

**CITY OF HOUSTON  
HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT  
REQUEST FOR PROPOSAL (RFP)  
NOTICE OF FUNDING AVAILABILITY (NOFA) - 2020  
DISASTER RECOVERY (DR-17) SMALL RENTAL PROGRAM  
SOLICITATION NO.: T29391**

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**Date Issued:** March 20, 2020

**Pre-Proposal Conference:** **April 3, 2020@ 2:00 PM**  
**Housing and Community Development  
Department**  
*Due to concerns surrounding the spread of the coronavirus pandemic, the conference will not be open to the public but broadcasted via HTV and live streamed on their Facebook page at the link below.*  
**<https://www.facebook.com/HoustonTelevision/>**

**Pre-Proposal Questions  
Deadline:** **April 17, 2020**

**Solicitation Due Date:** **May 15, 2020 @ 3:00 P.M., CST**

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**Project Summary:** The Harvey Recovery Small Rental (HRSR) Housing Program aims to increase the affordable rental housing stock (defined for this purpose as individual buildings with no more than seven residential units) through infill development of new affordable small rental properties. The HRSR is intended to meet the increased demand for affordable rental housing in Houston. This program provides financial assistance, through forgivable loans, to non-profit entities that serve low- to moderate-income markets.

  
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Jerry Adams, Chief Procurement Officer



City of Houston Build It Forward  
Housing Recovery Program

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2020 Notice of Funding  
Availability

Harvey Recovery Small Rental  
Program

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## Introduction

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Through our recovery programs, the City of Houston is committed to building a resilient and equitable city after Hurricane Harvey. Our housing recovery programs seek to build safe and affordable homes across our city, in communities where people can thrive. This means investing in homes – rebuilding existing housing stock and constructing new homes in areas safe from future flooding – as well as investing in community amenities, economic engines, and resilience activities. We will use data, sourced from germane focus groups made up of prospective applicants, to design and evaluate the success of our program and will be transparent about how program delivery unfolds. Recovery from Hurricane Harvey presents a historic opportunity to build forward into a Houston that’s stronger than ever before.

## HRSR Overview

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The Harvey Recovery Small Rental (HRSR) Housing Program aims to increase the affordable rental housing stock (defined for this purpose as individual buildings with no more than seven residential units) through infill development of new affordable small rental properties. The HRSR is intended to meet the increased demand for affordable rental housing in Houston. This program provides financial assistance, through forgivable loans, to non-profit entities that serve low- to moderate-income markets.

While expanding the affordable rental housing options, the HRSR program will also stimulate economic growth by creating jobs in the housing rehabilitation and construction sectors.

The City of Houston will administer its HRSR Program in accordance with the Harvey Housing Guidelines, the City of Houston Harvey Standard Operating Procedures, and HUD CDBG-DR regulatory requirements and guidance. The City of Houston reserves the right to adjust program priorities and re-allocate program funds if doing so would better serve the affected communities and their residents.

## Program Funds

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The HRSR Program is intended to assist non-profit entities who service low to moderate income markets with real estate development. The Department of Housing and Urban Development (HUD) appropriated \$5,024,251,000 in Community Development Block Grant-Disaster Recovery (CDBG-DR) funding to the Texas General Land Office (GLO). The City of Houston has received a direct allocation from the Texas General Land Office of \$1,175,954,338 for development and implementation of programs. Of this amount, the City of Houston Housing and Community Development Department (HCDD) has identified a total of \$60,005,000 to be directed into the HRSR Program.

Subject to receipt of applications, this Notice of Funding Availability (NOFA) will administer up to \$10,000,000 in its first round. The HRSR Program will have distinct policies and operational processes for new construction projects.

## Development Eligibility and Thresholds

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**Please review this section carefully. Applications that do not meet these requirements will be rejected**

Project must meet CDBG-DR eligibility requirements:

- Development must meet Harvey Recovery (DR-17) Small Rental Program Eligibility requirements
- Development site must be located within the city limits at the time of application. Development sites for all applications will reviewed by HCDD's GIS team during threshold review to ensure sites are located within Houston city limits.
- Small multifamily rental developments must have no more than seven (7) rental units under common ownership
- Development in a floodway is prohibited
- New construction located in the 100-year floodplain must comply with [24 CFR Part 55](#)
- Developments must meet the minimum affordability requirements outlined within the HRSR guidelines
- Developments must make all units available for rent to Section 8 Housing Choice Rental Voucher recipients during the compliance period
- Federal flood disaster assistance will not be provided to owners who were required to have flood insurance coverage under applicable Federal law and subsequently failed to obtain or maintain coverage
- The project must comply with all applicable federal and state requirements
- The project must address identified impediments to fair housing choice

## Eligible Applicants

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HCDD is committed to investment in the effectiveness and future sustainability of non-profit organizations that support affordable housing efforts. With this NOFA, HCDD intends to support non-profit organizations (NPO) to achieve their next level of operational and financial maturity, so it may more effectively and efficiently advance missions of supporting affordable housing. NPO's acting individually or as participants in a limited partnership (LP) or limited liability corporation (LLC) may be owned by the following:

- A joint venture with for-profit developers/ borrowers that meet the qualifications identified below
- Not-for-profit developers/ borrowers
- Public housing authorities
- All applicants must own the property, have site control, or at minimum, a written purchase agreement

NPO applicants should have individually developed, 2+ properties.

-or-

NPO applicants should engage in joint-venture partnerships with for-profit or non-profit entities that have the experience referenced above. In this case, the partnership must demonstrate material accountability and inclusion in which the non-profit receives economic benefits, has outlined duties, and has certain functions of control within the partnership. The joint venture agreement must demonstrate the following:

- a. The NPO must have some combination of ownership interest in the General Partner of the Applicant, Cash Flow from operations, and Developer Fee which taken together equal at least 50% and no less than 5% for any category. For example, a NPO may have:
  - 20% ownership interest in the General Partner
  - 25% of the Developer Fee
  - 5% of Cash Flow from operations
- b. The NPO must also materially participate in the development and operation of the development throughout the affordability period and must have experience directly related to the housing industry, which may include experience with property management, construction, development, financing, or compliance. Material participation means that the NPO is regularly, continuously, and substantially involved in providing services integral to the Development Team; providing services as an independent contractor is not sufficient.

NPOs and for-profit organizations will be required to provide the following:

- A written summary from the NPO outlining its resources including access to third party organizations that can be leveraged to meet its objectives
- If joint-venture relationship, verification a principal of the NPO is not a related party to any other principal of the for-profit participant

If joint venture relationship, the for-profit development firm must provide a summary of the roles, responsibilities and areas of mentoring for the NPO.

Applicants under this NOFA will be limited to submit no more than two (2) applications. Applicants may receive up to two awards, **but under no circumstances can two projects funded in this NOFA be under construction at the same time by the development team.**

### Good Standing

Applicants and Applicants' team members must be in good standing with HCDD on all previous grants, loans, or loan commitments. In addition, Applicant must affirm that there are no defaults or negative collection actions relating to any financial obligation, either to the City of Houston or any other public agency or private lender. Any Applicant, Developer or general contractor who is on the federal debarment list will not be allowed to participate as cited on federal and state debarment lists in accordance with [24 CFR 570.609](#), as well as other applicable laws. No applicant, developer or contractor with management or compliance issues outstanding with HCDD or other public agency will be allowed to participate.

### Experience

Applicants must have a documented capacity to construct, or rehabilitate, and operate multi-family housing that benefits low-income individuals. Applicants must provide a complete Real Estate Owned Schedule listing, with addresses, of properties developed or rehabbed, owned or managed by Applicant or Applicant's team. HCDD expects applicants to have constructed or rehabilitated a minimum of 2 buildings that include single-family, duplexes or other multi dwelling structures.

Applicants with excessive or unpaid nuisance citations may be ineligible to participate in this program. Additionally, there must be no outstanding tax liens on any properties owned or managed by the Applicant. Furthermore, the City will perform background checks and seek references from other lenders, partners, or public agencies with which the Applicant has recently done business.

### Compliance with Fair Housing

Applicants must not discriminate based on ethnicity, race, color, creed, religion, gender, national origin, age, disability, marital status, sexual orientation, gender identity, or Veteran's discharge status.

### Eligible Activities

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- **New construction** of properties that consist of 2-7 units
- **Demolition** as part of reconstruction
- **Acquisition** of existing multifamily properties to preserve or create affordable units
- **Land Acquisition** for the construction of an affordable multifamily building

### Priorities

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Funding priorities have been established for applicants with proposals to finance new construction activities. Given that proposals meet all other threshold eligibility standards, meeting the following criteria additionally will establish precedence among all received applications. Priorities fall within the following areas and housing types:

- Projects that meet the unmet needs for affordable housing outlined in the Needs Assessment and Local Action Plan for Hurricane Harvey Disaster Recovery.
- Projects located within the following areas that promote higher standards of environmental and economic resiliency:
  - Complete Communities and other Community Reinvestment Areas (CRA) (e.g. Tax Increment Reinvestment Zones)
  - Areas of low poverty concentration and high performing schools
  - Areas experiencing high rental costs that cause displacement of Low and Moderate Income (LMI) households
  - Transit Oriented Developments (TOD) that promote access to mass transportation options
- Projects designed to offer Permanent Supportive Housing (PSH) and/or housing serving special needs populations that include, but not limited to, homeless housing, housing for people with disabilities, and Section 811.
- Applications that reflect a minimum investment of \$50,000 or 10% of total development costs.
- Applications that demonstrate a readiness to close within 6 months of notice of a final award and City Council approval.
- Proposals which are not located in the 100-year floodplain AND account for mitigation efforts which include restoring the surrounding natural environment or providing other demonstrable benefits to the residents and surrounding community.

Meeting these priorities will be considered as part of the NOFA scoring. However, meeting one or all prioritization criteria does not guarantee an award, as funding and program timelines are limited.

## Unit Requirements

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Properties receiving CDBG awards are required to have 100% of all units in the property be restricted regardless of the share of CDBG funds in the project.

Rents will be based on IRS Section 42(i)(3)(A) housing tax credit (HTC) rent and income limits for HUD sourced Extremely Low Income (30%), Very Low Income (50%) and Low Income (60% and 80%) limits. HCDD has included the 2019 income limits as **Exhibit B**.

Tenant rents will be net of the utility allowance. HCDD will utilize the most recent utility allowance standard provided by the [Houston Housing Authority](#). Other affordable housing subsidies (e.g.) may be layered in the financing structure that may require additional rental restrictions. In these cases, the most restrictive rental restrictions will be applied.

## Affordability Restrictions and Financing Terms

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The City reserves the right to determine award and financing terms based on its financial evaluation of the transaction in tandem with the program requirements and availability of funds. Each unit within the development will be rent restricted, targeting lower income households first. The chart below outlines proposed affordability requirements:

Number of Units	Units Reserved for LMI Households	30% AMI	50% AMI	60% AMI	80% AMI
2	2	1	1	0	0
3	3	1	1	1	0
4	4	1	1	1	1
5	5	2	1	1	1
6	6	2	2	1	1
7	7	2	2	2	1

## Affordability Covenants

A Land Use Restriction Agreement (LURA) requires that the rents charged to low-income tenants are based upon the renter's income as a percentage of Area Median Income (AMI) established annually by HUD. The LURA also defines the number of units which to be restricted to low-income and very-low-income tenants ("restricted units"). These covenants must be in a lien position superior to all other liens, including existing debt, and will require any existing lender to subordinate to the rent restrictions.

## Affordability Period

All awards will be subject to a minimum 20-year Land Use Restriction Agreement (LURA) period to commence at the acknowledgement by HCDD and the General Land Office of Texas (GLO) of successful completion of the project.

## Award Amounts

Applicants should make a specific loan request to the City. The request should represent the total project cost or the difference between (a) the total project cost and (b) commercially available debt, grants, tax credits, owner equity and other capital contributions. The department may elect to provide an individual award that accounts for 100% of total funding sources. Maximum award for any individual transaction secured under this NOFA will be limited to \$3,500,000 per eligible project.

## Duplication of Benefits

Applicants must disclose documentation of insurance, FEMA, SBA, and any other type of funding received for disaster relief for the site or property. The City will also determine if insurance was required under the terms of the applicant's mortgage or required as a condition of prior federal assistance received. Applicants who failed to secure required flood coverages will be ineligible.

## Leveraging

Transactions secured under this NOFA should demonstrate leverage with other sources. Applications that reflect a minimum investment of the lesser of \$50,000 or 10% of total development costs will be prioritized. To note, the leverage requirement may not be in the form of a senior permanent loan. Transactions reflecting higher amounts of leverage will receive priority in the scoring.

## Award Structure

Awards will be structured as non-amortized loan commitments and fully payable in the event of noncompliance or default over the life of the agreement. Loans will have a 20-year minimum term and subject to repayment at maturity under a partial recapture agreement with HCDD during an event of sale or a cash-out refinance.

## Loan Position

The City's Land Use Restriction Agreement (LURA) and Deed of Trust will be superior to all other liens.

## Fees and Third-Party Costs

Applicants will be subject to an application fee of \$500 due at the time of submission. Also, subsequent to the construction period and throughout the affordability period, awardees will be subject to an annual Compliance Monitoring Fee of \$30 per restricted unit.

Applicants will be responsible to meet all third-party expenses (signage, third party-attorney, plan and cost review, appraisal, accessibility review ... etc.) incurred by HCDD, whether or not the loan closes. HCDD recommends budgeting a minimum of **\$75,000** for applicable HCDD costs to be paid at closing. Modification of HCDD loan terms after loan closing may be subject to modification fees no less than \$25,000 and determined at the request of the loan modification.

## Selection Methodology

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All applications that will be evaluated for financing must meet HCDD's threshold review to be eligible for CDBG-DR funds. Applications that meet threshold review will be reviewed internally by a panel of HCDD and other city personnel based on the information provided. The panel will evaluate the applications against a set of predetermined scoring criteria outlined in this section. All applications will receive an overall score and ranked based on the merits of the submission.

It is to be noted that an application's score and ranking does not solely determine award status. An application must clearly demonstrate the development meets one or several of the priorities outlined in the guidelines and NOFA that will be determined by the panel. The panel will finalize and itemize a list of applications recommended to receive an award of CDBG-DR funds. The list of recommended transactions will be presented to the Mayor's office for approval. The Mayor's office will have eligibility to approve or deny applications that meet HCDD's threshold review and are in line with the administration's priorities.

Scoring metrics will include the following:

- Organizational Capacity
- Location Information
- Project Information
- Financial Analysis

### Organizational Capacity

#### 1. Personnel

- a. Company resume detailing development and construction experience, as well as involvement in affordable housing transactions.
- b. Resume(s) of key personnel
- c. A list of references who have financed recent transactions for your developments, including organization name (e.g. bank, public agency, CDFI); contact name; phone number; development name, type and location of transaction(s) financed. HCDD will consider references from additional reference sources (ex. community partners).

#### 2. Real Estate Experience

Applicants' prior experience with development of properties similar to the location, size, scope of the proposed project. Applicants to provide Real Estate Owned Schedule of all owned and managed properties dated no later than six months of application.

#### 3. Financial Capacity

Overall financial condition and the developer, sponsor or any key personnel providing a development guaranty. Applicants to provide a **minimum three years** of audited or company prepared operating statements that including:

- a. Balance sheet
- b. Income statement
- c. Tax returns

*Additional documentation may be requested by HCDD*

### Site Location Information

HCDD will prioritize scoring of applications with site(s) based on the following criteria.

#### 1. Concerted Revitalization Area

Sites located within a distinct area that was once vital and has lapsed into a situation condition requiring concerted revitalization. In 2019, HCDD recognizes the following areas noted in **Exhibit A** as Concerted Revitalization Areas that will include:

- a. Complete Communities - Acres Homes, Third Ward, Second Ward, Near Northside and Gulfton. Maps, plans and other information may be found on the city's planning website located at <https://www.houstontx.gov/completemunities/>
  - b. TIRZ - The city of Houston holds 27 separate areas created to facilitate economic investment in areas of the city. Additional information that includes maps, budgets, plans agendas and other documents may be located at <https://www.houstontx.gov/ecodev/tirz.html>
2. **Deconcentration of Poverty**  
Sites located in census tracts with low levels of poverty concentration. Sites in census tracts with > 25% poverty levels will not be recommended, unless located within a Concerted Revitalization Area.
3. **Urban Concentration**  
Sites located within 4 miles of Houston City Hall located at 901 Bagby St.
4. **Access to Local Transit**  
Sites located within a ¼ mile to high frequency Metro stop. High frequency transit service is defined as service arriving every 15 minutes on average from 6 am to 8 p.m. seven days a week.
5. **School Performance**  
Elementary, Middle and High School Ratings issued by Children at Risk for schools zoned to the site. Sites for family properties zoned to schools that are rated Improvement Required or failing will not be recommended. Developments providing housing to special needs populations, senior populations, or located within a Concerted Revitalization Area are not subject to this requirement.
6. **Neighborhood Amenities**  
Proximity within 1 mile to neighborhood amenities including grocery stores, public park, pharmacy, health facility and public library.

## Project Information

The following information to be outlined in the project application.

1. **Housing for special needs populations**  
Applicant must specify housing will be provided for special need populations that may include permanent supportive housing, previously homeless, section 811, etc.)
2. **Project Readiness**  
Applicants are required to demonstrate project readiness to reflect a readiness to close and commence work within of award.
  - a. A defined scope of work including preliminary design plans and site plan
  - b. Timeline for project scope including design, permitting, arranging third party financing, general contractor selection and closing

### 3. **Local Support**

Demonstration of community support that the applicant has sought, received and implemented (if needed) views and recommendations from members of the community regarding the proposed development.

## **Financial Analysis**

HCDD will review each proposal to determine whether the development is feasible in terms of cost, sources and uses and other financial thresholds.

### 1. **Proforma Analysis**

Revenue and expense reasonableness

### 2. **Expense coverage**

Applicants to note expense coverage ratio should reflect a 1.05 – 1.10. Please note HCDD does not anticipate recipients to carry long term debt on the property.

### 3. **Cost Analysis**

Comparison of Construction Cost per unit and Total Cost per unit relative to similar properties submitted under this NOFA and in the marketplace. Considerations will be made for certain high-cost designs that include podium style, single-family or land costs for high opportunity or urban core areas.

### 4. **Leverage**

HCDD does not have a minimum equity investment requirement for this program. However, applications reflecting an investment of the lesser of \$50,000 or 10% of total development costs will be prioritized. Leverage must be in the form of other private funded sources (e.g. cash equity, costs incurred and expended, land ... etc.) and cannot be permanent debt. Transactions reflecting higher amounts of leverage will receive priority in the scoring.

**PLEASE NOTE: The Director, at his/her sole discretion, can either waive any of the requirements contained herein, or reject any application to this NOFA.**

## **Financial Evaluation and Underwriting**

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After selection of an application, awardees will go through an underwriting process which will evaluate the ownership structure, property operations, the sources and uses of funds, and the financial statements of the owner and guarantor.

### **Proforma Evaluation**

HCDD will review the underlying proposed debt and operating pro-forma of the property to determine the development's feasibility during the affordability period. Income should exceed expenses by a margin of no less than a 1.05 income/expense ratio. The pro-forma operating statement will make adequate provisions for the anticipated number of rent-restricted units, vacancy rate (no greater than 10% stabilized), and replacement reserves of no less than \$300/unit/year.

### **Experience and Financial Capacity**

HCDD will review qualifications and experience of proposed staff and strength of the development team. The City reserves the right to refuse funding to a project if prior experience with the City was unfavorable

on previous transactions. Applicants are encouraged to consider cost overruns and construction delays when submitting an award request and are expected to have sufficient liquidity to cover funding shortfalls or delays. Three years of audited financial statements and/or company prepared statements and tax returns of all Applicants and guarantors are required.

### Construction Guaranty and Cost Overruns

Developers will personally guaranty or provide a guaranty from a viable entity that is satisfactory to HCDD until construction is complete and all buildings receive certificates of occupancy (Completion Guaranty). Upon completion, if the development complies with applicable HUD requirements, personal liability of the guarantors will be released except for losses due to fraud, theft, failure to pay taxes, failure to maintain insurance and similar acts or omissions (“bad acts exceptions”).

### Site Control

Applicants will be either the current owner of the property or, at the time of application, have a binding contract to purchase the property. Once an application has been received by HCDD, no moneys may be expended to alter the property until City Council approval is received. If the Applicant spends any funds on the property – either to close on the acquisition or begin construction – from the time of application until HCDD’s loan has closed, the commitment may be nullified.

### Third Party Reports

Applicants will be required to submit third party reports at the time of underwriting. These reports will not be required at application. If third party reports become “stale,” updates will be required.

1. **Survey** - Provided by the applicant
2. **Phase I Environmental report** – Provide by the applicant during underwriting (unless available at application). If report recommends a Phase II to be completed, this to be submitted during underwriting.
3. **Appraisal** - Provided by HCDD during underwriting.
4. **Plan and Cost Review** - Provided by HCDD during underwriting.
5. **Accessibility Review** - Provided by HCDD during underwriting.

### Project Readiness

Applicants will be required to demonstrate an ability to close on the city and all other financing sources by providing a timeline of the closing process. Applications that demonstrate a readiness to close within 6 months of notice of a final award and city council approval will be prioritized. If an applicant has not closed on HCDD and all project financing within a reasonable time period after notification of award, HCDD reserves the right to reallocate an applicant’s award to a separate transaction.

### Cost Reasonableness

Project costs must be “reasonable and customary” as determined by an acceptable, independent third-party report. During construction, HCDD will engage the same third-party to provide monthly inspections and confirm work in progress. HCDD will analyze costs relative to similar properties submitted under this NOFA and in the marketplace.

## Insurance

Title Insurance (both Loan and LURA coverage), Property Insurance, Flood Insurance, Wind Insurance, Builder's Risk Insurance, and Worker's Compensation Insurance will be required. Other insurance requirements may apply and will be more fully described in the loan documents.

## Payment and Performance Bonds

The general contractor shall furnish a Payment and Performance bond for the full amount of the construction contract, which requires the contractor's full performance of the contract. The contractor shall also furnish a 1-year Maintenance bond to secure the warranty required under the construction contract between the owner and the contractor. Bonds shall be made payable to the City and the owner, in a form approved by the Director of HCDD. The surety issuing the bond must be on the current list of accepted sureties on federal bonds published by the U.S. Treasury Department and/or on the State Board of Insurance list of authorized insurance companies in Texas.

## Other Liens

After closing, Borrower will NOT be permitted to place subsequent liens against the property either in priority or subordinate to City's lien. No additional debt is allowed without prior written approval by the Director of HCDD. The LURA covenants must be superior to all other debt and liens.

## Documentation of Agreement

This NOFA is a framework upon which requests may be submitted. The *Loan/Grant Agreement* will be negotiated and signed by all parties before a financing request is taken to City Council. All documents required by the City and its attorneys including without limitation, the Deed of Trust, Promissory Note, Intercreditor Agreement, LURA, and Assignment of all contracts, leases and rents, will be negotiated and presented as appendices to the Loan/Grant Agreement. Final documents will be executed prior to closing.

Closing on the Loan shall be concurrent with closing on any superior liens and any other sources of funds determined to be necessary for the long-term financial feasibility of the Development. All due diligence determined by the Department to be prudent and necessary to meet and to secure the interests of the Department and of the City of Houston to be complete prior to closing.

## Standard HCDD Construction and Design Standards

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All financed developments will be required to meet HCDD's Minimum Property Standards (MPS) found here [Link](#).

HCDD's MPS will be applied to new construction, reconstruction, and maintenance of multifamily housing facilities that receive federal assistance as required by 24 CFR §200.925 and §200.926. The primary objective of the MPS is to establish the criteria for the life, health and safety of the residents at the property.

The MPS supplement local building codes by requiring properties to meet minimum standards of workmanship, durability and performance of various components of the multifamily property during the period of affordability. These components would include doors, windows, gates, stairwells, wall coverings, kitchen cabinets, carpeting, etc. of the property that would be maintained in good and safe working condition that ensures the life, health and safety of the residents at the property.

Housing that is constructed with CDBG funds must meet all applicable local codes, and ordinances, at the time of project completion. Housing must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) and covered multifamily dwellings, as defined at 24 CFR §100.201, and must also meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C. §3601-§3619).

HCDD will conduct a final inspection of the development. Common areas and units are subject to a Uniform Physical Conditions Standards inspection. Any deficiencies identified in that inspection must be corrected before final retainage is released.

### **Accessibility**

All properties receiving federal funds from HCDD must be in compliance with [ADA 2010 Standards \(with exceptions\)](#), and [Fair Housing Accessibility Guidelines](#). HUD has established rules explaining [Section 504](#) as it applies to housing. They are found in the [24 CFR Part 8](#). Code of Federal Regulations at Section 504 requires that 5% of all units (or at least one unit) must be accessible to persons with physical disabilities. An additional 2% of all units (at least one) must be accessible to persons with visual or hearing disabilities. These costs must be reflected in the Development Budget. The architectural drawings will be reviewed by a third-party consultant for compliance with these regulations. In addition, the property will be inspected by an accessibility expert at approximately 50% completion and upon full completion and must be deemed in compliance before retainage will be released. Accessible units must be spread across all unit types, and evenly distributed across the property.

Access must be available to all dwelling units with one or more elevators and to all ground floor units for buildings without an elevator. The Fair Housing Act contains seven basic requirements that must be met to comply with the access requirements of the Act. These requirements are outlined in the [Fair Housing Act, as amended, 42 U.S.C. 3604\(f\)\(3\)\(C\)](#) and include the following:

1. An accessible building entrance on an accessible route
2. Accessible common and public use areas
3. Usable doors (usable by a person in a wheelchair)
4. Accessible route into and through the dwelling unit
5. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations
6. Reinforced walls in bathrooms for later installation of grab bars
7. Usable kitchens and bathrooms

Additionally, the project must comply with the Architectural Barriers Act of 1968 (42 U.S.C. Sec. 4151 et seq.), including use of telecommunications device of deaf persons (TDDs) or equally effective communication system.

### **Additional Disaster Recovery Construction Standards**

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The Disaster Recovery (DR-17) Multifamily Rental Program requires several additional construction standards that green building, broadband and signage standards and further explained below.

## Green Standards for New Construction

New housing construction and replacement of substantially damaged buildings<sup>1</sup> must include compliance with one of the following green standards:

- **ENERGY STAR** (Certified Homes or Multifamily High-Rise)
- **Enterprise Green Communities** - The Development must incorporate all mandatory and optional items applicable to the construction type (i.e. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>.
- **LEED** - The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification, regardless of the rating level achieved (i.e., Certified, Silver, Gold or Platinum).
- **ICC-700 National Green Building Standard** - The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a NGBS Green Certification, regardless of the rating level achieved (i.e. Bronze, Silver, Gold, or Emerald).

## Solar Ready

In addition to one of the identified Green Building standards, new residential buildings shall be built solar-ready, thus easily able to incorporate solar energy in the future by reserving adequate roof space.

## Implementation of Green Building Standards

Applicants will identify the Green Building Standard selected and provide design phase (pre-construction) information (Green Building checklist) showing the planned project will qualify for Green Building certification.

At the completion of construction, the Applicant shall provide necessary documentation (Green Building Checklist and Green Professional certification) to the Green Building Organization to obtain the Green Building Certification which will be provided to HCDD.

## Broadband

As defined by [24 CFR 5.100](#), a building with more than four rental units must include installation of broadband infrastructure. For the purposes of this program broadband service can either be hardwired or wireless, but it must be provided at 25 Mbps down and 3 Mbps up.

## Environmental and Flood Zone Standards

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### Environmental Review

An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. The environmental review process is required for all HUD-assisted projects to ensure that the proposed project does not negatively

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<sup>1</sup> all replacement of substantially damaged residential buildings. Replacement of residential buildings may include reconstruction (i.e., demolishing and rebuilding a housing unit on the same lot in substantially the same manner) and may include changes to structural elements such as flooring systems, columns, or load bearing interior or exterior walls.

impact the surrounding environment and that the property site itself will not have an adverse environmental or health effect on end users.

All properties assisted under this Program will be subject to an Environmental Review by the City prior to land acquisition, and/or new construction. CHDO Developers will be required to submit the project site address, and parcel identification number, which the City will conduct the environmental review in compliance with [24 CFR Part 58](#). If the project passes the Environmental Review, the city will advise developer of the authorization to use grant funds, and the developer may move forward with the approved land acquisition and new construction activity.

A commitment of funds can occur only upon satisfactory completion of an environmental review to determine whether the project meets federal, state, and local environmental standards, and receipt by the City of a release of funds from HUD under 24 CFR Part 58.35(a) or 58.36. Multifamily Developers must agree that the provision of any funds to their project(s) is conditioned on the HCDD's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review. Developers funding may be required to contract for environmental consulting services to provide the information required, which shall be an eligible project soft cost. In addition, the following regulations are applicable:

- Per 24 CFR 58.5(i)(2)(i), it is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.
- Per 58.5(i)(2)(ii) the environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in paragraph (i)(2)(i) of this section.
- Lots to be acquired for selection cannot and will not undergo any development or other activity that constitutes a choice limiting action per 24 CFR 58.22, regardless of whether HUD or non-HUD funds are used. No HUD funds can or will be used prior to the issuance of the Release of Funds/Authority to Use Grant Funds (AUGF) and all necessary site-specific environmental review and clearance as required by 24 CFR 58.
- Regulations found at 24 CFR 58 also govern sound mitigation requirements if noise levels in a Normally Unacceptable Noise Zone (NUNZ, 65-75 decibels (dB)) or Unacceptable Noise Zone (UNZ, 75+ dB), and regulations found at 24 CFR 55 govern flood mitigation for any existing properties that reside in the 100-year floodplain.
- Hazardous materials described at 58.5(i)(2)(i) cover all forms of contamination, including but not limited to lead and asbestos that may be found in older buildings, particularly those built prior to 1978.

An ASTM E1527-13 Phase I Environmental Site Assessment (ESA), under 6 months of age, must accompany projects involving acquisition (rehab and new construction) as well as all new construction projects (with or without acquisition).

## Floodplain and Floodway Development

**Floodway development is prohibited.** Developments with improvements within 100-year floodplain will also be ineligible unless the applicant can demonstrate flood mitigation practices to avoid adverse impacts to residents. Sites not located within 100-year floodplain but reported flooding events within the past 10 years may be subject to these requirements.

Mitigation efforts to include Chapter 19 of the City's Code of Ordinances. Mitigation efforts may include, but not limited to, elevating building site out of the floodplain, elevated podium construction, restricting ground floor space for residential use, pier and beam foundations for single-family units, etc. Any mitigation efforts will be considered on a case by case basis by HCDD. Applicants are advised to check property addresses against the most recent flood maps which can be accessed on Harris County Flood Control District website at [www.hcfcd.org](http://www.hcfcd.org).

## Workers' Compensation

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Awardees will be required to exclusively hire responsible contractors that carry adequate workers' compensation coverage.

## Minority Business Enterprises/Small Business Enterprises

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The City of Houston Housing and Community Development Department requires MWSBE participation of at least 34% (23%MBE, 11%WBE) of the HCDD investment for all federally and non-federally funded construction contracts in excess of \$1,000,000. It is the general contractors' responsibility to put forth measures to achieve contract goal(s) and other program requirements throughout the duration of the contract. Good Faith Efforts should be documented per the City of Houston, Office of Business Opportunity Good Faith Efforts policy. For more information regarding Good Faith Efforts visit: <https://www.houstontx.gov/obo/docsandforms/goodfaihefforts.pdf>

## Targeted Hiring and Section 3

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Section 3 is a provision of the Housing and Urban Development Act of 1968, created in an effort to direct training, employment, and contracting opportunities generated by certain HUD financial assistance to low- and very-low income persons and business concerns which provide economic opportunities to low and very low-income persons. The requirements of Section 3 apply to Housing and community development assistance expended for housing rehabilitation, housing construction, or other public construction. All contractors or subcontractors that receive covered contracts in excess of \$100,000 under this NOFA are required to comply with the requirements of Section 3.

To ensure that Multifamily activities generates significant opportunities for Section 3 Residents in Houston, HCDD strongly encourages contractors to exceed minimum Section 3 requirements for targeted hiring of Section 3 Residents.

Minimum requirements provide that any contractor or subcontractors with a covered contract in excess of \$100k are required to comply with the requirements of Section 3. Contractor responsibilities include, but are not limited to: recordkeeping, document submittals, monthly reporting, and providing documentation of efforts made to meet numerical performance goals.

The General Contractor is required to complete a Utilization Plan that demonstrates a commitment to meet Section 3 numerical goal requirements. Thereafter, any contractor with a contract in excess of

\$100k will be required to comply with the same requirements that demonstrate efforts to meet Section 3 requirements.

To the greatest extent feasible, contractors/subcontractors with a need to hire new persons to complete covered contract activities or needs to subcontract portions of the work to another business, are required to direct their newly created employment and/or subcontracting opportunities to Section 3 residents and business concerns. The minimum numerical goal(s) are as follows: 30% of the total number of new hires should meet Section 3 resident criteria; 10% of all construction contracts should be awarded to Section 3 Business Concerns; and 3% of all non-construction contracts should be awarded to Section 3 Business concerns. Contractors Good Faith Efforts to provide training, employment, and contracting opportunities to Section 3 Residents and Section 3 Business Concerns should be demonstrated throughout the duration of the project. For additional information regarding Section 3 compliance requirements you may visit: [link](#)

### **Monitoring and Compliance**

All of the standards outlined above will be enforced by City of Houston internal monitors.

## **Other Compliance Requirements**

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### **Affirmatively Furthering Fair Housing (AFFH)**

Developers will complete and submit an Affirmative Fair Housing Marketing Plan, found at <https://www.hud.gov/sites/documents/935-2A.PDF> in furtherance of the City's commitment to non-discrimination and equal opportunity in housing. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, gender, religion, familial status, or disability. The plan will provide detailed procedures and actions geared to attract eligible persons in the housing market area to the development.

Proposed plans must identify demographics of the area, including underrepresented populations least likely to have access or knowledge to the development. AFFH Marketing campaigns and staff training policies should be addressed in detail.

Beginning at lease-up, records will be maintained describing actions taken by the Developer to affirmatively market its units. The City will assess the results of these actions annually, for the duration of the funding agreement. Documentation of compliance with the Affirmative Marketing requirements in the Fair Housing Act is required.

### **Uniform Relocation Act**

If existing tenants are required to move out of their units as a result of a project receiving federal funding, the developer must comply with both the Uniform Relocation Assistance Act and Real Property Acquisition Policies Act of 1970, as amended, (URA) as well as HCDD's Policies and Procedures for Relocation. The URA requires that the owner of the property receiving federal funding must provide notices and assistance to tenants impacted by acquisition, demolition, and/or rehabilitation/reconstruction.

HCDD staff will assist owners in complying with the URA. Applicants to provide a Relocation Plan and budget for any proposals of developments that will require relocation of residents.

Details of the requirements for following URA regulations are also available in Handbook 1378 at the following web site: [www.hud.gov/relocation](http://www.hud.gov/relocation).

## Contractor Requirements and Construction Administration

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### Contractor Selection

The City of Houston is charged with making efforts to determine that Project costs are reasonable. HCDD has approved the following three methods for selecting a general contractor:

1. **Bidding Process** - The Borrower may choose to go through an open bidding process for selection of the General Contractor. This involves:
  1. Compiling plans, specs and a list of required qualifications, bonding requirements, etc. for the prospective contractor
  2. Conducting a pre-bid meeting with prospective bidders
  3. Advertising the bid process for two consecutive weeks
  4. Reviewing, evaluating and tabulating bids
  5. Obtaining clearance from HCDD's Compliance and Monitoring division to proceed with the selected contractor.A more complete explanation of the process will be provided by Compliance & Monitoring.
2. **Captive General Contractor** - If the owner has the capacity to complete the construction work through a related entity as a *captive general contractor*, they may do so.
3. **Hand-picked General Contractor** - The Borrower may select a General Contractor of their choosing without going through a bidding process.

### Construction Contract

A Guaranteed Maximum Price contract will be required. **Any form of a cost-plus-fee contract is prohibited.** Prior to award of contract the recipient shall be approved by the Compliance and Monitoring Division. Recipient will submit a Request for Contractor Clearance form to the Compliance and Monitoring Division and obtain approval for the proposed contractor prior to execution of a contract agreement.

### Construction Draws and Inspections

**Prior to commencement of construction, a pre-construction meeting must be held between the city, the developer, and their contractor.** During construction, HCDD will engage a third-party firm to provide monthly inspections and confirm work in progress. If the Senior Lender or Tax Credit Investor uses a third-party inspection firm, the City may rely on these inspection reports if the City is included as an addressee of the report. Borrowers will certify that each draw request is for actual costs expended and provide documentation to support such costs, including sub-contractor invoices. The City will only pay for completed and documented work.

Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of all expenditures. HCDD may request that the Developer make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of funds to Developer/Owner as may be necessary or advisable for compliance with all program requirements. Any change in scope during the construction process to be approved in advance by HCDD.

Each draw request to include actual invoices for soft cost that support the requested payment. Hard cost must be supported G702 and G702 signed by the owner and general contractor.

Regardless of the use of funds (e.g. acquisition, soft costs, hard costs), HCDD will retain 10% of each draw until satisfactory completion of the development. Retainage will be held until at least thirty (30) days after completion of construction; a final inspection is completed and clearance is issued by the Department; labor standards final wage compliance report is completed; and certificates of occupancy are received for new construction or a certification of completion is received from the development architect for rehabilitation.

The final request for disbursement of retainage will be submitted to the Department with supporting documentation no later than sixty (60) days after the termination date of the Contract to remain in compliance with the Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performance rendered after the termination date of a Contract.

## Post Completion Requirements

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### Lease Up Procedures

Small Rental developments assisted with CDBG-DR funds are required to have a Project Tenant Selection Policy (TSP), Affirmative Marketing Plan, and a schedule of leases and rents to ensure compliance with CDBG-DR requirements. The TSP must be:

- Written and displayed at the project leasing in a common area;
- Consistent with the purpose of providing housing for families making 80 percent or less of AMFI;
- Reasonably related to program eligibility and tenant's ability to perform under the lease;
- Chronological, so that tenants taken from a written waiting list are assisted in order; and
- Designed to give prompt written notice of the grounds for rejection to any lessee rejected based on income.

### Monitoring

During the affordability period, HCDD will monitor each project for financial stability, status on annual payments due as well as compliance with the City's Minimum Property Standards and LURA. This will include:

- Regular review of audited financial statements
- Annual inspections of property to assure that Minimum Property Standards are maintained
- Verifying lease related documentation/actions to demonstrate compliance with Affirmative Marketing and Fair Housing requirements under local, state and federal rules in tenant selection/housing;
- Verifying income documentation and eligibility of persons certified/assisted; and
- Certifying/approving rent rates and utility allowances within limits set by local, state or federal agencies as applicable to each project.

## Application Submissions

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The City of Houston as a unit of local government reserves the right to reject any and/or all proposals, reserves the right to waive any formalities or irregularities in the proposal or evaluation process, and reserves the right to award contract(s) in the best interest of the City of Houston.

### Due Date

Applications under this NOFA are due to the City of Houston by **3:00 p.m. on Friday May 15, 2020**. Late proposals will not be accepted and will be returned, unopened, to the proposer at the proposer's expense.

### Threshold Review

All applications will undergo a threshold review within 30 days of receipt of the application. HCDD staff will notify the applicant of any deficiencies within the application. The applicant will have five (5) business days to cure any deficiencies. Once an application has met threshold it may be scored by the committee.

### Material Changes

After an award is allocated, any material changes to the project during underwriting or construction must be reported in writing to the Department. Failure to do so may result in a forfeiture of the award.

### Format

HCDD expects applications to be complete, and in accordance with the following guidelines:

- Provide one original hard copy in a binder and one copy on a flash drive (with tabs delineated). **Both the cover and spine of any hard copies need to be labeled with the name of the development and applicant.** The City encourages applicants to print double-sided to conserve paper. If one document satisfies requirements in two sections *do not* include a second copy of the same document.
- All applications to be signed by the organization's Board Chair/Executive Director/President or Designee. Unsigned applications will not be accepted.
- Original Documents shall have original signatures and be clearly noted ORIGINAL.
- All statements requiring a notarized signature must be notarized.
- Excel workbook: Complete each yellow cell of each Tab of the Application for City of Houston Funds, and provide all items listed on the Checklist.
- One flash drive with the entire application (including Excel workbook) to be provided.
- The Excel workbook to be provided in Excel (not pdf) on the flash drive
- A \$500 application fee is required
- Prior to the deadline, the Department will accept Applications from 8 a.m. to 5 p.m. each business day, excluding city holidays.

**Applications will be accepted ONLY if addressed as follows.**

Housing and Community Development Department  
2100 Travis St., 9<sup>th</sup> Floor  
Houston, TX 77002  
Attn: Tywana Rhone

**ALL APPLICATION SUBMISSIONS BECOME THE PROPERTY OF HCDD**

For questions regarding this NOFA, please contact Tywana Rhone at [Tywana.Rhone@houstontx.gov](mailto:Tywana.Rhone@houstontx.gov) or 832 - 394-6204.

**IN ACCORDANCE WITH THE ANTI-LOBBYING ORDINANCE, CODE OF SILENCE OR SIMILAR REQUIREMENTS, AFTER THE APPLICATION SUBMISSION DATE AND UP TO PANEL REVIEW AND SCORING OF APPLICATIONS, ALL COMMUNICATION BETWEEN APPLICANTS AND CITY STAFF MUST BE IN WRITING.**

## **APPEALS**

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HCDD's appeal process will be provided in writing to any appellant upon request or receipt of an appeal, and the same process will be clearly posted on the City's websites, including disaster recovery websites and entitlement program websites. HCDD will keep a record of each appeal that it receives and include all communications and their resolutions therein.

Applicants have the right to appeal decisions made on their program file based on the following:

- Non-receipt of award through NOFA or RFP process
- Denied services through any of HCDD's programs
- Denial of a request for resolution for tax credits
- Program eligibility determination
- Program award calculation
- Program determination of Moderate or Substantial damage leading to Rehabilitation or Reconstruction
- Procedural error where the application was not processed by program staff in accordance with the program guidelines
- Affirmatively Furthering Fair Housing

Appeals must be made in writing, and may either be in letter form, through HCDD's website, or on HCDD's Appeal Request Form (available on HCDD's website or at the HCDD office). Written appeals will be accepted either by mail or in-person at the HCDD office. To be considered complete, an appeal must contain the following information:

- Name
- Property Address
- Mailing Address (if different from Property Address)
- Phone
- Application number (if applicable)
- Email Address
- Reason for Appeal

Appeals must be made within thirty (30) days of notice of the determination on the applicant's file that generated the appeal. Upon receipt of an appeal, HCDD will respond in writing to the appellant of the program area's decision regarding the appeal and provide the basis thereof within thirty (30) days, as practicable.

### **Appeals Review Committee**

Should the initial appeal process with the program area not achieve a resolution amenable to the appellant, the appellant has the right to escalate the appeal, in writing, to the Appeals Review Committee

(ARC). The appellant may only escalate the appeal after the completion of the initial program area process.

The ARC will process the escalated appeal within thirty (30) days, as practicable. The ARC will transmit their decision to the appellant in writing.

### **Texas General Land Office**

Should the appellant not be satisfied with the outcome determined by the ARC, they have the option to dispute the decision by sending an appeal in writing to the Texas General Land Office (GLO). The appellant has thirty (30) days to submit an appeal directly to GLO following receipt of the ARC's decision regarding their appeal.

If no word on a pending appeal is received by HCDD within the appropriate timeline from GLO, HCDD will designate the appeal decision made by the Appeals Review Committee as the final decision and consider the matter closed.

### **Complaint and Appeal Contact Information**

#### **HCDD Mailing Address**

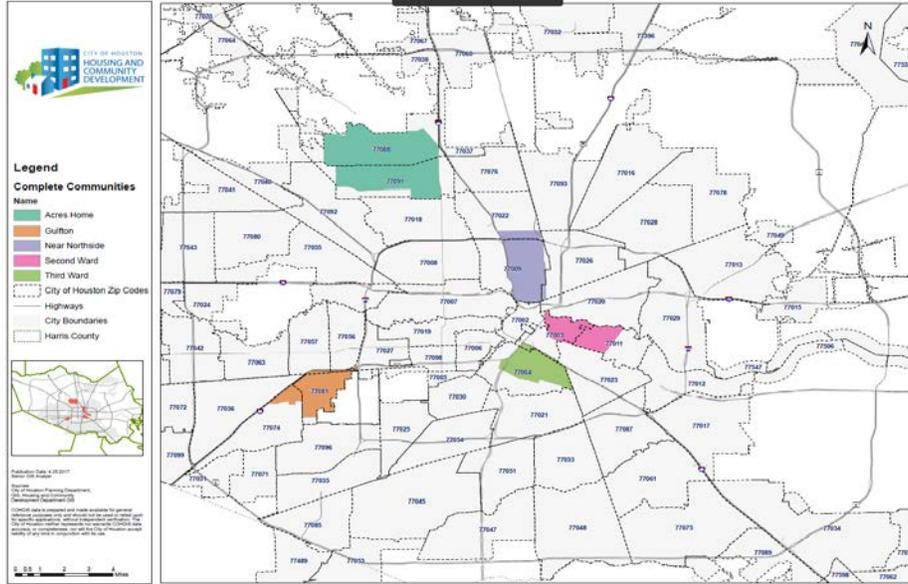
Housing and Community Development Department  
2100 Travis St., 9<sup>th</sup> Floor  
Houston, TX 77002  
Attn: Planning & Grants Management  
[HCDDComplaintsAppeals@houstontx.gov](mailto:HCDDComplaintsAppeals@houstontx.gov)

#### **GLO Mailing Address**

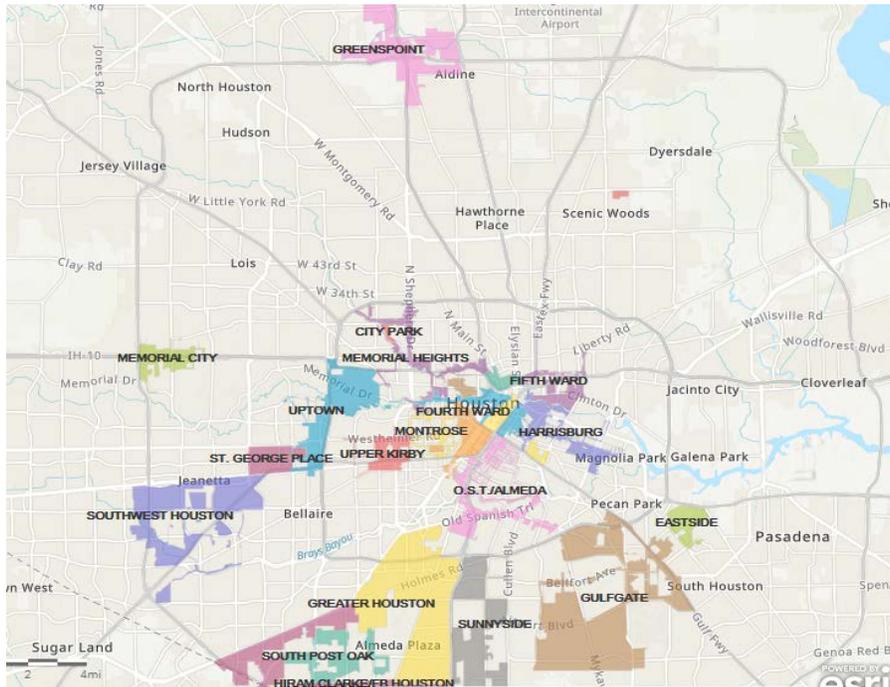
Texas General Land Office  
PO Box 12873  
Austin, TX 78711-2873  
ATTN: GLO-CDR  
[cdr@recovery.texas.gov](mailto:cdr@recovery.texas.gov)  
(844) 893-8937  
(512) 475-5000

# Exhibit A

## Complete Communities



## TIRZ



## Exhibit B

### HUD Income Limits for 2019

	Charts	60.00%	30.00%	50.00%	80.00%	140.00%
<b>1 Person</b>	▲▲	32,100	16,050	26,750	42,800	44,940
<b>2 Person</b>	▲▲	36,660	18,330	30,550	48,880	51,324
<b>3 Person</b>	▲▲	41,220	20,610	34,350	54,960	57,708
<b>4 Person</b>	▲▲	45,780	22,890	38,150	61,040	64,092
<b>5 Person</b>	▲▲	49,500	24,750	41,250	66,000	69,300
<b>6 Person</b>	▲▲	53,160	26,580	44,300	70,880	74,424
<b>7 Person</b>	▲▲	56,820	28,410	47,350	75,760	79,548
<b>8 Person</b>	▲▲	60,480	30,240	50,400	80,640	84,672
<b>9 Person</b>	▲▲	64,080	32,040	53,400	85,440	89,712
<b>10 Person</b>	▲▲	67,740	33,870	56,450	90,320	94,836
<b>11 Person</b>	▲▲	71,400	35,700	59,500	95,200	99,960
<b>12 Person</b>	▲▲	75,060	37,530	62,550	100,080	105,084

### HUD Rent Limits for 2019

Bedrooms (People)	Charts	60.00%	30.00%	50.00%	80.00%	FMR
<b>Efficiency (1.0)</b>	▲▲	802	401	668	1,070	812
<b>1 Bedroom (1.5)</b>	▲▲	859	429	716	1,146	907
<b>2 Bedrooms (3.0)</b>	▲▲	1,030	515	858	1,374	1,104
<b>3 Bedrooms (4.5)</b>	▲▲	1,191	595	992	1,588	1,509
<b>4 Bedrooms (6.0)</b>	▲▲	1,329	664	1,107	1,772	1,897
<b>5 Bedrooms (7.5)</b>	▲▲	1,466	733	1,221	1,955	