

**PUBLIC
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**DOCUMENT OF THE INDEPENDENT CONSULTATION
AND INVESTIGATION MECHANISM**

BR-MICI004-2011

**CONSULTATION PHASE REPORT
LOW-INCOME NEIGHBORHOOD IMPROVEMENT PROGRAM
“HABITAR BRASIL”**

BR-0273

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Consultation Phase Report

Case BR-MICI004-2011

Low-income Neighborhood Improvement Program – “Habitar Brasil”
(BR-0273)

CONSULTATION PHASE

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CONSULTATION PHASE

I. EXECUTIVE SUMMARY

- 1.1 This report summarizes the work done in the period from January 2012 to May 2014 by the Independent Investigation Consultation Mechanism (“ICIM” or “Mechanism”) in its Consultation Phase for case BR-MICI004-2011.
- 1.2 In June 2011, the ICIM received a Request¹ submitted by Mr. Cosme Vitor of Central de Movimentos Populares (CMP), representing some 30 families alleging that they had been harmed by one of the projects under the Low-income Neighborhood Improvement Program – “Habitar Brasil” (BR-0273) (the “Project” or “Habitar program”), the financing of which was approved by the Board of Executive Directors of the Inter-American Development Bank (“IDB” or “the Bank”) on 23 September 1998. The project referenced in the Request was executed in the Município of São José dos Campos, State of São Paulo, Brazil. Its comprehensive neighborhood improvement component included family resettlement, when necessary, as a result of the reorganization of the neighborhood (if located in high-risk zones—flood-prone areas and steep or eroding slopes—or in overcrowded housing). The Request stated that the resettlement process implemented under the project had caused a series of adverse social impacts for people living in the Vila Nova Tatetuba and other communities. Specifically, some families believed that the proposed housing alternative did not satisfy the minimum conditions required under the Bank’s policy on Involuntary Resettlement (Operational Policy OP-710), and so had decided not to accept the conditions. Following this decision, the families in question had been evicted from their houses, and since January 2004 had been living in makeshift accommodation in a disused railway hangar.
- 1.3 Once the Request had been declared eligible, and the feasibility of a dialogue process evaluated, beginning in April 2012 the ICIM facilitated the dialogue process in which the Requesters and the Municipal Government of São José dos Campos (“the Parties”) set themselves the objective of finding consensus-based solutions to the housing problem and other related issues. IDB Management has provided support throughout this process.
- 1.4 In May 2014, the Parties signed an agreement (see Appendix) offering a housing solution to 28 families and setting an 18- to 24-month time frame for completion, given the number of intervening activities required. During that period, at the Request of the Parties and pursuant to its mandate, the ICIM will be responsible for monitoring the agreement, in coordination with a “Joint Committee” created specifically to closely monitor the process in collaboration with the Parties.

¹ The Request can be consulted at [Public Registry BR-MICI004-2011](#).

II. ICIM POLICY AUTHORITY AND TRANSITION ARRANGEMENT

- 2.1 The purpose of the Consultation Phase, according to paragraph 38 of the ICIM Policy, is to provide an opportunity, applying consensual and flexible approaches, to address the concerns of a party that believes it has been affected by the failure of the IDB to follow its Relevant Operational Policies in a Bank-Financed Operation. In addition, according to paragraph 46, the Consultation Phase will be tailored to the individual Request, depending on factors such as its urgency, principal parties, potential or actual harm involved, remedies sought and the likelihood that the consultation will have positive outcomes. There is no guarantee that a Consultation Phase process will resolve all the concerns to the satisfaction of the Parties.
- 2.2 Paragraph 51 states that the Project Ombudsperson shall be required to prepare a report on the Consultation Phase exercise and its results, which will be distributed to the President of the Bank, Board, Requesters, and posted on the Registry. The terms of a settlement agreement or approved recommendation will be made public via the Registry, unless all of the signatory parties agree on confidentiality, in which case the Project Ombudsperson shall cause an abstract to be posted on the Registry.
- 2.3 In view of the findings and recommendations arising from the evaluation of the ICIM made by the Office of Evaluation and Oversight (OVE), in January 2013 the Board of Executive Directors embarked on a process to amend both the ICIM Policy and its operational structure, to strengthen the Mechanism and ensure more effective and efficient operation.
- 2.4 In particular, in view of the departure of the Project Ombudsperson, from 1 September 2013 until the entry into force of the revised ICIM Policy, the Board of Executive Directors approved a transition arrangement under which the Consultation Phase is supervised by the ICIM Executive Secretariat.
- 2.5 This document is being issued in accordance with that transition arrangement and as specified for the Consultation Phase in the ICIM Policy in force at the time the Request was received (document GN-1830-49).

III. CASE BACKGROUND

- 3.1 On 10 June 2011, the ICIM received a Request from Central de Movimentos Populares (CMP), through Mr. Cosme Vitor, representing some 30 families alleging that they had been harmed by the IDB-financed Habitar program² in the Município

² The loan for the Habitar program (1126/OC-BR) was approved on 23 September 1998 by the Bank’s Board of Executive Directors for the purpose of financing comprehensive neighborhood improvement projects that included, among other actions: (a) resettlement of families located in high-risk zones or as necessary as a result of the reorganization of the project area or in overcrowded housing; (b) the construction of basic housing units for cases of family resettlement or replacement of housing that cannot be repaired; and (c) socioeconomic support and community development during project implementation. (IDB. Project completion report, “Project description.” Low-income Neighborhood Improvement Program – “Habitar Brasil” (loan 1126/OC-BR), page 8).

of São José dos Campos, State of São Paulo, Brazil, owing to the IDB’s failure to comply with its policy on Involuntary Resettlement (Operational Policy OP-710).

- 3.2 The Request alleged that the resettlement process implemented under the project had caused a series of adverse social impacts for people living in the Vila Nova Tatetuba community and others as a result of irregularities in the resettlement program affiliation and consultation process conducted by the Municipal Government of São José dos Campos. Specifically, it was alleged that the affected communities had not participated in the design and implementation of the resettlement plan, and had only been offered a single housing alternative in a location far from the Requesters’ social and economic activities. For that reason, some of the families who were living in Vila Nova Tatetuba were said to have not accepted the terms and conditions of their resettlement and, as a consequence, been evicted from their homes by force. Throughout this process, women, many of them heads of household, were especially affected.
- 3.3 Following the eviction, the Requester families occupied a hangar of the former Federal Rail System (RFFSA) and have been living there since January 2004.
- 3.4 They also reported that, during their eviction from their original homes, their furniture and other personal belongings had been taken to a public depository under the custody of the Municipal Government. They allege that most of these objects and items of furniture had been lost or damaged, owing to the poor conditions of the depository.
- 3.5 The Request was ruled eligible for the Consultation Phase on 22 August 2011³ (document MI-18). As a result of the evaluation (document MI-18-2) performed in December 2011,⁴ the Project Ombudsperson concluded that there was an opportunity for the Parties—the Requester families and the Municipal Government of São José dos Campos (“Municipal Government”)—to find alternative solutions jointly and voluntarily.

IV. ACTIONS DURING THE CONSULTATION PHASE PROCESS

- 4.1 The Consultation Phase was conducted in three stages: (a) preparation of the Parties for the dialogue; (b) Dialogue; and (c) Agreement. The three stages will be described below.
- 4.2 **Preparation of the Parties for the dialogue.** This stage lasted from January to April 2012, and had the following objectives: (a) to define who would participate in the dialogue process as interlocutors; (b) to agree on the topics to be discussed; and (c) to agree on a set of rules and basic principles for conducting the process. To achieve these objectives, a series of individual meetings were held with each of the Parties, as well as joint meetings.

³ The Memorandum of Eligibility is available in the ICIM Public Registry (www.iadb.org/mici).

⁴ The Evaluation Report is available in the ICIM Public Registry (www.iadb.org/mici).

- 4.3 In relation to identifying the interlocutors, in March 2012, four members of the Requester families were chosen as representatives, who would be accompanied in the process by three representatives from the Social Movements (Marcha Mundial das Mulheres and the CMP)⁵ and would receive legal counsel on specific issues from the Office of the Public Ombudsperson (DPE).⁶ The Mayor’s Office (Prefeitura) appointed staff from the Housing Department⁷ as its main representatives, who would be supported by staff from other departments as necessary. The process was also supported by IDB Management.
- 4.4 The Parties agreed to address the following issues in the consultation process: (a) identification of the affected families to be assisted; (b) finding housing alternatives for those families; (c) analysis of the feasibility of the Requester families remaining in the railway hangar until they received a definitive solution; (d) adoption of safety measures (elimination of risks) in the hangar until the final departure of the families; (e) location and features of the future dwellings; (f) time frames and other feasible actions; (g) general situation of the families living in rented houses; and (h) aspects related to the specific situation of women Requesters.
- 4.5 In this preparatory period, the rules and principles of the dialogue were also discussed and agreed upon, and these formed the framework of jointly defined rules to conduct the process. The document was signed by the Parties, the ICIM Facilitation Team at the time, the Bank’s project team, and the DPE.
- 4.6 **Dialogue.** This stage was conducted from April 2012 to April 2014, with the main objective of finding housing solutions for the Requester families, according to the agreed characteristics.
- 4.7 **Identification of families for assistance.** With the aim of identifying the group of Requesters and some of its basic features, to inform the development of the criteria to be considered when preparing the housing solution proposals pursuant to Operational Policy OP-710, the ICIM made an initial cadastre of the families living in the hangar in January 2012. This served as a launch pad for dialogue on the subject. The Parties held both internal and joint meetings to discuss key issues involved in drawing up a list of beneficiaries, and agreed, among other things, on the inclusion of families stemming from the nuclear family of the original residents of Vila Nova Tatetuba, given the changes that had occurred in the families since 2003, such as family breakups, new unions, and/or an increase in the number of family members. Following this agreement, the Mayor’s Office made a

⁵ Representatives of the social movements accompanied and supported the Requester families throughout the Consultation Phase, contributing, with their experience gained from the social movement, to advise the families and helping to narrow the gap between the different negotiating positions. In April 2013, one of the representatives of the Requesters took a job in the municipal government, for which reason she resigned as interlocutor in the dialogue process, leaving just two representatives of the social movements to support the families in the rest of the process.

⁶ The DPE was identified as a secondary stakeholder in the evaluation report on the case.

⁷ Regarding the changes that occurred during the dialogue process, in addition to turnover in the ICIM Consultation Phase team (see paragraphs 2.2 to 2.4), one representative of the social movements departed, and the Mayor’s Office changed its team of representatives on several occasions, in particular when a new administration took office in January 2013.

socioeconomic cadastre of all families in the hangar in June 2012. After discussing special cases, the Parties consolidated the final list in May 2014, containing a total of 28 families who would receive assistance as beneficiaries.

- 4.8 **Location and characteristics of the dwellings.** The dialogue focused mainly on finding housing solutions for the Requester families and discussing the location and characteristics of the future dwellings. The distance from the city center and limited access to public services were key factors in analyzing alternatives, since, according to the Requesters, these were some of the reasons why the only resettlement alternative proposed under the Habitat program had not been accepted.
- 4.9 In late 2012, the dialogue was temporarily suspended while municipal elections were held, as a result of which the local authorities that had been participating in the consultation process left office, and relations had to be initiated with the newly elected authorities. In early 2013, the dialogue process was resumed, and the new authorities confirmed their willingness to continue with it, once they had been informed of the ICIM’s mandate and of the voluntary nature of the process. The Parties explored several different housing alternatives compatible with the established requirements, and visits were made to number of viable alternatives. Based on these visits, and having explored other solution alternatives, in June 2013 an agreement was reached on an area in which to build homes
- 4.10 Nonetheless, in September 2013, the technical analysis of the terrain performed by the departments of Transportation, Environment, Housing, and Works found the following obstacles: (a) ongoing legal disputes concerning environmental issues in the area;⁸ and (b) identification of an owner of the terrain, which was unknown to the Municipal Government when signing the agreement. Given these facts, which made it legally unviable to use the land area in question, the Mayor’s Office explored other alternative locations for building the dwellings.
- 4.11 On 16 December 2013, the Mayor’s Office, through the then Director of the Housing Department, presented additional documentation on a new option: (a) a planialtimetric cadastral survey of the area; (b) property registration documentation; and (c) two housebuilding typologies. In addition, it reported that the Mayor’s Office would finance the construction out of its internal funds. The representatives of the families stated their agreement with the proposed land area. Nonetheless, the Requesters disagreed with the typologies proposed for the houses, and the dialogue then focused on finding feasible alternatives.
- 4.12 In a series of meetings held in January and February 2014, the Parties discussed a new housing typology. After several proposals were put forward by each of the Parties, and a nontraditional construction method was considered, an agreement was reached on the typology and location.
- 4.13 At the same time, the other topics on the dialogue agenda were also being discussed: (a) the Requesters’ continued stay in the hangar; (b) adaptation of the

⁸ According to the information provided by the Mayor’s Office, legal proceedings were ongoing in relation to pollution risks caused by a waste deposit located on the terrain.

hangar to provide safer housing conditions on a temporary basis; (c) the loss of furniture; and (d) the gender issue.

- 4.14 Regarding improvements to the hangar, in early 2012 the Requesters produced a proposal for improvements with the corresponding costs. In response to this, work was done on an upgrading project and to arrange a visit by experts to evaluate the technical requirements for the proposed adaptations. Nonetheless, the Parties agreed that the proposal as presented was very costly and entailed a major change for a temporary solution, considering the final, permanent housing solution for the families that it was hoped to achieve through the dialogue process. When this topic was taken up again with the Municipal Government in June 2013, the Requesters proposed repairing the sewerage to improve living conditions in the hangar. The Mayor’s Office purchased the materials and the Requesters made repairs to the sewer system.
- 4.15 Regarding their continued stay in the hangar until the final dwellings were received, in 2014, during conversations to reach a final agreement, it was clarified that the land where the hangar was located was not municipal property, so the Mayor’s Office did not have jurisdiction to guarantee their continued stay there. This clarification was accepted by the Requesters. Nonetheless, it was agreed that efforts would be made to enable the families to remain in the hangar until the definitive housing solution became available.
- 4.16 Another issue addressed during the dialogue was compensation payable to the families for the loss of their furniture and other belongings. Following a lengthy period of analysis on the legal viability, and thanks to the commitment shown by the Mayor’s Office, the corresponding compensations were paid in December 2013, thereby resolving this important issue for the families.
- 4.17 Lastly, on the gender issue, the Mayor’s Office identified a number of alternatives for women harmed by the project to be included in job training programs. Nonetheless, the Requesters decided that, on this specific issue, recognition of the harm caused and offering some type of solution or compensation was the direct responsibility of the IDB, not the Mayor’s Office; so they reserved the right to explore other alternatives outside the ICIM process.
- 4.18 A key element of the dialogue involved the implementation of the agreements in specific activities with defined completion deadlines. The Consultation Phase team made it a priority of the agreement, throughout the process, that both Parties clearly understood the steps necessary to fulfill the commitments assumed and the time required for each one. Accordingly, once the housing solution had been decided upon, the ICIM assisted in drawing up a schedule of actions encompassing all of the activities needed to build the housing units, with the various departments and the contractor firm Urbam, which would be responsible for the construction. This schedule was developed in close collaboration with the Parties, so as to give the agreement a clear mechanism for evaluating fulfillment in a time period acceptable to all Parties as feasible and realistic.

- 4.19 **Agreement.** In the agreement stage, the Parties once again displayed great willingness to resolve their differences, thanks to the trust built in the previous stage. In May 2014, the ICIM held a series of meetings with each of the Parties, and based on these, sent an initial draft of the terms of the agreement for discussion. As the Requesters had asked for ICIM support in implementing the agreement, the Consultation Phase team suggested including the schedule of actions to facilitate monitoring. The team worked with the stakeholders to update, finalize, and simplify that schedule.
- 4.20 The terms of the agreement were negotiated between the DPE, acting as legal representative of the Requesters, and the Chief of Staff and the legal representative of the Mayor’s Office. Following several individual and joint negotiation sessions, as well as working meetings held by the ICIM Consultation Phase team, the representatives reached a form of wording that was acceptable to both Parties.
- 4.21 The agreement was formally signed on 24 May 2014 in São José dos Campos, attended by the Requester families to be benefited, the Mayor and members of his cabinet, the ICIM Executive Secretary, and the local facilitator.
- 4.22 The agreement (see Appendix) provided for the construction of 28 individual homes of 50.62 square meters each, with two bedrooms, according to the typology approved by the families, in an area located 4 kilometers from the city center. The agreements set a maximum of 18 months⁹ for construction of the homes, to be financed with own resources of the Mayor’s Office, under the “Minha Casa, Minha Vida” [My House, My Life] (MCMV) program modality.
- 4.23 The families will also receive social support before, during, and after acceptance of the house, to assist them in the major change that will occur to their routine and way of life. For this purpose, the Mayor’s Office and the families will work together on a Social Action Plan.
- 4.24 To monitor the scheduled activities, the agreement calls for the creation of a Joint Committee, consisting of three representatives from the families and three from the Mayor’s Office, to serve, among other things, as a focal point for the flow of information and communication with the ICIM.
- 4.25 The agreement is the culmination of the dialogue discussion, following 24 months of technical, procedural, legal, and political hurdles in which the goodwill and amenableness of each of the participants had been crucial.
- 4.26 **Monitoring.** Following a decision made by the Parties, the ICIM will directly monitor performance of the agreement,¹⁰ as provided for in the ICIM Policy.¹¹ The

⁹ Since construction of the houses is dependent on authorization from the Secretaria do Patrimônio da União [Department of Federal Assets] (SPU) to make use of the land, the 18-month deadline runs from the date on which that permit is received, plus an additional month for the necessary procedures to be completed. This reflects the limit of municipal government responsibilities in terms of approvals under the authority of the SPU. Also, the agreement will be nullified if the SPU fails to transfer the land for the Mayor’s Office to use.

¹⁰ The monitoring plan envisages support from the local facilitator in the first stage of the work of the Joint Committee and missions to verify construction progress at two or three key points in time.

¹¹ Pursuant to paragraph 52 of the ICIM Policy.

monitoring period is confined to that specified in the schedule of activities agreed upon by the Parties.

V. REFLECTIONS AND LESSONS LEARNED

- 5.1 The Consultation Phase process for the Habitar case gave rise to important lessons and reflections for the ICIM, as described below:
- 5.2 **Interagency cooperation.** To reach agreement in this case, it was essential to have participation and collaboration from various stakeholders in addition to the Parties themselves. These other stakeholders provided support in finding solutions and offered their technical expertise at the necessary times. During the process, it was crucial to be able to count on the goodwill of institutions such as Caixa, the Secretaria do Patrimônio da União [Department of Federal Assets] (SPU), and Urbam. It is also worth highlighting the role played by the DPE, which not only provided legal advice to the Requesters, but also contributed to better understanding and to narrowing the gap between the different negotiating positions.
- 5.3 **Representativeness and decision-making.** A key element in Consultation Phase processes of this type is identifying the representatives and how agreements can be reached. In the case in question, the dialogue discussion served as the place to which proposals, interests, and positions could be brought. For this, it was essential to have representatives with decision-making authority at the dialogue table, while recognizing that certain issues required prior consultation with the group of Requester families or, with the Mayor’s Office on regulatory issues and/or powers. In this context, it is important to identify, from the outset, the decision-making process to be followed and the time necessary for the process, and to ensure that all interlocutors fully understand this. Vagueness on this issue can cause unnecessary delays.
- 5.4 **Methodological framework for seeking the solution.** Under the ICIM mandate, the process for seeking solutions is framed by the relevant Bank Operational Policies. In this case, the principles of the Bank’s Operational Policy on Involuntary Resettlement (OP-710) were adopted to find a solution for the families, including the following: (a) achieving a minimum standard of living and access to services at least equivalent to pre-resettlement levels; (b) experiencing as little disruption as possible to their social networks, opportunities for employment or production, and access to natural resources and public facilities; and (c) having access to opportunities for social and economic development.¹² This takes into account that the Request to the ICIM stemmed from the rejection of the resettlement conditions offered during the implementation of the Habitar program, because the Requesters feared that these would cause a deterioration of their living standards. Moreover, use was also made of the methodology specified in OP- 710, as far as possible and tailored to the case in question, for example in terms of: (a) undertaking a socioeconomic cadastre of the families, to ascertain the individual characteristics of

¹² Operational Policy on Involuntary Resettlement (OP-710), “Principles,” approved by the Board of Executive Directors on 6 July 1988.

each one; (b) finding a housing alternative based on this socioeconomic diagnostic; and (c) work to design the type of housing in consultation with the families.¹³

- 5.5 **Effect of the Consultation Phase.** The Consultation Phase process does not end with the signing of the agreement. The agreement signed by the Parties in this case is giving rise to corrective actions following the harm caused to the Requester families owing to the failure to observe the Bank’s operational policies; and, without doubt, it represents a significant and important achievement for both Parties. Nonetheless, the real success is the strict performance of the actions called for in the agreement, which includes not only providing the housing solution but also social support by the Mayor’s Office to help the Requester families in the process of adaptation and subsequent social rehabilitation, once they move into their new houses. For this purpose, it is crucially important that the ICIM maintain support until the last scheduled activity is concluded. When this occurs, the case can be considered closed to the satisfaction of all Parties.
- 5.6 **Innovation in finding solutions.** During the dialogue process in this case, ongoing collaboration was needed between the Parties to explore options and alternatives that addressed the issues on the dialogue agenda. On several occasions, it was necessary to seek unconventional alternatives to address the Requesters’ different needs within the confines of the Municipal Government. This occurred, for example: (a) when exploring land of the RFFSA that could be transferred for construction of low-income housing; (b) creation of the financial mechanism for paying for the houses, which ultimately consisted of financing obtained from internally generated funds of the Municipal Government, under the federal program model (MCMV); and (c) the typology of the houses with the prefabricated construction method, which made it possible to shorten construction time. This was further supported by reaching an agreement to pay compensation for the furniture. In this context, it was essential for the process that the Parties showed creativity and flexibility to innovate and think outside the box, as well as the technical capability and persistence to implement these ideas.
- 5.7 **The role of the local facilitator.** From an early stage in the dialogue, the Consultation Phase team included an independent consultant with experience managing social and environmental disputes. This facilitator served as a local focal point, supporting the smooth conduct of the process, facilitating communications and nurturing trust between the Parties owing to her technical expertise and general amenableness.
- 5.8 **Management of expectations.** In a dialogue process involving such major issues, managing expectations as to the role of the ICIM and its scope is essential to the success of the process. In particular, the emphasis must always be on the

¹³ Pursuant to Operational Policy OP-710, reliable baseline data must be compiled, including the socioeconomic and cultural characteristics of the families to be resettled, among other things. In an involuntary resettlement project, an involuntary resettlement plan must be produced presenting alternatives based on the socioeconomic diagnostic study undertaken. Moreover, OP-710 provides for community participation during the stages of design, execution, and monitoring of the resettlement, to achieve greater levels of acceptance and affiliation to the project.

importance of the Parties’ good faith in participating in a voluntary exercise requiring mutual understanding and collaboration.

Appendix

Agreement and Annexes

This Appendix contains the translation of the Agreement and its Annexes I to V signed by the Parties in its original Portuguese version on 24 May 2014.

The Parties have requested that certain sections be kept confidential. Accordingly, pursuant to Article 51 of the Policy Establishing the ICIM (document GN-1830-49), this version contains sections that have been redacted.

**AGREEMENT
BETWEEN
THE MUNICIPAL GOVERNMENT OF SÃO JOSÉ DOS CAMPOS
AND
THE BENEFICIARIES OF THE HABITAR BRASIL CASE**

1- The **Prefeitura Municipal de São José dos Campos [Municipal Government of São José dos Campos]** (“Municipal Government” or “PMSJC”), as the first party, represented by the Mayor (*Prefeito*) of São José dos Campos, Mr. Carlos José de Almeida, who delegates the performance of this agreement to the various relevant entities, including the Housing Department, the Transportation Department, the Works Department, and the Environment Department; and, as the second party, the **beneficiaries**, whose names are listed in Annex I hereto, hereby enter into this agreement as the outcome of the dialogue process facilitated by the Independent Consultation and Investigation Mechanism (“ICIM”), pursuant to the terms and conditions set out below.

Objective

2- The objective of this document is to formalize the agreement between the **Municipal Government** and the **beneficiaries**, which seeks to mitigate and repair the damage arising from implementation of the Low-Income Neighborhood Improvement Program – “Habitar Brasil” (loan BR-0273) by the Município of São José dos Campos in the period 1999-2004, financed by the Inter-American Development Bank (IDB), the respective complaint having been presented in the form of a Request submitted to the ICIM in June 2011.

Terms of the agreement

The Parties agree as follows:

3- In relation to compensation for the material losses caused by the destruction of the belongings inside the beneficiaries’ residences at the time of the eviction, the Parties agree that no claims remain outstanding, since the PMSJC has made the payments specified in Annex II, in full settlement of the amounts owed.

4- In relation to the housing solution, the Municipal Government will provide a housing unit to each of the **beneficiaries**, subject to the conditions, time frames, and terms specified below.

Land for construction of the houses

5- The land on which the dwellings will be built has an area of 6,500 square meters and is located [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

6- The area in question was formerly part of land pertaining to the old railway line, now disused, owned by the now defunct Federal Rail System (RFFSA). Having been classified as “nonoperational property,” it was transferred to the Secretaria do Patrimônio da União [Department of Federal Assets] (SPU). The Municipal Government will take the necessary steps within its purview to transfer the property.

Technical viability of construction on the land plot

7- The Municipal Government will be responsible for the technical viability of building houses on the specified land plot, within the time frames stipulated in Annex V. It will provide all necessary designs, authorizations, and permits and will submit the final design to the ICIM and to the beneficiaries.

Typology of houses

8- The typology of the houses to be built will conform to the designs in Annex IV.

9- The construction system used for the homes will include solid walls cast on site, using lightweight fiber-reinforced polymer concrete, protected by polyester, in compliance with national standards.

Joint Committee

10- No later than 15 days following the signing of this agreement, a Joint Committee will be formed, consisting of up to three representatives of the beneficiary families and three representatives of the Municipal Government. The Joint Committee will serve as a focal point for: (i) the flow of information on the progress of implementation of the agreement between the Parties; (ii) the coordination of activities to be undertaken by both Parties; and (iii) communication with the ICIM, if it requests information on progress, or obstacles arise that need to be reported to the ICIM.

11- The Joint Committee will closely monitor the progress of works construction and preparation, and will prepare a quarterly report on implementation progress, as described in paragraphs 29 and 30.

Approval for home extension and delivery of the owner's manual

12- The design of the houses includes approval for future extensions thereto, as indicated in Annex IV; so beneficiaries wishing to extend their homes may do so based on the designs already approved by the PMSJC.

13- Upon signature of the contract for delivery of the houses, the Municipal Government will provide each of the beneficiary families with details of the designs (Owner's Manual) with instructions for building the extension.

Budget for building the houses

14- The Municipal Government warrants that it will finance the construction of the homes from own resources, which have already been included in the 2014 budget.

Contract for the delivery of the houses

15- The contract for delivery of the houses will specify the modality and conditions of their delivery and payment, pursuant to the financial model of the “Minha Casa, Minha Vida” [My House, My Life] social program.

Beneficiaries remain on their current site

16- The Parties are aware that, as the site currently being occupied by the beneficiaries is federal property (SPU), the Municipal Government has no lawful authority to take any action to remove the beneficiaries from the site, and is legally prevented from taking steps to upgrade the property.

17- The beneficiaries undertake to fully vacate the area of the hangar currently being occupied, within two days after moving to the new dwellings.

Social support for the beneficiaries

18- The Municipal Government will undertake the Technical Social Work in relation to the Housing Project.

19- The Technical Social Work will be specified in detail in a Social Action Plan to be drawn up in conjunction with the beneficiaries.

20- The Social Action Plan will encompass the following stages:

- i. Registration of all families covered by the housing project;
- ii. Monitoring and social support for families in vulnerable circumstances;
- iii. Development of community activities during works execution;
- iv. Support for the move to the new housing units;
- v. Support in establishing community life following the move.

Communication with the press

21- The Parties agree to make only joint statements to the press on the dialogue process and its outcomes. The Parties will not issue any individual statements and communiqués without the knowledge and agreement of the other Party.

Situation of women

22- The beneficiaries and their representatives understand that the current municipal administration is not responsible for the impact of the Habitar Brasil Program on women, who are beneficiaries of this agreement. According to the beneficiaries, this responsibility lies with the IDB, as indicated in a formal document sent to the case representatives on 7 June 2012. Therefore, as the beneficiaries consider that this matter was not resolved to the Requesters' satisfaction in the consultation phase, they will pursue other avenues of redress.

Publication of this document

23- The Parties agree that the terms of this agreement will be published in the ICIM public records, with the exception of personal, financial, and other confidential data identified by the Parties. Information deemed confidential will be redacted.

Monitoring of the agreement

24- By signing this agreement, the Parties acknowledge the closure of the ICIM dialogue phase, and the start of the agreement monitoring/supervision phase, to ensure that the specified activities are performed.

25- The dialogue process may only be reopened by decision of the Parties, as one of the solution alternatives in the event of nonperformance of this agreement.

26- The Parties agree that the monitoring will be performed by the ICIM. The ICIM undertakes to monitor all of the agreed activities, including meeting the specified deadlines.

27- The Parties agree to collaborate with the ICIM in providing information and/or in meeting as necessary for the monitoring of this agreement.

Monitoring time frame

28- The ICIM will perform the monitoring activities based on a schedule of actions, running from the signature date of this document until completion of the last activity defined in the schedule.

29- An ICIM team will make a site visit to verify the last activity under the agreement and final execution thereof.

Communications

30- During the monitoring period, all communications between the Parties relating to this agreement must be shared with the ICIM.

Progress reports

31- The Joint Committee will send quarterly progress reports to the ICIM within 15 days following the end of each quarter, until the activities are complete. The first quarterly progress report will be sent by 8 September 2014.

32- The progress reports will contain at least the following information: (i) a description of progress made on the activities scheduled for the reporting period; (ii) the activities envisaged for the next period; (iii) challenges and risks that could affect the performance of the scheduled activities; and (iv) a plan of action to address any obstacles or contingencies.

33- The Municipal Government will deliver the final design and the Social Action Plan to the ICIM when they have been completed.

34- If necessary, the ICIM may request additional information at any time, as it deems important for the performance of this agreement.

Unscheduled site visits

35- If the ICIM considers it necessary, extra site visits will be made in addition to those scheduled, to assess progress in executing the agreement, on two weeks' notice to the Parties.

ICIM monitoring reports

36- Pursuant to ICIM Policy, the Consultation Phase team will produce public monitoring reports at least every six months during the monitoring period, which will be published in the ICIM Public Record (www.iadb.org/mici). These reports will be based

on the quarterly reports and other available information. If necessary, a draft of the reports will be sent to the Parties before they are published.

Execution of the agreement, risks, and delays

37- The agreement will be executed according to the schedule contained in Annex V, together with any adjustments agreed upon, as provided in the following paragraphs.

38- The Parties acknowledge that contingencies and obstacles may occur that are outside their control but could have implications for the execution of this agreement, to the detriment of meeting the established deadlines.

39- If any contingency or obstacle arises, of which it was unaware when signing this agreement, the Party responsible must resolve the contingency or obstacle, immediately notifying the other Party, which will respond by formally stating whether or not it agrees with the justification presented and any proposed adjustment to the schedule.

40- The ICIM must be notified of any such contingencies and obstacles, as well as the strategy and plan of action to address them, within two weeks following the date of their occurrence.

41- If the Parties disagree on the justification presented for failure to meet the schedule, the ICIM will decide whether the justification and plan of action presented will be accepted, issuing a formal statement.

42- The present agreement will be nullified if authorization is not obtained from the SPU to make use of the land plot, in which case the dialogue process with the ICIM will be resumed.

Performance of the agreement

43- Performance of this agreement will be considered complete when all of the activities described in the schedule have been satisfactorily completed, in accordance with the standards established herein. Delivery will be followed by a final site visit by the ICIM team to confirm full compliance with the agreement.

44- In the event that: (i) any beneficiary is excluded from the agreement by the Municipal Government; (ii) the agreed typology of the houses is altered substantially; (iii) the contract to deliver the houses is not formalized; or (iv) one or more of the beneficiaries fail to fully vacate the hangar after moving to the new dwelling, the ICIM will assess alternatives for resolving the problem in consultation with the Parties.

45- In the event of total and willful failure to deliver the housing units, and if the problem cannot be resolved by mutual agreement or through ICIM intervention, the Municipal Government will be obliged to compensate the beneficiaries in an amount equivalent to the construction price, according to the standards contained herein, plus the assessed value of the land in the area of the undertaking.

46- If the beneficiaries refuse to take delivery of the housing units, transfer the right to a third party, or vacate the hangar that they occupy, the same penalty specified in the foregoing paragraph will be applicable.

47- For the purposes specified in the foregoing clause, the Parties will allow a tolerance period of 180 days in relation to the delivery deadline specified in the schedule contained in Annex V, as amended.

Closure of the case

48- The case will be considered closed once all of the terms of this agreement are fulfilled. The ICIM will give formal notice of closure in its final monitoring report.

49- The obligations and duties specified in this agreement are binding on the beneficiaries and their successors.

50- Performance of this agreement will only be considered complete when the last activity described in the schedule has been completed, at which point full compliance with the agreement will be declared through a formal document.

ICIM involvement

51- The ICIM undertakes solely and exclusively to monitor the progress and performance of the agreement.

52- If any of the Parties refers any issue relating to the purpose of this agreement to an administrative or arbitration tribunal, the ICIM shall be exempt from any involvement or liability and will consider the Consultation Phase of the process to be closed.

Courts of jurisdiction

53- The courts of the Judicial District (*Comarca*) of São José dos Campos shall have jurisdiction to hear any disputes or litigation arising on issues pertaining to this agreement.

54- By mutual agreement, the Parties sign this agreement, in 31 equally authentic copies, which will serve as an extrajudicial enforcement instrument under the law.

55- The copies signed by the beneficiaries will be stored in the custody of the Office of the Public Ombudsperson.

São José dos Campos, 24 May 2014.

Annex I

Pursuant to Article 51 of the Policy Establishing the ICIM (document GN-1830-49), the Parties to this agreement have decided that the content of this annex is confidential. Consequently, it will not be disclosed to the public.

Annex II

MEMORANDUM OF CONFIRMATION¹⁴

I. Context

1. On 10 June 2011, the ICIM received a Request from Central de Movimentos Populares of the city of São José dos Campos, describing material social harm caused as a consequence of implementation of the Low-income Neighborhood Improvement Program – “Habitar Brasil” (“Habitar program”).
2. According to the Request, in 2004, a number of families living in Vila Nova Tatetuba community were removed from their homes under a court order. During the eviction, the families’ furniture and other personal belongings were taken by court officers to a municipal public depository. The court order gave the Municipal Government of São José dos Campos custody of the objects in question.
3. In an autonomous legal action brought by each of the parties concerned, legally appointed experts assessed the poor condition of the goods following the eviction, a situation caused by the município, as well as through court decisions. On the questions of fact—the município’s responsibility for failure to take proper care of the property—the court decisions were unanimous.
4. The discussion of the legal issues—applicability or not and the statute of limitations—was still pending when the administrative decision to pay for the property being claimed was received.

II. Chronology of actions and agreement

5. Although the dialogue process sponsored by the ICIM has focused on finding housing solutions for the Requesters, it also provided an opportunity to address the issue of compensation for the furniture.
6. In July 2013, the Mayor, Mr. Carlinhos Almeida, notified the Requesters that he was waiting for the legal report on the legal status of the compensation for the furniture to be able to make a decision.
7. In October 2013, following prior consultation and a favorable opinion issued by the Secretary of Legal Affairs on the possibility of formalizing an agreement, the Mayor announced his intention to pay the compensation in full, but that for budgetary reasons, the payment would be made in six installments. The agreement is to be entered in the record of the process.

¹⁴ Pursuant to Article 51 of the Policy Establishing the ICIM (document GN-1830-49), the Parties to the agreement have decided that certain content of this Annex is confidential. Consequently, the document has been redacted in the corresponding section, and its content will not be disclosed to the public.

8. The Requesters' representatives put forward a counterproposal for payment in cash, which was reviewed by the Finance Department.

9. On 2 December, the Mayor reported that it would be possible to pay the compensation for the furniture in a single installment. A draft agreement was formalized, which received due approval after being sent to the representative of the Office of the Public Ombudsperson.

10. On 3 January 2014, the Director of the Housing Department reported that the Municipal Finance Department had confirmed payment of compensation for the furniture to the Requesters, on 20¹⁵ and 26¹⁶ December 2013.

11. At the proper time, the court will be petitioned to terminate and file the legal proceeding on compensation in the archives.

III. Signatures

12. For the purpose of recording confirmation of payment of compensation for the furniture, under the Habitar case proceeding, the representatives of the families and the Mayor's Office duly sign below.

São José dos Campos, 27 January 2014

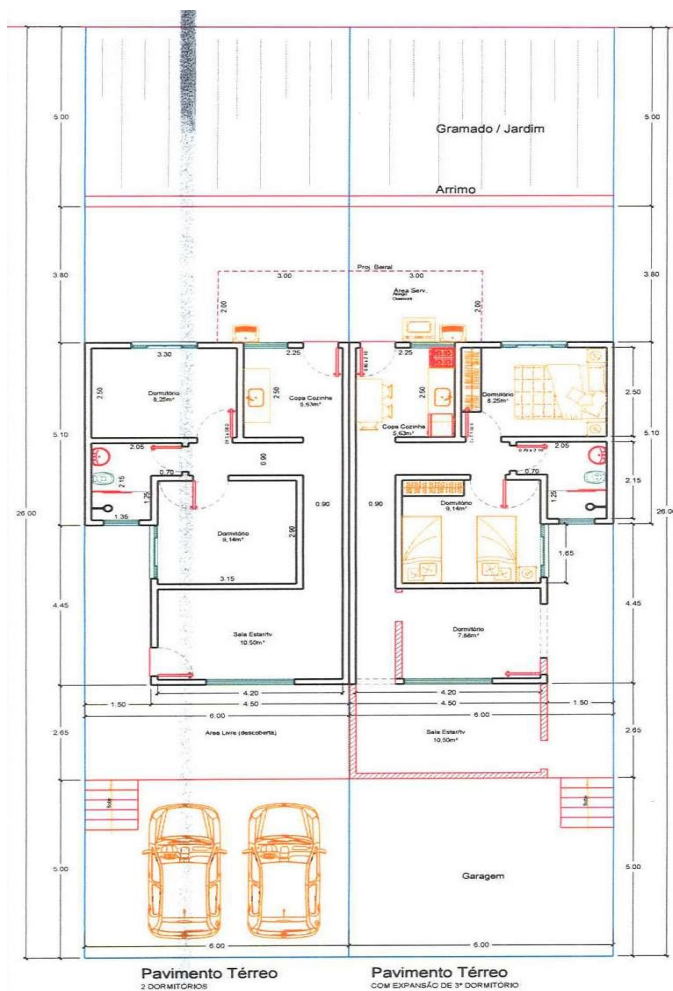
¹⁵ For Requesters providing details of their Bank account for the deposit.

¹⁶ For Requesters not providing details of their Bank account, who received a cashier's check.

Annex III

Pursuant to Article 51 of the Policy Establishing the ICIM (document GN-1830-49), the Parties to this agreement have decided that the content of this annex is confidential. Consequently, it will not be disclosed to the public.

Annex IV Housing typology implementation project



PERSPECTIVA 01



PERSPECTIVA 02



PERSPECTIVA 03



PERSPECTIVA 04



PERSPECTIVA 05

Legenda:

- A Demolir
- A Construir

RESIDÊNCIA

Terreno	156,00m²
Área construída	50,62m² - com 2 Dormitórios
Área a ampliar	11,93m² - 3º Dormitório
Árigo Desmont.	6,00m²



URBANIZADORA MUNICIPAL S/A - URBAM

TÍTULO: CASA POPULAR, 2 DORMITÓRIO COM AMPLIAÇÃO PARA O 3º

ASSUNTO: PLANTA BAIXA E PERSPECTIVAS

RESPONSÁVEL TÉCNICO: Engº WILMAR D. POLI JUNIOR

DATA: 20/02/2014

ESCALA: 1:100

PROJETO: TONY

DESENHO: TONY

PROJETO: ANTE-PROJETO

Nº ARQUIVO: Casa Popular 3 e 2 Dormitórios

Nº FOLHA: 01

Annex V
Schedule

[illegible]

Entities responsible

- Housing Department
- Transportation Department
- Urban
- Social Team
- SPU
- SEMEA

Activity milestones