347-3735; persons who have hearing or speech disabilities may reach this number from the Federal Relay Service, at 1-800-877-8339.
Faxing at (202) 708-4829
E-mailing to hotline@hudoig.gov
Writing to HUD OIG Hotline (GFI), 451 7th Street, SW, Washington, DC 20410