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June 28, 2010

The Honorable Shaun Donovan
Secretary
U.S. Department of Housing and Urban Development
451 Seventh St., S.W.
Washington, D.C. 20410

Re: Administrative Complaint re City of New Orleans'
Application for Louisiana Long-Term Community
Recovery – Community Development Block Grants for
Veterans Administration Medical Center (VAMC) Land
Acquisition and Relocation

Dear Secretary Donovan,

I am writing to you on behalf of Wally Thurman and Shelia Joseph, homeowners in the footprint of the proposed VA hospital in Lower Mid City in New Orleans whose homes are subject to expropriation as a result of the VA hospital project to file an administrative complaint regarding the City of New Orleans' (City) Application to HUD for Community Development Block Grant (CDBG) funds to build a stand alone VAMC (the "Project") in Lower Mid City, a neighborhood which is part of the Mid City National Register Historic District in the City of New Orleans.¹

¹The neighborhood in question consists of 30 acres of a densely built, historic, urban area, containing over 200 structures. Over 120 of these structures are late 19th and early 20th century cypress-built homes, in the traditional historic New Orleans vernacular architecture, and are considered to be "contributing" properties to the historic character of the Mid City historic district. Many of these privately owned homes were completely renovated, post-Katrina, with new roofs, new wiring, new plumbing, new sheetrock, new paint, etc, some of them using federal money through Road Home grants. This neighborhood was part of Planning District 4 for purposes of rebuilding New Orleans post-Katrina. The 30 acre site designated for the new VA hospital in the City's application to HUD runs between S. Galvez and S. Rocheblave streets, and Canal St. and Tulane Ave. (hereafter referred to as the "Galvez/Rocheblave" site.) This site was not considered or approved for a hospital through the citizens' recovery plan, Unified New Orleans Plan (UNOP), the plan which was adopted as a part of the recovery plan for the entire city by the New Orleans City Planning Commission, New Orleans City Council, and the Louisiana Recovery Authority (LRA). As explained herein, the City's

The Complainants support a VA hospital in the City of New Orleans and access to quality medical care for veterans. However, the specific project for which the City sought \$75 million CDBG funds for land acquisition and relocation to build a stand-alone VA hospital at the Galvez/Rocheblave site in Lower Mid City, seeks to use HUD funds for a project which does not meet any of the three national objectives of HUD, in violation of federal law. The City's application for these funds includes significant, material misrepresentations and omissions, including false and misleading information regarding citizen participation or rather, the lack thereof, for this project. Additionally, the city's application appears to have been materially altered, without appropriate authorization. The State of Louisiana, Office of Community Development and HUD have improperly approved this deeply flawed application. The responsible authorities within HUD who are mandated to review and oversee this application for compliance with federal law, have failed in their duties. Despite these fundamental infirmities, the Project is proceeding and federal money is being spent to advance the project.

This Project is having profound and devastating effects upon Complainants' historic neighborhood, which is being destroyed, and seeks to impose a suburban type, sprawling medical complex on a predominantly residential/mixed use, low-income, mostly African American neighborhood, located outside the downtown area of New Orleans. The Project abandons downtown New Orleans and the traditional downtown Medical District, with potential long-term, negative impacts to the City, and mimics the worst aspects of "urban renewal". The Project is simply the wrong design in the wrong location. HUD money has been key to the development of this project.

Your immediate intervention in this matter is essential. The destruction of the 30 acre Galvez/Rocheblave neighborhood, using the HUD funds at issue in this complaint, is proceeding. Given the urgency of these issues, we request an expedited response.

HUD has authority and oversight obligations regarding the application at issue given that Community Development Block Grant (CDBG) funds are at stake. The Secretary of HUD has not only the authority, but the obligation, to enforce compliance with the statutory purposes of the Housing and Community Development Act of 1974 (HCDA), 42 U.S.C. § 5301 *et. seq.*, and its implementing regulations. Under the HCDA, the Secretary has authority to make grants "only if" grantees make certain submissions and certifications. *See, e.g.*, 42 U.S.C. § 5302.

The basis for this request for this administrative review is as follows:

I. HUD has inappropriately approved the Application of the City of New Orleans as the Project is in Violation of 42 U.S.C. Section 5304(b)(3) as it fails to meet any of the three (3) national objectives for HUD grants, as required by law and specifically does not meet the criteria for "urgent need", the stated basis for the application.

application misrepresents that the project for a stand-alone VA hospital was approved through the UNOP process.

42 USC Section 5304(b) states, in pertinent part, as follows:

Any grant under section 5306 of this title shall be made **only** if the grantee certifies to the satisfaction of the Secretary that....

(3) the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight and **the projected use of the funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs...**

(emphasis added)

The City's application to HUD to use \$75 million CDBG dollars for land acquisition and relocation for this project was approved by the State of Louisiana's Division of Administration, Office of Community Development- Disaster Recovery Unit (OCD-DRU) on March 11, 2009. *Exhibit 1*. The reference number is Application No. ILTR-00122. The Application Review for LTRC Program approved the Application on March 11, 2009 on the basis of "Urgent Need." *Exhibit 2*. It was subsequently approved by HUD.² The City's application and documents submitted in support of its application contained material misrepresentations and omissions and were significantly and materially altered with no apparent authorization. It is submitted that this project fails to meet the criteria of "urgent need" yet it was nevertheless approved.

On or about Jan 5, 2009, Louisiana Solutions LLC, acting as agent for the City, submitted to the Louisiana Office of Community Development ("OCD") an Application for CDBG funds for the proposed Veterans Hospital to be located in the 30-Acre Galvez/Rocheblave site in Lower Mid-City. ("January 2009 Application"). *Exhibit 3*. The Jan., 2009 Application was signed by then-Mayor C. Ray Nagin and Dr. Edward Blakely, on behalf of the City of New Orleans on December 19, 2008. As part of the Jan., 2009 Application, the City submitted an undated Statement of Assurances signed by Mayor Nagin, verifying compliance with various federal statutes and regulations. The January, 2009 Application stated that the National Objective to be addressed for use of the \$75 million D-CDBG funds for this project would be "Prevention/Elimination of Slums or Blight." This Application was reviewed by the State OCD/DRU Infrastructure Section which, in answer to the question "Is the stated National Objective appropriate for the proposed project?" responded, "Yes it is Slum/Blight." The Application was marked "Pending (See Comments)" and in the Comments and Issues section, a handwritten note was inserted "Discuss UN vs. S/B". See *Exhibit 4*.

²Petitioner does not have immediate access to all of the relevant documents; however, the HUD approval letter should be contained in the agency's own files, along with many of the other documents referenced in this administrative complaint.

On or about March 2, 2009, Louisiana Solutions, LLC, acting as agent for the City of New Orleans, submitted a second "original" Application for CDBG funds for the proposed Veterans Hospital ("March 2009 Application"), changing the national objective for the project to "Urgent Need". *Exhibit 5*. Although the application contains a copy of the same signature sheet which was signed by Mayor Nagin and Dr. Edward Blakely on December 19, 2008, under "National Objectives to be addressed (check one)", the national objective "Prevention/Elimination of Slums or Blight" is scratched out and a handwritten "X" is placed next to "Urgent Needs" thereby indicating that "Urgent Needs" is the National Objective to be achieved instead of "Prevention/Elimination of Slums and Blight". There are no initials or other information indicating who altered this document or upon what authority.

It appears, on its face, that the March 2, 2009 application was a materially altered version of the original application of Dec. 19, 2009, altered after Mayor Nagin and Dr. Blakely had signed the original application based upon "Prevention/Elimination of Slums or Blight." Records produced in response to public records requests and subpoena duces tecum have failed to produce any documents which purport to grant authority for this material alteration to the application. No application signed by the Mayor or any other duly authorized individual on behalf of the City has been located that authorizes an application for the use of these funds to address "Urgent Needs" for this Project.

Despite the obvious discrepancies with this application, the March 2009 Application was accepted as complete by OCD on March 11, 2009 and was approved. See *Exhibits 1 and 2*. The City was authorized to use the \$75 million CDBG dollars by the Office of Community Development- Disaster Recovery Unit for the State of Louisiana on April 15, 2009. *Exhibit 6*. It was this altered application, based upon the National Objective of "Urgent Need", which was subsequently approved by HUD and is the basis for the release and expenditure of the \$75 million CDBG dollars on this project.

The application for this grant of \$75 million dollars, based upon the national objective of "Urgent Need", makes material and false misrepresentations and omissions regarding the true facts regarding medical care for veterans in New Orleans, as it existed at the time of the application. The application states facts based upon conditions as they existed in New Orleans in 2005-06, in the months immediately following Hurricane Katrina, and presents that out-dated data as if it was an accurate depiction of the facts at the time of the application, in March, 2009. It is submitted that these material misrepresentations were made deliberately or without regard for their truth or falsity, in order to obtain access to these HUD funds, even though the project fails to meet the criteria for "urgent need". It is also submitted that it was known or should have been known to those preparing, submitting and approving the application that the project did not meet the required statutory criteria.

In presenting its arguments in support of "urgent need" for these funds, the Project Description provides misleading, false and out-dated information, as reflected in the following non-exclusive examples:

“The only remnant of veterans care within the city limits, a former VA nursing home converted to a clinic, now serves about 5,500 patients a week (*Times Picayune, April 1, 2007*).”

Project Description, March, 2009 Application

This statement is not an accurate reflection of the medical services available to veterans in the New Orleans area at the time of the City’s applications of December, 2008 and March, 2009. On its face, it is apparent that the source for this statement is almost two years old and conditions had greatly changed during the interim.

By the time of the March 2009 Application, the VA had made substantial progress in meeting the healthcare needs of veterans in the greater New Orleans area. At a hearing on July 9, 2007 before the Committee on Veterans' Affairs, Rica Lewis - Payton, Deputy Director for the Veterans Health Administration, testified that: “In June 2007, VA entered into an agreement with its affiliate, Tulane University Hospital and Clinic to allow VA physicians to admit and manage the care of veterans in the Tulane Hospital . . . The Southeast Louisiana Veterans Healthcare System has served almost 30,000 unique veterans through May 2007. On average, 1,000 outpatients are seen in the CBOCs per day. It is projected by year end more than 35,000 unique veterans will have been treated. This is nearly 90 percent of the pre-Katrina level.” See *Exhibit 7*.

In addition, by March, 2009, there were other clinics and services available for veterans in the New Orleans area which were not disclosed in this application. On August 26, 2008, the New Orleans CityBusiness reported that an Urgent Care Center was being opened that week by the VA, located at 1601 Perdido St. in New Orleans. “Until now, our veterans were referred to emergency rooms for conditions that were urgent but not life-threatening” said SLVHCS Director Julie Catellier. “The Urgent Care Center will provide veterans with an additional level of service that we have not been able to offer since the hurricane. Now veterans can receive VA care from VA providers which will also help to reduce the wait in community emergency rooms”. See *Exhibit 8*.

While having its own hospital was obviously preferred by the VA, the VA continued to provide care to veterans and to expand its services during the post-Katrina recovery period. The information provided in the City’s application regarding the status of care available to veterans was false and misleading at the time of the application.

In addition the Project Description also furnished out-of-date and misleading information about the overall status of medical care in the community, the economy, unemployment, etc. The facts presented in the March, 2009 Project Description are from 2005-2006. There is no information provided about the state of the recovery as of the date of the application, although dramatic changes had taken place during that time period, a fact that was well known or should have been well-known to those involved in this application.

The Project Description further submits, without any supporting documentation, that “it is recognized that a project of this magnitude will require a significant period of time for the new VA Hospital to become operative but this does not negate the Urgent Need for this project”. It is submitted that those involved with this application were well aware that the proposed project involved a hospital complex which was not envisioned to be completed until at least 2013, approximately 4 years following the date of the application. In fact, the attached e-mails disclose the knowledge and concern of those involved in processing this application that this project most probably did NOT meet the criteria for urgent need, yet the application was nevertheless submitted and approved. See *Exhibit 9*. (9 pages including Feb. 20, 2009 e-mail from Frederick Marc-Aurele to Pat Forbes, Natalie Carlis, Richard Gray, cc’d Glenn Duckworth. Subject: VA Hospital National Objective).³

It is noteworthy that 42 USC 5304(b)(3) requires both a “serious” and “immediate” threat to the health or welfare of the community. This application, on its face, failed to meet the statutory criteria but was nevertheless approved.

II. This Project was never approved as part of the Orleans Parish Recovery Plan and was not subject to broad-based citizen participation or discussion related to the recovery, although the Application falsely represents that it was.

In addition to failing to meet the statutory requirements of “Urgent Need” the City’s Application provides false and misleading information regarding citizen participation and support for the Project. The Application attempts to create the appearance that the project being funded is a joint LSU/VA hospital which had been approved for this site by the post-Katrina Recovery Plan for the City of New Orleans.

The Project Description for the March, 2009 Application states as follows:

“To provide adequate medical care to the City’s veterans and uninsured populations as cost effectively as possible, LSU and the VA have proposed *constructing their new hospital jointly, sharing instrumentation (CT, MRI, laboratories, etc.) and infrastructure (power plant, HR, IT, ambulatory, food services, etc.)*” (emphasis added)

In March, 2009, when this application was filed, this statement was not true and had not been true for many months, if not years. On Jan. 22, 2009, the VA released its design for its proposed stand-alone hospital, the project for which this \$75 million dollars was sought. The designs and related statements reflect that the VA hospital is a complete

³Complainants only have partial access to e-mails and other pertinent documents created during the application period. It is suggested that HUD’s inquiry into this matter should include obtaining and reviewing all applicable files, documents, correspondence, e-mails, etc. involving all the parties, including La. Solutions, Inc., an entity retained by the State and working on behalf of the City in preparing and pursuing this application.

“stand-alone” hospital, with no shared facilities with the proposed LSU hospital, not even parking. There were reports of continued discussions between the VA and LSU regarding possibly sharing a power plant. However, it is obvious that the statement in March, 2009 that this was to be a joint hospital, is a false statement and was either known or should have been known to be false.

The website www.consult106.com, established as part of the federal historical review process, clearly reflects that the two hospitals were planned, discussed and reviewed as separate, stand-alone facilities at different, though near-by, locations. The City of New Orleans and State of Louisiana were active participants in the Section 106 process and were well aware in 2008 and 2009, and, on information and belief, even before that, that this was not to be a joint LSU/VA hospital.

The significance of the misinformation that the project was to be a joint LSU/VA hospital project is that the City was well-aware that the citizen-based/citizen-participation recovery plan, UNOP, had approved a joint LSU/VA hospital at a different location in Lower Mid City (the Galvez/Claiborne 37 acre site). The City’s application does not reveal that the project for which it is seeking money from HUD is in fact NOT the UNOP-approved joint LSU/VA hospital project, but is a different, stand-alone VA hospital at a different site. The Project Description states:

“District 4 identified the development of the *LSU/VA* Medical Center as a high priority in the Unified New Orleans Plan (District 4, Chapter 6, page 62), anticipating a medical and research corridor that will drive high-powered economic development and be capable of competing with similar establishments elsewhere in the country. This project is listed in the Disaster Recovery Budget as Biomedical District.” (Emphasis added)

The “LSU/VA Medical Center” approved by the Unified New Orleans Plan, (UNOP) which was subsequently approved by the New Orleans City Council and the LRA as part of the Orleans Parish Recovery Plan, was the joint LSU/VA hospital to be located on a 37 acre site located between S. Galvez and S. Claiborne Ave., between Canal and Tulane Ave. (the “Galvez/Claiborne” or “LSU” site). *Exhibit 10*. The March, 2009 application is for a stand-alone VA hospital located at a DIFFERENT site, the 30 acre site between S. Galvez and S. Rocheblave St. (“Galvez/Rocheblave” or “VA” site). *Exhibit 11*.⁴

⁴Pre-Katrina the VA’s New Orleans hospital was located on 6.7 acres in downtown New Orleans, in an area known as the historic Medical District. The downtown VA hospital complex had 200 beds and other related services. The proposed new VA hospital will have 200 beds, 60 of which are nursing beds, built on 30 acres outside of downtown on the Galvez/Rocheblave site in Lower Mid City. This latter site was selected by the VA in November, 2008. Exhibit 11 reflects one of several designs for the site presented by the VA at a Section 106 review meeting on Jan. 22, 2009. The map clearly shows that the site in question for the stand-alone VA hospital is the Galvez/Rocheblave site, not the Galvez/Claiborne site designated for the joint LSU/VA

The proposal for a stand-alone VA hospital located at the Galvez/Rocheblave site was not approved as part of UNOP or as part of the Orleans Parish Recovery Plan. The statement in the application is a material mis-representation which gives the impression that this project, the VA project for which the HUD funds are sought, had in fact been approved by UNOP and was part of the parish's recovery plan. This is a false impression.

Section 5-402(3)(e) of the Home Rule Charter of the City of New Orleans provides that the New Orleans City Planning Commission ("Planning Commission") shall prepare and recommend to the New Orleans City Council "plans for the re-planning, improvement, and reconstruction of neighborhood and community centers and of areas or districts destroyed or seriously damaged by fire, earthquake, flood or other disasters."

Acting pursuant to Charter Section 5-402(3)(e), the Planning Commission and City Council initiated a planning process entitled the "Unified New Orleans Neighborhood Recovery Plan" ("UNOP") to serve as the basis for the City's disaster recovery plan. The UNOP is a unified recovery plan which included all prior neighborhood recovery planning efforts following Hurricanes Katrina and Rita.

From September 2, 2006 to January 6, 2007, as part of the UNOP planning process, over fifty (50) public meetings were held for Planning District 4 (the area within which the joint LSU/VA hospital and also the now stand-alone VAMC is to be located). At these UNOP meetings, residents, community leaders and other stakeholders in Planning District 4 identified community needs and proposed reconstruction projects with neighborhood, district and city-wide benefits.

At no time during the aforesaid neighborhood meetings was there any discussion of a stand alone VA hospital to be located in the area bounded by S. Rocheblave Street (north), S. Galvez Street (south), Tulane Avenue (west), and Canal Street (east), i.e., the "Galvez/Rocheblave" site. The only discussion during the District 4 neighborhood meetings concerning a possible new VA Hospital was a joint LSU/VA Regional Medical Center proposed for a different location in the area bounded by S. Galvez St. (north), S. Claiborne Avenue/I-10 (south), Tulane Avenue (west), and Canal Street (east) (the "Galvez/Claiborne Site").

The District 4 neighborhood meetings resulted in a proposed list of 29 Recovery Planning Projects including Project 8, a joint LSU/VA Regional Medical Center

hospital which was approved by UNOP. A comparison with Exhibits 10, 11 and 12 clearly shows that these are two different sites altogether, divided by S. Galvez St., which is a four-lane boulevard with a tree-planted neutral ground (median). In addition, the UNOP plan had approved plans (Project 14, a "high recovery value" project) to revitalize Galvez St., as a commercial corridor, a plan which became impossible for this portion of Galvez St. once the VA hospital attached itself to the Galvez/Rocheblave site. See p. 62, District 4 UNOP. The District 4 UNOP plan can be viewed in its entirety at <http://www.unifiedneworleansplan.com/home3/>

proposed for the Galvez/Claiborne Site. An excerpt from District 4 Unified New Orleans Plan identifying the area to be occupied by the proposed LSU/VA Regional Medical Center is attached hereto as *Exhibit 12*. Project 8, the UNOP-approved proposed joint LSU/VA Regional Medical Center, did not encompass any portion of the Galvez/Rocheblave Site.⁵

On May 22, 2007, acting pursuant to Charter Section 5-402(3)(e), the Planning Commission approved the UNOP as the basis for the City's disaster recovery plan. The Planning Commission was not presented with – nor did it approve – a stand alone Veterans Hospital to be located on the Galvez/Rocheblave Site. Instead, the Planning Commission approved a combined LSU/VA Regional Medical Center to be situated in the Claiborne/Galvez Site.

On June 21, 2007, acting pursuant to Charter Section 5-402(3)(e), the City Council adopted Motion M-07-271 approving the Citywide Strategic Recovery and Redevelopment Plan (“CSRRP”) which incorporated the UNOP. *Exhibit 13*. The CSRRP included UNOP Proposal 8, a combined LSU/VA Regional Medical Center to be situated on the Claiborne/Galvez Site. The proposed LSU/VA Regional Medical Center did not encompass any portion of the Galvez/Rocheblave site.

On June 25, 2007, the LRA officially received and accepted the UNOP as the foundation for the Orleans Parish Recovery Plan, and approved the CSRRP adopted by the Planning Commission and the City Council:

THEREFORE BE IT RESOLVED, that the Louisiana Recovery Authority Board does hereby officially receive and accept the Unified New Orleans Plan as the foundation for the Orleans Parish recovery plan.

⁵ A previous citizen based, post Katrina recovery planning effort known as the “Lambert Plan” also did not approve a stand-alone VA hospital on the Galvez/Rocheblave Site. The portion of the Lambert Plan for this area of the City was named the Tulane/Gravier Neighborhood Planning District 4 Rebuilding Plan. The name “Tulane/Gravier” is a somewhat artificial name applied to a section of Lower Mid City, one which is not widely recognized or used by the residents or business owners of the area. It was used as a convenience during the post-Katrina recovery planning to designate a portion of Lower Mid City and has no particular historical, social, or cultural significance. The Lambert neighborhood plan reflects two alternatives for the site between S. Galvez and S. Claiborne, one favored by the residents, which was to keep the area residential and mixed use and the other alternative for a hospital to be located at that site. The area between S. Galvez and S. Rocheblave was to remain as it was, with mixed residential and commercial development. A stand-alone VA hospital at the Galvez/Rocheblave site was not discussed or approved during the community based discussions of the Lambert Plan.

THEREFORE BE IT FURTHER RESOLVED, that the Louisiana Recovery Authority Board does hereby approve the New Orleans Strategic Recovery and Redevelopment Plan as the official recovery plan for the parish of Orleans.⁶

The LRA was never presented with – nor did it ever approve – a stand-alone VA hospital for the Galvez/Rocheblave site as part of the Orleans Parish Recovery Plan.

III. The use of CDBG Funds for the VA project violates the terms of the Long-Term Community Recovery Program (LTCRP)

Acting pursuant to the authority of the Disaster Recovery Initiative of the United State Department of Housing and Urban Development (HUD) [Docket No. FR-5051-N-01] Federal Register / Volume 71, Number 29, Department of Defense Appropriations Act, 2006, the State of Louisiana (“State”), acting through its Office of Community Development, adopted Action Plan Amendment Number 12 for Disaster Recovery Funds (“Action Plan Amendment Number 12”) providing for the guidelines pursuant to which the State set forth regulations for the Long-Term Community Recovery Program (“LTCRP”) within the Infrastructure Program, the purpose of which is to provide funding for the implementation of a local long-term recovery plan in the most heavily impacted areas of the State. These regulations provide that any project funded by the LTCRP must:

1. Be selected by the parishes based on local recovery priorities;
2. Demonstrate broad-based support from the local community, as indicated by inclusion in a broadly accepted recovery plan, or similar mechanism;
3. Be consistent with regional and state plans, as determined by the LRA;
and
4. Include direct benefits to the most affected municipalities and communities or have the agreement from the elected officials of the most impacted municipalities in the State.

Because the Galvez/Rocheblave site of the proposed new stand-alone VA hospital was not part of the UNOP and/or the Citywide Strategic Recovery and Redevelopment Plan, it was therefore not “selected by [Orleans] parish ... based on local recovery priorities[.]” Furthermore, because the Galvez/Rocheblave site of the proposed new VA hospital was not part of the UNOP and/or the Citywide Strategic Recovery and Redevelopment Plan, it does not “demonstrate broad-based support from the local community, as indicated by inclusion in a broadly accepted recovery plan, or similar mechanism[.]”

⁶ A copy of LRA June 25, 2007 Resolution is attached as *Exhibit 14*

IV. The Application omits essential data which is intended to encourage meaningful governmental oversight, accountability and transparency and to protect the public fisc from un-ethical or improper conduct.

The City's March, 2009 Application for use of \$75 million dollars in CDBG funds (Exhibit 5) has glaring omissions in response to requests for the following information:

Part II: Other Government Assistance Provided or Requested/Expected Sources and Use of Funds:

This section is left blank. The application omits \$4 million dollars in UDAG funds and millions of dollars, believed to exceed \$20 million, that the City of New Orleans agreed to pay for moving utilities, street repairs, etc related to site preparation for this project.

Item 6 – Part III: Interested Parties.

This disclosure section is left blank. The City failed to provide identifying information about any of the developers, contractors or consultants involved or the names of any persons who have a financial interest in the project “that exceeds \$50,000 or 10% of the assistance (whichever is lower)”

V. The Application contains numerous mis-statements and mis-representations which, viewed in the entirety, are material.

Item 7 – 4. Statement of Assurances⁷

“The Applicant/Grantee hereby assures and certifies that:

1. It has facilitated citizen participation by providing adequate notices containing the information specified in the program instructions and by providing citizens an opportunity to review and submit comments on the proposed application”

This undated statement is signed by C. Ray Nagin, former Mayor of the City of New Orleans. If this assurance is referring to the UNOP plan, then it is clearly disingenuous as the citizen participation in that plan did not support the project which is the subject matter of this application. There were numerous community meetings and discussions by citizens, all of which resulted in plans that did not endorse or support this

⁷ The City apparently filed two “Original” applications. Despite the fact that the first application’s National Objective section was scratched out and altered and then re-used for the second application, it appears that no-one bothered to have the second application based on “Urgent Need” approved by or signed by the Mayor or Dr. Blakely or any duly authorized representative of the City.

stand-alone VA hospital project at the Galvez/Rocheblave location. This form appears to be an undated, all-purpose, generic document that has no reference or application to the actual project related to this application, yet it was accepted by the State and HUD.

Item 1 - Supplemental Information

The application states that the Community-wide zip code for the location of the proposed project is 70112.⁸

70112 is the zip code for the area for the site for the proposed joint LSU/VA hospital approved by the UNOP plan. The area for which the application is submitted for the stand-alone VA hospital is actually in a different zip-code, which is 70119.

Item 4 - Applicant/Recipient Disclosure/Update Report -Applicant/Recipient Information

“State the name and location (street address, City and State) of the project or activity:”

A: “VA Medical Center Land Acquisition and Relocation (the area surrounded by S. Rocheblave St., S. Galvez St., Tulane Avenue and Canal St.) New Orleans, La. 70112.”

Again, the zip code for the UNOP/Orleans Parish Recovery Plan proposed joint LSU/VA hospital is erroneously used, while the physical description of the un-approved site is given.

Item 8 - 5. Long Term Community Recovery Program Justification for Project Description Approval

“Inclusion in LRA-Approved Plan: Development of the LSU/VA Regional Medical Center was identified as a High Priority in the District 4 Recovery Plan of the Unified New Orleans Plan as shown in the attached tables of the District 5 Recovery Planning Projects”

As noted previously, the proposal for a stand-alone VA hospital in the Galvez-Rocheblave site was not approved by the UNOP plan, which is the official, LRA-Approved Plan.

⁸ The significance of this zip code “error” is not known to the Complainants at this time. However, it is worth noting that the UNOP/LRA approved project for a joint hospital was for the 70112 zip code, while there was no authorization for this stand-alone project in the 70119 zip code location. It is not known whether this was done deliberately, in order to further confuse this project with the UNOP approved hospitals.

Item 9 - 6. UNOP: Economic Development Projects

“Project Name: LSU/VA/University Hospital”

“Project Location: Planning District #:2”⁹

“Project Description: The replacement of ‘Big Charity’ through a joint venture of LSUHSC and the Office of Veterans Affairs is critical to the redevelopment of the Medical District. These combined teaching, research, and clinical and acute care facilities and services represent the critical anchor, along with Tulane Medical Center, of the District’s rebirth. Without these facilities the medical district will not be revived, at least not anywhere near its pre-Katrina economic importance. Without the revitalization of the medical district, the vitality and sustainability of the entire downtown area may be impaired.”

“Anticipated Outcomes: These facilities will anchor the critically-needed redevelopment of the Medical District and help return jobs, capital investment and residents to the downtown area of New Orleans”

The document attached to the application describes a hospital which would be a joint project involving LSU/VA/University with shared facilities. This document appears to be from an early version of the UNOP plan. The UNOP plan did not approve the stand-alone VA hospital which is the subject matter of this application for HUD money. It is submitted that the attachment of this document to this application was done in order to confuse the issue and make it appear that the stand-alone VA hospital for which HUD money was being sought, had been approved under the UNOP plan, which is not true. In fact, this application seeks federal funding for a stand-alone VA hospital at a site which was not included in the UNOP plan and is contrary to what the plan provided.

The application seeks to use the UNOP process, which involved broad community participation and support, resolutions of support and adoption by the City Planning Commission, the City Council and the LRA, to obtain millions of dollars of federal funds for a proposal which was never vetted through that public, community-based process.

Item 10 - II. Scope of Services

⁹Planning District 2 is the Central City area. The Medical District, which is where Charity hospital and the pre-Katrina VA hospital are located, in downtown New Orleans, is in Planning District 1. The Lower Mid City area is in Planning District 4. Each of these districts has its own District Plans, which are part of the UNOP plan adopted as the recovery plan for Orleans Parish. It is not known why this document references Planning District #2.

A. Grant Award:

The purpose of the grant of CDBG Disaster Recovery Program is to “fund the implementation of the long term community recovery plans of City of New Orleans Strategic Recovery and Redevelopment Plan (the “Program”).

D.2....”The Plan and the Project list must comply with all citizen participation requirements, as shown in Action Plan Amendment Number 12 and include projects that:

- i. were selected by the Grantee based on local recovery priorities.
- ii. demonstrate broad-based support from the local community, as indicated by inclusion in a broadly accepted Recovery Plan or similar mechanism;”

The stand-alone VA project on the Galvez/Rocheblave site runs directly counter to the Recovery Plan adopted by the local community and approved by the City Planning Commission, the City Council and the LRA and is in violation of that plan.

VI. Failure to Provide Opportunity for Public Comment

HUD recently rejected an application to use CDBG dollars from the City of Galveston based, in part, on the lack of meaningful public participation in the planning for use of those funds. Here, the Galvez/Rocheblave Site of a stand-alone VA hospital was never part of the UNOP and/or the Citywide Strategic Recovery and Redevelopment Plan and was never the subject of broad-based community discussions or support. It was not “selected by [Orleans] parish ... based on local recovery priorities[.]” Furthermore, because the Galvez/Rocheblave Site of the proposed new VA Hospital was not part of the UNOP and/or the Citywide Strategic Recovery and Redevelopment Plan, it does not “demonstrate broad-based support from the local community, as indicated by inclusion in a broadly accepted recovery plan, or similar mechanism[.]” Indeed, the broad-based community discussion among citizens that did take place through the UNOP plan, specifically included a joint LSU/VA hospital at a different site, not the stand-alone VA hospital that is at issue in the City’s application. Not only was the stand-alone hospital not part of the citizen-based recovery, the actual results of the citizens’ participation in the planning process was ignored and disregarded.

Additionally, the hospital project in its entirety was specifically excluded from community-wide discussions of the City’s new master plan, under the guise that it was a

“federal project” and could not be discussed, thereby actively thwarting and frustrating community participation and involvement in the decision making process.

VII. The Application contains other significant errors and deficiencies

The Authority to Use Grant Funds states that “all objections, if received, have been considered.” Given the serious lack of public comment and the thwarting of public discussion on these issues, it remains unclear what, if any, objections were actually considered prior to the State of Louisiana’s decision to allow CDBG funds in the amount of \$75 million to be used for acquisition (\$55 million), demolition (\$15 million), and relocation (\$5 million) connected to the stand-alone VAMC project. Additionally, the dollar amounts approved by the State of Louisiana are different amounts than those in the City’s Budget/Cost Summary Form attached to its application and also vary from the Architects/Engineer’s cost estimate also attached to the application. No explanation is provided regarding the discrepancy in dollar amounts between the State and City and Architect/Engineers’ budgets. No details are furnished with regard to itemization of this budget, in stark contrast to the amount of detail provided on sample applications used as models for applicants for HUD funds.

VIII. Conclusion:

The process by which the City’s application was submitted and approved for use of \$75 million dollars of HUD CDBG money for this project, was deeply flawed. The project does not meet any of the three National Objectives Congress has approved for use of HUD funds. It is submitted that those individuals and entities who were making and approving the application were well aware or should have been aware, that this project did not qualify for use of these funds. It is submitted that false, material and misleading information was included in the application in order to obtain federal funding for a project which did not meet basic statutory requirements. The application also falsely misrepresented community support and participation for this project by attempting to confuse and substitute community support for the UNOP plan with this project, which was never part of that process. Nevertheless, this application was approved and taxpayer dollars have been allocated and are being spent, without proper authority and, it is submitted, in violation of law.

A complete and thorough investigation of this complaint is requested. Immediate action is needed, given that the funds are being rapidly spent on this project and the neighborhood is facing imminent destruction. The abandonment of downtown New Orleans and destruction of a viable, historic neighborhood to advance this project, which does not meet any of HUD’s three National Objectives, should not be countenanced.

Thank you for your attention to this matter. I'll look forward to receiving a prompt response. Please advise if any additional information is needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary E. Howell". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mary E. Howell

cc:

Ron Sims
Deputy Secretary, HUD

Mercedes Marquez, HUD
Assistant Secretary for Community Planning and Development

Fred Tombar
Senior Advisor for Disaster Programs, HUD

HUDadmincomplaint.28June10final