

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE
OF
FAIR HOUSING AND EQUAL OPPORTUNITY**

VOLUNTARY COMPLIANCE AGREEMENT

BETWEEN

THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

AND

THE CHICAGO HOUSING AUTHORITY

Section 504 REVIEW NUMBER: 05-03-RO12-4

**CHICAGO HOUSING AUTHORITY
VOLUNTARY COMPLIANCE AGREEMENT**

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CHICAGO HOUSING AUTHORITY
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I. INTRODUCTION

The Chicago Housing Authority ("CHA") owns, operates, and/or controls a public housing program, consisting of housing and non-housing components that include, but are not limited to, common entrances, management offices, laundry rooms, common areas, corridors, hallways, elevators, and community programs. See, the CHA's List of Properties, attached as **Appendix A**. The CHA receives various Federal funds to operate, maintain, and make capital improvements to these projects. The U.S. Department of Housing and Urban Development ("HUD" or the "Department") has funded the CHA's projects, in part, through the provision of operating subsidies, capital funding (including the Capital Fund), program development funds, HOPE VI revitalization grants, and Section 8 administrative fees.

The CHA is subject to the following Federal civil rights laws and regulations: Section 504 of the Rehabilitation Act of 1973 (Section 504);¹ Section 109 of Title I of the Housing and Community Development Act of 1974 (Section 109);² Title II of the Americans with Disabilities Act of 1990 (ADA);³ the Fair Housing Act of 1968, as amended (Fair Housing Act);⁴ the Architectural Barriers Act of 1968,⁵ and the respective implementing regulations for each Act. See *also*, HUD's implementing regulations at 24 CFR § 960.103 and 982.53, as well as the relevant provisions of the CHA's following agreements with HUD: the Annual Contributions Contract ("ACC"), the Moving to Work Demonstration Agreement, and the Memorandum of Approval and Resident Protection Agreement.

In 1999, the CHA launched a ten-year plan—the "*Plan for Transformation*"—to transform its low-income public housing units in Chicago by using HOPE VI and other funding sources to develop or rehabilitate approximately 25,000 units.⁶ The

¹ 29 U.S.C. § 794; 24 CFR Part 8.

² 42 U.S.C. §§ 5301 *et seq.*; 24 CFR §§ 570.601 and 570.602.

³ 42 U.S.C. §§ 12101 *et seq.*; 28 CFR Part 35

⁴ 42 U.S.C. §§ 3601-20; 24 CFR Part 100.

⁵ 42 U.S.C. §§ 4151-4157.

⁶ Although the CHA's redevelopment plans also include an additional approximately 12,000 non-public housing units in the mixed income mixed finance developments, the parties do not intend for those units to be covered by this Agreement. Additionally, there

Plan for Transformation has presented the CHA with unique challenges in achieving Section 504 compliance, which the parties have considered in developing the timeframes contained within this Agreement. This Plan was the direct result of the implementation of the Moving to Work Demonstration Agreement, attached as **Appendix B**, previously executed by the parties.

At the end of FY2005 (December 31, 2005), the CHA has completed the redevelopment or rehabilitation of approximately fourteen thousand one hundred eighty nine (14,189) units. See FY2005 Annual Report, attached as **Appendix H**. These 14,189 units are spread among the various categories discussed below. Consequently, this Voluntary Compliance Agreement ("VCA" or the "Agreement") incorporates by reference the production targets and work schedules for renovation and new construction as set forth in the original *Plan for Transformation*, attached as **Appendix C**, as updated and revised most recently in the CHA's FY2006 Annual Plan, attached as **Appendix I**.

HUD approved the CHA's FY2000 Senior Designated Housing Plan with the condition that the CHA would increase the percentage of UFAS-accessible units for persons with mobility impairments to 5.3% of its low-income public housing inventory and sensory-accessible units to 2.1% of its low-income public housing inventory⁷. In addition, the CHA agreed to undertake the development of a Transition Plan as required by both the Moving to Work Demonstration Agreement and the FY2000 Senior Designated Housing Plan⁸.

From January through September 2004, the Department conducted a compliance review under the authorities of Section 504 of the Rehabilitation Act of 1973 ("Section 504") and Title II of the Americans with Disabilities Act ("ADA"). The Department reviewed the CHA's programs, services and activities, including the designated accessible housing units, associated common areas, on-site management offices, housing programs, and non-housing programs and activities. In addition, the Department conducted an accessibility review of the CHA's Occupancy Office at 4700 S. State Street. The Department's review included the examination of tenant waiting lists, tenant applications and policies and procedures, including those related to wait list management, occupancy and

are approximately 344 units in three "City-State" properties known as Harrison Courts, Lathrop Elderly, and Loomis Courts. Fee simple ownership of these three properties has been transferred to separate limited partnerships as part of a plan to finance the rehabilitation of these properties and provide for their long-term management. CHA agrees to include these three properties in the Preliminary Transition Plan and the Transition Plan, indicating the total number of projected units in these properties. This Agreement otherwise does not cover these properties and the Policies and Procedures section of this Agreement does not apply to these units. After the submission of the Final Transition Plan, no further reporting will be required. These units are subject to all applicable Federal statutes and regulations. Finally, there is one other City-State property, LeClaire Courts, which is still owned, operated and/or otherwise controlled by CHA. As long as that remains the case, it is covered by this Agreement.

⁷ As the CHA FY2000's Senior Designated Housing Plan ("SDHP") prohibited non-seniors, including the young disabled, from living in senior developments, this Agreement addresses senior housing separately from family housing in order to adequately provide for Section 504 and UFAS compliant senior dwellings and programs, as well as compliant dwellings and programs for non-elderly disabled. Toward that end, housing inventory for each shall contain 5.3% accessible dwellings for persons with mobility impairments and 2.1% for persons with sensory impairments.

⁸ HUD also approved the CHA's FY2005 SDHP on March 14, 2005. The SDHP will be in effect until the end of the current term of the CHA's MTW agreement (February 6, 2010).

reasonable accommodation. Finally, the Department conducted interviews with CHA residents, key staff, and employees of the CHA's private management companies.

The Department's review revealed certain deficiencies related to the physical accessibility of the common areas, on-site management offices, and individual housing units, as well as alleged deficiencies in the CHA's policies and procedures. On September 30, 2004, the Department issued its preliminary Letter of Finding of Non-Compliance ("LOF"), attached as **Appendix D**.

The CHA agrees to enter into this Voluntary Compliance Agreement in order to address the issues raised in the Department's September 30, 2004 preliminary LOF and to comply with its responsibilities under the Moving to Work Demonstration Agreement, Section 504, Section 109, Title II of the ADA, the Fair Housing Act, the Architectural Barriers Act, and their respective implementing regulations. By entering into this Agreement, the CHA makes no admission of liability with respect to the matters raised in the above-referenced preliminary LOF nor with respect to any of the statutes or regulations referenced above.

II. **DEFINITIONS**

The following definitions will be used in the interpretation and implementation of the terms of this Agreement.

Accessible - When used with respect to the design, construction, or alteration of housing and non-housing programs, "accessible" means that the program or portion of the program when designed, constructed, altered or adapted, can be approached, entered, and used by individuals who use wheelchairs. A program that is designed, constructed, altered or adapted to be in compliance with the Uniform Federal Accessibility Standards ("UFAS"), See, 24 CFR §§ 8.3 and 8.32 and, where applicable, the Americans with Disabilities Act Standards for Accessible Design ("ADA Standards"), 28 CFR Part 36, Appendix A, meets the minimum standards for compliance and is accessible.

Effective July 11, 1988, the design, construction, or alteration of buildings in conformance with §§ 3-8 of the Uniform Federal Accessibility Standards ("UFAS") shall be deemed to comply with the requirements of 24 CFR §§ 8.21, 8.22, 8.23 and 8.25. Departures from particular technical and scoping requirements of the UFAS by the use of other methods are permitted where substantially equivalent or greater accessibility and usability of the building is provided. The alteration of housing facilities must also be in conformance with additional scoping requirements contained in 24 CFR Part 8. See, 24 CFR § 8.32(a).

Accessible Route - A continuous, unobstructed UFAS-compliant path as prescribed in 24 CFR §§ 8.3 and 8.32, 28 CFR 35.151, and UFAS § 4.3. (See *also*, definition of "Dwelling Unit" and "Non-Housing Programs.")

Adaptable (504) - The ability of certain elements of an otherwise accessible dwelling unit, such as kitchen counters, sinks and grab bars, to be added to, raised, lowered, or otherwise altered, to accommodate the needs of persons with disabilities or to accommodate the needs of persons with different types or degrees of disability. See, 24 CFR § 8.31 and UFAS 4.34.3 and 4.34.4, incorporated by reference into the Section 504 regulation at 24 CFR § 8.32(a).

Alterations - Any change in a facility or its permanent fixtures or equipment, including remodeling, renovation, rehabilitation, reconstruction, changes or rearrangement in structural parts and extraordinary repairs. See, 24 CFR § 8.3.

Assistance Animal - An animal that is needed as a reasonable accommodation for persons with disabilities. An assistance animal is not considered a pet and thus, is not subject to all provisions of the CHA's Pet Policy. Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of an individual with a disability; or animals that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability.

Auxiliary Aids - Services that enable persons with sensory, manual or speaking disabilities to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved. See, 24 CFR § 8.3.

Dwelling Unit - A single unit of residence that provides a kitchen or food preparation area, in addition to rooms and spaces for living, bathing, and sleeping.

Effective Date -The effective date of this Agreement is **May 1, 2006**.

Individual With a Disability - For purposes of this Agreement, an individual with a disability is anyone who has a physical or mental impairment that substantially limits one or more major life activities such as caring for oneself, manual tasks, walking, seeing, hearing, speaking, breathing or learning; has a record of such impairment; or, is regarded as having such an impairment. See, 24 CFR § 8.3.

Maximum Extent Feasible - A unit, facility or a common area, or an element thereof, need not be made fully accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project; however, this does not relieve the recipient of the obligation to make other units, facilities, or common areas, or elements thereof, fully UFAS-

Accessible where doing so would not impose such burdens. See 24 CFR § 8.23(b).

Maximum Extent Feasible Unit- A unit that satisfies the definition contained in this Agreement and the regulatory definition of “maximum extent feasible” but does not satisfy the definition of “UFAS-Accessible Unit” set forth below.

Non-Housing Programs - All or any CHA-owned portions of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances (e.g. buses, shuttles and vans), roads, walks, passageways, parking lots, or other real or personal property including the site where the building, property, or structure is located. A Non-Housing Program includes, but is not limited to, common areas (including common areas throughout HOPE VI developments), entrances, elevators, the CHA's offices and the offices of the private management companies, community centers (including restrooms and kitchenettes), day care facilities (including restrooms), corridors, hallways, meeting rooms, recreation rooms, senior citizen centers (including restrooms and kitchenettes), social service offices, mail delivery, laundry rooms/facilities and trash disposal. Furthermore, Non- Housing Programs include any aid, benefit or service provided by the CHA, policies, administrative procedures, services, and non-tangible matters whose operation contribute to the application for housing, full enjoyment of housing, and full participation in the CHA's housing programs. To the extent that entrances, elevators, and common areas provide accessible routes and connect dwelling units and Non-Housing Programs, they fall within the provisions of this Agreement.

Project -The whole of one or more CHA-owned residential structures and appurtenant structures, equipment, roads, walks, and parking lots that are covered by a single contract for Federal assistance or application for assistance, or are treated as a whole for processing purposes, whether or not located on a common site. See, 24 CFR § 8.3.

Reasonable Accommodation - A reasonable accommodation is a change, modification, alteration, or adaptation in a policy, procedure, practice, program, facility or unit that provides a person with a disability the opportunity to participate in, or benefit from, a program (housing or non-housing), service or activity. When an applicant or resident with a disability requires a reasonable accommodation to accommodate a disability, the CHA must provide such reasonable accommodation(s) unless doing so would result in an undue financial and administrative burden. See, 24 CFR §§ 8.4(b)(i), 8.24 and 8.33.

Structural Impracticability – Changes having little likelihood of being accomplished without removing or altering a load-bearing structural member or that would constitute an undue financial burden.

UFAS-Accessible Unit – A Dwelling Unit that is designed, constructed, altered or adapted to comply with UFAS, is located on an Accessible Route and is Accessible, as defined in this Agreement. The unit can be approached, entered and used by individuals with disabilities, including individuals who use wheelchairs, on a route that complies with the definition of “Accessible Route.” In addition to the UFAS requirement at § 4.34 (15)(c), two (2) sleeping areas must be on an accessible route and when more than one bathroom is provided in a Dwelling Unit, additional bathrooms must be accessible, unless structural alterations are impracticable or would create an undue financial and administrative burden. [See, Notice PIH 2006-13 (HA), issued March 8, 2006, attached as Appendix E.] The accompanying Non-Housing Programs, as defined in this Agreement, must also be accessible, as defined in this Agreement, and comply with Section III of this Agreement.

III. GENERAL PROVISIONS

- A. This Agreement applies to all federally funded public housing projects, related facilities, and programs or activities that the CHA, its agents, contractors, successors and/or assigns own, control, or operate. This Agreement also applies to the CHA's public housing units in HOPE VI revitalization projects, mixed finance projects and the CHA' s scattered site units.
- B. This Agreement shall be binding on all of the officers, commissioners, agents, contractors, employees, successors, and assigns of the CHA and the Department. Further, this Agreement shall remain in effect until the CHA has satisfactorily completed the provisions set forth in this Agreement, or for a maximum of seven (7) years after the Effective Date of this Agreement, whichever is first. This Agreement may be extended only by properly executed written agreement of the parties.
- C. The CHA's Annual and Five Year Plans shall be consistent with the requirements of this Agreement. The CHA has and will continue to provide funds to retrofit deficiencies cited by HUD as major and minor infractions until compliance is achieved.
- D. Under the terms of this Agreement, the CHA shall develop a Transition Plan, as set forth in Section IV(B), below, and in accordance with 24 CFR § 8.25 (c). The CHA's Transition Plan will ensure that CHA constructs or converts a minimum of 5.3% of the units produced under the *Plan for Transformation* into UFAS-Accessible Units for persons with mobility impairments and that the CHA constructs or converts a minimum 2.1% of the units produced under the *Plan for Transformation* into accessible units for persons with sensory impairments. For purposes of this Agreement and the above Transition Plan, only UFAS-Accessible Units, as defined in

Part II above, shall count toward satisfying CHA's requirement that 5.3% of the units in its various housing programs are fully accessible. Units modified to the Maximum Extent Feasible (as defined in Part II, above) must comply with 24 CFR 8.23(b); however, they may not be counted toward meeting CHA's 5.3% requirement.

- E. Both the CHA's Senior Housing and Family Housing inventories must each develop, maintain, and certify, on a project by project basis and system-wide, that 5.3% of their units comply with the Uniform Federal Accessibility Standards ("UFAS") for persons with mobility impairments and 2.1% of their units comply with the UFAS for persons with sensory impairments. The units constructed or rehabilitated in order to address any shortage will be made up in the Senior Housing inventory where the shortage exists in the Senior Housing inventory and be made up in the Family Housing inventory where the shortage exists in the Family Housing Inventory. UFAS-Accessible, as defined in this Agreement, Unit shortages in the Senior Housing inventory may not be made up in the Family Housing Inventory and *visa versa*.
- F. Nothing in this Agreement diminishes or increases the CHA's obligation to comply with 24 CFR § 8.4(b)(1)(i) and (ii), concerning the provision of housing programs to individuals with disabilities, nor other relevant State, local or city accessibility requirements for new construction and/or rehabilitation.
- G. This Agreement does not increase or diminish the ability of any person or class of persons to exercise their rights under Section 504, Section 109, the ADA, the Fair Housing Act, or any other statutory or regulatory provision. Individuals or classes of persons who may have rights under these aforementioned statutes are not party to or third party beneficiaries of this Agreement. Nothing in this Agreement shall be construed as creating any right in a third party to enforce any provision of this Agreement or assert any claim against the CHA or HUD.
- H. On the day the Agreement becomes effective, it shall become a public document. A copy of this Agreement shall be made available to any person for his/her review, in accordance with the law and HUD's and the CHA's obligations under the Freedom of Information Act, Privacy Act, and any other relevant legal constraints.
- I. This Agreement does not affect the ability of the Department or the CHA to take action under appropriate statutory or regulatory authorities unrelated to issues covered by this Agreement.

- J. To the extent that any prior HUD guidance (written or oral) in the form of waivers, administrative decisions, letters, opinions, or similar guidance regarding the CHA's obligations, responsibilities, or technical requirements under Section 504, the ADA, the Architectural Barriers Act, UFAS, the Fair Housing Act, and/or Section 109 conflicts with this Agreement, this Agreement is the controlling document from the Effective Date of this Agreement.
- K. The CHA shall hire or appoint appropriate personnel to oversee compliance with the provisions of this Agreement.
- L. Upon request, the CHA will provide, in alternate format(s), copies of all notices and/or communications that the CHA is required to disseminate under the terms of this Agreement. See, 24 CFR § 8.6.

IV. SPECIFIC PROVISIONS

A. ADA/SECTION 504 COMPLIANCE OFFICE and VCA ADMINISTRATOR -- ORGANIZATION and RESPONSIBILITIES

1. The CHA's ADA/Section 504 Compliance Office ("Compliance Office") is part of the Office of the General Counsel. The General Counsel oversees the staff and operations of the Compliance Office. The Compliance Office is headed by the Manager of the ADA/Section 504 Compliance Office. In addition, the Compliance Office is staffed by an ADA/Section 504 Project Coordinator, who assists the Manager with all his/her duties. The CHA agrees that it will add two additional staff positions, for a total of four full-time positions, to the Compliance Office and will endeavor to have both positions filled by October 1, 2006. The CHA will solicit applications from individuals with appropriate levels of experience with Section 504, the ADA and disability services and will hire the best qualified applicants for these positions. The CHA agrees that at least one of these positions will be filled by someone who is not a current CHA employee. The CHA further agrees to maintain its staffing of the Compliance Office as follows: (a) the Manager of the ADA/Section 504 Compliance Office and the ADA/Section 504 Project Coordinator are permanent positions; (b) the CHA will keep the additional fourth position staffed at least until October 1, 2008. At that time, the parties agree to revisit the necessity of maintaining the fourth position and to do so on a periodic basis thereafter, if necessary; (c) the CHA will keep the additional third position staffed at least until October 1, 2010. At that time, the parties agree to revisit the necessity of maintaining the third position and to do so on a periodic basis thereafter, if necessary; and (d) in no event will both the third and the fourth positions be eliminated in the same year.

2. The Office is responsible for:
 - (a) coordinating the CHA's compliance with Section 504, the Fair Housing Act, and HUD's implementing regulations;
 - (b) coordinating the CHA's compliance with Title II of the ADA;
 - (c) coordinating physical and program access for individuals with disabilities; and
 - (d) supporting the CHA's VCA Administrator to implement the provisions of this Agreement.

3. The CHA will appoint an individual to serve as its Voluntary Compliance Agreement Administrator ("VCA Administrator"). The CHA initially has appointed the Manager of the Compliance Office as the VCA Administrator. The VCA Administrator is responsible for the following:
 - (a) implementing the provisions of this Agreement;
 - (b) submitting all reports, plans and records as required by this Agreement; and
 - (c) coordinating the activities of the CHA personnel who assist the VCA Administrator in implementing this Agreement.

4. In the event that the position of Manager of the Compliance Office or the VCA Administrator becomes vacant, the CHA agrees to:
 - (a) designate promptly an Acting Manager of the Compliance Office and/or an Acting VCA Administrator;
 - (b) endeavor to find candidates for the position of Manager of the Compliance Office and/or VCA Administrator with prior experience demonstrating knowledge of and expertise concerning Section 504, Title II of the ADA, the Fair Housing Act, the Architectural Barriers Act, the regulations implementing those statutes and applicable accessibility standards and hire the best qualified candidate; and
 - (c) inform HUD promptly of the name of the individual selected to serve as the new Manager of ADA/Section 504 Compliance Office and/or new VCA Administrator and facilitate an introductory meeting with the new Manager of ADA/Section 504 Compliance or VCA Administrator and the appropriate HUD staff, if so requested.

B. HOUSING AND NON-HOUSING PROGRAMS

1. Transition Plan Generally

The CHA shall complete and submit to HUD for review and approval a Transition Plan which will describe how the CHA will bring all of its Housing and Non-Housing programs into full compliance with Section 504 and UFAS, as defined in this Agreement, within seven (7) years of the effective date of this Agreement or by the completion of the *Plan for Transformation*, whichever occurs first. The creation and submission of the Transition Plan will proceed as follows:

- (a) Within six (6) months of the effective date of this Agreement, the CHA will submit a Preliminary Transition Plan consistent with the requirements of Section IV(B)(2), below.
- (b) Within one year of the effective date of this Agreement, the CHA shall complete and submit to HUD for review and approval a final Transition Plan (the "Transition Plan"). The Transition Plan will be detailed consistent with the requirements of Section IV (B)(3), below. HUD will provide its approval or comments on the CHA's Transition Plan within thirty (30) days of receipt. Upon approval by HUD, the Transition Plan will be incorporated into, and will be an enforceable part of, this Agreement.⁹
- (c) Both the Preliminary and the final Transition Plans will contain two separate components. One component will address all the developments included in the CHA's Senior Public Housing Inventory ("Senior Housing"). The other component will address all the developments included in the CHA's Family Public Housing Inventory. For the purpose of the Transition Plan, the CHA's Family Housing Inventory ("Family Housing") includes all non-senior, low-income public housing or other related housing program. Both the CHA's Senior Housing and Family Housing inventories are subject to Section III (D) and (E) of the General Provisions of this Agreement.
- (d) Additionally, within one year of the effective date of this Agreement, the CHA will meet the benchmark of producing 35% of its UFAS-Accessible units in that part of CHA's housing inventory for which it has completed rehabilitation or redevelopment, so that it will have achieved 5.3% UFAS-Accessible Units for persons with mobility impairments and 2.1% UFAS-Accessible Units for persons with

⁹ The Transition Plan can be modified as required during the course of the *Plan for Transformation* in order to achieve full 504 compliance in the most efficient and cost-effective manner. Any modifications to the Transition Plan require review and approval by HUD.

sensory impairments. See Section IV (B) (3) below regarding the completion of the remainder of the accessible units¹⁰.

2. Preliminary Transition Plan

On or before **November 1, 2006**, the CHA will provide HUD with a Preliminary Transition Plan which will include the following:

(a) Assessment

CHA's *FY2006 Plan for Transformation* currently projects that its Senior Housing inventory will contain 9,438 low-income public housing units and that its Family Housing inventory will contain 15,562 low-income public housing units. See, **Appendix I**. Separately, for each of the Senior and Family Housing inventories, the CHA shall submit a report to HUD that will:

- (i) set forth the total number of units in each Senior and Family housing development, detailing each development name and location, including unit address(es), and bedroom size distribution.
- (ii) set forth the number of UFAS-Accessible Units, as defined in this Agreement, currently "on-line" in each development, detailing development name and location, including unit address(es) and bedroom size distribution.
- (iii) include a date certain by which a certification of the accessibility of Non-Housing Programs, as defined in this Agreement and in accordance with footnote 10 of this Agreement, at each development, will be tendered to the Department;
- (iv) set forth the total number of units in each development that were modified as "substantial alterations," as defined by 24 CFR § 8.23 (a);
- (v) set forth the total number of units in each development that were listed in HUD's preliminary LOF as units with major and minor infractions; and
- (vi) set forth the total number of units in each development that were modified to the "maximum extent feasible," as defined by § 8.23(b), but do not meet all the requirements of the UFAS

¹⁰ In compliance with Section IV(B)(1), certification for at least 35% of the required UFAS-Accessible Units will be tendered to HUD within three months after the submission of the Transition Plan. The CHA will have twelve months after the submission of the Transition Plan to provide HUD with architect certification that the associated Non-Housing Programs for the UFAS-Accessible Units produced in compliance with this Section are complete and UFAS accessible. Failure to bring the Non-Housing programs for these units into full UFAS compliance at that time will trigger the shortfall cap and associated remedies of Section IV(B)(4)(b), below.

and therefore will not be counted as UFAS-Accessible Units, as defined in this Agreement.

(b) Calculation of Need

After conducting the assessment required by this Agreement in Section IV(B)(2)(a), above, the CHA will calculate the number of UFAS-Accessible Units required in each Senior and Family Housing development in a manner that:

- (i) ensures that 5.3% of the units in the CHA's Senior and Family Housing inventory comply with the UFAS for persons with mobility impairments and 2.1% comply with the UFAS for persons with sensory impairments; and
- (ii) distinguishes the calculation of need for the Senior Housing inventory from the calculation of need for the Family Housing inventory.

3. Final Transition Plan

The CHA will submit a final Transition Plan to HUD by **May 1, 2007**. The Transition Plan will incorporate and update the information in the Preliminary Transition Plan and will additionally address the following:

(a) Production Schedule

After calculating the need for UFAS-Accessible Units as required in Section IV(B)(2)(b) of this Agreement, above, the Transition Plan shall set forth the CHA's production schedule in a manner that:

- (i) complies with Section III (E) of this Agreement;
- (ii) sets forth the number of UFAS-Accessible Units that are to be provided in each Senior and Family Housing development per year, according to the CHA's *Plan for Transformation* as revised annually;
- (iii) ensures that the units produced to meet the UFAS-Accessible standards are, to the maximum extent feasible and subject to reasonable health and safety requirements, evenly geographically distributed, and equally distributed by unit type and size;
- (iv) certifies that, where the CHA asserts that it is structurally impracticable to construct or modify existing units at any given Senior or Family Housing development to UFAS-Accessible standards, such assertion has been certified by the third-party architect identified in Section IV(B)(4), below; and
- (v) ensures that, where the third-party architect identified in Section IV(B)(4) below certifies that is not possible to bring

any given Senior or Family Housing development into compliance with UFAS-Accessible standards, the CHA will make up the shortage of the required 5.3% UFAS-Accessible Units for persons with mobility impairments and the 2.1% UFAS-Accessible Units for persons with sensory impairments in an alternate development in the remaining CHA low-income Senior or Family Housing inventory and will identify the developments where CHA expects to make up the shortage. The units constructed or rehabilitated in order to address any shortage will, to the extent practicable, honor the commitment to meet the percentages in senior housing and in family housing; be evenly geographically distributed by project to the maximum extent feasible and subject to reasonable health and safety requirements; and be equally distributed by unit type and size, to the maximum extent feasible, in compliance with this Agreement.

(b) Additional Requirements for Senior and Family Transition Plan

- (i) Failure of the CHA to submit for HUD's approval the Transition Plan within the timeframes specified in Section IV(B)(1) of this Agreement, above, will constitute a breach of this Agreement and the Department will have the right to take any of the actions listed in Section VII or VIII of this Agreement, after providing written notice to the CHA of this breach and allowing the CHA 30 days from the date of breach to submit the Transition Plan or otherwise reply to such notice.
- (ii) The Transition Plan shall contain the following specific production goals: (i) that within four (4) years of the effective date of this Agreement, (a) one hundred percent (100%) of its Senior Housing inventory for which it has completed rehabilitation or redevelopment¹¹ will have achieved 5.3% UFAS-Accessible Units for persons with mobility impairments and 2.1% of UFAS-Accessible Units for persons with sensory impairments; and (b) eighty percent (80%) of its Family Housing inventory for which it has completed rehabilitation or redevelopment will have achieved 5.3% UFAS-Accessible Units for persons with mobility impairments and 2.1% UFAS-Accessible Units for persons with sensory impairments; and (ii) that within seven (7) years of the effective date of this Agreement or by the end of Transformation, whichever occurs first, one hundred percent (100%) of the CHA's entire housing inventory¹² will have achieved 5.3% UFAS-Accessible Units

¹¹ "Redeveloped" means newly constructed housing; "Rehabilitated" means existing housing that has been rehabilitated.

¹² Entire housing inventory here means all redeveloped housing, all rehabilitated housing, and any other units in CHA's portfolio that are occupied or ready for occupancy at the end of this Agreement. However, housing that has not been either redeveloped or

for persons with mobility impairments and 2.1% UFAS-Accessible Units for persons with sensory impairments. These production goals constitute a “shortfall cap.” Failure to produce units at the percentages specified herein triggers the shortfall cap, and is a breach of this Agreement, enabling HUD to require the CHA to increase production of UFAS-Accessible Units until the required percentages are met or, in the alternative, exercise the remedies contained in Section VII or VIII of this Agreement.

- (iii) The Transition Plan shall address all the specific findings (including those findings later determined to be incorrect) of non-compliance as set forth in HUD's September 30, 2004 preliminary Letter of Findings, attached as **Appendix D**. In addition, the Transition Plan will address the specific findings of non-compliance as set forth in the Accessibility Reports for Specific Senior Buildings, attached as **Appendix F** and the Accessibility Reports for Specific Family Buildings, attached as **Appendix G**.
- (iv) Non-Housing Program Linkage: A UFAS-Accessible Unit, as defined in this Agreement, produced and completed under this Agreement will not be deemed completed until the Non-Housing Programs, as defined in this Agreement, serving that unit are UFAS-Accessible to individuals with disabilities. CHA will coordinate its work to ensure achievement of both Non-Housing Program accessibility and the production of UFAS-Accessible Units.
- (v) HUD acknowledges that there will be developments where CHA cannot produce a minimum 5.3% UFAS-Accessible Units for persons with mobility impairments and 2.1% of UFAS-Accessible Units for persons with sensory impairments due to structural impracticability and/or undue financial and administrative burden; those units that cannot be made accessible to meet the minimum 5.3% and 2.1%, respectively, shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities as required by 24 CFR § 8.23 (b). Priority for those units will be given to residents with physical disabilities requesting accessible or adaptable units who, in fact, require the accessible design features of those units. CHA and HUD acknowledge the goal of giving priority for maximum extent feasible units to residents and applicants who need the design

rehabilitated and is still occupied at the time but is scheduled for closure (pursuant to the then-current Annual Plan) within one year shall not be counted as part of the entire housing inventory for purposes of this production goal; in that event, an automatic one year extension of this Agreement will be triggered and the CHA will have one year to vacate or demolish the housing scheduled for closure or add the units to the entire housing inventory count.

features of a particular maximum extent feasible unit. CHA will submit to HUD ninety (90) days after the submission of the Transition Plan a report on CHA's plan to appropriately tenant these units with qualified tenants with disabilities and shall include the following reporting requirements: (i) steps taken to ensure priority tenanting of maximum extent feasible units with qualified tenants with disabilities, (ii) barriers to ensuring priority tenanting of maximum extent feasible units with qualified tenants with disabilities, and (iii) CHA's proposal to overcome barriers to ensuring priority tenanting of maximum extent feasible units with qualified tenants with disabilities. Within thirty (30) days of receipt of CHA's plan for the maximum extent feasible units, HUD will review the plan and accept, reject or modify the plan, in consultation with CHA. Those parts of CHA's plan that HUD accepts will be implemented within thirty (30) days of HUD's acceptance. For those parts of CHA's plan that HUD rejects, the CHA will have ninety (90) days to submit a modified plan to HUD, addressing HUD's objections. Within thirty (30) days of receipt of CHA's modified plan for the maximum extent feasible units, HUD will review the plan and accept, reject or modify the plan, in consultation with CHA. This cycle of maximum extent feasible unit plan submission and review shall continue until HUD accepts a final plan from the CHA, however, in no case shall the plan be implemented later than the termination of this Agreement.

- (vi) In addition to updating any information pertaining to Section IV(B)(2)(b) above, the CHA will determine its calculation of need for each Senior or Family Housing development by computing the difference between the number of units certified by an outside architect as meeting UFAS-Accessible standards and the number of UFAS-Accessible Units required for each development to achieve 5.3% UFAS-Accessible Units for persons with mobility impairments and 2.1% UFAS-Accessible Units for persons with sensory impairments.
- (vii) The Transition Plan shall describe the CHA's plans to complete production of units to eliminate any shortage of the UFAS-Accessible Units in the manner described in that Section IV(B)(3) of this Agreement, above.
- (viii) In addition to the UFAS requirement at § 4.34(15)(c), two (2) sleeping areas must be on an accessible route; and when more than one bathroom is provided in a Dwelling Unit, additional bathrooms must be accessible, unless structural alterations are impracticable or would create an undue financial and administrative burden. The CHA acknowledges

HUD Notice PIH 2006-13 (HA), issued March 8, 2006, attached as **Appendix E**.

- (ix) HUD reserves the right to conduct periodic on-site inspections of the Senior and Family Housing inventory to ensure that the modifications are in compliance with the UFAS and, where applicable, the ADA Accessibility Standards.

4. Third-Party Certification of Units

- (a) The CHA shall submit by October 1, 2006, for HUD's review and approval, the name, qualifications and experience of an independent third party architectural and/or engineering firm with whom CHA proposes to contract for the review and certification of UFAS-Accessible Units made pursuant to this Agreement. HUD will provide its approval or comments within thirty (30) days of CHA's submission of the proposed architectural/engineering firm. The third-party architectural firm will be in place on or before the first reporting period of November 1, 2006.
- (b) The CHA will provide to HUD a written certification through the third-party architectural firm that UFAS-Accessible Units comply with the requirements of UFAS as part of its semi-annual reports.

If the CHA's independent third-party architectural/engineering firm certifies that the units do comply with the requirements listed in this agreement, these units will be counted towards the 5.3% and the 2.1% established in this Agreement. HUD will not require the CHA to further modify these units unless doing so is a result of a reasonable modification request. These units will not be altered to go below the minimum requirements specified in this Agreement.

- (c) The CHA will provide a detailed explanation prepared by the certified architect identified in this Agreement, regarding the structural impracticability, as defined in this Agreement, which precludes achieving, either by new construction or retrofit, a minimum of 5.3% of the units for persons with mobility impairments and 2.1% for persons with sensory impairments in any rehabilitated project.
- (d) If the CHA 's independent third-party architectural/engineering firm determines that a proffered unit does not comply with the requirements of UFAS, PIH Notice 2006-13(HA), or, where applicable, the ADA Accessibility Standards or the Fair Housing Act, the CHA will correct the deficiency, if feasible, in a reasonable amount of time to ensure that the unit complies with UFAS, PIH-Notice 2006-13(HA) and, where applicable, the ADA Accessibility

Standards and the Fair Housing Act.

5. Semi-Annual Production Reports for UFAS-Accessible Units

- (a) The CHA will provide Semi-Annual Production Reports to HUD. The Semi- Annual Reports, due thirty (30) days before the Semi-Annual meetings, or **September 1** and **March 1** of each year of this Agreement, will provide information regarding the CHA's performance under the Transition Plan.
- (b) While Semi-Annual Reports on UFAS-Accessible Units begin after the submission of the final Transition Plan, the first report on other requirements in this Agreement will be due on **October 1, 2006**, including the Compliance Office, in compliance with Section IV(A)(1) of this Agreement; the third-party architect in compliance with Section IV(B)(4) of this Agreement; and the Occupancy Office in compliance with Section IV(B)(6) of this Agreement and any other submissions required by operation of any other Section of this Agreement.
- (c) The Semi-Annual Reports will include unit counts for the given reporting period and cumulatively from the effective date of this Agreement.
- (d) The Semi-Annual Production Reports will be submitted to HUD in a format that includes the following:
 - (i) the physical work that has been undertaken by development name, bedroom size and complete unit address;
 - (ii) the physical work that has been completed by development name and complete unit address;
 - (iii) designation as a Family or Senior development;
 - (iv) accessibility of Non-Housing Programs, as defined in Section II of this Agreement, at each development;
 - (v) status of verification of completed work produced to date by the independent third-party architectural/engineering firm;
 - (vi) cumulative production of UFAS-Accessible Units allocated between Family and Senior developments; and
 - (vii) cumulative production of UFAS-Accessible Units allocated by bedroom size distribution among Family and Senior developments.

- (e) The CHA will also provide a narrative to describe any delays in meeting the timeframes and benchmark identified in the Transition Plan.
- (f) The CHA shall submit Semi-Annual Production Reports to HUD in a format compatible with Microsoft Word XP Professional. The first reports unrelated to Production will be due on **October 1, 2006 and March 1, 2007**. The first Semi-Annual Production Reports will be due on **September 1, 2007**; thereafter, Semi-Annual Production Reports will be due on **March 1, 2008**, etc. Subsequent reports are due at semi-annual intervals for the duration of this Agreement.
- (g) HUD and the CHA shall hold semi-annual meetings to review these Semi- Annual Production Reports and other VCA implementation matters. The first meeting will be held on or about **October 1, 2007**; subsequent meetings will be scheduled for on or about **April 1 and October 1** for the duration of this Agreement.

6. Occupancy Office Accessibility Plan

- (a) CHA represents and HUD acknowledges that modifications have been made to the CHA Occupancy Office, currently located at 4700 South State Street, Chicago, Illinois ("Occupancy Office"), to make its public areas accessible to individuals with disabilities, but that accessibility modifications to the bathrooms at the Occupancy Office have not yet been completed.
- (b) By **July 1, 2006**, the CHA will complete its modifications to the bathrooms at the Occupancy Office adjacent to the reception area.
- (c) Until completion of all modifications to the CHA's Occupancy Office, CHA shall make reasonable accommodations to individuals with disabilities to ensure that individuals with disabilities have an equal opportunity to participate in the programs, services and activities currently located in the Occupancy Office.

7. Policies and Procedures

(a) Computerized Waiting List/Tracking System

During the CHA's *Plan for Transformation*, leasing from the general wait lists, except in special circumstances, has been suspended in an effort to fulfill the relocation rights of all residents as of October 1, 1999 who remain lease compliant.

In preparation for the Plan's end and the reutilization of the general waiting lists, the CHA is implementing a computerized waiting list/tracking system. Within one hundred and eighty (180) days from the effective date of this Agreement, the CHA will be able to:

- (i) perform tests of this system's capabilities to track applicants with disabilities on the CHA waiting list; and
- (ii) perform tests of this system's capabilities to track CHA residents with disabilities who require UFAS-Accessible Units or units with accessible features.

The CHA will make necessary adjustments to modify the system to ensure compliance with the terms of this Agreement.

(b) Interim Tracking System

Until the computerized Waiting List/Tracking System is operational, the CHA will maintain a manual system, under the control of the ADA/504 Compliance Office, which will be capable of identifying available accessible units and bedroom sizes in all developments.

(c) Transfers of Persons with Disabilities to UFAS-Accessible Units

After necessary modifications are performed on the computerized waiting list/tracking system, as outlined in Section IV(B)(7) (a), the CHA will work towards its goal of maintaining data collected from the CHA's Occupancy Department and each property manager, to create a Transfer List that prioritizes the transfer of residents with disabilities over new admissions, according to the priorities set forth in the amended ACOP. The CHA's ADA/Section 504 Compliance Manager will review and monitor the Transfer List on a monthly basis. The Transfer List will document the following:

- (i) date and time of each transfer request;
- (ii) name and address of resident(s) transferred;
- (iii) reason(s) for transfer, including information regarding the resident's reasonable accommodation request(s) and/or request for an accessible unit or a unit with accessible features;
- (iv) current disposition of transfer request;

- (v) date of transfer; and
- (vi) name(s) of resident transferred out of a unit to accommodate a resident's disability per CHA's implementation of a lease addendum that requires a family without a resident with a disability to relocate to a vacant, non-accessible unit, at CHA's expense.

The CHA shall submit these reports on the same semi-annual schedule after all necessary modifications have been performed on the computerized waiting list/tracking system. CHA will provide an update on these efforts as part of the Transition Plan, referenced in Section IV (B)(1) above.

(d) Semi-Annual Reports – Occupancy of UFAS-Accessible Units

After necessary modifications are performed on the computerized waiting list/tracking system, as outlined in Section IV (B)(7), the CHA shall provide HUD with semi-annual reports that reflect the occupancy of UFAS-Accessible Units, including turnover.

The Semi-Annual Reports will reflect:

- (i) the transfers of residents without disabilities out of UFAS-Accessible Units;
- (ii) the transfers of residents with disabilities into UFAS-Accessible Units;
- (iii) the occupancy of qualified applicants in accessible units;
- (iv) the number of persons on the CHA waiting list who self-report as requiring, or through reasonable determination by the CHA require, UFAS-Accessible Units; and
- (v) the total number of UFAS-Accessible Units specifying the number that are vacant and the number occupied by residents who do not require the accessible features of the unit.

The CHA shall submit these reports on the same semi-annual schedule after all necessary modifications have been performed on the computerized waiting list/tracking system. CHA will provide an update on these efforts as part of the Transition Plan, referenced in Section IV (B) (1), above.

(e) Reasonable Accommodation

A CHA resident with a disability may request a reasonable accommodation up until the resident is forcibly removed or voluntarily vacates the unit. The CHA will process the request in accordance with the existing policies and procedures listed in CHA's ACOP.¹³

C. EMPLOYEE EDUCATION

1. **General:** The CHA will train employees involved in admissions, occupancy, operations, planning and development, with respect to the CHA's duties, responsibilities and procedures under this Agreement, Section 504, the ADA, the Fair Housing Act, the Architectural Barriers Act, and their respective implementing regulations and the accessibility standards applicable to each regulation.

(a) Within one hundred and eighty (180) days of the Effective Date of this Agreement, the CHA shall develop an educational program. The CHA will provide HUD with information about the proposed educational program. HUD will review and comment on the educational program within thirty (30) days of receipt from the CHA.

(b) The educational program will include:

- (i) a comprehensive description of the required training;
- (ii) a curriculum for the training; and
- (iii) a proposed schedule for the training sessions and information about the trainers.

(c) The CHA will develop the written curriculum and training materials and conduct training sessions with the assistance of, or in consultation with, persons with expertise in training and addressing the needs of individuals with disabilities.

2. Current Personnel

(a) The educational program will be provided to CHA employees involved in admissions, occupancy, operations, planning, and development, whose responsibilities impact residents with disabilities, as well as provided to private property managers and hearing officers at the Department of Administrative Hearings.

¹³ The CHA retains the right to challenge the valid residency status of an individual occupying a CHA unit.-

(b) Within one year of HUD's receipt of the educational program, the CHA shall complete training for appropriate current personnel.

(c) The CHA will invite the CHA's Board of Commissioners and the resident representatives to participate in the training.

3. New Personnel

(a) The CHA will provide the educational program referenced above to all new CHA employees involved in admissions, occupancy, operations, planning, and development, whose responsibilities impact residents with disabilities.

(b) The New Employee Training will be provided to new employees at least annually.

4. Reporting: The CHA will include annual updates in one of the semi-annual reports to HUD that include a summary of the CHA's progress toward developing the training programs and the dates the training sessions were conducted. For each date, the CHA shall indicate the number of persons trained and the general subject matter of the training. The CHA's first Annual Report about employee education will be due to HUD on **November 1, 2007**; thereafter, such Annual Reports will be due on **September 1** of each year for the duration of the Agreement.

D. PUBLICATION AND NOTICE

1. Within ninety (90) days of the Effective Date of this Agreement, the VCA Administrator shall distribute a fact sheet describing the ADA/Section 504 provisions effecting public housing to all current CHA employees and contract employees, including each of the private management companies contracted to manage CHA properties; CHA Department Directors; Assistant Department Directors; Site Managers; Assistant Site Managers; Maintenance Supervisors; as well as all Executive Staff; and each duly elected Local Advisory Council ("LAC") or resident organization leader.

2. Prior to distribution of the notice in section (a), above, CHA will tender said notice to HUD for review and comment. HUD will complete its review and provide its comments within fifteen (15) days of receipt from CHA.

3. Each new CHA employee, including contract employees, shall be provided a copy of the fact sheet by the CHA.

V. REPORTING REQUIREMENTS

- A. The Effective Date of this Agreement is **May 1, 2006**. All dates that are calculated based on the Effective Date of the Agreement shall be calculated from **May 1, 2006**.
- B. The CHA shall submit its Transition Plan to the Department within the timelines specified in Section IV(B)(1) of this Agreement.
- C. All semi-annual reports are due on **September 1** and **March 1** of each calendar year. If the reporting day falls on a weekend or a Federal holiday, the report will be due the first business day after the weekend or holiday. The reporting materials should be directed to: Maurice McGough, Chicago FHEO Center Director, Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 77 West Jackson Boulevard, Chicago, Illinois 60604-3507.

VI. RECORDKEEPING REQUIREMENTS

During the term of this Agreement, the CHA shall maintain resident files, including required documents such as applications for residency. If the resident self-identifies a disability, the CHA will maintain the medical certification of the disability. Additionally, the CHA will maintain any written requests for reasonable accommodations, disability-related grievances, and documents associated with said grievances. Upon request, the CHA also will make these disposition records available for inspection to appropriate Department employees.

VII. IMPLEMENTATION, MONITORING, AND ENFORCEMENT

- A. HUD will monitor the CHA's implementation of this Agreement. For the duration of the CHA's *Plan for Transformation*, HUD and the CHA will meet semi-annually to discuss the CHA's progress towards meeting the requirements of this Agreement. The first such meeting will occur on or about **December 1, 2006** and on or about each **April 1** and **October 1** thereafter until the completion of the *Plan for Transformation*.
- B. In the event that the CHA fails to comply in a timely fashion with any requirement of this Agreement without obtaining advance written agreement from HUD, the Department may enforce the terms of this Agreement by any contractual, statutory or regulatory remedy available to HUD.
- C. Failure by HUD to enforce this entire Agreement or any provision in the Agreement with regard to any deadline or any other provision herein shall

not be construed as a waiver of its right to do so with regard to other deadlines and provisions of this Agreement. Furthermore, HUD's failure to enforce this entire Agreement or any provision thereof shall not be construed as a waiver of any obligation of the CHA under this Agreement.

VIII. EFFECT OF NON-COMPLIANCE WITH THIS AGREEMENT

- A. The parties intend to resolve their disputes with respect to non-compliance with this Agreement in a timely and efficient manner. Upon a finding of non-compliance, HUD will provide the CHA with a written statement specifying the facts of the alleged non-compliance and a reasonable opportunity to resolve or cure the alleged non-compliance, or, alternatively, an opportunity to negotiate in good faith HUD's findings of non-compliance. However, if the Department determines that the CHA has not satisfactorily resolved the findings of non-compliance, the Department may take any of the following actions for non-compliance, unless specifically noted otherwise in this Agreement:
1. Any act(s) or omission(s) that violate(s) the terms of this Agreement may serve as grounds for the United States to seek specific performance of any or all of the provisions of this Agreement in federal court.
 2. Any act(s) or omission(s) that violate(s) the terms of this Agreement may serve as grounds for the Department to conduct a compliance review under Section 504, the ADA, or other appropriate statutory or regulatory authority.
 3. Any act(s) or omission(s) that violate(s) the terms of this Agreement may serve as grounds for the United States to pursue an action in federal court for failure to comply with civil rights authorities.
 4. Any act(s) or omission(s) that violate(s) the terms of this Agreement may serve as grounds for the Department to deny the CHA high performer status. See 24 CFR § 901.115(e).
 5. Any act(s) or omission(s) that violate(s) the terms of this Agreement may serve as grounds for HUD's withholding some or all of the CHA's Capital Funds. See 24 CFR § 968.335.
 6. Any act(s) or omission(s) that violate(s) the terms of this Agreement may serve as grounds for HUD's declaring a breach of the Annual Contributions Contract ("ACC") with respect to some or all of the CHA's functions.

- B. The acts set forth in this Section VIII are not mutually exclusive and the Department has the right to pursue any or all of these remedies or any other remedies available under law.

IX. SIGNATURES AND ATTESTATIONS

These signatures attest to the approval and acceptance of this Voluntary Compliance Agreement:

For the Chicago Housing Authority:

Terry Peterson
Chief Executive Officer

Date

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

Barbara Knox, Director, Region V
Office of Fair Housing and Equal Opportunity

Date