

## TRANSITION AGREEMENT

### Between the City of East Saint Louis, Illinois, and the United States Department of Housing and Urban Development

This Transition Agreement ("Agreement") is entered into between the CITY OF EAST SAINT LOUIS, ILLINOIS ("City"), and the UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ("HUD") as of this 19th day of September, 2017.

#### RECITALS

**WHEREAS**, under the U.S. Housing Act of 1937, as amended ("Act"), 42 USC Section 1437 et seq., HUD is responsible for administering low income housing programs, including but not limited to, the Low Rent Public Housing Program, and pursuant to the Act, HUD has entered into Annual Contributions Contracts ("ACCs") with the East Saint Louis Housing Authority ("ESLHA") for the purpose of providing funding for the public housing program; and

**WHEREAS**, on October 28, 1985, HUD declared ESLHA to be in substantial breach and substantial default of its ACC with HUD, subsequently assumed possession of ESLHA's assets, programs, and projects, and placed a HUD Recovery Administrator as the Chair and sole member of ESLHA's Board of Commissioners; and

**WHEREAS**, on May 2, 2017, the General Deputy Assistant Secretary for Public and Indian Housing of HUD and the Mayor, having determined that ESLHA has cured the default of its ACC, made significant progress toward recovery, and built capacity to be self-supportive, signed a Transition Plan and Timeline to return ESLHA to local governance; and

**WHEREAS**, the objectives of Transition Plan and Timeline have been met, including the Mayor's designation of five members to an Advisory Committee to which HUD provided training;


**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the City and HUD agree as follows:

- I. The City and HUD shall cooperate and take all necessary actions to facilitate achievement of the objectives of this Agreement. The primary objective of this Agreement is to establish the terms by which ESLHA's assets, programs, and projects will be transferred from HUD to a locally appointed Board of Commissioners.
- II. The Transition Date shall be September 20, 2017. On the Transition Date, HUD shall transfer ESLHA's assets, programs, and projects to a Board of Commissioners appointed by the Mayor in accordance with the Illinois Housing Authority Act.
- III. The Mayor shall appoint the five previously designated members of the Advisory Committee to be the five commissioners of ESLHA effective on the Transition Date. The Mayor shall ensure all appointed commissioners have addressed all conflicts of interest and are free of incompatibilities of office. Until the Transition Date, these designated members shall continue to serve in an advisory capacity to the HUD Recovery Administrator.

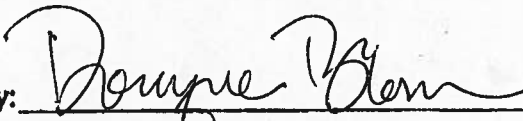
- IV. Until the Transition Date, HUD shall retain possession of ESLHA's assets, programs, and projects, and the HUD Recovery Administrator shall retain legal authority in the role of Chair and sole member of the Board of ESLHA. On the Transition Date, HUD shall relinquish assets, programs, and projects to ESLHA, and the HUD appointed Recovery Administrator shall cease to serve in that capacity.
- V. HUD shall develop an Oversight Plan to assist ESLHA's Board of Commissioners and ensure the sustainability of ESLHA's recovery. This Oversight Plan (Exhibit A) shall be adopted by ESLHA's Board within one (1) week after the Transition Date. The Oversight Plan shall be for a minimum period of two (2) years from the Transition Date.
- VI. Upon transition, HUD shall designate an Oversight Administrator and team of specialists for the duration of the Oversight Plan to serve as advisors to the ESLHA Board and Executive Director and to monitor ESLHA's progress with the Oversight Plan.
- VII. As a signatory to this Agreement, the Mayor commits to oversee and monitor the duly appointed Board of Commissioners, in the discharge of its duties, including the adoption of the Oversight Plan. Upon the discovery of any failure of the Board to discharge its duties under this Agreement, or of any individual commissioner, the Mayor, as appointing authority, will take all necessary steps to correct the Board's actions or omissions and ensure compliance with the terms of this Agreement.
- VIII. After HUD has returned possession of ESLHA, HUD shall retain all rights granted under applicable statutes, regulations, and the ACC and will conduct audits, reviews, or assessments as appropriate or as required by statute or program regulations to determine compliance with this Agreement and/or any statute or program regulation.
- IX. Failure of the City to comply with this Agreement may result in HUD's retaining possession of ESLHA's assets, programs, and projects through an extension of the Modified Cooperative Endeavor Agreement, retaking possession, or taking any available legal remedies in accordance with the Act and federal regulations.
- X. HUD and the City are independent contractors. No party is an employee or agent of any other party. Nothing in this Agreement shall be interpreted to establish any relationship other than that of independent contractors, between HUD and the City, or between their respective employees, agents, subcontractors, partners, or assigns, during or after the performance of this Agreement.
- XI. Notwithstanding any provisions of this Agreement to the contrary, the parties shall not be held liable for any failure or delay in the performance of this Agreement that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, acts of God, or for any other cause of same character which is unavoidable through the exercise of due care and beyond the control of the parties, provided that said failure or delay in the performance of this Agreement attributed to any of the events described herein is acknowledged in writing by HUD. Upon the issuance of HUD's written acknowledgement, the failure to perform shall be deemed excused during the continuance of such circumstances as determined by HUD, but this Agreement shall otherwise remain in effect.

- XII.** In the event any provisions of the Agreement shall conflict, or appear to conflict, the Agreement, including all exhibits, attachments, and all other documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.
- XIII.** Failures or waivers to insist on strict performance of any covenant, condition, or provision of this Agreement by the parties, their successors and assigns shall not be deemed a waiver of any rights or remedies, nor shall it relieve the other parties from performing any subsequent obligations strictly in accordance with the term of this Agreement. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of the Agreement specifically referred to therein and shall not be deemed a waiver of any other provision. Should any term or provision of this Agreement be held, to any extent invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement, to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.
- XIV.** This Agreement may be amended only with the written approval of the parties hereto.
- XV.** This Agreement states the entire understanding and agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the parties with respect to the subject matter of this Agreement. However, this Agreement does not supersede, modify or amend the ACC as further described in Paragraph XVII. The parties recognize that any representations, statements or negotiations made by the staff of either party does not suffice to legally bind either party in a contractual relationship unless they have been reduced to writing and signed by their authorized representative(s) or his/her designee. This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.
- XVI.** This Agreement may be executed and delivered in separate counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts together shall constitute but one and the same instrument and agreement.
- XVII.** This Agreement does not supersede, modify or amend the ACCs between HUD and ESLHA, or in any way excuse ESLHA from complying fully with its obligations under the ACC. HUD does not waive its statutory, regulatory, or contractual rights under the ACC. Nothing contained in this Agreement shall serve to limit, modify or preclude HUD's right to take any remedial action allowed by the ACC or any provision of the Act or related regulations.
- XVIII.** Any cost associated with the implementation of this Agreement shall be the individual responsibility of the City, ESLHA and HUD, unless expressly agreed between the parties that they will share in said cost.

**IN WITNESS WHEREOF, the parties or their duly authorized representatives hereby execute this Agreement on the date first written above.**

By: 

**Emeka Jackson-Hicks  
Mayor  
City of East Saint Louis**

By: 

**Dominique Blom  
General Deputy Assistant Secretary for Public and Indian Housing  
U.S. Department of Housing and Urban Development**