



**LAKE WORTH**  
**COMMUNITY REDEVELOPMENT AGENCY**  
 29 SOUTH J STREET, SUITE 1  
 LAKE WORTH, FLORIDA 33460-3787  
[www.lakeworthcra.org](http://www.lakeworthcra.org)

Phone: (561) 493-2550

Fax: (561) 493-2549

**MEMORANDUM**

**TO:** Chair, Vice Chair and Members of the CRA Board

**FROM:** Joan C. Oliva, Executive Director

**DATE:** February 10, 2015

**SUBJECT:** Memorandum of Understanding between the CRA and Neighborhood Renaissance, Inc.

**EXPLANATION**

On February 11, 2010, the Lake Worth NSP2 Consortium, composed of the Lake Worth CRA as the lead entity, along with twenty-one partner agencies, was awarded \$23.2M in Neighborhood Stabilization Program 2 (NSP-2) funds, administered by the Department of Housing and Urban Development (HUD) under the American Recovery and Reinvestment Act (ARRA) of 2009. Our main development partners included Habitat for Humanity and Adopt-a-Family of the Palm Beaches. Along with the CRA, the Consortium built 165 new or rehabilitated housing units in the CRA district. Twelve of the units are artist-live work lofts, built on Lake and Lucerne Avenues, in the heart of both the redevelopment district and the Arts and Design District. The production and sale of these unique and popular units exceeded our initial expectations. Not only were they popular and conducive for working artists, they also helped bring a mix of talented people to our downtown area who contribute to our redevelopment efforts that focus on highlighting local talent along with arts and culture.

Spending \$23M within the three year deadline following all the specific rules and regulations was an enormous task. Although some partners were responsible for more than others, it took every partner we had to make the project the big success that it is. As we wind down our efforts and look forward to project close-out, later this year, we still have the ability to add one significant last project to our portfolio. However, this would require a new partner to be brought into the Consortium. Unlike most changes to the Action Plan, which can be quite cumbersome, adding a new non-profit developer is a relatively easy process. It includes the completion of some HUD paperwork and the signing of a Memorandum-of-Understanding (Exhibit "A") with the new entity.

Neighborhood Renaissance (NR) and the CRA have been looking for ways to partner together to provide more safe, new or rehabilitated, residential units to the District. Since most of the properties the CRA purchased were already developed by our existing partners, we waited for an opportunity. With the hopes that more artist housing could be built and the finalization of the agreement with the City for 110

North "F," the CRA and NR discussed the possibility of developing "West Village," the next Urban Arts Lofts development. An aerial and preliminary site rendering are included as Exhibit "B."

Neighborhood Renaissance was established twenty-three (23) years ago is a non-profit community-based organization dedicated to building and supporting diverse communities and strong economies in Palm Beach County. They have developed numerous affordable housing units, manage rental properties and provide housing and credit counseling. They are recognized for their positive work and the possibility to complete a new housing development with them as partners is very exciting.

There are many steps involved before moving forward. These include the transfer of the property from the City to the CRA, an agreement being approved by the CRA and NR, plans drawn and the securing of financing.

**REQUEST**

Staff requests the Board approve the Memorandum of Understanding between the CRA and Neighborhood Renaissance Inc. for the Neighborhood Stabilization Program.

**CONSORTIUM FUNDING AGREEMENT  
BETWEEN THE LAKE WORTH COMMUNITY  
REDEVELOPMENT AGENCY  
AND  
NEIGHBORHOOD RENAISSANCE, INC.  
FOR  
Neighborhood Stabilization Program 2**

THIS AGREEMENT, entered this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the LAKE WORTH COMMUNITY REDEVELOPMENT AGENCY (herein called the "Lead Member") and NEIGHBORHOOD RENAISSANCE, INC. (herein called the "Consortium Member").

WHEREAS, the Lead Member has applied for and has been awarded funds from the United States Department of Housing and Urban Development under the American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law 111-005, for the Neighborhood Stabilization Program 2 (NSP2); and

WHEREAS, the Lead Member wishes to engage the Consortium Member to assist the Lead Member in using such funds in accordance with the Notice of Funding Availability for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009 (Notice FR-5321-N-01);

NOW, THEREFORE, it is agreed between the parties hereto that;

**I. SCOPE OF SERVICE**

A. Activities

The Consortium Member will be responsible for administering NSP2 activities in a manner satisfactory to the Lead Member and consistent with all standards required as a condition of providing these funds. Such program will include the following uses and corresponding CDBG activities eligible under NSP2 [as listed in the Notice of Funding Availability for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009 (Notice FR-5321-N-01, published May 5, 2009), the Notice of Fund Availability for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009; Correction (Notice FR-5321-C-02, published June 11, 2009), and the Notice of Fund Availability for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009; Correction (Notice FR-5321-C-03, published November 9, 2009] and any subsequent published amendments (the NSP2 NOFA):

**Program Delivery**

The programs to be provided by the Consortium Member are to partner with the Lead Member on the development of 110 North "F" Street, Lake Worth, as more fully described in **Exhibit "A"**, which is attached hereto, and incorporated herein by reference.

As applicable, the Lead Member is responsible for ensuring that no more than 10 percent of the total grant is used for demolition (unless HUD has given prior written approval for a higher percentage).

**General Administration**

The Lead Member must ensure that no more than 10 percent of the total grant amount is used for planning and administration activities described at 24 CFR 570.205 and 570.206; the Consortium Member shall not use any funds for planning and administration activities.

**B. Income Eligibility requirements**

In accordance with section 2301(f)(3)(A) of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110-329, the Consortium Member will use all NSP2 funds with respect to low- moderate- and middle-income individuals and families whose income does not exceed 120 percent of area median income. This agreement defines "low income," "moderate income" and "middle income," as provided in the NOFA. The Lead Member is responsible for ensuring that 25 percent of the total grant is used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties to house individuals and families whose incomes do not exceed 50 percent of area median income, as required by HERA; the Consortium Member will use the funds as specified in the budget that is attached to this Agreement for these activities for individuals and families at or below 50 percent of area median income.

**C. Levels of Accomplishment – Goals and Performance Measures**

The Consortium must comply with the NSP2 performance reporting requirements as described in the NSP2 NOFA and any additional reporting requirements announced by HUD at any time during the duration of this agreement. The Consortium Member shall be responsible for providing timely and accurate accounting of policies, procedures, costs, and activities to the Lead Member for purposes of entry into the Disaster Recovery Grant Reporting ("DRGR") System.

The accomplishments for each activity must include such measures as residential units rehabilitated or number of households assisted, and should also include start and end dates for initiation and completion of work.

The Consortium Member agrees to implement the activities as described on **Exhibit "A"** to this Agreement, which is attached hereto and incorporated herein by reference.

**D. Staffing**

The individuals listed on the Staff Responsibilities and Contact Information, which is attached hereto as **Exhibit "B"**, which is incorporated herein by reference, shall be the only individuals authorized to perform the activities on behalf of the Consortium Member, pursuant to this Agreement. Any change to the Staff Responsibilities and Contact Information are subject are subject to the prior written approval of the Lead Member.

**E. Performance Monitoring**

The Lead Member will monitor the performance of the Consortium Member based on goals and performance standards as stated above with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. Substandard performance as determined by the Lead Member will constitute noncompliance with this Agreement. If corrective action is not taken by the Consortium Member within a reasonable period of time after being notified by the Lead Member, contract suspension or termination procedures will be initiated. Consortium member agrees to provide HUD, the HUD Office of

Inspector General, the General Accounting Office, the Lead Member, or the Consortium's internal auditors access to all records related to performance of activities in this agreement.

## **II. TIME OF PERFORMANCE**

NSP2 funding is subject to strict statutory deadlines for expenditure. The Lead Member must ensure that at least 50 percent of allocated funds are expended within two years from the date HUD signs the grant agreement and 100 percent of these funds are expended within three years from the date HUD signs the grant agreement. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Consortium Member remains in control of NSP2 funds or other NSP2 assets, including program income, but the deadline for expenditure of allocated funds is absolute (absent statutory change).

## **III. BUDGET**

The Lead Member may require a detailed project budget breakdown, and the Consortium Member shall provide such budget information in a timely fashion in the form and content prescribed by the Lead Member. Any amendments to the budget must be approved in writing by both the Lead Member and the Consortium Member.

## **IV. PAYMENT**

It is expressly agreed and understood that the total amount to be paid by the Lead Member under this Agreement shall be determined at a later date, once the project specifications have been determined. Requests for the payment of eligible expenses shall be associated with the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payments may be contingent upon certification of the Consortium Member's financial management system in accordance with the standards specified in 24 CFR 84.21 for non-profit entities and 24 CFR 85.20 for governmental entities. *[NOTE: References to sections of 24 CFR part 84 throughout this agreement are only applicable to non-profit organizations. References to sections of 24 CFR part 85 are applicable to governmental or quasi-governmental agency consortium members.]*

## **V. NOTICES**

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice sent as aforesaid shall be effective on the date of sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

LAKE WORTH COMMUNITY  
REDEVELOPMENT AGENCY

NEIGHBORHOOD RENAISSANCE, INC.

Joan C. Oliva, Executive Director  
29 South "J" Street  
Lake Worth, Florida 33460  
(561) 493-2550

Terri Murray, Executive Director  
510 24<sup>th</sup> Street, Suite A  
West Palm Beach, Florida 33407  
(561) 832-6776

### **SPECIAL CONDITIONS**

A. The Consortium Member agrees to protect, defend, indemnify, and hold harmless the Lead Member, its officers, employees, and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges, and other expenses or liabilities of every kind in connection with or arising directly out of the work agreed to be performed herein, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Consortium Member, its employees, servants, agents, and subcontractors. Without limiting the foregoing, any and all such claims, suits, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity. The Consortium Member further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, etc., at his sole expense and agrees to bear all other costs and expenses related thereto, even if the claim(s) is groundless, false, or fraudulent. In case of injury to persons, animals, or property, real or personal, by reason of failure to erect or maintain proper and necessary barricades, safeguards, and signals or by reason of any negligence of any the Consortium Member, or any of the Consortium Member's agents, servants, or employees during the performance of the work before the estimates have become due under this Agreement, the Lead Member may, through its officials, withhold such payments as long as it may deem necessary for the indemnity of the Lead Member as Owner, provided that the failure to pay the same shall not be construed or considered as a waiver of the indemnity as hereinabove set forth.

B. The parties recognize that various provisions of this Agreement, including but not necessarily limited to this Section, provide for indemnification by the Consortium Member and that Section 725.06, Florida Statutes, requires a specific consideration be given thereof. The parties therefore agree that the sum of Ten Dollars and 00/100 (\$10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnities, and the providing of such indemnities is deemed to be part of the specifications with respect to the services to be provided by the Consortium Member. Furthermore, the parties understand and agree that the covenants and representations relating to this indemnification provision shall serve the term of this Agreement and continue in full force and effect as to the party's responsibility to indemnify.

### **VI. ENTIRE AGREEMENT**

In conjunction with the Consortium Agreement submitted with the application as required by the NSP2 NOFA, and the Consortium application itself, this agreement between the Lead Member and the Consortium Member for the use of funds eligible for receipt, supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Lead Member and the Consortium Member with respect to this Agreement. By way of signing this agreement, the Consortium Member is bound to perform the agreements within this agreement or any HUD approved amendment thereof. Any amendment to this agreement must receive prior approval by HUD.

Further details concerning the applicable rules and regulations associated with this agreement are provided in Attachment I.

A signed and dated copy of the original consortium agreement is hereby attached as Appendix II.

Date: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

LAKE WORTH COMMUNITY  
REDEVELOPMENT AGENCY

NEIGHBORHOOD RENAISSANCE, INC.

By: \_\_\_\_\_  
Cary Sabol, Chair

By: Carla Fick  
Print Name: CARLA FICK  
Title: PRESIDENT

ATTEST:

ATTEST:

\_\_\_\_\_  
Joan C. Oliva, Secretary, Executive Director

By: TERRI MURRAY  
Print Name: TERRI MURRAY  
Title: EXECUTIVE DIRECTOR

(CORPORATE SEAL)

Federal Tax ID No. 65-0352279

AFFIRMATIVE ACTION APPROVAL

TERRI MURRAY  
CONTRACT COMPLIANCE SUPERVISOR

## **EXHIBIT "A"**

The Consortium Member is partnering with the Lead Member for the development of 110 North F Street, Lake Worth, Florida a/k/a West Village, and may in the future partner with the Lead Member for other NSP-2 related activities.

## ATTACHMENT I

### I. GENERAL CONDITIONS

#### A. General Compliance

The Consortium Member agrees to comply with all NSP2 requirements, including those found in the NSP2 Grant Agreement, HERA, the Recovery Act of 2009, the NSP2 NOFA and the requirements applicable to entitlement communities under CDBG regulations, except private nonprofit organizations are subject to (1) administrative requirements in 24 CFR 570.502(b) instead of 570.502(a); (2) environmental review requirements in 24 CFR Part 50 if the consortium member is not a public nonprofit organization with jurisdiction over the project area (see further detail under VII. Environmental Review subheading of this Agreement); and (3) requirements for affirmatively furthering fair housing, unless otherwise noted in the NOFA. If the Consortium Member is a State, then the Consortium Member agrees to comply with the regulatory provisions governing the State CDBG program. The Consortium Member shall comply with governmentwide guidance and standard award terms established by the Office of Management and Budget (OMB) concerning the implementation of the Recovery Act, including *Requirements for Implementing Sections 1512, 1605, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards*, 74 Fed. Reg. 18449 (April 23, 2009) (to be codified at 2 CFR part 176) (as now in effect and as may be amended from time to time). The Consortium Member also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Consortium Member further acknowledges its responsibility for adherence to all applicable terms and conditions of this grant award by sub-recipient entities and contractors, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration. The Consortium Member further agrees to use funds available under this Agreement to supplement rather than supplant funds otherwise available.

#### B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Consortium Member shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Lead Member shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Consortium Member is an independent contractor.

#### C. Hold Harmless

The Consortium Member shall hold harmless, defend and indemnify the Lead Member from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Consortium Member's performance or nonperformance of the services or subject matter called for in this Agreement.

#### D. Workers' Compensation

The Consortium Member shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

E. Insurance & Bonding

In addition to any insurance coverage required by the Lead Member, the Consortium Member shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and at a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Lead Member.

The Consortium Member shall provide evidence of required coverages by providing a certificate of insurance naming the Lake Worth Community Redevelopment Agency as an additional insured. The required coverages, as specified by the Lead Member's Executive Director, or her authorized representative, shall be in place prior to the Consortium Member commencing any work pursuant to this Agreement, and shall remain in place through the term of this Agreement. The Consortium Member shall insure that workman's compensation insurance is in place for the term of this Agreement at no less than the statutory limits, unless the Consortium Member provides a written statement evidencing their statutory exemption from worker's compensation coverage.

If the Consortium Member is a non-profit organization, the Consortium Member shall comply with the bonding and insurance requirements of 24 CFR 84.31 and 84.48, Bonding and Insurance.

F. Amendments

The Lead Member may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts. The Lead Member or Consortium Member may only amend this Agreement with prior written approval from HUD if the amendment will result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement. Such modifications must make specific reference to this Agreement and be executed in writing by a duly authorized representative of both the Lead Member and Consortium Member. Such amendments shall not invalidate this Agreement, nor relieve or release the Lead Member or Consortium Member from its obligations under this Agreement.

G. Suspension or Termination

In accordance with 24 CFR 85.43 or 84.62, the Lead Member may suspend or terminate this Agreement if the Consortium Member materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the statutes, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Consortium Member to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Consortium Member to the Lead Member reports that are incorrect or incomplete in any material respect.

This Agreement may also be terminated for convenience by mutual agreement between the Lead Member and the Consortium Member, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Lead Member determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Lead Member may terminate the award in its entirety. Such a termination shall only be carried out with the explicit written approval from HUD.

## **II. ADMINISTRATIVE REQUIREMENTS**

### **A. Financial Management**

#### **1. Accounting Standards**

The Consortium Member agrees to comply with 24 CFR 84.21-28 or 24 CFR 570.489 for a State Consortium Member or 24 CFR 85.20-26 for other governmental entities and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary source documentation for all costs incurred.

#### **2. Cost Principles**

The Consortium Member shall administer its program in conformance with OMB Circulars A-87, "Cost Principles for State, Local and Indian Tribal Governments," A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

### **B. Documentation and Record Keeping**

#### **1. Client Data**

The Consortium Member shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service or benefit provided. Such information shall be made available to Lead Member monitors or their designees for review upon request.

#### **2. Records to be Maintained**

The Consortium Member shall maintain all records required by the NSP2 NOFA and the Federal regulations specified in 24 CFR 570.506 or 24 CFR 570.490, if the Consortium Member is a State. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken benefits low-, moderate-, or middle-income persons.
- c. Records required to determine the eligibility of activities and the eligibility of all properties assisted;
- d. Records required to document the purchase and sale amounts of each property, discounts, and the sources and uses of funds for each activity;

- e. Records documenting compliance with the fair housing and equal opportunity requirements of the NSP2 program, including but not limited to the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program;
- f. Records documenting efforts to ensure that the initial successor in interest in a foreclosed upon dwelling or residential real property has complied with the tenant protection requirements under section K.2.a and K.2.b of the NSP2 NOFA.
- g. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21–28 [or 24 CFR 570.489 for a State Consortium Member and 24 CFR 85.20-26 for other governmental entities]; and
- h. Other records necessary to document compliance with Subpart K of 24 CFR Part 570 or 24 CFR 570.487, if the Consortium Member is a State.

3. Retention

The Consortium Member shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years. The retention period begins on the date that the Lead Member submits its first quarterly performance report to HUD via DRGR. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

4. Disclosure

The Consortium Member understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Lead Member's or Consortium Member's responsibilities with respect to services provided under this contract, is prohibited by the [insert applicable State or Federal law] unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Consortium Member's obligation to the Lead Member shall not end until the US Department of Housing and Urban Development completes all close-out requirements for the NSP2 grant. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Lead Member), and determining the custodianship of records. However, the terms of this Agreement shall remain in effect during any period that the Consortium Member has control over NSP2 funds, including program income.

6. Audits & Inspections

All Consortium Member records with respect to any matters covered by this Agreement shall be made available to the Lead Member, Lead Member agency, HUD, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine,

and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Consortium Member within 30 days after receipt by the Consortium Member. Failure of the Consortium Member to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments or termination of this agreement. The Consortium Member hereby agrees to have an annual agency audit conducted in accordance with current Lead Member policy concerning Consortium Member audits and OMB Circular A-133.

C. Reporting and Payment Procedures

1. Program Income

The Consortium Member shall report no less frequently than monthly all program income (as defined in the NSP2 NOFA) generated by activities carried out with NSP2 funds made available under this contract. The use of program income by the Consortium Member shall comply with the applicable requirements set forth in the NOFA. By way of further limitation, the Consortium Member may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income shall be returned to the Lead Member at the end of the contract period unless specified otherwise by the Lead Member. Any interest earned on cash advances from the U.S. Treasury [*this clause may not apply if the Lead Member is a State – consult HUD*] and from funds held in a revolving fund account is not program income and shall be remitted promptly to the Lead Member.

2. Indirect Costs

If indirect costs are charged, the Consortium Member will develop an indirect cost allocation plan for determining the appropriate Consortium Member's share of administrative costs and shall submit such plan to the Lead Member for approval, in a form specified by the Lead Member.

3. Payment Procedures

The Lead Member will pay to the Consortium Member funds available under this Agreement based upon information submitted by the Consortium Member and consistent with any approved budget and Lead Member policy concerning payments. Payments will be made for eligible NSP2 related expenses actually incurred by the Consortium Member, and will not exceed actual cash requirements. Payments will be adjusted by the Lead Member in accordance with advance fund and program income balances available in Consortium Member accounts. In addition, the Lead Member reserves the right to liquidate funds available under this contract for costs incurred by the Lead Member on behalf of the Consortium Member.

HUD, through the Disaster Recovery Grant Reporting (DRGR) system, provides access to grant funds generally within 3 working days of an electronically submitted request by the Lead Member. To ensure expeditious implementation of activities, Lead Member agrees to draw funds from the line of credit and make payment to the Consortium Member within 10 working days of receipt of the Consortium Member's complete and properly submitted requests for payment for activities under this agreement, if feasible.

Consortium Member agrees to submit requests for payment in a timely manner in the form and times directed by the Lead Member.

4. Progress Reports

The Consortium Member shall submit regular Progress Reports to the Lead Member in the form, content, and frequency as required by the Lead Member.

D. Procurement

1. Compliance

The Consortium Member shall comply with current Lead Member policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) not otherwise disposed of in the closeout agreement shall revert to the Lead Member upon termination of this Agreement.

2. OMB Standards

Unless otherwise specified within this agreement, the Consortium Member shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40-48 [or 24 CFR 570.489 for a State Consortium Member or 24 CFR 85.36 for other governmental entities].

3. Travel

The Consortium Member shall obtain written approval from the Lead Member for any costs for travel outside the area served with funds provided under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 [or Part 85] and 24 CFR 570.503, 570.504, and 570.505, as applicable, which include but are not limited to the following:

1. The Consortium Member shall transfer to the Lead Member any NSP2 funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination, unless otherwise specified in the HUD closeout agreement with the Lead Member.
2. Real property under the Consortium Member's control that was acquired or improved, in whole or in part, with funds under this Agreement shall be used in accordance with the NSP2 application for the period consistent with the land-banking and continued affordability requirements. If the Consortium Member fails to use NSP2-assisted real property in a manner that meets NSP2 land-banking, affordability and benefit requirements within and for the prescribed period of time, the Consortium Member shall comply with the applicable sections under 24 CFR 570.503, 570.504, and 570.505.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to which funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Consortium Member for activities under this Agreement shall be (a) transferred to the Lead Member for the NSP2 program or (b) retained after compensating the Lead Member [an amount equal to the current fair market value of the equipment less the percentage of non-NSP2 funds used to acquire the equipment].

### **III. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT**

The Consortium Member agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24; 24 CFR Part 42 – Displacement, Relocation Assistance and Real Property Acquisition for HUD and HUD Assisted Programs; and 24 CFR 570.606 – Displacement, relocation acquisition, and replacement of housing, as may be amended by the NSP2 NOFA. The Consortium Member shall provide appropriate relocation assistance (URA or section 104(d)) to eligible displaced persons as defined by applicable HUD and/or URA regulations that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for an NSP2-assisted project. The Consortium Member also agrees to comply with applicable Lead Member or local ordinances, resolutions and policies concerning the displacement of persons.

The Consortium member will demolish or convert units using NSP2 funds only to the extent and scope described in the Consortium application. The Consortium Member will carry out no demolition or conversion activity that is not in conformance with the application without prior written approval from the Lead Member.

### **IV. TENANT PROTECTION REQUIREMENTS**

The Consortium Member agrees to comply with the Recovery Act provisions concerning tenant protections applicable to NSP2 acquisitions of foreclosed property. The Consortium Member must document its efforts to ensure that the initial successor in interest (ISII) in a foreclosed upon dwelling or residential real property (typically, the initial successor in interest in property acquired through foreclosure is the lender or trustee for holders of obligations secured by mortgage liens) has provided bona fide tenants with the notice and other protections outlined in the Recovery Act. The Consortium Member will not use NSP2 funds to finance the acquisition of property from any initial successor in interest that failed to comply with applicable requirements unless the Consortium Member assumes the obligations of such initial successor in interest with respect to bona fide tenants. If the Consortium Member elects to assume such obligations, it may only do so if the tenant is still occupying the property and will provide any tenant displaced as a result of the NSP2 funded acquisition with the assistance outlined in 24 CFR 570.606. If the Consortium Member knows that the ISII did not comply with the NSP tenant protection requirements and vacated the property contrary to the NSP requirements, NSP funds cannot be used to acquire such properties.

### **V. PERSONNEL & PARTICIPANT CONDITIONS**

#### **A. Civil Rights**

1. Compliance

The Consortium Member agrees to comply with applicable state and local civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, section 104(b) and section 109 of Title I of the Housing and Community Development Act of 1974 as amended (the HCDA), section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

The Consortium Member agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in section 109 of the HCDA are still applicable.

3. Section 504

The Consortium Member agrees to comply with all Federal regulations issued pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The Lead Member shall provide the Consortium Member with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Affirmative Action

1. Approved Plan

The Consortium Member agrees that it shall be committed to carry out, pursuant to the Lead Member's specifications, an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966. The Lead Member shall provide Affirmative Action guidelines to the Consortium Member to assist in the formulation of such program. The Consortium Member shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

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

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

3. Access to Records

The Consortium Member shall furnish and cause each of its own Consortium Members or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Lead Member, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Consortium Member will, in all solicitations or advertisements for employees placed by or on behalf of the Consortium Member, state that it is an Equal Opportunity or Affirmative Action employer.

5. Subcontract Provisions

The Consortium Member will include the provisions of Paragraphs XI.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Consortium Members or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

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

2. Labor Standards

The Consortium Member agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Consortium Member agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Consortium Member shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Lead Member for review upon request.

The Consortium Member agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the Lead Member pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is

intended to relieve the Consortium Member of its obligation, if any, to require payment of the higher wage. The Consortium Member shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

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

The Consortium Member further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Consortium Member further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the NSP2-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons

residing within the metropolitan area in which the NSP2-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Consortium Member certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

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

c. Subcontracts

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

D. Conduct

1. Assignability

The Consortium Member shall not assign or transfer any interest in this Agreement without the prior written consent of the Lead Member thereto and HUD; provided, however, that claims for money due or to become due to the Consortium Member from the Lead Member under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Lead Member.

2. Subcontracts

a. Approvals

The Consortium Member shall not enter into any subcontracts over \$100,000 with any agency or individual in the performance of this contract without the written consent of the Lead Member prior to the execution of such agreement.

b. Monitoring

The Consortium Member will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Consortium Member shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Consortium Member shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Lead Member along with documentation concerning the selection process.

3. Hatch Act

The Consortium Member agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the United States Code.

4. Conflict of Interest

The Consortium Member agrees to abide by the provisions of 24 CFR 84.42 and 570.611 or 24 CFR 570.489 for a State Consortium Member or 24 CFR 85.36, for other governmental entities, which include (but are not limited to) the following:

- a. The Consortium Member shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b. No employee, officer or agent of the Consortium Member shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to NSP2-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the NSP2-assisted activity, or with respect to the proceeds from the NSP2-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this

paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Lead Member, the Consortium Member, or any designated public agency.

5. Lobbying

The Consortium Member hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Consortium Members shall certify and disclose accordingly:
- d. Lobbying Certification

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

6. Copyright

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

7. Religious Activities

The Consortium Member agrees that it will comply with 24 CFR 570.200(j) so that funds are not used to support inherently religious activities.

## VI. ENVIRONMENTAL CONDITIONS

### A. Air and Water

The Consortium Member agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

### B. Flood Disaster Protection

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

### C. Lead-Based Paint

The Consortium Member agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.487 or 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all NSP2-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

### D. Historic Preservation

The Consortium Member agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

## VII. ENVIRONMENTAL REVIEW

All NSP2 assistance is subject to the National Environmental Policy Act of 1969 and related federal environmental authorities and regulations at 24 CFR part 50 or 58.

If the Consortium Member is a state, Indian tribe or a unit of general local government, it will perform environmental reviews on behalf of the Consortium for NSP2 projects within its jurisdiction as described under part 58. A copy of the Environmental Review Record shall be maintained by both the Consortium Member and the Lead Member.

If the Lead Member is a state, Indian tribe or a unit of general local government, it will perform environmental reviews on behalf of the Consortium for NSP2 projects within its jurisdiction as described under part 58. If more than one Consortium Member is a state, Indian tribe, or unit of general local government with jurisdiction over the project area, the Lead Member will determine which entity will perform the environmental reviews for that project.

If: 1) neither the Lead Member and the Consortium Member is an appropriate governmental entity or 2) either or both are such an entity, but the NSP2 project in question is not within the jurisdiction of a Lead or Consortium Member that must assume environmental review responsibility under 24 CFR part 58, the Lead and Consortium members shall not assume environmental review responsibilities and the Lead Member must receive HUD approved environmental reviews under 24 CFR part 50. NOTE: The Consortium Member must comply with applicable requirements in part 50 or 58 before committing funds to a project or taking choice-limiting actions on a property.

#### **VIII. REHABILITATION STANDARDS**

The Consortium Member will carry out all NSP2-assisted rehabilitation of a foreclosed-upon home or residential property in compliance with the rehabilitation standards in the Consortium's NSP2 application and in accordance with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties.

#### **IX. TIMELINESS OF USE AND EXPENDITURE OF NSP2 FUNDS**

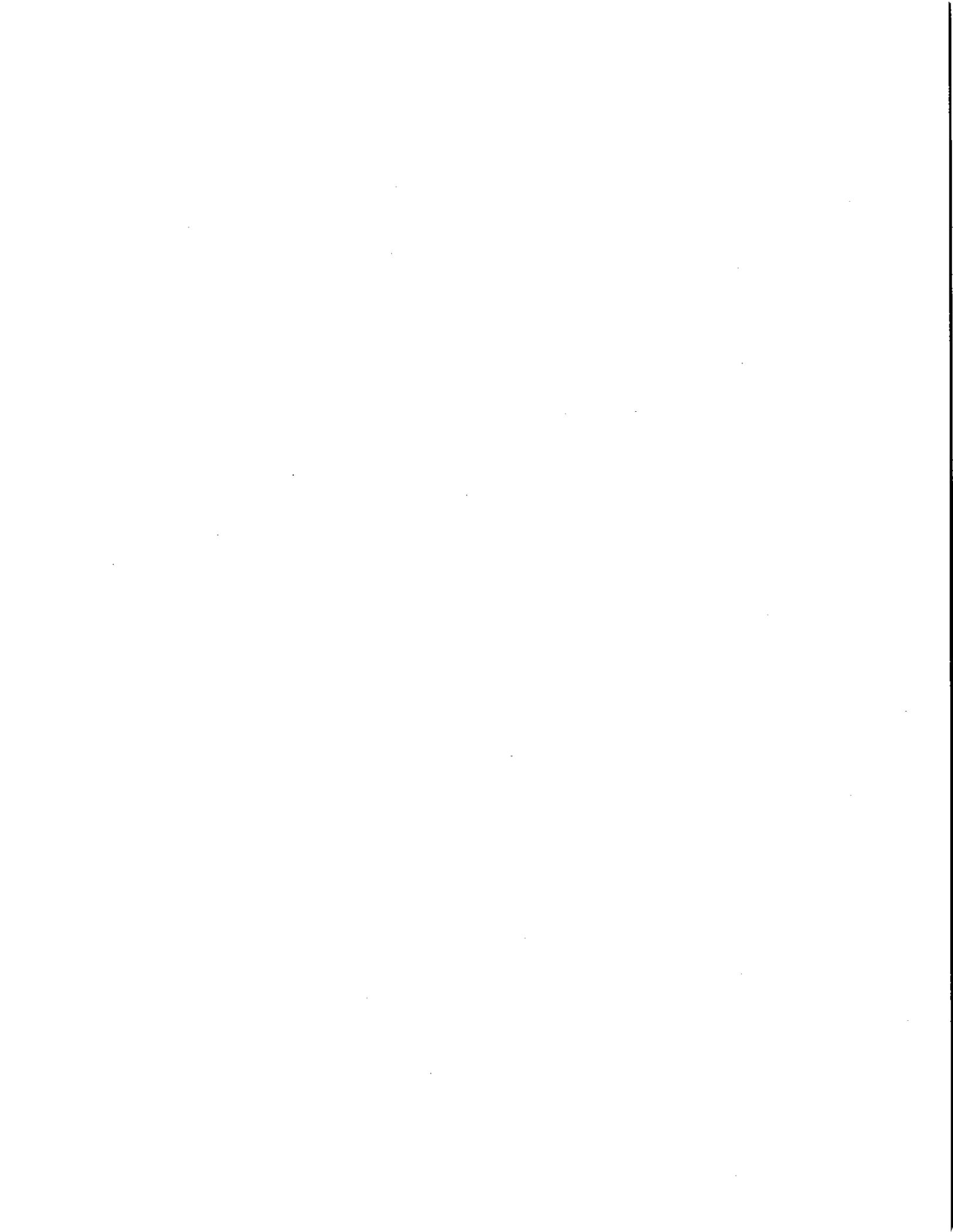
The Consortium Member will ensure that NSP2 allocated funds are expended within a timely manner in accordance with the schedule in this Agreement. Should the Consortium as a whole fail to meet the requirement to expend its award prior to the deadline in its grant agreement with HUD, HUD, on the first business day after that deadline, will notify the Lead Member, restrict the amount of unused funds in the grantee's line of credit, and begin the process of de-obligating the unused amounts.

#### **X. ELIGIBILITY AND ALLOWABLE COSTS**

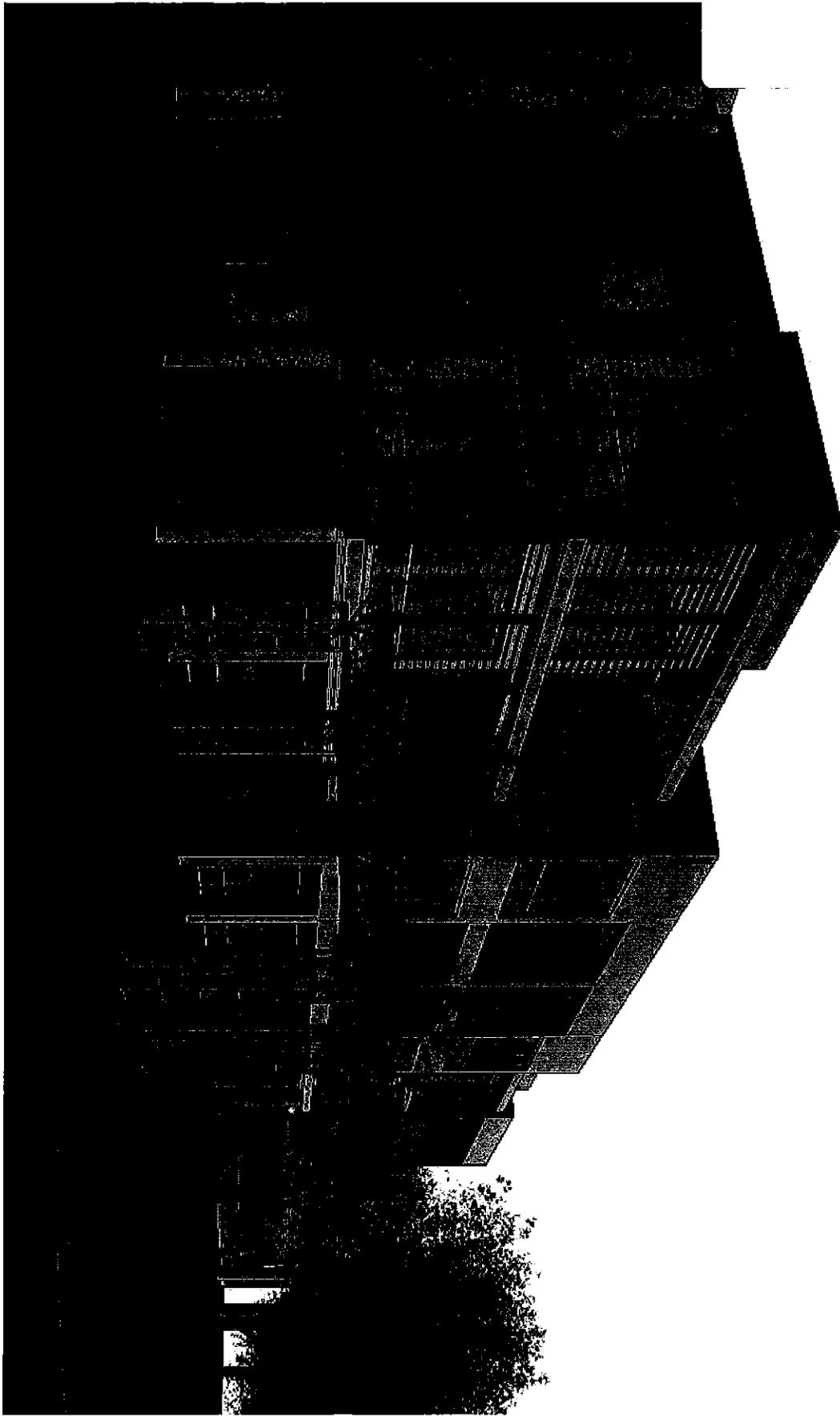
The Consortium member will ensure and document that its NSP2 activities meet eligible use, allowable cost, and eligible activity requirements of the NSP2 NOFA.

#### **XI. PURCHASE DISCOUNT**

The Consortium Member will acquire property with NSP2 funds at a minimum discount of one percent for each residential property. This requirement applies to all properties purchased with



**ATTACHMENT II**  
**CONSORTIUM AGREEMENT**



A107	SHEET NO.
	DATE
<small>                 CONSULT WITH ARCHITECT FOR ALL DIMENSIONS AND NOTES. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED. ALL MATERIALS AND FINISHES ARE TO BE AS SHOWN ON THE DRAWINGS. ALL WORK IS TO BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL, STATE AND FEDERAL CODES. ALL WORK IS TO BE SUBJECT TO INSPECTION AND APPROVAL BY THE APPLICABLE AGENCIES. ALL WORK IS TO BE COMPLETED WITHIN THE SPECIFIED TIME FRAME. ALL WORK IS TO BE SUBJECT TO THE ARCHITECT'S GENERAL CONDITIONS OF CONTRACT. ALL WORK IS TO BE SUBJECT TO THE ARCHITECT'S GENERAL CONDITIONS OF CONTRACT. ALL WORK IS TO BE SUBJECT TO THE ARCHITECT'S GENERAL CONDITIONS OF CONTRACT.             </small>	

LAKE WORTH - CRA  
 LAKE WORTH, FL  
 LAKE WORTH - CRA



jp architectural design, inc.  
 6530 NE 21 Road - Fort Lauderdale, Florida 33308  
 phone: (352) 609-1990 email: jpi@jpad.com  
 www.jpae.com

END OF SHEET



Existing site to be cleared -- Arts Lofts Phase 1 in background on left



New 8 unit affordable Arts Lofts with outdoor stage and sculpture garden

