



provisions of the Nineteenth Century civil rights acts codified at 42 U.S.C. §§ 1981 and 1982; and

WHEREAS defendants GHA, the Galveston Redevelopment and Community Enterprise Corporation (hereinafter "GRACE"), the City of Galveston (hereinafter "the City") and the United States - including the United States Department of Housing and Urban Development (hereinafter "HUD") - denied and continue to deny the plaintiffs' claims; and

WHEREAS the defendants, without regard to the merit or lack of merit of the claims asserted by the plaintiffs, consider it desirable to settle this action both to avoid further expense, inconvenience and other burdens of litigation and to put the plaintiffs' claims to rest; and

WHEREAS plaintiffs believe that it is desirable for both the individual plaintiffs and the plaintiff class to compromise and settle plaintiffs' claims upon the terms and conditions hereinafter set forth;

NOW THEREFORE the aforementioned parties to this Consent Decree - in the interest of taking specific actions to further desegregation of public housing in Galveston, further the deconcentration of the population density in family development communities owned by GHA, and improve living conditions within GHA family development communities and surrounding neighborhoods by, among other things, reducing the rate of crime therein - agree to settle the above-referenced lawsuit upon the terms set forth below.

#### **DEFINITIONS**

1. "Family developments" or "family development communities" means the following GHA developments: Oleander Homes, Project Number TX17-001; Palm Terrace, Project Number TX17-002; Palm Terrace Addition, Project

Number TX17-006; Cedar Terrace, Project Number TX17-004; Cedar Terrace Addition, Project Number TX0017-005; and Magnolia Homes, Project Number TX17-003. Each of said family developments may be referred to by name without project number herein.

2. "HUD-GHA VCA" means the "CONCILIATION/VOLUNTARY COMPLIANCE AGREEMENT AMONG THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, THE HOUSING AUTHORITY OF THE CITY OF GALVESTON, TEXAS, AND GALVESTON REDEVELOPMENT AND COMMUNITY ENTERPRISE (GRACE) CORP." relating to FH&EO Title VI Compliance Review Case File No. 06-96-03-002-340 and Title VIII Complaint Case Nos. 06-96-0715-8, 06-96-0716-8, 06-96-0717-8, 06-96-0718-8, and 06-96-0719-8.

3. "Local parties" means the parties to this consent decree other than the United States and HUD.

4. "Cedar Terrace" means that portion of Project Number TX17-004 lying to the West of 31st Street in Galveston, and does not include any portion of Project Number TX17-004 lying East of 30th Street in Galveston, which, for purposes of this agreement only, shall be considered to be part of Cedar Terrace Addition, Project Number TX17-005.

#### **DECONCENTRATION AND REPLACEMENT OF CEDAR TERRACE UNITS**

5. GHA will promptly seek HUD's approval and legal authority - under Section 18 of the U.S. Housing Act, 42 U.S.C. § 1437p (regulations at 24 C.F.R. Part 970); HUD's HOPE I Program, 42 U.S.C. §§ 12871, *et seq.*; or other applicable legal authority - to demolish or otherwise dispose of two hundred ten (210) of the units of rental housing at the Cedar Terrace development.

6. Assuming HUD authorizes the demolition or other disposition of

the 210 units referred to in the previous paragraph and agrees to accord public housing operating subsidy to any public housing units that are developed pursuant to this paragraph:

(a) GHA shall replace those units on a ratio of 0.8 to one, with a corresponding total of one hundred sixty-eight (168) units. That replacement shall occur over a period of seven years from the date of entry of this Consent Decree.

(b) Of the 168 units, it is envisioned that thirty (30) shall be public housing units to be constructed on the Cedar Terrace site and thereafter sold to families pursuant to a plan approved by HUD as being in compliance with the requirements of HUD's HOPE I Program and other applicable provisions of law. Forty-eight (48) units shall be GHA-owned rental property, which shall be constructed, acquired or otherwise developed on a "scattered site" basis; however, no more than four (4) of such 48 units shall be located per site (no site bigger than a quadraplex), and no more than three (3) sites shall be located within five hundred (500) feet of one another in any direction. Because HUD has already provided funding for such forty-eight (48) units - in advance of the approval of the aforementioned Cedar Terrace demolition - GHA's siting of such units shall not be deferred until after such demolition approval has been obtained.

(c) The remaining ninety (90) units are envisioned to be units subsidized by GHA pursuant to a plan approved by HUD as being in compliance with the requirements of HUD's Section 8 Project-Based Certificate Program, 42 U.S.C. § 1437f(d)(2), 24 C.F.R. Part 983. After soliciting proposals from landlords/developers via a competitive process,

GHA shall enter into assistance contracts under which landlords or developers will agree to rehabilitate or build rental units in exchange for GHA's agreement to (I) "attach" Section 8 rent subsidies to those units and (ii) refer Section 8-eligible families from GHA's Project Based Section 8 waiting list to those landlords. Of those 90 units, no more than three (3) units or ten percent (10%) of the units in any apartment project, whichever is greater, may be located on any one site without prior approval of the Court.

The waiting list for occupancy of the units created, if any, pursuant to this Paragraph 6(c), shall be a separate Project-Based Certificate Waiting List. For the first sixty (60) days after the initial application date established by GHA for such waiting list, only Section 8-eligible households then-residing in GHA's family developments may be placed on that Waiting List. Thereafter, and for an additional sixty (60) days, both Section 8-eligible households then-residing in GHA family developments and Section 8-eligible households which are on GHA's regular rental housing waiting list will be eligible to be placed on the Project Based Waiting List. Thereafter, placement on the said Project Based Waiting List shall be available to any Section 8-eligible households requesting such placement. Placement on said Project-Based Waiting List shall at all times be subject to any and all other legal preferences which may be applicable. Within each group of applicants described above, applications shall be taken and considered on the basis of the date and time of application (I.e. "first come, first served"). Each of the preferences described above shall be publicized and advertised in accordance with applicable requirements.

(d) Ninety (90) of the 168 units shall be located in "majority white areas" as defined herein. For all sites acquired prior to December 31, 2001, "majority white areas" shall be all Census Block Groups in Galveston identified as having a percentage population that is at least fifty per cent (50%) non-Hispanic White, according to the official 1990 United States Census. For all sites acquired on or after January 1, 2002, the "majority white areas" shall be all Census Block Groups identified as having a non-Hispanic White population percentage which is equal to or greater than the non-Hispanic White population percentage in the City of Galveston as a whole, according to the official 2000 United States Census. A site acquired in a "majority- white area" prior to December 31, 2001 shall continue to be considered as being in a "majority-white area" after January 1, 2002, whether or not the Census Block Group in which the site is located would be a "majority-white area" as defined in this Paragraph 6(d) according to the official 2000 United States Census. For purposes of this Paragraph 6(d), the date a site is "acquired" shall be: (a) in the case of properties owned or intended to be owned by G.H.A., the date of final execution by all necessary parties of an enforceable earnest money contract for the purchase of the site by G.H.A., GRACE, or any other person or firm acting on G.H.A.'s behalf; or, (b) in the case of Project-Based Section 8 units, the date of submission of an owner's approvable proposal. Moreover, the sites for each of the 168 units shall be subject to review, and to approval or disapproval, by HUD under HUD's applicable site-and-neighborhood regulations - including any applicable public housing and Section 8 Project-Based Certificate Program site-and-neighborhood regulations at 24 C.F.R. § 941.202 and 24

C.F.R. § 983.6 respectively - and nothing in this paragraph shall be deemed to relieve the GHA from compliance with other legal requirements applicable to the siting of such units, including provisions of the HUD-GHA VCA.

(e) The one hundred sixty-eight (168) units referred to above shall be created by GHA such that the size of the units, by numbers of bedrooms, equals eighty percent (80%) of the total of each sized unit demolished at Cedar Terrace (with numbers of units rounded up from fractions of 0.5 or greater and down from fractions of less than 0.5).

7. GHA shall make the 168 units available for occupancy in such a manner that, at any time during the seven year development process envisioned by this Decree, at least fifty percent (50%) of the units available for occupancy are in majority white areas as defined herein in paragraph 6(d). However, the thirty (30) home ownership units at Cedar Terrace and twenty-four (24) of the forty-eight (48) GHA-owned scattered site rental units may be made available for occupancy without regard to this provision.

8. This paragraph applies only to those GHA tenants of family development community rental property who are displaced from the unit which he, she, or they are occupying because of elimination of that unit as part of the effort to deconcentrate public housing in any family development community. It is understood that in some instances households in a GHA family development community (at this time, Cedar Terrace) may be forced to vacate units against their wishes in order to allow the deconcentration effort to proceed at the family development community in which the rental unit that the household is occupying is

located.

In that event, the household shall first be offered a unit in a scattered site public housing unit, if any such existing unit is vacant. If no such vacant unit exists or the offer of a vacant unit is rejected, the household shall next be offered a comparable unit in the same family development community. If no such unit is available or the offer is rejected, the household shall be offered what GHA considers to be the most appropriate comparable unit in a different GHA family development, taking into consideration the new unit's proximity to the community of the tenant's choice, to the tenant's job site, to transportation, and to child care. If that offer is rejected, the tenant may choose from among those vacant units for which the household qualifies under GHA's occupancy standards. "Comparable unit" means, for purposes of this provision, a unit with the same number of bedrooms.

9. In creating the 168 units referred to in Paragraphs 6 and 7 above, GHA shall utilize its best efforts; however, nothing herein shall require GHA to create units for which funds do not become available - or for which acceptable Section 8 Project-Based Certificate Program development/rehabilitation proposals are not received - despite such best efforts. All parties agree that if sufficient HUD public housing development funding, HUD Section 8 certificates, or local landlords/developers interested in rehabilitating or constructing units in exchange for Section 8 project-based assistance do not materialize, then the local parties shall pursue alternate resources for the creation of the requisite number of units of housing from, at minimum, the City of Galveston, the State of Texas, agencies of the United States, and other

sources (including private sources) that might plausibly provide such assistance and that are reasonably made known to the local parties.

**ENHANCEMENT OF LIVING CONDITIONS IN AND AROUND GHA FAMILY DEVELOPMENTS**

10. Plaintiffs agree that the current living condition improvement plan of GHA (the Comprehensive Grant Program Application/Comprehensive Plan for 1997-2001, dated August 14, 1997) approved by the various Residents Councils of GHA, is beneficial to the tenants of GHA.

GHA shall seek to receive maximum funding from any source, including but not limited to the State and United States Governments, to allow air conditioning of units in GHA family development communities, and to implement air conditioning of those units to the extent that funding is available. Nothing contained herein shall restrict Plaintiffs from seeking funding for such improvements from HUD or any other component of the United States Government, and in such efforts to argue for increased funding for such improvements because GHA is a housing authority attempting to desegregate; at the same time, however, nothing herein shall be deemed to imply that HUD or any other component of the United States Government will provide, or will be likely to provide, such funding.

11. GHA shall provide to all Tenant Councils any report supplied to GHA by the City containing numbers, and rates as applicable, of reported criminal incidents - including but not limited to reported incidents of alleged criminal victimization - occurring on GHA-owned property and in surrounding areas/grids. However, nothing contained herein shall be deemed to require any party to violate any provisions of State or Federal law, including but not limited to the (Federal) Privacy

Act and the Texas Public Information Act.

12. GHA shall make its best efforts to effect strict enforcement of its existing rules and regulations governing the conduct of its tenants and other persons on any GHA premises, as well as the lease provisions in its leases to tenants, concerning the regulation of the conduct of tenants and other persons on the premises of GHA, including the One-Strike policy, and other rules, policies and regulations whose purpose is to prohibit or prevent both criminal conduct and non-criminal conduct which may be detrimental to the safety and tranquility of those persons residing in GHA properties.

13. The City agrees to seek to implement a community policing program in cooperation with GHA, by:

(a) Entering into a Memorandum of Understanding (MOU) with the GHA in which both parties will attempt to secure funding for enhanced community policing in the areas surrounding family housing projects. The City further agrees to make its best efforts to increase its community policing initiative in the surrounding neighborhoods. The MOU shall include general goals for crime reduction during the term of this agreement.

(b) Working with GHA cooperatively to establish community police storefronts in units which GHA has already agreed to provide in Oleander Homes, Palm Terrace and Addition, Magnolia Homes, Gulf Breeze, and Cedar Terrace Addition.

(c) Seeking outside funding to initiate a zero-tolerance philosophy toward the presence of graffiti, gang, drug, and criminal activity in the Galveston community.

(d) Working with the GHA, police department, neighborhood associations, tenant groups, and the public to purchase bicycles, associated clothing, and equipment and training, to facilitate bike patrol activities for community policing officers.

(e) Seeking outside funding to engage a private consulting firm such as the Institute for Law and Justice to assist in developing criteria for community policing in Galveston.

(f) Supporting a process which encourages recognition of the problem-solving approach required under a community policing philosophy, involving the chief of police and city officials.

(g) Seeking outside funding, in conjunction with the GHA, to underwrite a three-phase program to develop a comprehensive strategy for a community policing program, including specifically:

I. Orienting the police department, community representatives and selected city staff to focus on acceptance of the community policing concept by the community and the rank-and-file police officers. This phase shall include involvement of the City Manager in communicating to the public the City's support for community policing.

ii. Encouraging the City Manager to involve police command and supervisory personnel in developing a strategic plan for community policing in Galveston police department operations.

iii. Based on the strategic plan concept, working to develop a three- to five-year implementation plan to accomplish the strategic plan. The goal of the technical assistance to be provided shall be to ensure continuity of the Community Oriented Policing Services Program (COPS).

(h) Providing reports to GHA, at least semi-annually, of the numbers (and rates, as applicable) of reported criminal incidents, including a separate category of reported incidents of alleged criminal victimization, on GHA-owned properties and the areas surrounding them (by "grid" as utilized to map Galveston by the City), to the extent permitted by state and federal law.

14. GHA and the City will attempt to agree to enter into an arrangement concerning any policing efforts with regard to GHA property that are undertaken by the City (above and beyond those normally contemplated for any non-specific area of Galveston).

15. The City agrees:

(a) If funds are available, to provide funds to support infrastructure improvements in and around the GHA's family housing development areas; and

(b) To the extent outside funding becomes available, to maximize enforcement of city housing and building code requirements in areas surrounding public housing development sites, as well as within the sites themselves.

HUD acknowledges that the City is making the foregoing commitment regarding enforcement of code requirements in an effort to resolve civil rights concerns that were expressed by the plaintiffs in the course of settlement of this litigation and that are based on a belief of the plaintiffs - a belief that the City believes to be erroneous - that the City is not engaging in code enforcement in the area of the GHA family developments to the same degree that it engages in code enforcement in other areas of Galveston.

16. The City agrees to consider expansion of public transportation resources to serve scattered site housing where feasible and needed.

**FUTURE SPATIAL DECONCENTRATION EFFORTS OF GHA WITH REGARD TO FAMILY DEVELOPMENTS OTHER THAN CEDAR TERRACE**

17. Prior to applying to HUD for approval to demolish or otherwise dispose of units at any family public housing development other than Cedar Terrace, GHA shall notify counsel-of-record for plaintiffs of GHA's tentative plans for such demolition or other disposition and shall do so no later than the date that GHA initiates its actions to comply with HUD regulations (or other legal requirements) mandating pre-application consultation with housing authority tenants (e.g., 24 C.F.R. §§ 970.4(a) and 970.13). GHA's notice will state, at minimum:

- (a) the number of units to be demolished or otherwise disposed of;
- (b) the plans for relocation of tenants from such units;
- (c) the plans for creation of replacement units, if any, including the nature of the replacement units envisioned (e.g., by type of funding normally used to create such units, whether the units are to be GHA-owned, whether the units will be designated for eventual sale to tenants, whether they will be exclusively single-family structures or whether some multifamily developments are envisioned, etc.);
- (d) the rules that will be applied to the GHA's siting of such units (e.g., percentage of units to be sited in minority-concentrated areas versus other areas, limits on proximity of replacement units to one another);
- (e) the plans for further use of any land that is to be cleared by

demolition yet retained by GHA; and

(f) the time table for implementation of the plan.

However, nothing in this decree shall either be construed to place on GHA an affirmative obligation, or be deemed to reflect GHA's advance agreement, to replace - with other housing units, housing subsidies, or any other resources or benefits - any of the units that it seeks to demolish or otherwise dispose of pursuant to this paragraph of the decree.

18. Within 30 days of the receipt of the notice described in the preceding paragraph, the plaintiff class shall provide to counsel-of-record for GHA complete, specific, and detailed written comments, objections, and suggestions-for-addition with regard to the items set forth in the GHA's notice. GHA shall not submit its demolition/disposition application to HUD until it has provided to counsel-of-record for the plaintiff class a written response to the plaintiffs' comments, objections, and suggestions-for-addition that reflects GHA's reasoned consideration of those comments, objections, and suggestions. Should the plaintiff class, after receiving GHA's written response, believe in good faith that implementation of any aspect of the GHA's plans would constitute a violation of the Constitutional, statutory, or other law alleged to have been violated in the plaintiffs' Amended Complaint in this action, the plaintiffs shall invoke the dispute resolution and pre-litigation procedures set forth in paragraphs 28 and 29 of this decree and may file a motion for relief with the Court under the circumstances set forth in those paragraphs.

19. After a period of three (3) years from the date of the entry of this consent decree, the plaintiff class may re-institute litigation with GHA, provided:

(a) the plaintiff class alleges in good faith that GHA has unreasonably and in violation of applicable housing and civil rights laws or provisions of the United States Constitution failed to seek HUD's approval for or - if HUD approval has been obtained or has become legally unnecessary - failed to initiate or accomplish significant deconcentration of the GHA family development communities other than Cedar Terrace; and

(b) the plaintiff class provides in its complaint:

(I) the plaintiffs' specific and precise views regarding each of the issues set forth in items (a) through (f) of paragraph 18 above and any other particulars demanded of GHA in connection with the demolition or disposition of units other than at Cedar Terrace, including an indication of the putative source of funds for any and all relief sought by the plaintiff class, and

(ii) complete documentation that the plaintiffs complied with the requirements of paragraphs 28 and 29 and that, pursuant to those requirements, plaintiffs have already raised with GHA each objection set forth in their complaint regarding any already-announced GHA plan for demolition or other disposition.

**FUNDING-RELATED COMMITMENTS OF CITY AND HUD**

20. The City agrees to apply for all available resources that could assist the GHA in acquiring, rehabilitating, or creating scattered site

housing, and that could support infrastructure improvements in the neighborhoods surrounding the GHA's current or proposed housing stock, including the implementation of the Old Central/ Carver Park neighborhood improvements and other projects for which resources are already available. This shall not be a commitment by the City to fund or provide match money.

21. To the extent that:

(a) GHA or the City applies to HUD for resources that the applicant indicates - and agrees, as a condition for the award of such resources - will be used by the applicant to create the housing that GHA has agreed to create pursuant to this decree or pursuant to the HUD-GHA VCA; and

(b) the legally valid program funding criteria that govern the award of such resources accord a funding preference to housing that furthers desegregation;

HUD will deem the housing that GHA has agreed to create pursuant to the decree or the VCA as qualifying for such funding preference. Moreover, to the extent such legally valid funding criteria accord a further funding preference to desegregational housing that is being produced pursuant to the requirements of a settlement of litigation or court order (as opposed to not pursuant to such requirements), HUD will deem the housing that GHA has agreed to create pursuant to the decree or the VCA as qualifying for such further preference. Nothing herein shall be deemed to require HUD to waive a legally valid program regulation or funding criterion or to promulgate any regulation or funding criterion.

22. Provided HUD has a level of staffing that HUD deems to be adequate to enable it to comply with the obligations of this provision, employees chosen by HUD will provide any technical assistance that is requested by GHA for the purpose of improving GHA's understanding of the eligibility and application requirements of, and the funding criteria utilized in, any program that could assist the GHA in its compliance with its obligations under this decree. Notwithstanding the foregoing commitment, nothing in this provision shall require HUD to provide technical assistance if doing so would violate the HUD Reform Act or other law.

**GHA ENFORCEMENT OF SECTION 8 HOUSING QUALITY STANDARDS**

23. GHA shall enforce Housing Quality Standards in all units in Galveston covered by Housing Assistance Payments contracts being administered by GHA under the Section 8 certificate and voucher programs, whether project-based or tenant-based and whether being rented (a) by recipients of GHA-awarded certificates/vouchers or (b) by recipients of other housing authorities' certificates/vouchers who are using those certificates/vouchers in Galveston. GHA shall include a provision in all future Housing Assistance Payments contracts with Section 8 landlords requiring such landlords to agree that jurisdiction over GHA causes of action against landlords who do not comply with those standards shall lie, by virtue of this consent decree, in the United States District Court for the Southern District of Texas, Galveston Division, and that the Court may use its plenary powers, including the power to impose fines for contempt or other sanctions, to compel compliance with any Court

orders directing landlords to comply with such standards; provided, however, that GHA shall exhaust all administrative remedies (short of removal of unit eligibility and concomitant tenant displacement) before filing an action to bring such a landlord before the Court.

**GHA TENANT ASSIGNMENT POLICIES**

24. Regarding the assignment of tenants to any GHA property, GHA shall utilize objective criteria that have been validly promulgated by GHA to assign tenants to units, unless some provision of this decree dictates the criteria to be used by GHA in assigning tenants to units. Such GHA-promulgated criteria shall include a strict policy of nondiscrimination, and GHA shall not discriminate in the assignment of tenants to units on the basis of race, national origin, or any other basis set forth as protected in the Fair Housing Act of 1968, as amended.

**PAYMENT IN LIEU OF TAXES**

25. GHA shall, within a period of six months from the date of this order, furnish to the City a true and accurate accounting, to the best of GHA's ability, of monies owed to the City by GHA as payment in lieu of taxes (PILOT) for GHA fiscal year 1996-1997 based on legal requirements including Section 6(d) of the U.S. Housing Act, 42 U.S.C. § 1437d(d).

**PUBLIC EDUCATION AND FAIR HOUSING ENFORCEMENT EFFORTS OF CITY AND HUD**

26. The City shall assist the GHA in an effort to improve public knowledge and communication about publicly assisted housing.

27. The City, through the current Human Relations Commission, shall support enforcement of fair housing laws.

### **DISPUTE RESOLUTION**

28. No party shall file motions with, or in any other manner seek relief from, this Court based on an allegation that any party has failed to comply with or otherwise complete its obligations under this decree, or under any additional agreement entered into between any of the parties to this Decree and incident to it after entry of the decree, that has the effect of altering, adding to, or otherwise defining a party's obligation under this decree, for a period of two (2) years from date of entry of this decree, unless such party can demonstrate with precise specificity an apparent, flagrant unwillingness of a party to complete its obligations contained in this decree. Moreover, no party, at any time subsequent to the entry of this decree, shall file any such motion or request for relief or assistance unless (a) such motion or request is based on a good faith allegation that a party is unwilling to live up to its obligations under the decree despite the party's ability to comply with such obligations, and (b) the moving party has first:

(i) provided written notice to all counsel of record specifying the obligation that is alleged to have been violated and the specific facts that support that allegation, including but not limited to that initial notification contemplated in paragraph 17 or paragraph 19 herein;

(ii) given the alleged defaulting party at least thirty (30) days (from the date that the alleged defaulting party's counsel-of-record receives such notice) to provide, in writing, to all counsel-of-record a reply (A) evidencing the remediation of the alleged violation;

(B) denying that such violation has occurred and providing therewith a

reasonable, good faith explanation of the basis for such denial;

(C) admitting such violation but proffering a good faith proposal to take alternate action that adequately serves the basic purpose of the obligation not complied with; or (D) otherwise responding fully to the allegations of default;

(iii) provided a written counter-reply (of the same nature described in the preceding subparagraph) to counsel-of-record for all parties, within 30 days of having received the alleged defaulting party's reply or failure to reply pursuant to Paragraph 28(b)(ii) above; and

(iv) given the alleged defaulting party an additional thirty (30) days to reply as set forth above in Paragraph 28(b)(ii).

(v) After complying with the procedure set forth above, the complaining party may file a motion or other request for relief with the Court, provided such motion or other request for relief is filed within thirty (30) days of the complaining party's receipt of the final reply contemplated in Paragraph 28(b)(ii) above or the expiration of the period for such reply, whichever is earlier.

(vi) Nothing contained herein in paragraphs 17, 18, 19, 28, and 29 shall be construed to require the complaining party to tender more than one initial demand and one initial counter-reply, nor to require the party complained of to tender more than one reply and one counter-reply, as substantively contemplated in the procedure set forth in those paragraphs, prior to the filing of a motion or other request for relief from the Court.

29. Any motion or other request for relief filed with the Court

pursuant to subparagraph (v) of the preceding paragraph shall include, at minimum, all correspondence regarding the matter in dispute in the possession of the complaining party which was tendered by any party pursuant to the procedural requirements of this Decree, together with the moving party's current demand, a statement of the Court's authority to impose and implement the relief sought, and a statement of both the amount of funding that the moving party anticipates would be required to implement such relief and the anticipated source(s) of such funding.

#### **APPROVAL AND ENTRY OF DECREE**

30. This consent decree may be signed by each of the parties in counterpart. Upon all parties' execution of this document, the parties, acting jointly, shall promptly file the document with the Court, together with the joint motion described in this paragraph. The joint motion shall request that the Court enter an order:

a. preliminarily approving the proposed settlement set forth in this document as fair, reasonable, and adequate;

b. scheduling a final hearing to determine the fairness, reasonableness, and adequacy of the proposed settlement set forth in this document, to determine whether the Court should approve that proposed settlement, and to determine whether the Court should enter the settlement as a consent decree;

c. approving publication and dissemination of a class notice containing a summary of the settlement terms, the date of the final hearing, and information regarding the right to comment or object; and

d. certifying a class, for purposes of settlement of this

litigation and notification of such settlement, that consists of all African American persons currently residing in GHA family developments (These are Cedar Terrace and Addition, Palm Terrace and Addition, Oleander Homes, and Magnolia Homes) and all African American persons on a waiting list to become a tenant at a GHA family development.

31. All of the parties' obligations under this document are conditioned upon the Court's certification of a plaintiff class that includes all African American persons currently residing in GHA family development communities and all persons on a waiting list to become a tenant at a GHA family development community.

32. Upon entry of this decree, the Court shall issue an order setting forth a procedure for the Court's prompt consideration and determination of the amount of the plaintiff class's attorneys' fees and other litigation costs that each defendant shall, under applicable law, be liable to pay, if any. Each defendant that is determined by the Court to be liable for such fees and costs shall pay the amount of such liability within 60 days of the Court's determination; however, payment of such fees shall not be deemed to be a waiver of any defendant's right to appeal a Court determination that (a) is based upon an erroneous application of the law applicable to the award of attorneys' fees and costs or (b) is not supported by a legally adequate factual record. Also upon the entry of this decree, the Court shall release to GRACE the funds deposited into the Registry of the Court from the sale of GRACE's property at Campeche Cove; and, in the event GRACE is assessed any portion of the plaintiffs' attorneys' fees and/or costs pursuant to this

paragraph (or in the event GHA is assessed any portion of the plaintiffs' attorneys' fees and/or costs pursuant to this paragraph and GRACE elects to pay such fees and costs on behalf of GHA), the Court will issue an order permitting GRACE to pay such fees and costs from the funds currently in the Registry, subject to the right of any party aggrieved by such order to appeal therefrom, and any remaining portion of the funds currently in the Registry shall be used in accordance with the requirements of applicable law and other agreements of the parties. In so ordering, the Court explicitly finds that use of such funds for the purpose of paying those fees and/or costs is inherently a use that furthers the civil rights of plaintiffs and that furthers desegregation of public housing in Galveston and that such use is a housing purpose permitted by State and local law.

**POST-ENTRY EFFECT OF DECREE AND CONTINUING COURT JURISDICTION**

33. All parties agree that no party is admitting liability by entering into this decree. This decree shall not be cited as a finding of past misconduct - or used to imply past misconduct - on the part of any of the defendants, their agents, representatives or employees.

34. Notwithstanding any other provision of this decree, this decree, if approved by the Court, shall constitute a full and final resolution of all claims arising from the facts set forth in the plaintiffs' Amended Complaint in this action that plaintiffs, including the plaintiff class as certified, have asserted, or could have asserted, against GHA, GRACE, the City or the United States, including HUD, as of the date of entry of this Decree. Upon the Court's approval of this

decree, plaintiffs, including the plaintiff class as certified, will release and forever discharge those defendants from such claims. However nothing in this paragraph shall preclude the assertion against GHA, GRACE, the City or the United States (including HUD) of:

(a) any claim by any party to this action (pursuant to the procedures set forth elsewhere in this decree), for enforcement of any obligation under this decree with which those defendants have allegedly failed to comply;

(b) any claim by the plaintiffs in this action for attorneys' fees and costs incurred in the litigation and settlement of this action; or

(c) any future claim by the plaintiffs in this action, based solely on acts - or failures to act - of those defendants that occur after the entry of this decree; or

(d) any claim against GHA based on its action or inaction toward elimination of rental housing units at family development communities other than Cedar Terrace, the procedure and basis for raising which claim are set forth at Paragraph 19 herein above.

35. HUD agrees that it will issue a determination of no reasonable cause as to the City of Galveston with respect to claims raised in Fair Housing Complaint Nos. 06-96-0715-8, 07-96-0716-8, 06-96-0717-8, 06-96-0718-8 and 06-96-0719-8.

36. All parties acknowledge for the purposes of enforcement of this Consent Decree that the GHA is an entity independent of the City, and that the City does not control the GHA by virtue of the power of the City's Mayor to appoint the GHA Board of Commissioners.

37. Notwithstanding any other provision of the Consent Decree, obligations of any Defendant under this decree may not be consensually amended, changed, or modified except by means of a written instrument approved by counsel of record for the relevant Defendant, and approved by the Court.

38. Notwithstanding any other provision of the consent decree, nothing contained herein shall be deemed or interpreted (a) to impose duties or undertakings upon HUD, GHA, GRACE, or the City other than those explicitly stated herein; (b) to waive a right that any of the parties would normally possess under applicable law, unless such right is expressly and unequivocally waived herein; (c) to provide that either the City, HUD, GRACE, or GHA is guarantor or insurer of the others' performance hereunder; or (d) to diminish or otherwise negate any obligations or rights of the parties to the HUD-GHA VCA. Likewise, the fact that certain unwarranted interpretations of individual provisions of this Decree have been expressly disclaimed in those provisions (e.g., as in the last sentence of paragraph 10 or the last sentence of paragraph 17) shall not be deemed to infer that the parties have intended to create any non-expressed obligations or waivers-of-rights by virtue of the parties' failure to expressly disclaim other unwarranted interpretations.

39. The Court shall retain jurisdiction over the City and the United States (including HUD) in this action solely for the purpose of enforcement of the terms of this decree.

The Court shall also retain jurisdiction over GHA and GRACE for the life of this Decree to enforce the provisions of paragraphs 17, 18

and 19 concerning possible future actions or lack of action of GHA during the pendency of this Consent Decree to deconcentrate public housing rental units at family development communities other than Cedar Terrace.

The Defendants hereto understand that, in the event disputes arise concerning the implementation of this Decree, or as to GHA concerning further efforts (or lack thereof) to deconcentrate public housing rental stock at family development communities and to further desegregate public housing in Galveston, to the extent such matters are addressed in this Consent Decree, the Court may from time to time issue Orders to resolve such disputes. All parties agree that the Court has inherent jurisdiction to enforce this Consent Decree, and that, to the extent such party has agreed to future action or has subjected its future actions to scrutiny of the Court by terms of this Consent Decree, said Orders shall, subject to any appeal or stay of such Order, be enforceable against that party notwithstanding the lack of a finding of legal fault or a holding of liability arising from the Causes of Action asserted in Plaintiffs' Amended Complaint. All parties hereto agree that this Consent Decree obviates the need to litigate Plaintiffs' underlying cause of action, while limiting the relief available to Plaintiffs. All parties agree that the conduct to be scrutinized by the Court pursuant to the enforcement provisions hereof is conduct that occurs from the date of this Consent Decree forward until its expiration. All parties agree that the Court's scrutiny of future actions or lack thereof shall include the Court's scrutiny of available resources, including money, and that it is not contemplated that the Court order implementation of an action for

which the party so ordered has insufficient funds.

The enforceability of Court Orders agreed to herein includes but is not limited to Orders concerning Plaintiffs' attorneys' fees and litigation costs.

40. Notwithstanding any other provision of the Consent Decree, the United States (including HUD) shall be required to continue to comply with its obligations under the decree only until (a) all housing that the GHA is required to create pursuant to this decree has been created or (b) the expiration of seven years from the entry of the decree, whichever is earlier. The Court shall retain continuing jurisdiction over the other defendants for seven (7) years from the date of entry of the consent decree; provided, that any party may move to extend, beyond that time, the Court's jurisdiction (a) over the City, solely to enforce an obligation hereunder that the City has failed to perform, or (b) over the GHA or GRACE, (1) to enforce an obligation contained in this Decree; or (2) to adjudicate claims stated against GHA and/or GRACE under the circumstances set forth in Paragraph 19 of this Consent Decree.

41. GHA shall transmit semi-annual reports to the Plaintiffs concerning its progress toward obtaining any replacement housing units which it has agreed to create pursuant to this Decree, including:

(a) any sites identified for utilization as replacement housing units; whether such unit is intended to be a scattered site rental unit, a home ownership unit, or a Project Based Section 8 unit; and the number of bedrooms contemplated for such unit;

(b) the expected date each such unit will be available for

occupancy;

(c) the origination date of any contract for Project Based Section 8 housing, together with the name and address of the landlord;

(d) a list of property owners contacted to determine his, her, or their willingness to enter into contracts for Project Based Section 8 Housing, together with the location of the properties sought for entry into the Project Based Section 8 Program;

(e) the status of any pending requests for HUD approval of action to deconcentrate public housing rental units at family development communities; and

(f) the expected date of tender of any request for HUD approval of action to deconcentrate public housing rental units at family development communities within the six months following the date of tender of the report.

The first such report required by this provision shall be tendered to Plaintiffs twelve months from the date of entry of this Consent Decree, with all subsequent reports to be tendered each six months thereafter. The final report hereunder shall be due on the date which is seven (7) years after the date of entry of this Decree.

42. (a) Upon reasonable advance notice, a party shall provide any nonprivileged information - and shall make available for inspection and copying any nonprivileged documents - requested by any other party that directly relates to that party's compliance with terms of this Consent Decree. For purposes of the preceding sentence, the word "nonprivileged" is intended to have the same meaning as "not privileged" in Rule 26(b)(1)

of the Federal Rules of Civil Procedure, and advance notice shall be conclusively presumed to be reasonable if the time set for a party's compliance is at least the number of days that would be provided for such party's compliance under any public information law to which the party is subject or, in the case of any party not subject to the provisions of any public information law, any civil discovery rule to which the party would be subject if litigation between the relevant parties were proceeding.

(b) Notwithstanding any other provisions of this decree, an aggrieved party may file a motion with the Court to enforce the obligations of subparagraph (a), subject to the following requirements:

(I) Except as provided in subparagraph (b)(ii) below, the requesting party shall not file any motion for relief unless the requesting party has first (A) provided written notice to counsel of record for the alleged noncomplying party, specifying both the information request that is alleged not to have been complied with and the specific facts that support the allegation of noncompliance, and (B) given the alleged noncomplying party at least ten (10) days from the receipt of the notice required by this subparagraph to remedy such noncompliance.

(ii) In situations of dire necessity that have not been caused by the alleged noncomplying party's own negligence or failure to act reasonably and in a timely fashion, the requesting party shall not file any motion for relief based on a party's failure to make information or documents available unless the requesting party has given such written notice and opportunity to remedy noncompliance that are reasonable under

the circumstances.

IT IS SO ORDERED AND DECREED.

DONE AT GALVESTON, TEXAS THIS 12<sup>th</sup> DAY OF December, 1997.

  
SAMUEL KENT  
UNITED STATES DISTRICT JUDGE

Agreed:

For PLAINTIFFS:

MICHAEL M. DANIEL, P.C.

By:



Dated:

10/28/97

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State Bar of Texas Number 05360500  
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(214) 939-9229 FAX

For the HOUSING AUTHORITY OF THE CITY OF GALVESTON  
and GALVESTON REDEVELOPMENT AND COMMUNITY  
ENTERPRISE CORPORATION:

TRAMONTE, TRAMONTE & BASTIEN, P.C.

By:




Dated: 10-30-97

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For the CITY OF GALVESTON:

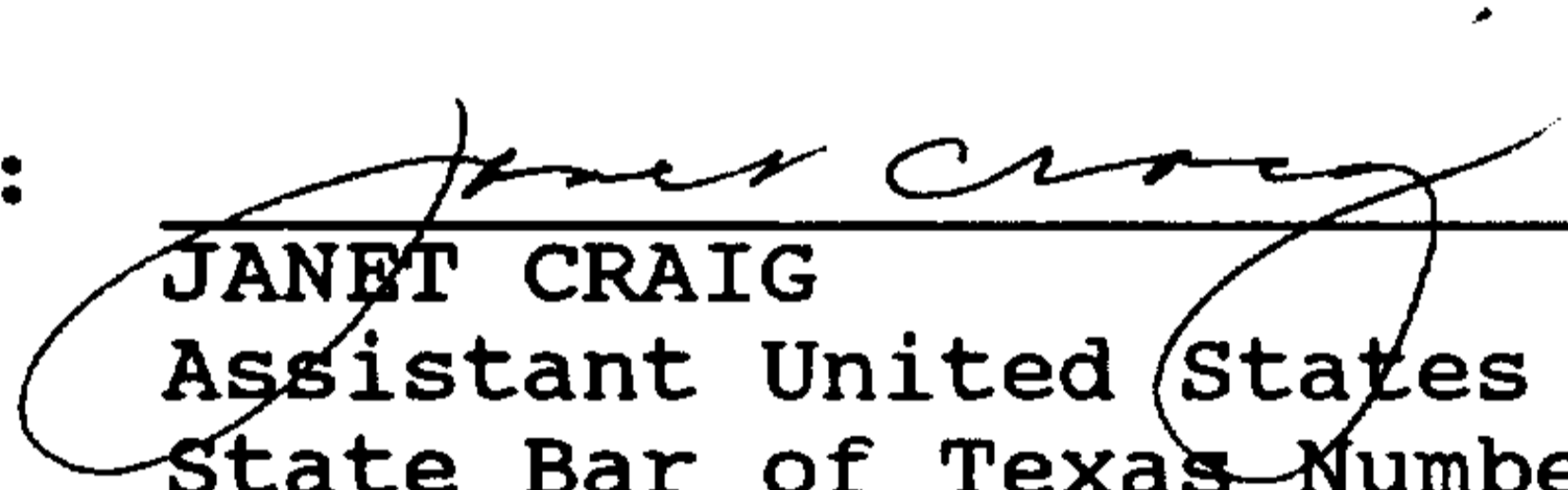
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Dated: 10/30/97

For the UNITED STATES (including HUD):

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By:   
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Dated: 10/29/97