

THE STATE OF TEXAS §  
§  
COUNTY OF HARRIS §

SOLICITATION NO. S72-Q26671  
ORDINANCE # 2019-0065  
CONTRACT # 4600015289

**AGREEMENT FOR HOUSING CONSTRUCTION AND REPAIR SERVICES**

**ARTICLE 1. PARTIES**

**THIS AGREEMENT FOR HOUSING CONSTRUCTION AND REPAIR SERVICES** (this "Agreement") is made on the date countersigned by the City Controller between the **CITY OF HOUSTON, TEXAS** (the "City"), a home-rule city of the State of Texas principally situated in Harris County and **DSW Homes, LLC** ("Contractor"), a limited liability company doing business in Texas.

**1.01 ADDRESS:**

1.01.1 The initial addresses of the Parties, which one Party may change by giving written notice to the other Party, are as follows:

**City**

Director or Designee  
Housing and Community  
Development Department  
City of Houston  
P. O. Box 1562  
Houston, Texas 77251

**Contractor**

**DSW HOMES, LLC**  
502 20<sup>th</sup> Street  
Galveston, Texas 77550  
Attention: James F. Schumer, CEO

The Parties agree as follows:

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1.02.1 This Agreement consists of the following sections:

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- "N" MINIMUM PROPERTY STANDARDS
- "O" COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (CDBG-DR) HARVEY HOMEOWNER ASSISTANCE (HOAP) GUIDELINES
- "P" HARVEY SINGLE FAMILY DEVELOPMENT PROGRAM GUIDELINES (HSFD)
- "Q" HARVEY RECOVERY SMALL RENTAL PROGRAM (HRSR) GUIDELINES

1.03 **PARTS INCORPORATED**

1.03.1 The above-described sections and exhibits are incorporated into this Agreement.

1.04 **CONTROLLING PARTS**

1.04.1 If there is a conflict between any of the Project Documents, such conflict shall be resolved in the following order of precedence: first the sections of this Agreement, then the exhibits to this Agreement, then the GLO Contract, then the Homeowner Agreement signed by the Homeowner and Contractor (including Director approved Change Orders, if any), then the Notice to Proceed, then the Certificate of Compliance, then the Final Inspection Document, and then the Guidelines.

1.05 **DEFINITIONS**

1.05.1 Certain terms used in this Agreement are defined in Exhibit "A".

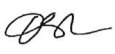
1.06 **SIGNATURES**

1.06.1 The Parties have executed this Agreement in multiple copies, each of which is an original. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized, and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms. The Parties hereby agree that each Party may sign and deliver this Agreement electronically or by electronic means and that an electronic transmittal of a signature, including but not limited to, a scanned signature page, will be as good, binding, and effective as an original signature.

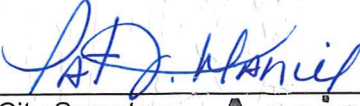
**ATTEST/SEAL (if a corporation):  
WITNESS (if not a corporation):**

\_\_\_\_\_  
Name:  
Title:


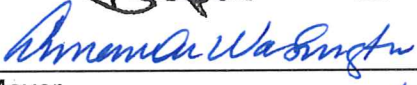
**CONTRACTOR:  
DSW HOMES, LLC**

DocuSigned by:  
  
By: \_\_\_\_\_  
Name: James F. Schumer  
Title: CEO  
Federal Tax ID Number: 27-1330085

**ATTEST/SEAL:**

  
\_\_\_\_\_  
City Secretary **Assistant**

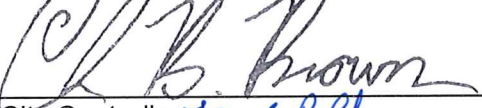
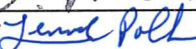
**CITY OF HOUSTON, TEXAS**

Signed by:   
  
\_\_\_\_\_  
Mayor 1-31-19

**APPROVED:**

DocuSigned by:  
  
\_\_\_\_\_  
Director, Housing and Community  
Development Department

**COUNTERSIGNED BY:**

  
\_\_\_\_\_  
City Controller 

**APPROVED:**

DocuSigned by:  
  
\_\_\_\_\_  
Chief Procurement Officer

**COUNTERSIGNATURE DATE:**

\_\_\_\_\_  
2-6-19

**APPROVED AS TO FORM:**

DocuSigned by:  
  
\_\_\_\_\_  
Sr. Assistant City Attorney  
L. D. File No. 0291900010002

## ARTICLE 2. DUTIES OF CONTRACTOR

### 2.01 COORDINATE PERFORMANCE

2.01.1 General. The Contractor shall perform all of the services and furnish all materials, labor and equipment necessary to complete the Work as set out in Exhibit "B" and described in the Homeowner Agreement, including the Scope of Work or Plans and Specifications attached to the Homeowner Agreement. The Contractor shall supervise and direct the Work on the Project(s), and the Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work on the Project(s) under this Agreement. Unless otherwise specifically provided herein, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water (for its own consumption), heat (for its own consumption), utilities (for its own consumption), transportation, and other facilities and services necessary for the Contractor's sole use and consumption and for the proper execution and completion of the Work on each Project.

2.01.2 Inception. The Contractor shall not begin the Work on any Project until the Contractor receives a Notice to Proceed from the Director. All work authorizations ("Work Orders") shall be in writing, signed by the Director, and shall include an assignment of Housing Units for which Contractor shall complete the Work on each Project.

2.01.3 Scope. All Work to be performed and all specifications pertaining thereto will be specified in Exhibit "B" and will be further identified in the Project Documents. **CONTRACTOR SHALL PERFORM NO OTHER WORK ON THE PROJECT UNLESS CHANGE ORDERS TO A HOMEOWNER AGREEMENT FOR ADDITIONAL WORK OR MATERIALS ARE ISSUED IN ACCORDANCE WITH THIS AGREEMENT AND THE PROJECT DOCUMENTS.** The Contractor will not, and shall not have any obligation to, perform any change in the Work on the Project until a Change Order to a Homeowner Agreement has been authorized and issued by the Director. **Any changes in the Contract Price shall only result from authorized Change Orders.** Under no circumstances may the amount of the Contract Price, plus a Change Order to a Homeowner Agreement exceed the maximum amount of assistance authorized under the Guidelines. All Change Orders to a Homeowner Agreement approved and executed in conformance with this Agreement shall be made a part of Project Documents. Change Orders to a Homeowner Agreement are subject to the Allocated Funds provision of the Homeowner Agreement.

2.01.4 Side Agreements. The Contractor shall not enter into any side agreements for additional work or materials for a Property over and above those specified in the Scope of Work or Plans and Specifications attached to the Homeowner Agreement.

2.01.5 Surveys. For all construction and Reconstruction Projects, the Contractor shall develop a Survey of the Homeowner's Property to be completed by a registered surveyor, at Contractor's sole expense.

2.01.6 Reserved.

2.01.7 Suspension of Services. The Director may, by written notice to Contractor, suspend at any time the performance of any or all portions of the services to be performed under the Agreement, including without limitation the Work on any Project(s). Upon receipt of such notice, Contractor shall, unless the notice requires otherwise:

2.01.7.1 Immediately discontinue services on the date and to the extent specified in the notice;

2.01.7.2 Promptly make every reasonable effort to obtain suspension upon terms satisfactory to the City of all subcontracts, orders and other agreements to the extent that they relate to the performance of suspended work;

2.01.7.3 Continue to protect and maintain the services including those portions of the services which have been suspended; and

2.01.7.4 Take any other reasonable steps to minimize costs associated with such suspension.

2.02 **TIME OF PERFORMANCE**

2.02.1 Time is of the essence in this Agreement. Contractor shall coordinate its performance with the Director and other persons that the Director designates. Contractor shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

2.03 **TIME EXTENSIONS**

2.03.1 If Contractor requests an extension of time to complete its performance under this Agreement, then the Director or his designee, in consultation with the CPO, may, in his or her sole discretion, extend the Term of this Agreement so long as the extension does not exceed 90 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

2.03.2 If the Director requests an extension of time to complete Contractor's performance under this Agreement, then the CPO may, upon consultation with the Director involved, extend the Term of this Agreement so long as the extension does not exceed 90 calendar days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

2.04. **REPORTS**

2.04.1 Contractor shall submit all reports and progress updates required by the Director or CPO.

2.05 **PAYMENT OF SUBCONTRACTORS**

2.05.1 **IN ACCORDANCE WITH THE TEXAS PROMPT PAYMENT ACT,**

CONTRACTOR SHALL MAKE TIMELY PAYMENTS TO ALL PERSONS AND ENTITIES THAT CONTRACTOR HAS HIRED TO SUPPLY LABOR, MATERIALS, OR EQUIPMENT FOR THE PERFORMANCE OF THIS AGREEMENT. CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR'S FAILURE TO MAKE THESE PAYMENTS REGARDLESS OF WHETHER THE FAILURE TO PAY IS CAUSED BY, OR CONTRIBUTED TO, IN WHOLE OR IN PART, THE NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT), OR GROSS NEGLIGENCE, (WHETHER SOLE, JOINT OR CONCURRENT), STRICT LIABILITY, INTENTIONAL ACTS, OR OTHER CONDUCT OR LIABILITY OF THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES.

2.05.2 Failure of Contractor to pay its employees as required by law shall constitute a default under this Agreement, for which Contractor and its surety shall be liable on Contractor's performance security, if any, if Contractor fails to cure the default as provided under this Agreement.

## **2.06 RELEASE**

2.06.1 CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY. CONTRACTOR HEREBY COVENANTS AND AGREES NOT TO SUE THE CITY FOR ANY CLAIMS, DEMANDS, OR CAUSES OF ACTION DIRECTLY OR INDIRECTLY RELATED TO ITS RELEASE UNDER THIS SECTION. FOR THE AVOIDANCE OF DOUBT, THIS COVENANT NOT TO SUE DOES NOT APPLY TO CLAIMS FOR BREACH OF THIS AGREEMENT.

## **2.07 INDEMNIFICATION**

2.07.1 CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

2.07.1.1 CONTRACTOR'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED SUBPARAGRAPHS 2.07.1.1 THROUGH 2.07.1.3, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR



**OMISSIONS;**

2.07.1.2 THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND

2.07.1.3 THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.

2.07.2 CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$1,000,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

**2.08 INDEMNIFICATION – PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT**

2.08.1 CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY ALLEGING THAT THE CITY'S USE OF ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS CONTRACTOR FURNISHES DURING THE TERM OF THIS AGREEMENT INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. CONTRACTOR SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.

2.08.2 CONTRACTOR SHALL NOT SETTLE ANY CLAIM ON TERMS WHICH PREVENT THE CITY FROM USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS WITHOUT THE CITY'S PRIOR WRITTEN CONSENT.

2.08.3 WITHIN 60 DAYS AFTER BEING NOTIFIED OF THE CLAIM, CONTRACTOR SHALL, AT ITS OWN EXPENSE, EITHER (1) OBTAIN FOR THE CITY THE RIGHT TO CONTINUE USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS OR, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS. IF NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE CITY MAY RETURN THE EQUIPMENT, SOFTWARE, OR DOCUMENTS, OR DISCONTINUE THE PROCESS, AND CONTRACTOR SHALL REFUND THE PURCHASE PRICE.

**2.09 SUBCONTRACTOR'S INDEMNITY**

2.09.1 CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO

THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

## 2.10 INDEMNIFICATION PROCEDURES

2.10.1 Notice of Claims. If the City or Contractor receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving Party shall give written notice to the other Party within 30 days. The notice must include the following:

2.10.1.1 a description of the indemnification event in reasonable detail;

2.10.1.2 the basis on which indemnification may be due; and

2.10.1.3 the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 30-day period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

### 2.10.2 Defense of Claims

2.10.2.1 Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City Attorney, which approval shall not be unreasonably withheld. Contractor shall then control the defense and any negotiations to settle the claim, subject to the City Attorney's consent or agreement to the settlement, which consent or agreement shall not unreasonably be withheld. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to whether or not it will defend the claim. If Contractor does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

2.10.2.2 Continued Participation. If Contractor elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor shall not be responsible for reimbursing the City the costs of any separate counsel retained by the City.

## 2.11 INSURANCE

2.11.1 **Risks and Limits of Liability**. Contractor shall maintain the following insurance coverages in the following amounts:

<u>COVERAGE</u>	<u>LIMIT OF LIABILITY</u>
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	<ul style="list-style-type: none"> <li>• Bodily Injury by Accident \$500,000 (each accident)</li> <li>• Bodily Injury by Disease \$500,000 (policy limit)</li> <li>• Bodily Injury by Disease \$500,000 (each employee)</li> </ul>
Commercial General Liability: Bodily and Personal Injury; Products and Completed Operations Coverage	Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence, and \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate
Automobile Liability	\$1,000,000 combined single limit for: (i) Any Auto; or (ii) All Owned, Hired, and Non-Owned Autos
Professional Liability	\$1,000,000 per occurrence; \$2,000,000 aggregate
A hazard insurance policy on a builder's all risk or special causes of loss policy form, with a broad form named insured and loss payable endorsements	Loss payable endorsements shall insure the Work on each Project, and all materials and supplies purchased with advances hereunder against all risks and losses, as well as an allowance for occupancy by a Homeowner if Homeowner is remaining in the structure during repairs.
Excess Liability Coverage, or Umbrella Coverage, for Commercial General Liability and Automobile Liability	\$1,000,000
<b>Aggregate Limits are per 12-month policy period unless otherwise indicated.</b>	

2.11.2 **Insurance Coverage.** At all times during the term of this Agreement and any extensions or renewals, and -- in cases where required insurance is specific to a Homeowner's Property, until such time as the Homeowner takes possession of the Property -- Contractor shall provide and maintain insurance coverage that meets the Agreement requirements. Prior to beginning performance under the Agreement, at any time upon the Director's request, or each time coverage is renewed or updated, Contractor shall furnish to the Director current certificates of insurance, endorsements, all policies, or other policy documents evidencing adequate coverage, as necessary. Contractor shall be responsible for and pay: (i) all premiums; and (ii) any claims or losses to the extent of any deductible amounts. Contractor waives any claim it may have for premiums or deductibles against the City, its officers, agents, or employees. Contractor shall also require all subcontractors or consultants whose subcontracts exceed \$100,000 to provide proof of insurance coverage meeting all requirements stated above except amount. The amount must be commensurate with the amount of the subcontract, but no less than \$500,000 per claim.

- 2.11.3 **Form of insurance.** The form of the insurance shall be approved by the Director and the City Attorney; such approval (or lack thereof) shall never: (i) excuse non-compliance with the terms of this Section; or (ii) waive or estop the City from asserting its rights to terminate this Agreement. The policy issuer shall: (i) have a Certificate of Authority to transact insurance business in Texas; or (ii) be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+, and a Best's Financial Size Category of Class VI or better, according to the most current Best's Key Rating Guide.
- 2.11.4 **Required Coverage.** The City shall be an Additional Insured under this Agreement, and all policies, except Professional Liability and Worker's Compensation, shall explicitly name the City as an Additional Insured. The City shall enjoy the same coverage as the Named Insured without regard to other Agreement provisions. Contractor waives any claim or right of subrogation to recover against the City, its officers, agents, or employees, and each of Contractor's insurance policies except professional liability must contain coverage waiving such claim. Each policy, except Workers' Compensation and Professional Liability, must also contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement. If professional liability coverage is written on a "claims made" basis, Contractor shall also provide proof of renewal each year for two years after substantial completion of the Project, or in the alternative: evidence of extended reporting period coverage for a period of two years after substantial completion, or a project liability policy for the Project covered by this Agreement with a duration of two years after substantial completion. All certificates of insurance submitted by Contractor shall be accompanied by endorsements for: (i) Additional Insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies; and (ii) Waivers of Subrogation in favor of the City for Commercial General Liability, Automobile Liability and Workers' Compensation/Employers' Liability policies. The Director will consider all other forms on a case-by-case basis.
- 2.11.5 **Notice. CONTRACTOR SHALL GIVE 30 DAYS' ADVANCE WRITTEN NOTICE TO THE DIRECTOR IF ANY OF ITS INSURANCE POLICIES ARE CANCELED OR NON-RENEWED.** Within the 30-day period, Contractor shall provide other suitable policies in order to maintain the required coverage. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default.
- 2.11.6 **Other Insurance.** If requested by the Director, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under this Agreement.
- 2.11.7 The City's acceptance of the insurance policy declaration pages shall not relieve or decrease the liability of the Contractor. **Contractor must update all expired policies before the Director's acceptance of an invoice for payment from Contractor.**

## 2.12 WARRANTIES

2.12.1 Contractor will provide warranties and, as applicable, third-party warranties, for all Work on the Project performed under this Agreement as follows:

2.12.1.1 Contractor expressly and unconditionally warrants and guarantees that all Work for each Project performed under this Agreement shall be done in a good and workmanlike manner and in accordance with the standards of quality prevailing in Harris County, Texas for rehabilitation, construction, demolition and Reconstruction services for similar projects at the time such services are performed. Contractor shall perform all Work for each Project using trained and skilled persons having substantial experience performing the Work for each Project required under this Agreement. This warranty includes, without limitation, any condition that may impair or tend to impair the safe and normal use, functioning or enjoyment of the Property and which results in any manner from all labor and/or materials used or supplied by Contractor for the Project.

2.12.1.2 With respect to Work related to the design and management of the Work and Work performed by an engineer, Contractor shall perform its engineering, design and management work in accordance with the professional skill and care ordinarily provided by competent engineers, practicing in the same or similar locality and under the same or similar circumstances and professional license; and as expeditiously as is prudent considering the ordinarily professional skill and care of a competent engineer. Contractor shall design the Work (including the house plans and designs (including architectural designs)) in compliance with the standard of care in the industry and the requirements of applicable laws, codes, and regulations, including the City of Houston Building Code. The house plans, designs, and construction documents shall conform to applicable federal, state, and City regulations. Contractor shall review each house plan and design (including architectural design) and edit as necessary to suit specific requirements for each house and to meet the design intent of the Project Documents. Revisions to the house plans or designs shall not be incorporated based solely on Contractor's preference, but are subject to review and acceptance by the Director.

2.12.1.3 The warranty shall not limit or in any way modify any warranties or guarantees placed upon any material, appliances, fixtures or devices by their manufacturers, or any components for which a longer period of warranty is provided or required under the Project Documents.

2.12.1.4 Third-Party Warranties. Without in any way relieving Contractor of its obligations hereunder, Contractor shall, for the protection of Homeowner, obtain third-party warranties offered by a State of Texas, GLO, or Federal Housing Administration, U.S. Department of Veterans Affairs, or U.S. Department of Housing and Urban Development approved or accepted warranty company to provide the warranty coverage in conformance with this subsection 2.12.1.4, which

warranties shall be assignable to Homeowner in accordance with this Agreement without affecting the validity of the warranty. The Contractor shall deliver the warranties and documents evidencing the assignment of said warranties to the Homeowner prior to submitting Contractor's request for final payment. Contractor may not submit, and the City will not begin to process Contractor's request for final payment until the Contractor has assigned and delivered the warranties to the Homeowner and the Director has acknowledged confirmation thereof in writing. Contractor shall be responsible for enforcing all such third-party warranties until such time as the Homeowner takes possession of the Property. The warranty period shall commence on the date the Final Inspection Document is signed by the Homeowner for the Project and end 1 year thereafter for workmanship and materials, 2 years thereafter for a warranty covering a mechanical or delivery system, including electrical delivery systems, plumbing delivery systems, ventilation, heating and air conditioning systems, and 10 years for the structural warranty, including without limitation 10 years for major structural components of a Housing Unit, as each warranty is applicable to the Work on the Project.

- 2.12.1.5 The Contractor shall also provide:
  - 2.12.1.5.1 For any items for which standards are not published, the standards of construction established under the Housing Quality Standards that have been approved by the U.S. Department of Housing and Urban Development; and
  - 2.12.1.5.2 Except where preempted by the above express standards, all applied warranties.
- 2.12.1.6 The Contractor shall include this Section's warranty provisions in all of the Contractor's subcontracts for Work under this Agreement. The Contractor further acknowledges and agrees that it is not eligible for final payment until all the warranties required by this Agreement and the Project Documents have been delivered to the Homeowner with such copy signed by the Homeowner evidencing the Homeowner's receipt of such warranty policies.
- 2.12.1.7 Contractor shall repair or replace, free of cost or charges to the City and the Homeowner, any defects that arise out of defective workmanship or materials which appear within the warranty period, whether the materials or equipment are guaranteed by the manufacturer or supplier.
- 2.12.1.8 Contractor shall furnish the Director and Homeowner with all manufacturer's and supplier's written guarantees, warranties and operating instructions covering materials and equipment furnished under this Agreement together with any documentation required for validation.

- 2.12.1.9 Contractor warrants that each item meets or exceeds the manufacturer's specifications and requirements for the equipment, structure or other improvement in which the item is installed.
- 2.12.1.10 Contractor warrants that each replacement item is new, in accordance with original equipment manufacturer's specifications, and are of a quality at least as good as the quality of the item which it replaces (when the replaced item was new) and that no item or its use infringes any patent, copyright, or proprietary right.
- 2.12.1.11 In the event that Contractor is notified by the Director or Homeowner of a defect that has arisen during the warranty period, Contractor shall begin to correct the defect within 10 business days after receipt of notification and shall complete the correction of the defect within 10 days thereafter, unless Contractor receives a written authorization from the Director to extend the correction period, but in no event longer than 30 days from receipt of notice of the defect. Contractor shall correct all warranty items within the time frames set forth above, free of cost or charges to the City or the Homeowner, whether or not the materials or equipment are guaranteed by the manufacturer or supplier. Notice of the defect must be given during the warranty period.
- 2.12.1.12 Survival of Warranty Provisions. The terms of this Section shall expressly survive the termination of this Agreement. Contractor's failure to address any defect in compliance with this Agreement may, at the Director's discretion, result in a monetary offset from funds owed to the Contractor by the City under this Agreement, any open Homeowner Agreement, or any other existing contracts or agreements between the Contractor and the City, to cover the amount of funds necessary for the City to correct any defect not corrected by the Contractor under a warranty.

## 2.13 CONFIDENTIALITY

2.13.1 Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, the "Information") that they receive, or to which they have access, in strictest confidence. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section.

## 2.14. USE OF WORK PRODUCTS

2.14.1 Contractor conveys and assigns to the City its entire interest and full ownership worldwide in and to any work, invention, notes, plans, house plans and designs (including architectural designs), computations, databases, tabulations, exhibits, reports, underlying data, photographs and other work products, and any modifications or improvements to them (collectively "Documents"), and the copyrights, patents, trademarks, trade secrets, and any other proprietary rights therein (collectively "Proprietary Rights") that Contractor, its agents, employees,

contractors, and subcontractors ( collectively "Authors") develop, write, or produce under this Agreement (collectively, the "Works").

2.14.2 The Authors shall not claim or exercise any Proprietary Rights related to the Works. If requested by the Director, Contractor shall place a conspicuous notation on any Works which indicates that the City owns the Proprietary Rights.

2.14.3 Contractor shall execute all documents required by the Director to further evidence this assignment and ownership. Contractor shall cooperate with the City in registering, creating, and enforcing Proprietary Rights arising under this Agreement. If Contractor's assistance is requested and rendered under this Section, the City shall reimburse Contractor for all out-of-pocket expenses it incurs in rendering assistance, subject to the availability of funds. On termination of this Agreement, or if requested by the Director, Contractor shall deliver all Works to the City. Contractor shall obtain written agreements from the Authors which bind them to the terms in this Section.

2.14.4 All Works developed, written, or produced under this Agreement for use as a contribution to a collective work; a part of a motion picture or other audiovisual work; a translation; a supplementary work; a compilation; an instructional text; a test; answer material for a test; or an atlas, are "works made for hire."

2.14.5 Contractor may retain copies of the Documents for its archives. Contractor shall not otherwise use, sell, license, or market the Documents.

## 2.15 **LICENSES AND PERMITS**

2.15.1 Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation for the performance under this Agreement. Contractor shall obtain and pay all fees for all necessary building permits and inspections required by the City and furnish a copy of same to the Director. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against its license.

## 2.16 **COMPLIANCE WITH LAWS**

2.16.1 Contractor shall comply with all applicable state and federal laws, guidelines, and regulations, including without limitation those set out below, the City Charter and City of Houston Code of Ordinances and those set out in the GLO Contract as the "Nonexclusive List of Applicable Laws Rules and Regulations":

2.16.1.1 24 CFR Part 570, Subpart I;

2.16.1.2 2 CFR Part 200;

2.16.1.3 Public Law 109-148 (Department of Defense Appropriations Act, 2006);

2.16.1.4 Public Law 109-234 (Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006);

2.16.1.5 Allocations and Common Application and Reporting Waivers Granted to and Alternative Requirements for CDBG Disaster Recovery



- Grantees Under the Department of Defense Appropriations Act, 2006; Notice, 71 Fed. Reg. 7666 (Feb. 13, 2006);
- 2.16.1.6 48 CFR, Part 31 regarding the allowability of costs;
  - 2.16.1.7 Section 3 of the Housing and Urban Development Act of 1968. The work to be performed under this Agreement is on a project assisted under a program providing federal financial assistance from the U.S. Department of Housing and Urban Development (HUD). Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 170u, "Section 3") and implementing regulations at 24 CFR Part 135 apply to this Agreement. Under Section 3, to the greatest extent feasible, for any contract award in excess of \$100,000, the Contractor shall give opportunities for training and employment to lower-income residents of the City and shall award contracts for work in connection with the project to business concerns which are located in or owned in substantial part by persons residing in the City;
  - 2.16.1.8 Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Sec. 4831 (b)) and the procedures established by the Department thereunder;
  - 2.16.1.9 The Hatch Act (5 U.S.C. 1501-1508 and 7324-7328), which limits the potential activities of employees whose principal employment activities are funded in whole or in part with federal funds, in the performance of the Work; and
  - 2.16.1.10 "Environmental Review Procedures for Recipients assuming HUD Environmental Responsibilities," 24 CFR Part 58, and the laws and authorities specified at 24 CFR Sections 58.5 and 58.6.
  - 2.16.1.11 Non-Discrimination. Contractor shall comply with the applicable non-discrimination provisions required by the United States of America, including but not limited to the provisions of 49 C.F.R. Part 21. These provisions are inclusive of any amendments which may be made to such regulations. Further, Contractor shall include the summary of the provisions of 49 CFR Part 21, as may be amended, in subcontracts it enters into under this Agreement. This summary is set forth in Exhibit "M".
  - 2.16.1.12 Contractor shall comply with building standards for all Housing Units, including modular homes and manufactured housing, under all applicable state statutes and City codes.
  - 2.16.1.13 Contractor shall follow all applicable federal, state, and local laws and regulations for working with Asbestos Containing Material (ACM) including removal and disposal.
  - 2.16.1.14 The Lead Based Paint (LBP) regulations as described in 24 CFR, Part 35 for units built before 1978. [https://www.hud.gov/sites/documents/DOC\\_12311.PDF](https://www.hud.gov/sites/documents/DOC_12311.PDF)
  - 2.16.1.15 Any other applicable local, State, or Federal law, regulation, Executive Order, or binding guideline.

2.16.2 HUD Requirements. The Parties acknowledge that the City intends to seek reimbursement from the GLO for costs incurred under this Agreement. Notwithstanding the previous sentence, the Parties acknowledge that the Federal Government is not a party to this Agreement and is therefore not obligated to perform any actions under this Agreement. Contractor shall comply with and shall perform services in compliance with all GLO/HUD requirements outlined in this Agreement and otherwise applicable to the Work performed, any subsequent audit by the GLO, HUD, or any other reviewing agency, and reimbursement from the GLO, HUD, or any other federal agency for the costs incurred under this Agreement.

2.16.3 Compliance with Davis-Bacon and Copeland Anti-Kickback Acts. The Parties acknowledge that any construction contract in excess of \$2,000 financed in whole or in part from Federal funds must comply with the Davis Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction") and the Copeland Anti-Kickback Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). These requirements, to the extent applicable to this Agreement, the Work, or a Project, include:

2.16.3.1 Contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor (attached hereto and incorporated in this Agreement). In addition, contractors must be required to pay wages not less than once a week.

2.16.3.2 The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The City will report all suspected or reported violations to the Federal awarding agency. Each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City will report all suspected or reported violations to the Federal awarding agency.

2.16.4 Contract Work Hours and Safety Standards.

2.16.4.1 Overtime requirements. Neither Contractor nor any subcontractor contracting for any part of the contract work under this Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2.16.4.1.1 Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in this section, the Contractor and any subcontractor

responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in this section.

2.16.4.1.2 Withholding for unpaid wages and liquidated damages. HUD shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Contractor, such sums as may be determined to be necessary to satisfy any liabilities of the Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in this section.

2.16.4.1.3 Subcontracts. Contractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

2.16.5 Energy Efficiency. The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

2.16.5.1 The Contractor agrees to include the above paragraph in each third-party subcontract financed in whole or in part with Federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## 2.17 COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY ORDINANCE

2.17.1 Contractor shall comply with City's Equal Employment Opportunity Ordinance as set out in in Section 15-17 of the Code of Ordinances.

2.17.2 Further, the provisions set out in Section 6 of Exhibit "L" and Exhibit "M" relating to Equal Employment Opportunity and attached to this Agreement are hereby incorporated by reference herein for all purposes as fully and completely as if set forth verbatim herein.

2.17.3 The Contractor shall comply with the applicable Equal Opportunity Clause required by the United States of America, including but not limited to the provisions of 41 CFR § 60-1.4(b). These provisions are inclusive of any amendments which may be made to such regulations. Further, the Contractor shall include the summary of the provisions of 41 CFR § 60-1.4(b), as may be amended, in subcontracts it enters into under this Agreement. This summary is set forth in Section 6 of Exhibit "L" and in Exhibit "M".

2.18 **MWBE COMPLIANCE**

2.18.1 Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least **34% (23% MBE and 11% WBE)** of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunities ("OBO") and will comply with them.

2.18.2 Contractor shall ensure that all subcontracts with MWBE subcontractors and suppliers contain the following terms:

[Name of MWBE subcontractor] shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Office of Business Opportunity Director (the "Director").

[Name of MWBE subcontractor] shall permit representatives of the City of Houston, at all reasonable times, to perform: (i) audits of the books and records of the subcontractor; and (ii) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least 4 years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.

Within five Business Days of execution of this subcontract, Contractor and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.

Any controversy between the Parties involving the construction or application of any of the terms, covenants, or conditions of this subcontract may be submitted to the Director. The Director may prescribe procedures to provide dispute resolution by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

2.18.3 Contractor shall adhere to and comply with 2 CFR § 200.321 if subcontracts are to be let under this Agreement. The Contractor, if subcontracts are to be let, is required to take the following affirmative steps to ensure that small business firms, minority business firms, women's business enterprises, and labor surplus area firms are used when

possible, pursuant to 2 CFR § 200.321. Affirmative steps must include:

- 2.18.3.1 Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - 2.18.3.2 Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - 2.18.3.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - 2.18.3.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
  - 2.18.3.5 Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 2.18.4 Contractor must clearly document the communication and outreach to the certified business. Documentation may include mail logs, phone logs, or similar records documenting the use of the above identified sources of information about MWSBE firms, the efforts to contact them, and other efforts to meet the above requirements.

**2.19. DRUG ABUSE DETECTION AND DETERRENCE**

- 2.19.1 It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 (the "Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.
- 2.19.2 Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):
- 2.19.2.1 a copy of its drug-free workplace policy;
  - 2.19.2.2 the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "C", together with a written designation of all safety impact positions; and
  - 2.19.2.3 if applicable (e.g., no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "D".
- 2.19.3 If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially

similar to Exhibit "E". Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or, if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

2.19.4 Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

2.19.5 Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

**2.20 CONFLICTS OF INTEREST**

2.20.1 If an actual or potential conflict arises between the City's interests and the interests of other client(s) Contractor represents, Contractor shall immediately notify the Director in writing. The City Controller shall issue a letter of consent or non-consent to Contractor's representation, potential or otherwise, of the other client(s) within 10 Business Days after receipt of Contractor's notice. If the City Controller issues a non-consent letter, Contractor shall immediately terminate its representation, potential or otherwise, of the other client(s) whose interests are or may be in conflict with those of the City.

2.20.2 Contractor acknowledges that it, and its employees and agents, and their respective immediate family members, are ineligible to participate in any manner in responding to any solicitation, request for qualification, request for proposals, or resulting agreements or payments that it will assist the City to develop, evaluate or negotiate. Such participation may create a conflict of interest and will provide an unfair advantage as it relates to the award of a contract to the successful bidder or proposer. This ineligibility is applicable to both a prime or subcontractor role and includes any affiliates, partners or members.

2.20.3 Contractor shall comply with and use all available resources to aid the City in complying with, the conflict of interest provisions at 24 CFR 570.611.

**2.21. PAY OR PLAY**

2.21.1 The requirements and terms of the City of Houston Pay or Play program, as set out in Executive Order 1-7, as revised from time to time, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order No. 1-7, as revised, and shall comply with its terms and conditions.

**2.22. CONTRACTOR'S PERFORMANCE**

2.22.1 Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor shall train its employees to be customer service-oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees shall be clean, courteous, responsive, efficient,

and neat in appearance and committed to offering the highest quality of service to the public. If, in the Director's opinion, Contractor is not interacting in a positive and polite manner with citizens, he or she shall direct Contractor to take all remedial steps to conform to these standards.

2.23. **CHANGES**

2.23.1 At any time during the Agreement Term, the CPO or Director may issue a Change Order to this Agreement ("Master Agreement Change Order") to increase or decrease the scope of services or change plans and specifications as he or she may find necessary to accomplish the general purposes of this Agreement. Contractor shall furnish the services or deliverables in the Master Agreement Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

2.23.2 The CPO or Director will issue the Master Agreement Change Order in substantially the following form:

<b><u>CHANGE ORDER</u></b>	
TO:	[Name of Contractor]
FROM:	City of Houston, Texas (the "City")
DATE:	[Date of Notice]
SUBJECT:	Change Order under the Agreement between the City and [Name of Contractor] countersigned by the City Controller on [Date of countersignature of the Agreement]
Subject to all terms and conditions of the Agreement, the City requests that Contractor provide the following:	
[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]	
Signed:	
[Signature of CPO or Director]	

2.23.3 The CPO or Director may issue more than one Master Agreement Change Order, subject to the following limitations:

2.23.3.1 The City Council expressly authorizes the CPO or Director to approve a Master Agreement Change Order up to \$50,000. A Master Agreement Change Order of more than \$50,000 over the approved contract amount must be approved by the City Council.

2.23.3.2 If a Master Agreement Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor.

2.23.3.3 The total of all Master Agreement Change Orders issued under this section may not increase the original contract amount by more than

25%.

2.23.4 Whenever Contractor receives a Change Order or Master Agreement Change Order, Contractor shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order or Master Agreement Change Order. Contractor shall complete the work within the time prescribed. If no time for completion is prescribed, Contractor shall complete the work within a reasonable time. If the work described in any Change Order or Master Agreement Change Order causes an unavoidable delay in any other work Contractor is required to perform under this Agreement, Contractor may request a time extension for the completion of the Work on the Project. The CPO's decision regarding a time extension is final.

2.23.5 A product or service provided under a Change Order or Master Agreement Change Order is subject to inspection, acceptance, or rejection in the same manner as the Work on the Project described in this Agreement and the Project Documents and is subject to the terms and conditions of this Agreement and the Project Documents as if it had originally been a part of the Agreement.

2.23.6 Master Agreement Change Orders are subject to the Allocated Funds provisions of this Agreement.

## 2.24 **ENVIRONMENTAL LAWS**

2.24.1 Contractor shall comply with all rules, regulations, statutes, and orders of the Environmental Protection Agency, the Texas Commission on Environmental Quality, and any other governmental agency with the authority to promulgate environmental rules and regulations (the "Environmental Laws"). Contractor shall promptly reimburse the City for any fines or penalties levied against the City because of Contractor's failure to comply with Environmental Laws.

2.24.2 Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to, or from the Property except in strict compliance with the Environmental Laws. "Hazardous Materials" means any substances, materials, or wastes that are or become regulated as hazardous or toxic substances under any applicable federal, state, or local laws, regulations, ordinances, or orders. Contractor shall not deposit oil, gasoline, grease, lubricants, or any ignitable or hazardous liquids, materials, or substances in the City's storm sewer system or sanitary sewer system or elsewhere on City property or the Property in violation of the Environmental Laws.

### 2.24.3 Clean Air Act

2.24.3.1 The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*

2.24.3.2 The Contractor agrees to report each violation to the City, State, GLO, HUD, or any other reviewing agency and understands and agrees that the City, State, GLO, HUD, or any other reviewing agency, will, in turn,



report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.

2.24.3.3 The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by HUG/GLO.

2.24.4 Federal Water Pollution Control Act

2.24.4.1 The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*

2.24.4.2 The Contractor agrees to report each violation to the City, State, GLO, HUD, or any other reviewing agency and understands and agrees that the City, State, GLO, HUD, or any other reviewing agency, will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.

2.24.4.3 The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by HUD/GLO.

2.25 **ANTI-BOYCOTT OF ISRAEL**

2.25.1 Contractor certifies that Contractor is not currently engaged in and agrees for the duration of this Agreement not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

2.26 **ZERO TOLERANCE POLICY FOR HUMAN TRAFFICKING AND RELATED ACTIVITIES**

2.26.1 The requirements and terms of the City of Houston's Zero Tolerance Policy for Human Trafficking and Related Activities, as set forth in Executive Order 1-56, as revised from time to time, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order 1-56, as revised, and shall comply with its terms and conditions as they are set out at the time of the Countersignature Date. Contractor shall notify the CPO, City Attorney, and the Director of any information regarding possible violation by Contractor or its subcontractors providing services or goods under this Agreement within 7 days of Contractor becoming aware of or having a reasonable belief that such violations may have occurred, have occurred, or are reasonably likely to occur.

2.27 **DEBARMENT AND SUSPENSION**

2.27.1 Contractor certifies by execution of this Agreement that it is not ineligible for participation in federal or state assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension." Additionally, Contractor warrants and represents by execution of this Agreement that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any Federal programs,

including but not limited to the following: Department of Health and Human Work (DHHS), Office of Inspector General (OIG) - List of Excluded Individuals & Entities (LEIE); U.S. General Work Administration (GSA) – Excluded Parties List System (EPLS); All States (50) Health & Human Work Commission Medicaid OIG Sanction List; Government Terrorist Watch List (OFAC / Patriot Act); Department of Commerce, Bureau of Industry and Security, Denied Persons List; and Department of Homeland Security, Immigration and Customs Enforcement (ICE) Most Wanted. Contractor further agrees to include this certification in all contracts between itself and any subcontractors in connection with the services performed under this Agreement. Contractor certifies that Contractor will notify the Director in writing immediately if Contractor is not in compliance with Executive Order 12549 during the term of this Agreement. Contractor agrees to refund City for any payments made to Contractor while ineligible.

## 2.28 **PERFORMANCE AND PAYMENT BONDS**

2.28.1 The Contractor is required to obtain and provide to the Director a payment bond and performance bond issued by a solvent company authorized to do business in the State of Texas, which is compliant with all legal requirements, as security for the faithful payment of all the Contractor's obligations under this Agreement. The bond(s) must be in a form approved by the City Attorney. A sample performance bond is attached to this Agreement as Exhibit "I". If the amount of the bond exceeds \$100,000, the surety must be listed on the current list of accepted sureties on federal bonds published by the United States Treasury Department or reinsured for any liability in excess of \$100,000 by a reinsurer listed on the U.S. Treasury list. The penal sum of the payment and performance bonds shall be equal to the Contract Price, or as otherwise specified by the Director. In the event that the Contractor has not provided payment and performance bonds, the Contractor will not be given notice to proceed and the Work on the Project will not begin until said performance and payment bond is provided. If the Contractor is unable to provide a payment or performance bond, the City will choose another contractor.

## 2.29 **BYRD ANTI-LOBBYING AMENDMENT**

2.29.1 For any bid, offer, or agreement exceeding \$100,000, the Contractor shall file with the City a Certification Regarding Lobbying substantially in the form set out in **Exhibit "H"**.

2.29.2 The Contractor shall comply with 31 U.S.C. § 1352 and include a requirement to comply with these regulations in any subconsultant or lower tier covered transaction it enters into.

## 2.30 **PROGRAM FRAUD & FALSE OR FRAUDULENT STATEMENTS**

2.30.1 The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Agreement.

**2.31 USE OF PRODUCTS**

2.31.1 In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired (i) competitively within a timeframe providing for compliance with the contract performance schedule; (ii) meeting contract performance requirements; or (iii) at a reasonable price.

2.31.2 The Contractor shall abide by the list of EPA-designated items available on EPA's Comprehensive Procurement Guidelines web site: <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

**ARTICLE 3. DUTIES OF CITY**

**3.01 PAYMENT TERMS**

3.01.1 Additional payment terms are in Exhibit "F". The sole obligation of the City with regard to payment of the Contract Price shall be limited to compensation for the Work on the Project as specified in the Project Documents as such Work on the Project or portion thereof is completed in accordance with the Progress Schedule and the composite price list set forth in Exhibit "J". The City shall pay the Contractor the Contract Price for the performance of the Work described in the Project Documents for each Project in an amount not to exceed the amounts shown in the table below. Such not to exceed amounts shall also apply individually to each category below. Notwithstanding anything herein to the contrary, in no event shall the total Contract Price (including any authorized Change Orders) for the performance of the Work described in the Project Document for each Project exceed the Maximum Allowed Assistance Amount shown below for applicable construction type, unless the Director, in accordance with the terms of this Agreement, notifies Contractor of an increase as permitted by the Applicable Guidelines. Contractor shall not charge and the City shall not pay a Contract Price greater than the Cap amount shown below for each construction type for the performance of the Work described in the Project Documents for each Project, unless the Director, in his sole but reasonable discretion, approves, in advance and in writing additional amounts for elevation, environmental, lead, asbestos, mold, resiliency measures or accessibility.

**Maximum Assistance for City Managed Rehab and Reconstruction**

Construction Type	Cap	Elevation	Environmental, Lead, Asbestos, Mold	Resiliency Measures	Accessibility	Maximum Allowed Assistance*
Rehab	\$80,000	n/a	\$35,000	\$10,000	\$25,000	\$150,000
Rehab with Elevation	\$80,000	100,000	\$35,000	\$10,000	\$25,000	\$250,000
Reconstruction	\$200,000	n/a	\$35,000	\$10,000	\$25,000	\$250,000

\*It is anticipated that no home would need all Additional Funding Allocations, therefore the maximum assistance is below the sum of all possible buckets.

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If the not-to-exceed amounts for a Project are increased as permitted by applicable Guidelines, including documentation detailing the need for the change, the Director may notify Contractor of such increase in writing without the need for an amendment to this Agreement. Such payments are subject to the Allocated Funds provision and shall only be made from the Allocated Funds as provided below. Any changes in the Contract Price shall only result from authorized Change Orders. The Contract Price shall be paid in the form of progress payments, which will be submitted and disbursed according to the Progress Schedule.

**3.01.2 ALL EXPENDITURES UNDER THIS AGREEMENT MUST BE MADE IN ACCORDANCE WITH THIS AGREEMENT, THE GLO CONTRACT, THE GUIDELINES, RULES AND REGULATIONS PROMULGATED UNDER THE CDBG-DR PROGRAM, AND ANY OTHER APPLICABLE LAWS. ALL FUNDS ARE SUBJECT TO RECAPTURE AND REPAYMENT FOR NON-COMPLIANCE.**

The City may terminate this Agreement and recapture from the Contractor and be reimbursed by the Contractor for any payments the City makes that (i) exceed the maximum allowable rates; (ii) are not allowed under applicable laws, rules, or regulations; or (iii) are otherwise inconsistent with this Agreement, the Project Documents, or the GLO Contract, including any unapproved expenditures.

3.01.3 If the City pays Contractor under a Homeowner Agreement, or if Contractor invoices the City under a Homeowner Agreement, for anything (whether fees, goods, costs, or services) that is ineligible or inconsistent with the requirements or restrictions imposed by and/or under this Agreement, the Project Documents, applicable laws, rules, or regulations or the GLO Contract, the City will consider Contractor in breach of this Agreement with respect to the invoiced costs and (1) Contractor shall reimburse the City for such ineligible costs within 30 days of notification by the Director or (2) Contractor shall offset the ineligible costs from its next invoice to the City.

3.01.4 Reserved.

**3.01.5 Progress Payments.**

3.01.5.1 The City shall pay Contractor the Contractor Price in the form of progress payments on the basis of the Progress Schedule and in accordance with and subject to Exhibit "F", Fees and Costs. Each progress payment shall not exceed the cost set forth in the Progress Schedule for the portion of the Work on the Project which has been completed and approved by the City as provided below and shall be limited to ninety (90%) percent of said cost.

3.01.5.2 Contractor must request all progress payments in accordance with the Progress Schedule. When requesting a progress payment:

3.01.5.2.1 Contractor must submit a Contractor's Request for Payment to the Director.

3.01.5.2.2 Upon receipt of the Contractor's Request for Payment, the Director will review and verify the Contractor's

Request for Payment. Upon the Director's approval of the Contractor's Request for Payment, it will be processed, and payment made to the Contractor as soon as possible but in no event later than thirty (30) days from the date the Contractor's Request for Payment is approved by the Director.

3.01.5.2.3 The City's review, verification and approval process may include field inspections at the Property.

3.01.5.3 If any mechanic's, materialman's or other similar lien or encumbrance is filed against the Property, or the fixtures, materials, machinery and equipment to be used in the Project, Contractor must discharge the same (by payment, bonding, or otherwise) within fifteen (15) business days following written notice thereof from the Director.

3.01.5.4 Contactor's Request for Payment shall reflect the cost for the portion of the Work on the Project that has been completed by Contractor, shall include the notarized signature of the Contractor and otherwise be in form and substance acceptable to the Director.

### 3.01.6 Final Inspection and Payment.

3.01.6.1 Upon Contractor's completion of the Work on the Project, Contractor shall schedule a punch list walk-through inspection with the Homeowner. During the walk-through, Contractor and the Homeowner will make a list of items that are in need of correction or completion, based upon the Project Documents (the "Punch List"). The Contractor must schedule and complete the Work on the Project's Punch List within five (5) days from the date of the walk-through inspection. Contractor shall obtain the Homeowner's signature evidencing signoff that all Punch List items are complete. After obtaining the Homeowner's signoff on the Punch List items, Contractor may now schedule a final HCDD inspection, by submitting the Certificate of Compliance, elevation certificate and the Homeowner's signoff on the completed Punch List. Upon the HCDD's inspector being satisfied all required documents have been submitted to HCDD, the HCDD inspector will arrange and conduct a walk-through inspection of the Property together with the Homeowner and the Contractor to verify that all such Work on the Project has been completed. During the final inspection, the HCDD inspector will discuss the warranty and any other outstanding issues with the Homeowner.

3.01.6.2 The HCDD Inspector will pass or fail the final inspection. Upon receiving a passed Final Inspection, the Contractor may submit a final Request for Payment, which must include signatures from the Homeowner and the Contractor. The HCDD inspector will forward the Contractor's Request for Payment for the final payment to the appropriate City office for processing and payment. After the issuance of the Final Payment, the thirty-day (30) retainage period shall begin. Upon the expiration of the thirty-day (30) retainage period, if no issues are found, and all

any, have been discharged, the retainage will be released to Contractor.

3.02 **RESERVED**

3.03 **PAYMENT DISPUTES**

3.03.1 If the City disputes any item in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After any dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

3.04 **LIMIT OF APPROPRIATION**

3.04.1 The City's duty to pay money to the Contractor under this Agreement is limited in its entirety by this Section's provisions. In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and/or allocated up to **\$5,000,000.00** in CDBG Disaster Recovery 17 funds (the "Original Allocation").



3.04.2 Contractor recognizes that, due to the nature of the Programs under which Contractor may perform Work on each Project or Property, it is not possible to specify the exact allocation of funds necessary for each participating Contractor or Project. More specifically, Contractor will be assigned on a housing Rehabilitation, construction or Reconstruction Project along with other contractors in the Program. Accordingly, it is impossible to ascertain how many Projects and resulting Homeowner Agreements each contractor will be awarded. All funding will fund the Homeowner Agreements performed by way of the Program. The City will determine the exact allocation of funds necessary for each participating Contractor or Project based on any Work completed by Contractor while participating in the Program and the dollar amount of each Homeowner Agreement, which dollar amount shall not exceed the allowable project budget as defined in the Program Guidelines.

3.04.3 In the event the total allocation is insufficient to compensate Contractor, Contractor may suspend its services at such time as the total allocation is expended, but shall resume such services, if and when authorized by the Director, upon transfer of funds by the Director or appropriation of additional funds by the City Council, when necessary.

3.04.4 The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:

3.04.4.1 The City has not allocated supplemental funds or made a supplemental allocation for this Agreement unless the City has issued to the Contractor a Service Release Order, or a similar form approved by the City Controller, containing the language set out below. When necessary, the supplemental allocation shall be approved by motion or

necessary, the supplemental allocation shall be approved by motion or ordinance of City Council.

**NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS**

By the signature below, the City Controller certifies that, upon the request of the Director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This Supplemental Allocation has been charged to such appropriation. \$ \_\_\_\_\_

3.04.4.2 The Original Allocation plus all supplemental allocations are the "Allocated Funds." Pursuant to the terms of the ordinance approving this Agreement, the Director, in his sole discretion, may also reduce the amount of Allocated Funds under this Agreement, which reduction shall accordingly release the City's obligation and liability under this Agreement for any amount in excess of the reduced amount of Allocated Funds. The Director shall use his best efforts to notify Contractor within 5 Business Days when the Director reduces the amount of Allocated Funds under this Agreement. The City's reduction of the Allocated Funds or an untimely notice to Contractor of said reduction shall not constitute an event of default by the City under this Agreement. The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds, as reduced, if any such reduction occurs. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement or a Homeowner Agreement, and it has no other remedy in law or in equity against the City and no right to damages of any kind. An adjustment to the Allocated Funds (made by the Director pursuant to the ordinance approving this Agreement) solely to increase or decrease the amount of Allocated Funds does not constitute a Master Agreement Change Order.

**3.05 ACCESS TO SITE**

3.05.1 Codes and Standards. Contractor shall perform all Work on the Project in conformance with the applicable building codes, the Plans and Specifications, and any manufacturer's recommendations. To the extent of conflict between any of the foregoing codes and standards and the Plans and Specifications, the more restrictive shall apply. Contractor shall obtain and pay all fees for all necessary building permits and inspections required by the City and furnish a copy of same to the Director. If modification of the Scope of Work is required to comply with the codes and standards, then the Parties shall negotiate and agree to a modification of the Scope of Work by Change Order.

3.05.2 Protective Measures. The Contractor is responsible for the care and safekeeping of all materials on the site, the Property, and all Work on the Project until its completion. The Contractor shall bear the risk of loss for damage to a

Homeowner's Property (including land, structures, and improvements) due to equipment, vehicles, tools, or operations employed in the execution of the Work on the Project under the Scope of Work or Plans and Specifications, and due to exposure to the elements which results from the execution of the Work on the Project under the Scope of Work or Plans and Specifications. Except as otherwise provided in the Scope of Work or Plans and Specifications, upon completion of the Work on the Project, the Contractor shall clear and remove all surplus materials, equipment, refuse, dirt, or rubbish that has resulted from the performance of the Work on the Property under the Scope of Work or Plans and Specifications, at the Contractor's sole expense. The Contractor shall also leave a Homeowner's Property in a "broom-clean" condition at the end of each workday if the unit is occupied during the Work on the Project.

3.05.3 Acts and Omissions. The Contractor shall be responsible and liable to the City for the acts and omissions of his/her employees, agents, and subcontractors and their agents and employees.

3.05.4 Damages. Without limiting any other provision of this Agreement or the other Project Documents, the Contractor shall be responsible and liable to the City for all actual damages incurred by the City resulting from the Contractor's failure to strictly comply with the terms and provisions of this Agreement and the other Project Documents. Such damages may be deducted and withheld from the amounts due Contractor under this Agreement and the other Project Documents in connection with a Project.

3.06 **ACCESS TO DATA**

3.06.1 The City shall, to the extent permitted by law, allow Contractor to access and make copies of documents in the possession or control of the City or available to it that are reasonably necessary for Contractor to perform under this Agreement.

3.06.2 The City does not, however, represent that all existing conditions are fully documented, nor is the City obligated to develop new documentation for Contractor's use.

3.06.3 For any raw data created, assembled, used, maintained, collected, or stored by Contractor for or on behalf of the City, Contractor shall provide the City either the raw data itself or the ability to extract the raw data in a format mutually agreed upon by both Parties at no additional cost to the City.

3.06.4 The Director may grant Contractor access to the City's information management system to view information and to upload or download certain documents that the Director determines that the Contractor may need to perform the Work. Contractor must enter log notes on construction progress and contacts with Homeowners, request or schedule inspections, upload photos, etc., as requested by the Director.

3.07 **NO QUANTITY GUARANTEE**

3.07.1 This Agreement does not create an exclusive right in Contractor to perform all services concerning the subject of this Agreement. The City may procure and



execute contracts with other contractors for the same, similar, or additional services as those set forth in this Agreement or any Work Order or Change Order or Master Agreement Change Order.

3.07.2 The City makes no express or implied representations, warranties, or guarantees whatsoever, that any particular quantity, type, task area, or dollar amount of services will be procured or purchased from Contractor through this Agreement or any Work Order or Change Order; nor does the City make any express or implied representations, warranties, or guarantees, whatsoever for the amount or value of revenue that Contractor may ultimately derive from or through this Agreement or any Work Order or Change Order or any Master Agreement Change Order. The Director shall, within 60 Business Days of the Countersignature Date of this Agreement, provide Contractor with the evaluation criteria that Contractor must meet or exceed to receive new Work Orders.

### 3.08 **ENFORCEMENT OF HOMEOWNER AGREEMENT**

3.08.1 Contractor acknowledges and agrees that the City is intended to be and is in fact a third-party beneficiary to the Homeowner Agreement. The City may perform as the Homeowner's representative in any enforcement of the Homeowner Agreement. **The Parties further acknowledge and agree that the Homeowner Agreement bestows rights upon the City, as a third-party beneficiary, the City is entitled to the rights and benefits under the Homeowner Agreement, and the City is permitted to and may enforce the provisions in the Homeowner Agreement as if it were a party thereto, including the right to enforce the Homeowner Agreement in the event of a breach by the Contractor or Homeowner.**

## ARTICLE 4. TERM AND TERMINATION

### 4.01. **AGREEMENT TERM**

4.01.1 This Agreement is effective on the Countersignature Date and shall remain in effect for 3 years, unless sooner terminated under this Agreement (the "Initial Term").

### 4.02. **NOTICE TO PROCEED**

4.02.1 Contractor shall begin performance under this Agreement on the date specified in a Notice to Proceed from the CPO or Director. Contractor shall not begin Work on any individual Project until the date specified in a Notice to Proceed from the CPO or Director for that Housing Unit.

### 4.03. **RENEWALS**

4.03.1 Upon expiration of the Initial Term, and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for 2 successive 1-year terms (the "Term") on the same terms and conditions. If the Director chooses not to renew this Agreement, he or she shall notify Contractor

and the CPO of non-renewal at least 30 days before the expiration of the then-current term.

4.04. **TERMINATION FOR CONVENIENCE BY CITY**

4.04.1 The Director may terminate this Agreement in its entirety or as to Work Order(s) or Project(s) without cause by giving 10 days' written notice to Contractor, with a copy of the notice to the CPO. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies, which exist now or in the future.

4.04.2 On receiving the notice of termination of this Agreement in its entirety, or as to Work Order(s) or Project(s) without cause pursuant to this subsection, Contractor shall, unless the notice directs otherwise, immediately discontinue all services and Work under this Agreement and all Project Documents for each Project, if applicable, and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit to the Director its final statement for all Work performed through the date of termination for the respective Project or, in the case of the termination of this Agreement in its entirety, for all Projects under this Agreement. The City shall then pay the fees to Contractor for services performed, but not already paid for, in the same manner as prescribed in this Agreement unless the fees exceed the allocated funds remaining under this Agreement. Notwithstanding anything to the contrary herein, if the City terminates, in whole or in a part, a Work Order(s) or Project(s) after the issuance of a Notice to Proceed but before Contractor begins the Work on a Work Order or Project, the City shall not pay and shall have no obligation to pay Contractor for any fee, costs, or expenses (including filing or permitting fees and mobilization or demobilization costs), supplies, labor, or materials that Contractor ordered, procured, or purchased, at any time, in connection with or in furtherance of the Work for each terminated Work Order or Project

4.04.3 RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION 4.04), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE, INCLUDING THE WAIVER OF ANY CLAIM FOR PAYMENT OR REIMBURSEMENT FOR FEES, COSTS, OR EXPENSES (INCLUDING FILING OR PERMITTING FEES AND MOBILIZATION OR DEMOBILIZATION COSTS), SUPPLIES, LABOR OR MATERIALS THAT CONTRACTOR ORDERED, PURCHASED, OR PROCURED, AT ANY TIME, IN CONNECTION WITH OR IN FURTHERANCE OF THE WORK ON EACH TERMINATED WORK ORDER OR PROJECT.

4.04.4 Acceptance of Inferior Work. In connection with any Project, the Director may accept Work on the Project that appears to be incorrect if, in the Director's opinion, it is impractical to have the Work on the Project corrected. In such case, the Director does not waive the defect, but rather may deduct a reasonable amount

for the loss sustained from the Contract Price for said Project. This subsection is not intended to limit the right of the City to recover additional damages as may be permitted under this Agreement, the respective Project Documents or by law.

4.04.5 Authority. An approval by the Director or by any other employee or agent of the City, that is not specifically authorized herein, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law.

4.04.6 Remedies. If the Contractor fails to timely complete the Work on the Project under the Project Documents, or fails to perform satisfactorily under the Project Documents, the Director may require Contractor, at its sole expense to (a) repair or replace defective or damaged materials; (b) refund payment for defective or damaged materials and accept the return thereof; and/or (c) take necessary action to ensure that future performance of Work on any Project conforms to the Agreement and applicable Project Documents.

#### 4.05. TERMINATION FOR CAUSE BY CITY

4.05.1 If Contractor defaults under this Agreement, the Director may terminate this Agreement in its entirety or as to Work Order(s) or Project(s) after providing Contractor written notice and an opportunity to cure the default as provided below. The City's right to terminate this Agreement, Work Order(s) or Project(s) for Contractor's default is cumulative of all rights and remedies that exist now or in the future. Default by Contractor occurs if:

4.05.1.1 Contractor fails to perform any of its material duties under this Agreement;

4.05.1.2 Contractor becomes insolvent;

4.05.1.3 All or a substantial part of Contractor's assets are assigned for the benefit of its creditors;

4.05.1.4 A receiver or trustee is appointed for Contractor;

4.05.1.5 Contractor fails to use the form Homeowner Agreement approved by the City in the form attached as Exhibit "K";

4.05.1.6 Contractor makes any modifications, revisions, alterations, or changes to the form Homeowner Agreement attached as Exhibit "K" approved by the City in the form attached as Exhibit K that are not authorized, in writing, by the Director and the City Attorney; provided, however, Contractor is permitted and expected to fill in the names of the parties, property address, legal description of the Property, Contract Price and address to which notice shall be sent, for each Homeowner Agreement.

4.05.1.7 Contractor abandons the performance of services under this Agreement, neglects to perform the Work on the Project as set out in Exhibit B, Scope of Services in connection with the Agreement in a timely manner, or refuses or neglects to supply proper or sufficient

materials or workmen, or fails to perform under the provisions of any of the Project Documents pertaining to the Work on the Project as set out in Exhibit "B", Scope of Services;

- 4.05.1.8 Any warranty or representation made by the Contractor in this Agreement is at any time false or misleading in any respect;
  - 4.05.1.9 Contractor violates any law or ordinance;
  - 4.05.1.10 Contractor fails to secure or maintain required insurance; or
  - 4.05.1.11 Contractor fails to secure or maintain bonds (payment or performance) in the required amounts.
- 4.05.2 If a default occurs and the Director determines that the City wishes to terminate the Agreement, in its entirety, or as to Work Order(s) or Project(s), then the Director shall deliver a written notice to Contractor describing the default and the proposed termination date, with a copy of the notice to the CPO. The date must be at least 30 days after Contractor receives notice. The Director, at his or her sole option, may extend the termination date to a later date. If Contractor cures the default before the proposed termination date, then the proposed termination is ineffective. If Contractor does not cure the default before the termination date, then the Director may terminate this Agreement, in its entirety, or as to the Work Order(s) or Project(s) as stated in the notice, on the termination date, at no further obligation of the City.
- 4.05.3 To effect final termination, the Director must notify Contractor in writing, with a copy of the notice to the CPO. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, in its entirety, or as to the Work Order(s) or Project(s) as stated in the notice, and promptly cancel all orders or subcontracts chargeable to this Agreement.
- 4.05.4 If the City terminates this Agreement in its entirety or as to Work Order(s) or Project(s) for cause, the City may take possession of the Project site(s) and utilize all materials and appliances to be provided under the respective Project Documents which are located on the site or sites to finish the Work on the Project. The City shall not prejudice any of the City's rights or remedies under this Agreement or the respective Project Documents, or by law, by terminating this Agreement in its entirety or as to a Work Order(s) or Project(s) for cause or by taking possession of the Project site(s).
- 4.05.5 Default by Contractor as to a Work Order(s) or a Project(s) may also occur if Contractor fails to timely begin the Work on a Project or Work Order after the issuance of a Notice to Proceed ("NTP default") and Contractor fails to cure the NTP default by taking the action(s) set forth in the Director's notice of NTP default before the proposed termination date set forth in the Director's notice of NTP default (which date must be at least 3 days after Contractor receives notice). Notwithstanding anything to the contrary herein, if the Director terminates a Work Order(s), in whole or in a part, or a Project because of an uncured NTP default, the City shall not be obligated to pay and shall have no obligation to pay Contractor

for any fees, costs, or expenses (including filing or permitting fees and mobilization or demobilization costs), supplies, labor, or materials that Contractor ordered, procured, or purchased, at any time, in furtherance of or in connection with the Work for each terminated Work Order or Project. CONTRACTOR WAIVES ANY CLAIM TO ANY PAYMENT WHATSOEVER THAT IT MAY HAVE NOW OR IN THE FUTURE FOR ALL FINANCIAL LOSSES OR DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CAUSE FOR AN UNCURED NTP DEFAULT, INCLUDING THE WAIVER OF ANY CLAIM FOR PAYMENT OR REIMBURSEMENT FOR ALL FEES, EXPENSES, AND COSTS (INCLUDING FILING OR PERMITTING FEES AND MOBILIZATION OR DEMOBILIZATION COSTS) SUPPLIES, LABOR, OR MATERIAL THAT CONTRACTOR ORDERED, PURCHASED OR PROCURED, AT ANY TIME, IN CONNECTION WITH OR IN FURTHERANCE OF THE WORK ON EACH TERMINATED WORK ORDER OR PROJECT AND THE WAIVER OF ANY PAYMENT PURSUANT TO PARAGRAPH 4.05.6, WHICH PROVISIONS SHALL NOT APPLY FOR TERMINATION DUE TO AN UNCURED NTP DEFAULT.

4.05.6 In case of termination of this Agreement in its entirety or as to Work Order(s) or Project(s) for cause pursuant to this subsections 4.05.1 through and including 4.05.4 and all subparts thereto, the Contractor shall not be entitled to receive any payment for any Project until the Work for such Project is completed by the City or the third-party entity completing the Work on the Project on the City's behalf. Upon completion of any such Project, the Contractor shall be given any balance of the Contract Price less any damages and less the amount of expenses incurred by the City in finishing or causing to be finished the Work for such Project, including any costs in addition to or in excess of those originally contemplated in the Project Documents for such Project. If the cost in completing the Work for any such Project is greater than the original Contract Price, the Contractor shall pay the difference to the City upon ten (10) days written demand.

#### 4.06 **TERMINATION FOR CAUSE BY CONTRACTOR**

4.06.1 Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs only if the City fails to make the progress payments due to Contractor as set out in this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date. The date must be at least 60 days after the Director receives the notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date.

#### 4.07. **REMOVAL OF CONTRACTOR OWNED EQUIPMENT AND MATERIALS**

4.07.1 Upon expiration or termination of this Agreement, or a Project, or a Work Order, Contractor is permitted 3 days within which to remove Contractor-owned material and equipment from a Property. The time period may be extended upon approval by the Director. The City reserves the right to deny any extension of time.

## ARTICLE 5. MISCELLANEOUS

### 5.01 INDEPENDENT CONTRACTOR

5.01 Contractor shall perform its obligations under this Agreement as an independent contractor and not as an employee of the City.

### 5.02 FORCE MAJEURE

5.02.1 Timely performance by both Parties is essential to this Agreement. However, neither Party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Contractor. The event of Force Majeure may permit a reasonable delay in performance but does not excuse a Party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Contractor, riots, strikes, court orders, and the acts of superior governmental or military authority, and which the affected Party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn, or other factors of general application, or an event that merely makes performance more difficult, expensive, or impractical. Force Majeure does not entitle Contractor to extra reimbursable expenses or payment.

5.02.2 This relief is not applicable unless the affected Party does the following:

5.02.2.1 Uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and

5.02.2.2 Provides the other Party with written notice of the cause and its anticipated effect within 3 Business Days of the beginning of the Force Majeure.

5.02.3 The Director will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days.

5.02.4 The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

5.02.5 If the Force Majeure continues for more than 7 days from the date performance is affected, the Director may terminate this Agreement by giving 7 days' written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT UP TO THE TIME THE WORK ON THE PROJECT IS HALTED DUE TO FORCE MAJEURE.**

5.03 **SEVERABILITY**

5.03.1 If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either Party.

5.04 **ENTIRE AGREEMENT**

5.04.1 This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties with respect to this subject matter hereof. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind exist between the Parties regarding this Agreement.

5.05 **WRITTEN AMENDMENT**

5.05.1 Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

5.06 **APPLICABLE LAWS**

5.06.1 This Agreement is subject to the laws of the State of Texas, the City Charter and Code of Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction, including but not limited to the U.S. Department of Housing and Urban Development.

5.06.2 Venue for any litigation relating to this Agreement is Harris County, Texas.

5.07 **NOTICES**

5.07.1 All notices to either Party to the Agreement must be in writing and must be delivered by hand, e-mail, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, UPS, or any other national overnight express delivery service. The notice must be addressed to the Party to whom the notice is given at its address set out in Article 1 of this Agreement or other address the receiving Party has designated previously by proper notice to the sending Party. Postage or delivery charges must be paid by the Party giving the notice.

5.08 **CAPTIONS**

5.08.1 Captions contained in this Agreement are for reference only and therefore have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

5.09 **NON-WAIVER**

- 5.09.1 If either Party fails to require the other to perform a term of this Agreement, that failure does not prevent the Party from later enforcing that term and all other terms. If either Party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.
- 5.09.2 An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

5.10 **INSPECTIONS AND AUDITS**

- 5.10.1 City, State of Texas (General Land Office) and Federal Government (meaning the Federal Government of the United States, including, but not limited to, any of the agencies or departments that are or may provide funding for the services to be completed under this Agreement, the U.S. Inspector General, the Comptroller General of the United States, the Government Accountability Office, and any of their authorized representatives) authorized representatives may perform, or have performed, (i) audits of Contractor's books, documents, papers, and records, including electronic versions, pertaining to the Work on the Project or Contractor's performance under this Agreement, including not limited to: (a) payroll and personnel records, such as salaries, benefits and bonuses; (b) subcontractor agreements, records and invoices; and (c) any accounting or management systems, or computers or servers on which City information is stored; and all documents or files evidencing costs and underlying expenses relating to Contractor's performance, and (ii) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for (a) the time period required by 2 CFR Section 200.333 (retention requirements for records) in the event the City receives federal funds for all or a portion of this Agreement, or (b) five (5) years after this Agreement terminates, whichever is longer. For the avoidance of doubt, the time period required by CFR Section 200.333 is three (3) years from the date of submission of the final expenditure report, meaning the date the State submits the quarterly Federal Financial Report that represents the final costs claimed by the City for all projects the City has related to Hurricane Harvey. If the books and records are located outside of Harris County, Texas, Contractor agrees to make them available in Harris County, Texas. This provision does not affect the applicable statute of limitations.
- 5.10.2 Upon reasonable written notice, not less than twenty-four (24) hours, City representatives have the right to perform or have performed audits and inspections;
- 5.10.3 Contractor has been advised that the City is the subrecipient of federal funds under Federal Award No. B-17-DM-48-0001, awarded February 9, 2018, as amended August 14, 2018, and as may be further amended from time to time, administered by the General Land Office under CFDA No. 97.048, Federal Disaster Assistance to Individuals and Households in Presidential Declared Disaster Areas. The City is a party to the GLO Contract, a copy of which has been



made available to Contractor for review. Contractor shall comply with all terms of the GLO Contract No. 19-147-001-B489 (signed by the City Controller on January 4, 2019 and approved by City of Houston Ordinance No. 2019-10) with respect to inspections and audits, and maintenance of records and Documents, as if it were the City. For purposes of Contractor's required compliance, "Subrecipient" shall refer to Contractor and "GLO" shall refer to the City within these Sections. Contractor shall cooperate fully with any request(s) made by the Director or any other entity with authority as provided therein in Exhibit "G".

- 5.10.4 Contractor shall provide the Director, State of Texas (General Land Office) and Federal Government (meaning the Federal Government of the United States, including, but not limited to, any of the agencies or departments that are or may provide funding for the services to be completed under this Agreement, the U.S. Inspector General, the Comptroller General of the United States, the Government Accountability Office, and any of their authorized representatives) access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purposes of making copies, audits, examinations, excerpts, and transcriptions. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 5.10.5 Contractor shall provide the Director, State of Texas (General Land Office) and Federal Government (meaning the Federal Government of the United States, including, but not limited to, any of the agencies or departments that are or may provide funding for the services to be completed under this Agreement, the U.S. Inspector General, the Comptroller General of the United States, the Government Accountability Office, and any of their authorized representatives), access to work sites pertaining to the Work on the Project being completed.
- 5.10.6 If any audit or inspection performed by HUD, GLO, City or any other local, state or federal entity providing funding to pay for Contractor's services under this Agreement, results in the disallowance, recapture, repayment, refund, return and/or reimbursement of funds used by the City to pay fees and/or expenses for Contractor's services, based on Contractor's performance under this Agreement or Contractor's failure to comply with any applicable law, term, requirement, restriction, or guideline under and/or imposed by this Agreement, Contractor shall be in breach of this Agreement and Contractor shall repay, refund, and/or reimburse the City for all of such fees and/or expenses required to be paid by the City or in the case of a City audit, amounts requested or disallowed by the City, as unallowed, unauthorized, or otherwise inconsistent with this Agreement or Work Order. Contractor shall be given a reasonable opportunity to review and dispute in writing the findings of such audit or inspection that resulted in Contractor's breach of this Agreement. The City will consider Contractor in breach of this Agreement with respect to any adjustments or payments that must be made as a result of any such audit or inspection of the Contractor's performance under the Agreement, including invoices or records, and Contractor shall remit payment to the City in the amount set forth in the written findings (as may be amended by the City after Contractor's written dispute of the findings, if any) within a reasonable amount of time (not to exceed 90 days) from presentation of the written findings by the City to the Contractor as a result of Contractor's breach. In no event will Contractor be responsible for disallowed, recaptured or reimbursed amounts that the City has

paid to any party other than Contractor. Each Party shall bear its own costs of any such audit.

5.11 **ENFORCEMENT**

5.11.1 The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

5.12 **AMBIGUITIES**

5.12.1 If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.

5.13 **SURVIVAL**

5.13.1 Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including, but not limited to, the indemnity provisions.

5.14 **PUBLICITY**

5.14.1 Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Director.

5.15 **PARTIES IN INTEREST**

5.15.1 This Agreement does not bestow any rights upon any third party but binds and benefits the City and Contractor only.

5.16 **SUCCESSORS AND ASSIGNS**

5.16.1 This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of the City.

5.17 **BUSINESS STRUCTURE AND ASSIGNMENTS**

5.17.1 Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all its assets without the Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under Section 9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the Director and CPO with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

5.17.2 Contractor shall not delegate any portion of its performance under this Agreement without the Director's prior written consent. Notwithstanding this provision, it is mutually understood and agreed that Contractor may subcontract with others for some of the services and Work on the Project to be performed and goods to be provided under this Contractor shall obtain written agreements from each subcontractor that bind the subcontractor to the terms in this Section and the applicable sections of this Agreement (including the exhibits) (collectively "the Agreement" in this subsection). Notwithstanding anything to the contrary herein, nothing in this Agreement (including Contractor's ability to or decision to subcontract) shall be construed to relieve Contractor of any of its liability (including Contractor's liability and responsibility for any losses, damages, errors, or omissions, or to indemnify the City), duties, requirements or obligations to the City under this Agreement, and its responsibility to comply with and fulfill the terms of this Agreement, including to perform the Work on the Project in accordance with this Agreement, and to ensure that the goods provided and/or services rendered and the Work on the Project (whether provided or performed by Contractor or any of its subcontractor) comply with all terms and provisions of this Agreement. On a monthly basis, Contractor shall provide written notification to the Director of any such subcontractor performing 15% or more of the Work on the Project under this Agreement, including the subcontractor's name, taxpayer identification number, the task being performed, the number of subcontractor employees expected to work on the task, and a copy of any agreements and notices between the Contractor and subcontractor related to this Agreement (if such agreement or notice is requested by the Director), including without limitation any amendments, renewals, terminations, and notices of default.

5.18 **REMEDIES CUMULATIVE**

5.18.1 Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive but are cumulative of all rights and remedies that exist now or in the future. Neither Party may terminate its duties under this Agreement except in accordance with its provisions.

5.19 **CONTRACTOR DEBT**

5.19.1 IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, HE OR SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR. CONTRACTOR SHALL FILE A NEW AFFIDAVIT OF OWNERSHIP, USING THE FORM DESIGNATED BY CITY, BETWEEN FEBRUARY 1 AND MARCH 1 OF EVERY YEAR DURING THE TERM OF THIS AGREEMENT.

## 5.20 DISPUTE RESOLUTION

- 5.20.1 For purposes of this Section, "Project Administrator" means the person the Director designates to monitor the progress of all Parties' performance under this Agreement.
- 5.20.2 Except as may otherwise be provided by law, a dispute that (i) does not involve a question of law; (ii) arises during the performance of this Agreement; and (iii) is not resolved between the Project Administrator and Contractor must be handled as described below:
- 5.20.2.1 The Project Administrator shall put its decision in writing and mail or otherwise furnish Contractor with a copy. Contractor may abide by the decision or may appeal the decision to the Director.
- 5.20.2.2 If Contractor desires to appeal a decision of the Project Administrator, Contractor must submit a written appeal to the Director. Contractor must file its written appeal within seven Business Days following receipt of the Project Administrator's original decision. The Director shall provide Contractor with a written response to the appeal within 14 Business Days following its receipt. The decision of the Director is final decision of the City. If Contractor disagrees with the decision of the Director, Contractor is permitted to pursue any legal rights and remedies in accordance with applicable law.

## 5.21 FLOW-THROUGH PROVISIONS

- 5.21.1 The City is a subrecipient of federal funds under Federal Award No. B-17-DM-48-0001, awarded February 9, 2018, as amended August 14, 2018, and as may be further amended from time to time, administered by the General Land Office under CFDA No. 97.048, Federal Disaster Assistance to Individuals and Households in Presidential Declared Disaster Areas. The City is a party to the GLO Contract that contains the provisions set out in Exhibit "G" to this Agreement. Contractor shall comply with the terms set out in Exhibit "G" as if it were the City, except to the extent this Agreement specifically addresses a topic also covered in Exhibit "G", in which case the terms of this Agreement shall apply.
- 5.21.2 In the event the City is a recipient or subrecipient of other grant, federal, or state funds or the City otherwise uses restricted funds to pay Contractor for services or expenses provided under this Agreement, Contractor shall agree, in writing, to be bound by the same contract or grant terms and conditions, laws, and regulations as the City, to the extent relevant to Contractor's scope of work ("Additional Flow Down Provisions"). Contractor's agreement to the Additional Flow Down Provisions must be in writing, signed by the Contractor and Director and approved by the City Attorney. Such written agreement does not require amendment of this Agreement but shall be incorporated into this Agreement as if fully referenced herein. If within a reasonable time after receipt of a written request from the Director (not to exceed 15 Business Days), the Parties are unable to reach a written agreement on the relevant Additional Flow Down Provisions following good faith negotiations, the Director, at his sole discretion may (i) immediately suspend Contractor from any further performance under the applicable Work Order(s), or

(ii) terminate the applicable Work Order(s).

5.21.3 Data Security. Contractor is bound by, and Contractor agrees to bind its subcontractors to, the same data security obligations as the City under the GLO Contract. Contractor, including any of its subcontractors, that have access to personally identifiable information (PII) or sensitive personal information (SPI) or who create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise personally handle PII or SPI on behalf of the City shall complete initial privacy and security training, and annual training thereafter.

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## EXHIBIT "A"

### DEFINITIONS

In addition to the words and terms defined elsewhere in this Agreement, the following terms have the meanings set out below. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular include the plural. The word "shall" is always mandatory and not merely permissive.

**ACM:** Asbestos Containing Material.

**Agreement:** This contract between the Parties, including all exhibits and any written amendments authorized by City Council and Contractor.

**Architectural Engineer:** Engineers that are required to coordinate with civil engineers and project managers in order to accomplish various architectural tasks.

**Business Day:** Any calendar day except Saturdays, Sundays and full-day holidays for employees of the City (as designated by City Council).

**Certificate of Compliance (COC):** Certificate received from the City's Permitting Center to document final completion of construction work.

**Change Order:** An amendment to the Work on an individual Project and/or Contract Price pertaining to a particular Project, submitted by the Contractor and approved by the Homeowner and the Director in accordance with the Project Documents and the Guidelines.

**Chief Procurement Officer (CPO):** The Chief Procurement Officer for the City of Houston, as set forth in Chapter 15 of the Houston Code of Ordinances.

**City:** As defined in the preamble of this Agreement and includes its successors and assigns.

**City Attorney:** means the City Attorney of the City of Houston, or the person he designates.

**Community Development Block Grant – Disaster Recovery (CDBG-DR):** The federal program administered by the U.S. Department of Housing and Urban Development that provides funding to assist in the recovery from presidentially declared disaster events.

**Construction Documents:** All of the graphic and written information prepared or assembled by Contractor for communicating the design and for administering the bidding and construction of the Project, including engineering specifications, construction plans, and/or architectural plans for the construction of improvements funded under this Agreement.

**Consultant:** The professional consultant or other professional entity subcontracted by the Contractor to provide a portion of engineering services required under this Agreement.

**Contract Price:** The price to be paid by the City to the Contractor for the performance of the Work in connection with a particular Project.

**Contractor:** As defined in the preamble of this Agreement and includes its successors and assigns.

**Contractor's Request for Payment:** That certain application and request for payment submitted by Contractor requesting a progress payment in accordance with the Progress Schedule.

**Countersignature Date:** The date shown as the date countersigned by the City Controller on the signature page of this Agreement.

**Director:** The City's Director of Housing and Community Development, or such other person designated from time to time by the Director by notice to Contractor to administer this Agreement on behalf of the City and/or to perform the various functions assigned to the Director in this Agreement.

**Documents:** The reports, charts, analyses, maps, letters, tabulations, exhibits, notes, models, photographs, the original transparencies of all drawings, Construction Documents, computer programs including source and object codes, and other work products obtained by or prepared by Contractor as part of its services under this Contract. The Director shall specify the medium and format in which Contractor shall provide such documents.

**Duplex:** Single family structure containing two Housing Units.

**Elevation Services:** The elevating of Housing Units to required levels based on City and floodplain requirements.

**Environmental, Health, and Safety Plan (EHSP):** The plan responsible for development, oversight, and management of environmental health and safety.

**Final Inspection Document:** A written statement or document issued by the HCDD and signed by the HCDD's inspector and the Contractor, to be delivered to the Homeowner and signed by the Homeowner, stating that all Work on a Project has been satisfactorily completed in accordance with the Plans and Specifications/Scope of Work.

**Grant:** The funds made available to a Homeowner for Work done on Homeowner's Property under the Guidelines, which funds shall not be repayable to the City as long as the Homeowner complies with the terms and conditions of the Project Documents related to the Property.

**Guidelines** shall mean the Community Development Block Grant – Disaster Recovery (CDBG-DR) Harvey Homeowner Assistance (HoAP) Guidelines, Harvey Single Family Development Program Guidelines (HSFD) or Harvey Recovery Small Rental Program (HRSR) Guidelines, as applicable and as each may be amended or revised from time to time (each of which is attached hereto as exhibits O, P, and Q, respectively). Guidelines shall mean the applicable Guideline in effect as of the date the Director first issues the Work Order for the Project, unless the Director indicates otherwise at any time during the Project provided any such change shall not cause the Project to exceed the maximum Contract Price allowed by the applicable Guideline.

**Homeowner:** The owner/occupant of a Housing Unit who qualifies for participation in the Homeowner Assistance Program (HoAP), Harvey Single Family Development (HSFD) or Harvey Recovery Small Rental (HRSR) Programs.

**Homeowner Agreement:** The contract between a Homeowner and Contractor, in the form attached as Exhibit "K".

**Housing Quality Standards (HQS):** HUD Housing Quality Standards.

**Housing Unit:** One single-family dwelling or one unit in a multi-family residential complex.

**Houston Community Development Department (HCDD):** The City Department assigned to manage the CDBG-DR funds.

**Include and including and words of similar import:** shall be deemed to be followed by the words "without limitation."

**LBP:** Lead Based Paint.

**Occupational Safety and Health Administration (OSHA):** An agency of the United States Department of Labor.

**New Construction:** Building a new Housing Unit on a lot or alternate site from the damaged dwelling.

**Notice to Proceed:** A written communication from the Director or the CPO to Contractor instructing Contractor to begin performance.

**Plans and Specifications:** A detailed itemized list approved by the Director that provides instructions to the Contractor for the Work to be done on the Project or Property, which may include drawings, as applicable.

**Program:** One of several HUD programs under which Contractor will perform Work under this Agreement, including without limitation Harvey Homeowner Assistance Repair Program (HoAP), Harvey Single Family Development Program, Home Repair Program, and the Harvey Recovery Small Rental Program.

**Progress Schedule:** The schedule of the Work on the Project to be performed by certain dates, as outlined in the Notice to Proceed and approved by the Director in connection with a Project.

**Project:** The construction, Rehabilitation, or Reconstruction Work to be done on a Property. Each Project shall be subject to and governed by the terms and provisions of this Agreement and the Project Documents.

**Project Documents:** As applicable, this Agreement, the Homeowner Agreement, the Plans and Specifications/Scope of Work, Change Orders approved and executed by the Director, if any, the Guidelines, the Progress Schedule, the Notice to Proceed, the Certificate of Compliance, Final Inspection Document, the Note, the Deed of Trust, and all other documents pertaining to, or executed in connection with the Project.

**Property:** A Housing Unit located within the incorporated areas of the City, to be repaired, constructed, reconstructed, or rehabilitated as described in the Project Documents related to the Property. The Property shall be described in the Homeowner Agreement or an attachment thereto.

**Reconstruction:** The rebuilding of a structure on the same site in substantially the same manner. The number of Housing Units on a site may not be increased, but the number of rooms per unit may be increased or decreased.



**Rehabilitation:** The performing of repairs on Housing Units to be in compliance with the City of Houston Minimum Property Standards for Reconstruction and New Construction (Revised April 2018) and applicable City of Houston adopted building codes, without the need of demolishing and reconstructing the Housing Unit.

**Scope of Work:** A detailed itemized list approved by the Director providing instructions to the Contractor for Work on an assigned Project or Property.

**Section 3:** HUD's Section 3 program requires that recipients of HUD CDBG funds, such as the City, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods. This requirement is a flow-down to all firms contracted to the City and will be included in the Project Documents.

**Single Family Homes:** A structure containing one to four Housing Units.

**Subcontractor:** The person or other entity subcontracted by the Contractor to provide a portion of services required under this Agreement.

**Survey:** An identification of all relevant characteristics of a Homeowner's Property, including but not limited to improvements to the Property and a metes and bounds description of the Homeowner's Property.

**UFAS:** Uniform Federal Accessibility Standards.

**Work:** All services required to complete the construction, repair, Reconstruction, Rehabilitation, including without limitation, labor, tools, material, superintendence, administration, equipment, utilities, transportation, and incidentals, and obtaining all permits, certifications, and licenses as may be required to complete the work during the term and the warranty period set forth herein, as detailed in this Agreement and its Exhibits, the Homeowner Agreement, and the Project Documents.

**Work Order:** The written document, signed by the Director that includes an assignment of Housing Units for which Contractor shall complete the Work.

## EXHIBIT "B"

### SCOPE OF SERVICES

#### ARTICLE 1. SPECIFIC DUTIES OF CONTRACTOR

- 1.1 **Required services.** Required services shall include design services, pre-construction, Reconstruction, elevation, Rehabilitation, new construction and construction management services on this Program, as detailed below. These services will be performed in accordance with the CDBG-DR Action Plans produced by the General Land Office (GLO) and the City of Houston, and City of Houston CDBG-DR Program policies and procedures.
- 1.1.1 All construction work will be located at scattered locations within the City limits for applicants eligible for assistance under this Program. Eligibility determination is performed by the City and is not the responsibility of the Contractor. Contractors are required to provide the full range of services.
- 1.1.2 Work to be performed under the construction portion of this Agreement includes, but is not limited to, the following.
- 1.1.2.1 Site work. This includes:
- 1.1.2.1.1 grading;
  - 1.1.2.1.2 drainage; and
  - 1.1.2.1.3 landscaping.
- 1.1.2.2 Concrete. This includes:
- 1.1.2.2.1 cast-in-place concrete; and
  - 1.1.2.2.2 construction and control joints;
- 1.1.2.3 Masonry. This includes:
- 1.1.2.3.1 unit masonry (brick, block, and stone); and
  - 1.1.2.3.2 stucco and cement plaster.
- 1.1.2.4 Carpentry. This includes:
- 1.1.2.2.3 rough carpentry; and
  - 1.1.2.2.3 finish carpentry.
- 1.1.2.5 Thermal and Moisture Protection. This includes:
- 1.1.2.5.1 waterproofing;
  - 1.1.2.5.2 insulation;
  - 1.1.2.5.3 ventilation and moisture control;
  - 1.1.2.5.4 sealants;
  - 1.1.2.5.5 exterior siding;
  - 1.1.2.5.6 roofing; and
  - 1.1.2.5.7 sheet metal.

- 1.1.2.6 Doors and windows. This includes:
  - 1.1.2.6.1 doors, interior and exterior;
  - 1.1.2.6.2 garage doors;
  - 1.1.2.6.3 wood, plastic, and metal windows;
  - 1.1.2.6.4 hardware;
  - 1.1.2.6.5 storm doors, windows, and screens;
  - 1.1.2.6.6 weather-stripping and seals; and
  - 1.1.2.6.7 glass and glazing.
- 1.1.2.7 Finishes. This includes:
  - 1.1.2.7.1 lath and plaster;
  - 1.1.2.7.2 drywall;
  - 1.1.2.7.3 hard surfaces;
  - 1.1.2.7.4 resilient flooring;
  - 1.1.2.7.5 finished wood flooring;
  - 1.1.2.7.6 painting;
  - 1.1.2.7.7 wall covering; and
  - 1.1.2.7.8 carpeting.
- 1.1.2.8 Specialties. This includes:
  - 1.1.2.8.1 fireplaces; and
  - 1.1.2.8.2 wood decks.
- 1.1.2.9 Cabinets and Vanities. This includes:
  - 1.1.2.9.1 kitchen cabinets and vanities; and
  - 1.1.2.9.2 countertops.
- 1.1.2.10 Mechanical. This includes:
  - 1.1.2.10.1 plumbing;
  - 1.1.2.10.2 water supply; and
  - 1.1.2.10.3 heating and air conditioning.
- 1.1.2.11 Electrical Components. This includes:
  - 1.1.2.11.1 switches and receptacles; and
  - 1.1.2.11.2 service and distribution.
- 1.1.2.12 Mechanical Systems. This includes:
  - 1.1.2.12.1 septic tank systems;
  - 1.1.2.12.2 plumbing;
  - 1.1.2.12.3 water supply; and
  - 1.1.2.12.4 heating and air conditioning.

1.1.2.13 Electrical Systems. This includes:

1.1.2.13.1 electrical conductors.

1.2 **Work to be performed.** The Work to be performed by the Contractor at the Property shall include the following:

- 1.2.1 Management of all construction phases to include but not limited to demolition, site prep/grading, foundation (including all underground plumbing, electrical & gas line), lead paint/asbestos abatement, dry-in (framing, exterior doors, windows, roofing, weatherization and exterior siding/masonry), rough-in (plumbing, mechanical, electrical and gas), insulation, drywall, interior trim/doors, painting, carpet and flooring, cabinets and countertop, finish (electrical, plumbing, mechanical & gas), hookup and punch list;
- 1.2.2 Procure or provide Architectural Engineering (A/E) services, in accordance with the applicable State, City and federal procurement requirements, and furnish design of floor plans and other required A/E services for construction, elevation, and surveying activities;
- 1.2.3 Maintain a pool of general/subcontractors, Architect Engineers (A/E) firms, and other trades adequate to complete construction adhering to City's requirements and time constraints identified by the Director;
- 1.2.4 Provide timely payments to A/E sub-consultants, general/subcontractors, trades, etc.;
- 1.2.5 Obtain or ensure that all necessary permits to perform demolition and/or construction activities as required and that Certificates of Compliance (as applicable) are issued and properly documented;
- 1.2.7 Contractor shall accompany the Program inspector on a site visit to review the scope of work to ensure it concurs with quantities and Project feasibility;
- 1.2.8 Perform periodic monitoring of Housing Unit construction during all construction phases. Contractor shall provide an assigned superintendent at each project site and notify City of the assignment or re-assignment of superintendent within 48 hours. Each superintendent shall be responsible for no more than 10 Projects/Properties. The City reserves the right to require a dedicated superintendent to be on-site during all construction and/or to revise the maximum ratio of projects for each superintendent;
- 1.2.9 Notify the Program inspector within 48 hours of completion of any defined milestone and participate in the Program's progress/pay point Inspections performed by Program inspectors to ensure compliance with construction requirements, applicable building codes and any applicable flow-down provisions in the GLO Contract, zoning requirements, house plan specifications and minimum structural elevation per the Federal Emergency Management Agency's (FEMA) Elevation Certificate;
- 1.2.10 Provide excellent customer service for Homeowners during relocation and construction activities. Contractor shall be responsive to customer requests and

communicate on a regular basis with Homeowners; coordinate relocation issues such as utility connects/disconnects, schedules, storage; and ensure that Homeowners are fully informed of the construction process;

- 1.2.11 Provide and maintain all original and copies of supporting documentation to include but not limited to construction draws, liens, releases from vendors, subcontractors; and suppliers;
- 1.2.12 Furnish progress reporting as determined by Program requirements or requested by HCDD;
- 1.2.13 Coordinate with local governmental jurisdictions, homeowner associations, and other jurisdictions as appropriate to complete projects;
- 1.2.14 The Contractor shall support and assist the City during state/federal monitoring or auditing activities, including providing financial information, reports, site visits, and other requests that may be required;
- 1.2.15 The Contractor shall adhere to the City of Houston Housing and Community Development Department Minimum Property Standards for New Construction, Reconstruction or Rehabilitation for Single-Family Housing as set forth in Exhibit "N";
- 1.2.16 The Contractor shall obtain copies of all applicable deed restrictions and ensure that any design, preconstruction, Reconstruction, Rehabilitation, or construction services provided under this Agreement adhere to such deed restrictions; and
- 1.2.17 The Contractor shall provide the Director with a final bills paid affidavit inclusive of all subcontractors that performed Work on the Project.

1.3 **Design Services.** During the phase of design services, the following activities are performed:

- 1.3.1 The Contractor will utilize properly-licensed Texas A/E and land surveying firms for designing floor plans for Reconstruction and new constructions, and design services for foundation repairs, repairs for damaged structures, and Housing Units needing elevations that may be required for Rehabilitation;
- 1.3.2 The Contractor shall utilize construction plans pre-approved by the Director for Reconstruction and new construction. In the event that a plan pre-approved by the Director cannot be used, floor plans shall be submitted to the Director for approval of the plan prior to presentation to Homeowners for selection and use. Upon approval from the Director, the design drawings shall be submitted for approval to the Houston Public Works – Houston Permitting Center; and
- 1.3.3 Any design drawings prepared for Rehabilitation and elevation activities shall also be submitted to the Houston Public Works – Houston Permitting Center for approval.

1.4 **Preconstruction Services.** During the phase of preconstruction services, the following activities are performed:

- 1.4.1 Procure in advance or establish reliable supply chains for materials, equipment,

supplies and appurtenances with long lead items;

- 1.4.2 Perform procurement of early trade work in accordance with applicable State, City and federal procurement requirements. Any entity assisting in drafting scopes of work or other details of a solicitation is prohibited from bidding on a Project;
- 1.4.3 Submit sample boards of materials (i.e., cabinets, carpet, hardware, paint, etc.) for review and approval of the Director;
- 1.4.4 Document compliance with HUD Section 3 requirements. Within 15 days of the execution of Agreement, the Contractor shall submit a Section 3 compliance plan for the Director's review and approval. The Contractor agrees to provide revisions to their Section 3 Plan if requested and instructed by the Director. The Contractor is expected to perform Section 3 related procurement fairs in applicable regions and locations;
- 1.4.5 Prepare and maintain a detailed schedule for the Work Orders (WO) allocated;
- 1.4.6 Work collaboratively with design team and review drawings for submittal to the City for final approval;
- 1.4.7 Prepare an Environmental, Health, and Safety Plan (EHSP) as set out below; and
- 1.4.8 Contractor shall execute Homeowner Agreements with assigned Homeowner(s) in the form attached as Exhibit "K" and shall not make modifications without written approval of the City Attorney or his designee. This Agreement will prevail over any conflicting terms in the Homeowner Agreement.

1.5 **Reconstruction Services.** During the phase of Reconstruction services, the following activities are performed:

- 1.5.1 Contractor shall meet and counsel with assigned Homeowner to review and make selections of pre-approved floor plan and construction materials and colors within the timeline specified by the Program Guidelines or this Agreement;
- 1.5.2 Contractor shall demolish damaged structure and properly dispose of debris in an approved landfill in accordance with City of Houston requirements, including the safe handling and disposal of ACM and other environmentally hazardous materials;
- 1.5.3 Contractor shall obtain or ensure that all necessary permits for demolition and construction are issued and properly documented, Certificates of Compliance are issued and properly documented, and provide foundation location and as-built surveys to confirm that construction is compliant with elevation and setback building line requirements; and

1.6 **Elevation Services.** During the phase of elevation services, the following activities are performed:

- 1.6.1 Contractor may be required to elevate Housing Units to required levels based on City and floodplain requirements;

- 1.6.2 Contractor is responsible for performing initial property surveys to facilitate elevation of structures. Surveys will also identify building lines, easements and encroachments in accordance with the City's requirements;
  - 1.6.3 Contractor shall provide foundation location and as-built surveys to confirm that construction is compliant with elevation and setback building line requirements; and
  - 1.6.4 Contractor shall coordinate with Homeowners regarding temporary relocation schedule and other issues that may be encountered with elevating structures.
- 1.7 **Rehabilitation Services.** During the phase of Rehabilitation services, the following activities are performed:
- 1.7.1 The Contractor, assigned to the eligible Homeowner, will accompany the City inspector on a site visit to review and concur with the scope of work prior to contract. During the inspection, the Contractor will also review and concur with the feasibility determination;
  - 1.7.2 Contractor will perform repairs to ensure Housing Units are compliant with the Program construction standards and City construction codes without the need to demolish and reconstruct the Housing Units; and
  - 1.7.3 Contractor is responsible for performing Lead and Asbestos abatement activities as determined by the damage assessment and included in the project scope of work. All Lead and Asbestos work shall be performed by properly licensed abatement contractors and in compliance with all applicable regulatory requirements with proper clearances obtained prior to Homeowner's re-occupation of the dwelling. Contractor shall require Subcontractors to provide the Director with all notifications required by the Texas Department of State Health Services.
- 1.8 **New Construction Services.** During the phase of construction services, the following activities are performed:
- 1.8.1 Contractor shall meet and counsel with assigned Homeowner to review and make selections of pre-approved floor plan and construction materials and colors within the timeline specified by the Program;
  - 1.8.2 The Contractor shall be responsible for obtaining necessary construction permits as required by the Houston Public Works – Houston Permitting Center;
  - 1.8.3 New construction projects will require initial, foundation location, and as-built surveys to confirm that construction is compliant with elevation and setback/offset building line requirements and all other applicable deed restrictions;
  - 1.8.4 Contractor is responsible for demolition of damaged structures, if required. All demolition activities and disposal of demolition/construction debris must follow applicable local, state, and Federal guidelines, laws, and regulations;
  - 1.8.5 During the demolition and construction process, Contractor shall address disposal of any LBP, ACM, mold, household and other environmental waste in compliance

with all applicable regulatory requirements;

1.8.6 Contractor shall be responsible for any costs and coordination with appropriate departments for shutoff and timely reconnection of all utilities; and

1.8.7 Contractor shall be responsible for managing all utility-related issues associated with demolition and/or construction.

1.9 **Construction Management Services.** During the phase of construction services, the following activities are performed:

1.9.1 Contractor shall provide administrative, management, and related services to coordinate scheduled activities and responsibilities of their general contractors, subcontractors, and trades with each other to manage construction schedule. Contractor may self-perform construction and shall be responsible for coordinating and scheduling its own construction services;

1.9.2 Visit and thoroughly inspect the project sites and any structures or other manmade features to be modified;

1.9.3 Contractor shall coordinate and manage the scope of work to be performed by their subcontractors through the date of the last signature on the Final Inspection Document and retainage release period, including punch-list work. Contractor shall be responsible for keeping the services on schedule, and ensuring that the Subcontractors furnish materials and perform work according to the approved scope of work and construction plans;

1.9.4 Contractor shall have the authority over their general contractors/subcontractors to require prompt execution of the Work on the Project and to give instructions to require corrective actions, whenever such action may be necessary in its opinion to ensure proper execution of all necessary documents related to this Agreement and/or to protect the interests of the City;

1.9.5 As requested by the Director, Contractor shall provide routine reports to the Director regarding quality control inspections to ensure progress and quality of construction, adherence to schedule, and conformance with applicable construction standards; and

1.9.6 Contractor shall coordinate their trades, subcontractors, and other construction personnel to ensure that the quantity, quality, fitness, and progress of the work is in compliance with the Agreement requirements. All work is subject to the final review of the City. The City will not routinely require prior approval of these actions but reserves the right to review and approve at the discretion of the Director.

1.10 **Scheduling.**

1.10.1 Based on the number of construction projects initially assigned, the Contractor shall generate and maintain a master schedule (schedule of all assigned construction sites) showing average duration for performing activities at the assigned Housing Units. This schedule will break down activities from work order assignment, projected pay points and construction milestones, through Certificate



of Compliance (COC), final inspection, and close out. This schedule may also include City activities which potentially may impact the schedule and the City's occupancy requirements.

1.10.2 Based on the new work orders and the number of close outs, Contractor shall update the master schedule weekly to determine revised durations on the active construction projects. The schedule will also indicate any delays (including any alleged weather delays) and recommend actions to mitigate the delays and implement approved schedule recovery measures.

1.10.3 Contractor will be responsible for performing regular routine daily/weekly monitoring of construction; however, the City will perform milestone inspections required for payment approvals and Program compliance.

#### **1.11 Customer Support.**

1.11.1 Contractor shall provide technical assistance to Homeowners concerning the results of the damage estimate and scope of work.

1.11.2 Contractor shall communicate regularly with Homeowners regarding their construction status and answer any questions the Homeowners may have regarding the construction process.

1.11.3 Contractor shall address any inconveniences the Homeowners might expect or have during the construction period. Some portions of the Housing Unit may be occupied during Rehabilitation. Contractor shall provide detailed instructions in writing to Homeowners regarding construction activities and mark off all construction areas as not accessible to Homeowners.

1.11.4 Contractor shall communicate with Homeowners regarding any construction delays and provide a schedule recovery plan (as approved by the Director).

1.11.5 Contractor shall assist in updating Homeowners when Program policies and procedures affecting Homeowners or construction are revised.

1.11.6 Contractor shall communicate any issues from the Homeowners to the Director immediately and record/log information into the City's system of record.

1.11.7 Some Homeowners may choose to temporarily relocate during Rehabilitation. Contractor will not be responsible for relocation of Homeowners during construction period but are required to coordinate with Homeowners regarding temporary relocation, schedules, and other needs, as required.

#### **1.12 Record Keeping.**

1.12.1 Contractor shall enter or upload to the City's Information Management System all documentation, communications, and records including all Homeowner Agreements, permits, certifications, warranties, and approvals regarding all assigned projects into the City's system of record within two (2) Business Days of receipt or occurrence.

- 1.12.2 Contractor shall maintain records of principal work layout lines, elevations of the bottom of footings, floor levels, and key site elevations to include utility layouts (complete with depth of burial), and as-built construction drawings certified by a licensed surveyor or engineer as applicable.
- 1.12.3 Contractor shall document all communications with the City and Homeowners regarding the construction status and any other issues.
- 1.12.4 Contractor shall maintain records of all events that occur at the job site or elsewhere, which affect, or may be expected to affect the quality, scope, or progress of the services.
- 1.12.5 All records shall be retained for the period specified in the "Inspections and Audits" provision in this Agreement.
- 1.12.6 Within 15 Business Days of issuance of a Notice to Proceed, the Contractor shall upload to the City's Information Management System the entire list of all W-2 employees and subcontractors (all levels). The information to be entered includes but is not limited to: name of W-2 employees, name of subcontractor and tier level, and scope of work/primary job duties.

#### 1.13 **Data Reports.**

- 1.13.1 **Project Status Report.** Contractor shall be responsible for entering all relevant information into the City's system of record that is needed to monitor the progress of all assigned projects. This report shall contain information about weekly activities, project status, project delays and corrective actions implemented; and any other information requested by the City. The City will provide format and frequency of the reports.
- 1.13.2 **Section 3 Report.** Contractor shall submit this report to the Director in accordance with HUD Section 3 reporting requirements. Failure to provide these reports as requested and required by the Director may result in delay of payments.
- 1.13.3 Contractor shall support and assist the City during activities pertaining to close out of the federal grant, including financial reconciliation, reporting, recordkeeping, and achievement of HUD National Objective.

#### 1.14 **Environmental, Health, and Safety Plan (EHSP).**

- 1.14.1 Contractor shall develop a comprehensive EHSP for all construction phases performed on this Agreement. The EHSP must be accepted by the Program administration in writing.
- 1.14.2 The EHSP shall include detailed procedures addressing environmental risks, safety hazards, and provide mitigation methods. Depending on changes in work environment, locations, and conditions, the EHSP shall be updated on a monthly basis or as deemed necessary by the City throughout the lifecycle of the Agreement.
- 1.14.3 The EHSP shall also identify all Personal Protective Equipment (PPE) required for

performing services included in this Agreement.

- 1.14.4 All health and safety complaints must be addressed immediately, and the City must be notified of the complaints and proposed resolutions within 24 hours.
- 1.14.5 Investigation, removal, and disposal of all LBP and ACM shall be addressed in accordance with all applicable construction/environmental and any other federal, state, and local laws and regulations.
- 1.14.6 All construction activities shall be performed in compliance with applicable Occupational Safety and Health Administration (OSHA) safety regulations and other applicable laws.

**1.15 Closeout.**

- 1.15.1 Contractor shall obtain a COC and provide a copy of the certificate to the Homeowner, the City, and upload the certificate to the City's system of record.
- 1.15.2 Contractor shall transfer all operations and maintenance manuals, keys, warranty information and similar submittals required by the Contract Documents to the Homeowner and/or the City as directed.
- 1.15.3 Contractor shall provide all preconstruction and construction records and files to the City in the City's prescribed format within 7 days of the approved final inspection.
- 1.15.4 The Work on a Project shall be deemed completed when the Director has determined that:
  - 1.15.4.1 The Work on the Project has been completed in accordance with this Agreement and the Homeowner Agreement, and when the Director has determined that:
    - 1.15.4.1.1 All necessary certificates, licenses, consents and other approvals of governmental authorities acting in and for the locality in which the Housing Unit is situated have been issued with respect to the Work on the Project; and,
    - 1.15.4.1.2 Homeowner or Contractor shall have furnished to the Director all necessary final certificates, licenses, consents and other approvals of the various governmental authorities having jurisdiction, including, a permanent certificate of occupancy.

**EXHIBIT "C"**

**DRUG POLICY COMPLIANCE AGREEMENT**

I, \_\_\_\_\_,  
(Name) (Title)

as an owner or officer of \_\_\_\_\_ (Contractor)  
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**EXHIBIT "D"**

**CONTRACTOR'S CERTIFICATION OF NO SAFETY IMPACT POSITIONS  
IN PERFORMANCE OF A CITY CONTRACT**

I, \_\_\_\_\_  
(Name) (Title)

as an owner or officer of \_\_\_\_\_ (Contractor)  
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.18 of Executive Order No. 1-31, that will be involved in performing \_\_\_\_\_  
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Human Resources if any safety impact positions are established to provide services in performing this City Contract.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

EXHIBIT "E"

DRUG POLICY COMPLIANCE DECLARATION

I, \_\_\_\_\_ as an owner or officer of \_\_\_\_\_ (Name) (Print/Type) \_\_\_\_\_ (Title) \_\_\_\_\_ (Contractor) (Name of Company), have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from \_\_\_\_\_ to \_\_\_\_\_.

\_\_\_\_\_ Initials A written Drug Free Workplace Policy has been implemented and employees notified. The Policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

\_\_\_\_\_ Initials Written drug testing procedures have been implemented in conformity with the Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31. Employees have been notified of such procedures.

\_\_\_\_\_ Initials Collection/testing has been conducted in compliance with federal Health and Human Services (HHS) guidelines.

\_\_\_\_\_ Initials Appropriate safety impact positions have been designated for employee positions performing on the City of Houston contract. The number of employees in safety impact positions during this reporting period is \_\_\_\_\_.

\_\_\_\_\_ Initials From \_\_\_\_\_ [Start date] to \_\_\_\_\_ [End date] the following test has occurred:

Table with 5 columns: Random, Reasonable Suspicion, Post Accident, Total. Rows include Number Employees Tested, Number Employees Positive, and Percent Employees Positive.

\_\_\_\_\_ Initials Any employee who tested positive was immediately removed from the City worksite consistent with the Mayor's Policy and Executive Order No. 1-31.

\_\_\_\_\_ Initials I affirm that falsification or failure to submit this declaration timely in accordance with established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)



## EXHIBIT "F"

### FEES AND COSTS

All payments will be inspection based. Final Payment Request will be based on a final and approved inspection.

**Failed Final Inspection: After a total of 2 failed Final Inspections on a Project, Contractor will be charged \$100 per each failed inspection on the same Project that follows to be deducted from final payment request.**

#### Payments for Construction Services

Contractor will be provided with a scope of work to perform construction activities on each eligible Homeowner's Housing Unit. Once all requirements are satisfied and the final scope is agreed upon, the Contractor is required to submit a payment/draw request on each Housing Unit upon satisfactory completion of the construction milestones described below. Payments to Contractor will be based upon a fixed price method. The City will be performing a program compliance inspection at each of these milestones, whether or not the Contractor requests payment.

The City shall be entitled to withhold payment to Contractor at any time, while any of the following conditions exist:

- a. the location, installation or construction of the Improvements violates or interferes with any applicable recorded instrument or governmental regulation, requirement or restriction affecting the Property;
- b. Contractor makes a material misrepresentation in the Request for Payment; or
- c. notice of a claim or lien on the Property has been received in connection with the construction, repair or installation of the Improvements, and has not been released.

#### 33% Construction Payments (Reconstruction/New Construction only)

Contractor will be eligible for this payment once the construction has passed the 33% progress inspection performed by the City. Upon receipt of a request from Contractor to perform said progress inspection, the City will use best efforts to perform the inspection within 72 business hours of receiving the request (where the City's business hours are approximately 9 AM to 5 PM on Business Days). The 33% inspection consists of inspection of foundation to verify that the subfloor is installed in accordance with approved plans and that the height of the subfloor is installed in accordance with construction elevation certification. Inspection is also performed to verify that construction is performed in accordance with approved plans and all applicable construction codes, standards, and specifications. A ten percent (10%) retainage will be withheld on each payment that would be reimbursed. The description of this inspection is for Contractor to estimate approximate payment points. A complete final description of this inspection will be included in the policies and procedures.

#### 33% Construction Payments (Mobile Home Units (MHUs) Only)

Contractor will be eligible for this payment once the MHU site has passed the 33% progress inspection performed by the City. Upon receipt of a request from Contractor to perform said progress inspection, the City will use best efforts to perform the inspection within 72 business hours of receiving the request (where the City's business hours are approximately 9 AM to 5 PM

on Business Days). The 33% inspection consists of verification of removal and/or demolition of the existing MHU, site preparation to include any required clearing, grading, foundation preparation and utilities to facilitate the installation of the new MHU, as well as any required permitting. A ten percent (10%) retainage will be withheld on each payment that would be reimbursed. The description of this inspection is for the Contractor to estimate approximate payment points. A complete final description of this inspection will be included in the policies and procedures.

#### **50% Construction Payments (Rehabilitation only)**

Contractor will be eligible for this payment once the construction has passed the 50% progress inspection performed by the City. Upon receipt of a request from Contractor to perform said progress inspection, the City will use best efforts to perform the inspection within 72 business hours of receiving the request (where the City's business hours are approximately 9 AM to 5 PM on Business Days). As Rehabilitation projects are different from each project to the other, 50% inspection will be site-specific to each Rehabilitation project. In general, a 50% progress inspection can be assumed complete if tasks pertaining to 50% of the construction value have been completed in-place. Payment will not be released for incomplete or uninstalled Work on the Project, or for Work on the Project that requires a code inspection and the code inspection has not been completed and approved by the City. In the event of a required elevation, the total construction value will include both Rehabilitation and elevation costs. A ten percent (10%) retainage will be withheld on each payment that would be reimbursed. The description of this inspection is for the Contractor to estimate approximate payment points. A complete final description of this inspection will be included in the policies and procedures.

#### **66% Construction Payments (Reconstruction/New Construction Only)**

Contractor will be eligible for this payment once the construction has passed the 66% progress inspection performed by the City. Upon receipt of a request from Contractor to perform said progress inspection, the City will use best efforts to perform the inspection within 72 business hours of receiving the request (where the City's business hours are approximately 9 AM to 5 PM on Business Days). The 66% inspection consists of verification of Frame and mechanical, electrical, and plumbing (MEP) Rough-In Inspections and the Work on the Project has been passed by the local municipality, electrical box and rough wiring of the Housing Unit is secured and complete and the Work on the Project has been passed by local municipality, exterior surfaces of the home, doors, and windows are installed without visible flaws in workmanship, roofing work is complete, mechanicals such as HVAC system are installed, and all municipal inspections and the engineer's inspection requirements of the Contractor applicable to the Housing Unit are completed and approved. A ten percent (10%) retainage will be withheld on each payment that would be reimbursed. The description of this inspection is for the Contractor to estimate approximate payment points. A complete final description of this inspection will be included in the policies and procedures.

#### **Final Construction Payment (Rehabilitation, Reconstruction, and New Construction)**

Contractor will be eligible for this payment once a Certificate of Compliance is provided by the Contractor and passes the final inspection performed by the City. Upon receipt of a request from Contractor to perform said progress inspection, the City will use best efforts to perform the inspection within 72 business hours of receiving the request (where the City's business hours are approximately 9 AM to 5 PM on Business Days). The final inspection is complete when all items on the damage assessment/work order has been completed, all mechanical systems are working



properly, all interior and exterior electrical systems are working, all plumbing systems are working and draining, and all other systems or appurtenances installed or repaired as part of this scope are working or completed. A ten percent (10%) retainage will be withheld on each payment that would be reimbursed. The description of this inspection is for the Contractor to estimate approximate payment points. A complete final description of this inspection will be included in the policies and procedures.

### **Final Construction Payment (MHUs)**

Contractor will be eligible for this payment once the new MHU is fully installed, including but not limited to all utilities, access, mechanicals, anchor systems, and plumbing. Additionally, the MHU must be certified as Ready for Occupancy (RFO) by appropriate authorities. A ten percent (10%) retainage will be withheld on each payment that would be reimbursed. The description of this inspection is for Contractor to estimate approximate payment points. A complete final description of this inspection will be included in the policies and procedures.

### **Retainage Payment**

Except where the Federal Labor Standards requirements apply, Contractor is eligible for its 10% retainage payment no earlier than thirty (30) days after passing final inspection and completion of all Punch List items. Upon the expiration of the thirty-day (30) retainage period, if no issues are found, and all mechanic's, materialman's or similar liens filed against the Property, if any, have been discharged, the City will release the retainage to the Contractor.

For Work on a Project to which Federal Labor Standards requirements apply (including without limitation Davis-Bacon Act and Related Acts), (i) Contractor is eligible for a 5% retainage payment no earlier than thirty (30) days after passing final inspection and completion of all Punch List items; and (ii) the City shall retain the remaining five percent (5%) of the retainage payment due for the Work on the Project until the Director, after conferring with the GLO, determines that the Federal Labor Standards requirements applicable to the Work on the Project has been satisfied. Upon the Director's determination that the Federal Labor Standards requirements applicable to the Work on the Project has been satisfied, no issues have been found with respect to the Punch List items, and if all mechanic's, materialman's or similar liens filed against the Property, if any, have been discharged, then, the City will release the remaining 5% retainage to the Contractor.

### **Work Completion**

Contractor agrees to commence Work on the Project within seven (7) calendar days after issuance of a Notice to Proceed. Contractor further agrees to complete Reconstruction and new construction activities within one-hundred and twenty (120) calendar days and Rehabilitation activities within ninety (90) calendar days of the issuance of a Notice to Proceed.

### **Liquidated Damages**

Contractor and the City agree that a breach of this Agreement as to completion time will cause damage to the City, but further agree that such damage cannot be accurately measured. Therefore, the Parties agree that **\$100.00** shall be subtracted from the Agreement amount for each and every calendar day that the Work on the Project or any portion of the Work on the Project remains uncompleted after the expiration of the time period specified in the Notice to Proceed, or as extended by a Change Order.

The foregoing provision as to liquidated damages constitutes an agreement by the City and the Contractor as to the minimum amount of damages the City will sustain in any event by reason of the Contractor's failure to complete the Work on the Project within the time specified in a Notice to Proceed, or as extended by a Change Order. The City may recover actual damages over and above the minimum amount that result from the Contractor's failure to begin the Work on the Project when ordered, carry it forward uninterruptedly after beginning, or complete it within the time specified and in strict accordance with the Plans and Specifications, Scope of Work or Work Order or Change Orders. The City shall have the right to deduct and withhold the amount of any and all damages, whether it be the minimum amount agreed upon or otherwise, from any monies owing the Contractor. Any Homeowner's grant shall not be reduced by the amount of the liquidated damages deducted from the payment(s) to the Contractor.

**EXHIBIT "G"**  
**FLOW-THROUGH PROVISIONS**  
**GLO CONTRACT**

## EXHIBIT "H"

### REQUIRED CERTIFICATIONS

#### CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

##### INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the CONTRACTOR (referred to herein as the "prospective participant") is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Covered Transaction," without modification, in all covered transactions and in all solicitations for covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

##### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AN VOLUNTARY

EXCLUSION— COVERED TRANSACTIONS

- (1) The prospective participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\_\_\_\_\_  
CONTRACTOR Company Name

\_\_\_\_\_  
Contract Number

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

### ANTI-LOBBYING CERTIFICATION

The undersigned Contractor certifies, to the best of his or her knowledge, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any City agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned Contractor, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Contractor Name	
President	
Name of Authorized Official:	
Signature:	
Date:	

**EXHIBIT "I"**

**PERFORMANCE BOND**

**THE STATE OF TEXAS       §  
                                          §  
COUNTY OF HARRIS       §**

**THAT WE,** \_\_\_\_\_, as principal, hereinafter called "Contractor" and the other subscriber hereto as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of Houston, a municipal corporation ("City") in the sum of \_\_\_\_\_ (\$\_\_\_\_\_) for the payment of which sum, well and truly to be made to the City of Houston, and its successors, Contractor and Surety do bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

**THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:**

**WHEREAS,** on or about this day, Contractor has entered into a contract in writing with the City of Houston, Texas, for \_\_\_\_\_ ("Agreement") which is made a part of this instrument as fully and completely as if set out in full herein.

**NOW, THEREFORE,** if Contractor shall faithfully and strictly perform the Agreement in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and shall comply strictly with each and every provision of the Agreement and with this bond, and shall promptly pay to the City of Houston in full the sums of money that become due and payable to it under the terms of the Agreement, including attorney fees, and shall indemnify, and hold harmless the City, its officers, agents, and employees as required by the Agreement, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect, and the sum of \$\_\_\_\_\_ shall be payable to the City of Houston on demand.

It is further understood and agreed that the Surety has full faith and confidence in the integrity and ability of Contractor to perform under the Agreement, and the Surety does hereby relieve the City of Houston and its representatives from the exercise of any diligence whatever in securing compliance on the part of Contractor with the terms of the Agreement, and the Surety waives any notice to it of any default, or delay by Contractor in the performance of this Agreement and agrees that it, the Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of Contractor, its agents and representatives in all matters pertaining to the Agreement.

It is further expressly agreed by the Surety that the City of Houston or its representatives are at liberty at any time, without notice to the Surety, to make any changes, extensions, or modifications in the Agreement, and in the work to be done thereunder, as provided in the Agreement, and in the terms and conditions thereof, or to make any changes in, addition to, or deduction from the work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking, or release the Surety therefrom. The Surety hereby expressly waives notice of all changes, extensions and modifications to the Agreement.

**IT IS EXPRESSLY AGREED THAT SURETY AND CONTRACTOR WILL FULLY AND**

COMPLETELY INDEMNIFY AND HOLD HARMLESS THE CITY OF HOUSTON FROM AND AGAINST ANY LIABILITY, LOSS, COST, EXPENSE AND DAMAGE ARISING OUT OF OR RESULTING FROM ANY FAILURE ON THE PART OF CONTRACTOR, ITS AGENTS, EMPLOYEES AND REPRESENTATIVES, TO FAITHFULLY AND FULLY PERFORM UNDER THE AGREEMENT, AS THE SAME MAY BE CHANGED, EXTENDED, OR MODIFIED. THE SURETY'S OBLIGATION SHALL NOT EXCEED THE AMOUNT OF THIS BOND.

If the City brings any suit or other proceeding at law on this bond, or the Agreement or both, Contractor and Surety agree to pay to the City the additional sum of 10% of whatever amount may be recovered by the City, which sum of 10% is agreed by all parties to be indemnity to the City for the expense of or time consumed by its City Attorney, his or her assistants, and other costs and damage to the City. The amount of 10% is fixed and liquidated by the parties, it being agreed by them that the exact damage to the City would be difficult to ascertain.

This bond and all obligations created hereunder shall be performable in Harris County, Texas, and shall be non-cancelable.

This bond is renewable annually at the option of the Surety upon each anniversary of the effective date of the Agreement Term, as stated in the Agreement (the "renewal date"); provided that this bond shall be automatically renewed unless the Surety gives Contractor and the City written notice 30 days prior to the renewal date that Surety elects not to renew this bond. Notice shall be given to the City and to Contractor at the addresses specified in the Agreement.

**THIS PERFORMANCE BOND** shall be binding on the Contractor and Surety executing the same, jointly and severally, their legal representatives, successors and assigns.

EXECUTED in triplicate originals this \_\_\_ day of \_\_\_\_\_, 20\_\_.

**ATTEST/WITNESS (Corporate Seal):**

\_\_\_\_\_  
(Principal)

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**ATTEST/WITNESS: (Corporate Seal)**

\_\_\_\_\_  
Surety (Full Legal Name of Surety)

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

The foregoing bond is approved as to form this \_\_\_ day of \_\_\_\_\_, 20\_\_.

**REVIEWED:**

\_\_\_\_\_  
Assistant City Attorney



**EXHIBIT "J"**  
**COMPOSITE PRICE LIST**  
**New Home Construction**

All requested plans include design, permitting, construction management, site-specific geotech services, replacement of service lines, inspections, and all appurtenances, including all utility connections and all related activities necessary to complete the tasks identified in this RFQ.

The unit prices on this tab are inclusive of the material/labor/equipment/fees only to construct the home in accordance with City of Houston Building Codes and Attachment A "Summary of Minimum Construction Standards for Reconstruction and New Construction"

Other site specific modification/considerations are addressed on subsequent tabs.

Unit prices include all versions of plans and include cost of the front door/back door landings and steps.

Pier and beam homes include construction up to 3 feet above grade

Pier and beam homes with cement board siding require skirting to grade

Brick veneer and cement board siding is estimated on slab, and pier and beam homes up to 3.0 feet above grade

Brick veneer shall not be used on homes built more than 3.0 feet above grade

Item No.	Item Description	Unit Price Slab (Brick Veneer)	Unit Price Slab (Cement Board Siding)	Unit Price Pier & Beam (Brick Veneer)	Unit Price Pier & Beam (Cement Board Siding)
1	1,100 - 1,200 Square Feet (sq. ft.) house plan no. P1-1 (with 3 different elevations), with 2 bedrooms and 1 bathroom.	\$152,837.00	\$148,252.00	\$162,925.00	\$156,408.00
2	1,100 - 1,200 sq. ft. house plan no. P1-2 (with 3 different elevations), with 2 bedrooms and 1 bathroom.	\$152,837.00	\$148,252.00	\$162,925.00	\$156,408.00
3	1,100 - 1,200 sq. ft. house plan no. P1-3 (with 3 different elevations), with 2 bedrooms and 1 bathroom.	\$152,837.00	\$148,252.00	\$162,925.00	\$156,408.00
4	1,000 - 1,100 sq. ft. house plan no. P1-R (with 3 different elevations), with 2 bedrooms and 1 bathroom.	\$134,434.00	\$130,401.00	\$142,297.00	\$136,605.00

	[A cost effective smaller alternative plan]						
5	1,300 - 1,400 sq. ft. house plan no. P2-1 (with 3 different elevations), with 3 bedrooms and 2 bathrooms.	\$174,395.00	\$169,163.00	\$185,921.00	\$178,484.00		
6	1,300 - 1,400 sq. ft. house plan no. P2-2 (with 3 different elevations), with 3 bedrooms and 2 bathrooms.	\$174,395.00	\$169,163.00	\$185,921.00	\$178,484.00		
7	1,300 - 1,400 sq. ft. house plan no. P2-3 (with 3 different elevations), with 3 bedrooms and 2 bathrooms.	\$174,395.00	\$169,163.00	\$185,921.00	\$178,484.00		
8	1,200 - 1,300 sq. ft. house plan no. P2-R (with 3 different elevations), with 3 bedrooms and 2 bathroom. [A cost effective smaller alternative plan]	\$153,436.00	\$148,833.00	\$162,230.00	\$155,740.00		
9	1,500 - 1,600 sq. ft. house plan no. P3-1 (with 3 different elevations), with 4 bedrooms and 2 bathrooms.	\$187,779.00	\$182,146.00	\$200,449.00	\$192,431.00		
10	1,500 - 1,600 sq. ft. house plan no. P3-2 (with 3 different elevations), with 4 bedrooms and 2 bathrooms.	\$187,779.00	\$182,146.00	\$200,449.00	\$192,431.00		
11	1,500 - 1,600 sq. ft. house plan no. P3-3 (with 3 different elevations), with 4 bedrooms and 2 bathrooms.	\$187,779.00	\$182,146.00	\$200,449.00	\$192,431.00		
12	1,400 - 1,500 sq. ft. house plan no. P3-R (with 3 different elevations), with 4 bedrooms and 2 bathroom. [A cost effective smaller alternative plan]	\$165,420.00	\$160,457.00	\$175,103.00	\$168,099.00		
<b>The next 3 plans shall be compliant with Uniform Federal Accessibility Standards (UFAS)</b>							
13	1100 - 1200 sq. ft. house plan no. U1 (with 3 different elevations), with 2 bedrooms and 1 bathroom, UFAS-compliant.	\$155,739.00	\$151,067.00	\$165,584.00	\$158,960.00		

14	1,000 - 1,100 sq. ft. house plan no. U1-R (with 3 different elevations), with 2 bedrooms and 1 bathroom, UFAS-compliant. [A cost effective smaller alternative plan]	\$138,383.00	\$134,231.00	\$148,990.00	\$143,030.00
15	1300 - 1400 sq. ft. house plan no. U2 (with 3 different elevations), with 3 bedrooms and 2 bathrooms, UFAS-compliant.	\$177,648.00	\$172,318.00	\$188,563.00	\$181,021.00
16	1,200 - 1,300 sq. ft. house plan no. U2-R (with 3 different elevations), with 3 bedrooms and 2 bathroom, UFAS-compliant. [A cost effective smaller alternative plan]	\$158,111.00	\$153,368.00	\$166,905.00	\$160,229.00
17	1500 - 1600 sq. ft. house plan no. U-3 (with 3 different elevations), with 4 bedrooms and 2 bathrooms, UFAS-compliant.	\$191,376.00	\$185,635.00	\$203,390.00	\$195,255.00
18	1,400 - 1,500 sq. ft. house plan no. U3-R (with 3 different elevations), with 4 bedrooms and 2 bathroom, UFAS-compliant. [A cost effective smaller alternative plan]	\$170,095.00	\$164,992.00	\$179,779.00	\$172,587.00
<b>The next 3 plans shall be suitable for building on narrow lots - 25 ft. wide</b>					
19	1,100 - 1,200 sq. ft. house plan no. N1 (with 3 different elevations) for a 25 ft. wide lot with 5 ft. side set-backs, with 2 bedrooms and 1 bathrooms.	\$152,805.00	\$148,221.00	\$162,650.00	\$156,144.00
20	1,000 - 1,100 sq. ft. house plan no. N1-R (with 3 different elevations) for a 25 ft. wide lot with 5 ft. side set-backs, with 2 bedrooms and 1 bathrooms. [A cost effective smaller alternative plan]	\$135,287.00	\$131,229.00	\$143,150.00	\$137,424.00
21	1,300 - 1,400 sq. ft. house plan no. N2 (with 3 different elevations) for a 25 ft. wide lot with 5 ft. side set-backs, with 3 bedrooms and 2 bathrooms.	\$174,425.00	\$169,192.00	\$185,331.00	\$177,918.00

22	1,200 - 1,300 sq. ft. house plan no. N2-R (with 3 different elevations) for a 25 ft. wide lot with 5 ft. side set-backs, with 3 bedrooms and 2 bathrooms. [A cost effective smaller alternative plan]	\$154,727.00	\$150,086.00	\$163,521.00	\$156,980.00
23	1,500 - 1,600 sq. ft. house plan no. N3 (with 3 different elevations) for a 25 ft. wide lot with 5 ft. side set-backs, with 4 bedrooms and 2 bathrooms.	\$187,977.00	\$182,338.00	\$199,991.00	\$191,992.00
24	1,400 - 1,500 sq. ft. house plan no. N3-R (with 3 different elevations) for a 25 ft. wide lot with 5 ft. side set-backs, with 4 bedrooms and 2 bathrooms. [A cost effective smaller alternative plan]	\$166,873.00	\$161,866.00	\$176,556.00	\$169,494.00

**ELEVATION AND DEMOLITION**

Items 25-27 are price modifiers for the plans described in Fee Schedule No. 1. The unit price is the increased price of construction within the floodplain when a slab home must be built above grade. Compact Fill will only be considered as a feasible option when the home must be built a maximum of 4 feet above current grade.

Item No.	Units	Descriptions	Price Compacted Fill
25	VF	Construct finished floor to the required elevation as specified by prevailing code for Respondent's 2 bedroom/1 bathroom plans (Item No.s 1-3) Price proposed here is per vertical foot (vf) above grade.	\$2,990.00
26	VF	Construct finished floor to the required elevation as specified by prevailing code for Respondent's 3 bedroom/2 bathroom plans (Item No.s 5-7) Price proposed here is per vertical foot (vf) above grade.	\$3,442.00
27	VF	Construct finished floor to the required elevation as specified by prevailing code for Respondent's 4 bedroom/2 bathroom plans (Item No.s 9-11) Price proposed here is per vertical foot (vf) above grade.	\$3,828.00

Items 28-33 are cost modifiers for the plans described in Fee Schedule No. 1. This price is the increased price of construction within the floodplain when a new home must be built at elevation on wood piles. Increased price = (Wood pile foundation cost) minus (anticipated pier & beam foundation cost)  
 Items 28-30 is a Lump Sum price to place piles with up to 5 feet exposure above grade.  
 Items 31-33 ask for a Lump Sum price to place a pile with up to 10 feet exposure above grade.  
Homes constructed on wood pilings will not receive brick veneer

Item No.	Units	Descriptions	Price Engineered Pilings
28	Lump Sum	Construct finished floor 1.0-5.0 Vertical Feet (VF) to the required elevation as specified by prevailing code for Respondent's 2 bedroom/1 bathroom plans (Item No.s 1-3)	\$12,434.00

29	Lump Sum	Construct finished floor 1.0-5.0 Vertical Feet (VF) to the required elevation as specified by prevailing code for Respondent's 3 bedroom/2 bathroom plans (Item No.s 5-7)	\$14,065.00
30	Lump Sum	Construct finished floor 1.0-5.0 Vertical Feet (VF) to the required elevation as specified by prevailing code for Respondent's 4 bedroom/2 bathroom plans (Item No.s 9-11)	\$15,606.00
31	Lump Sum	Construct finished floor 5.1-10.0 Vertical Feet (VF) to the required elevation as specified by prevailing code for Respondent's 2 bedroom/1 bathroom plans (Item No.s 1-3)	\$17,701.00
32	Lump Sum	Construct finished floor 5.1-10.0 Vertical Feet (VF) to the required elevation as specified by prevailing code for Respondent's 3 bedroom/2 bathroom plans (Item No.s 5-7)	\$20,301.00
33	Lump Sum	Construct finished floor 5.1-10.0 Vertical Feet (VF) to the required elevation as specified by prevailing code for Respondent's 4 bedroom/2 bathroom plans (Item Nos. 9-11)	\$23,356.00

**Items #34-41 are specific to Demolition.**  
**These unit prices include all demolition, haul off, dump fees, labor, materials, equipment, site clean up, and minor site grading (as necessary).**  
**All disposal must be in accordance with all city, state, and federal requirements.**

Item No.	Units	Descriptions	Unit Price Existing Slab on Grade	Unit Price Existing Pier & Beam	Unit Price Existing Pilings
34	Lump Sum	Demolish and dispose of existing house with a footprint of up to 1,000 Square Feet (sq. ft.).	\$8,435.00	\$6,862.00	
35	Lump Sum	Demolish and dispose of existing house with a footprint of up to 1,001 to 1,500 sq. ft.	\$10,312.00	\$7,983.00	
36	Lump Sum	Demolish and dispose of existing house with a footprint of up to 1,501 to 2,000 sq. ft.	\$11,259.00	\$10,112.00	
37	Lump Sum	Demolish and dispose of existing house with a footprint of up to 2,001 to 2,500 sq. ft.	\$13,195.00	\$10,502.00	

38	Lump Sum	Demolish and dispose of existing house with a footprint of up to 2,501 to 3,000 sq. ft.	\$15,054.00	\$12,183.00	
39	Lump Sum	Demolish and dispose of existing house with a footprint of up to 3001 to 3500 sq. ft.	\$16,880.00	\$12,663.00	
40	Lump Sum	Demolish and dispose of existing house with a footprint of 3500+ sq. ft.	\$18,482.00	\$14,110.00	
41	Square Feet	Demolish and dispose of existing out-buildings	\$4.40	\$4.40	
42	Lump Sum	Haul Off & Disposal of Manufactured Housing Unit	\$498.00		

**MANUFACTURED HOUSING UNITS**

Manufactured Housing Unit plans - All requested plans include design, permitting, construction, construction management, installation, inspections, and all appurtenances, including all utility connections and all related activities necessary to complete the tasks identified in this RFQ.

Piers should be of sufficient length to elevate the finished floor of the MHU up to 3 ft. above grade.

Home unit prices include exterior stairs and handrails up to 3 feet in height. Main entryways have a minimum decking area of 50 SF. The rear or secondary door have a minimum of 25 SF.

Item No.	Item Description	Unit Price Pier Foundation	Unit Price Piers on Poured Slab
43	Standard 2 bedroom/1 bathroom, Plan No. MHU 1 (provide a typical elevation)	\$63,459.00	\$69,927.00
44	Standard 2 bedroom/1 bathroom, Plan No. MHU 2 (provide a typical elevation)	\$71,912.00	\$80,622.00
45	Standard 2 bedroom/1 bathroom, Plan No. MHU 3 (provide a typical elevation)	\$58,020.00	\$64,085.00
46	Standard 3 bedroom/2 bathroom, Plan No. MHU 4 (provide a typical elevation)	\$87,654.00	\$90,580.00
47	Standard 3 bedroom/2 bathroom, Plan No. MHU 5 (provide a typical elevation)	\$92,052.00	\$95,436.00
48	Standard 3 bedroom/2 bathroom, Plan No. MHU 6 (provide a typical elevation)	\$95,129.00	\$98,517.00
<b>The next 2 plans are compliant with Uniform Federal Accessibility Standards (UFAS)</b>			
49	Standard and UFAS 2 bedroom/1 bathroom, Plan No. MHU 7 (provide a typical elevation)	\$76,621.00	\$83,089.00
50	Standard and UFAS 3 bedroom/2 bathroom, Plan No. MHU 8 (provide a typical elevation)	\$98,584.00	\$101,826.00



**UNIT BID ITEMS**

Each unit cost below include all appurtenances and related activities necessary to complete the work.

Unit Item No.	Quantity	Units	Descriptions	Unit Price
UB1	1	Lump Sum	Construction of minimum of 420 SF concrete off-street parking for two (2) automobiles on homeowner's lot in accordance with applicable local codes and regulations to match and join existing driveway approach at the ROW.	\$3,180.00
UB2	1	Lump Sum	When required by homeowner and approved by the Program, construct a minimum 420 SF concrete Parking Space with reference to the UFAS Section 4.6.3 with concrete specifications that meet jurisdictional code.	\$3,293.00
UB3	1	Lump Sum	Complete installation of residential water well for domestic use, installed by Licensed Texas Water Well Driller to a depth up to 150 ft., meeting all applicable codes and regulations, including testing.	\$11,200.00
UB4	1	Lump Sum	Install properly sized aerobic septic system with surface application in accordance with all applicable codes and regulations, including all appurtenances (such as night spray component when required by lot size).	\$10,549.00
UB5	1	Lump Sum	Install properly sized aerobic septic system with drip irrigation in accordance with all applicable codes and regulations.	\$12,814.00
UB6	1	Cubic Yard	Furnish, place, and compact engineered fill	\$43.00
UB7	1	Cubic Yard	Furnish, place, and compact pea gravel	\$58.00
UB8	1	Linear Feet	Furnish and place Sidewalk 4' wide	\$29.00
UB9	1	Linear Feet	Furnish and Install 1" water supply line: distance from the original point of service (well head or public system service tap) to a new point of service.	\$18.00

UB10	1	Linear Feet	Furnish and Install 4" sewer line, as necessary, the additional distance from the original point of service (septic system connection or public system sewer connection) to a new point of service.	\$23.00
UB11	1	Linear Feet	Install underground electrical service line (100 or 125 amp service) from the point of utility company service to house, when required by ordinance or established rule.	\$32.00
UB12	1	Linear Feet	Install underground electrical service line (150 or 200 amp service) from the point of utility company service to house, when required by ordinance or established rule.	\$42.00
UB13	1	Lump Sum	Removal and proper disposal of encroaching tree less than 6" in diameter (measured at 4 feet from ground) with permission of the homeowner and approval of the Program.	\$412.00
UB14	1	Lump Sum	Removal and proper disposal of encroaching tree greater than 6" up to 12" in diameter (measured at 4 feet from ground) with permission of the homeowner and approval of the Program. Cost estimate includes stump grinding/removal below existing grade.	\$489.00
UB15	1	Lump Sum	Removal and proper disposal of encroaching tree greater than 12" up to 24" in diameter (measured at 4 feet from ground) with permission of the homeowner and approval of the Program. Cost estimate includes stump grinding/removal below existing grade.	\$1,116.00
UB16	1	Lump Sum	Removal and proper disposal of encroaching tree greater than 24" up to 36" in diameter (measured at 4 feet from ground) with permission of the homeowner and approval of the Program. Cost estimate includes stump grinding/removal below existing grade.	\$2,098.00
UB17	1	Lump Sum	Removal and proper disposal of encroaching tree greater than 36" in diameter (measured at 4 feet from ground) with permission of the homeowner and approval of the Program. Cost estimate includes stump grinding/removal below existing grade.	\$3,146.00
UB18	1	Lump Sum	Furnish and Install live oak tree with a minimum of 2" caliper	\$456.00

UB19	1	Lump Sum	<p>When required by the homeowner and approved by the Program, install a residential vertical Platform Lift with standard lifting height of up to 96", including framing and enclosure into the home structure, electrical installation requirements to jurisdictional code, maintenance-free operation and 24V DC battery backup with reference to the UFAS Section 4.1.1.</p>	\$16,705.00
UB20	1	Linear Feet	<p>When required by homeowner and approved by the Program, construct a 36" wide concrete Accessible Route from the edge of the parking space to the lift/ramp/entrance platform at the house with reference to the UFAS Sections 4.3.3, 4.3.7, 4.3.8 and 4.5 with concrete specifications that meet jurisdictional code (and handrails, when required, to be constructed of pressure-treated lumber).</p>	\$31.00
UB21	1	Square Feet	<p>Installation of all weather surfacing material consisting of 3/8" crushed stone or shell (homeowner's choice), spread and compacted to a minimum width of 12' and a minimum of 4" thick on homeowner's lot in accordance with applicable local codes and regulations, to match and join existing driveway approach at ROW, including all appurtenances and related activities necessary to complete the work.</p>	\$2.00
UB22	1	Lump Sum	<p>When required by the homeowner and approved by the Program, install elevated toilet adjacent to a wall with safety bars in one (1) designated bathroom with reference to the UFAS Section 4.26. (American Standard, or approved equal, minimum 16.5" height elongated bowl and Moen chrome safety bars, or approval equal). The lump sum estimate shall reflect only the increase in costs above the base costs of the item(s) included in the plans.</p>	\$506.00
UB23	1	Lump Sum	<p>When required by the homeowner and approved by the Program, install handicap accessible Bathtub, with safety bars, and drop down seat in one (1) designated bathroom with reference to the UFAS Section 4.34.5.4 (Koral Model HTS 731LH/736 RH or approved equal); The lump sum costs shall reflect only the increase in cost above the base costs of the item(s) included in the plans.</p>	\$813.00

UB24	1	Lump Sum	<p>When required by the homeowner and approved by the Program, install <u>handicap accessible Shower</u>, (1) designated bathroom with reference to the UFAS Section 4.34.5.5 (One-piece 62" x 33" fiberglass ADA Handicap shower with over-flow barrier, integrated seat and grab bars. APFQ6233BF-F75 or approved equal). The lump sum costs shall reflect only the increase in cost above the base costs of the item(s) included in the plans.</p>	\$947.00
UB25	1	Lump Sum	<p>When required by the homeowner and approved by the Program, install roll-under sink, mirror and medicine cabinet in (1) designated bathroom with reference to the UFAS Section 4.34.5.3 . The lump sum costs shall reflect only the increase in cost above the base costs of the item(s) included in the plans.</p>	\$0.00
UB26	1	Lump Sum	<p>When required by the homeowner and approved by the Program, install <u>Kitchen per UFAS Section 4.34.6</u> (includes cooktop (Frigidaire 30" cooktop with front-end knobs or approved equal) and wall oven (Frigidaire 24" single wall oven or approved equal), installed roll-under sink, installed Storage per UFAS Section 4.25. Base Cabinet Storage will include rollout shelving. The lump sum costs shall reflect only the increase in cost above the base costs of the item(s) included in the plans.</p>	\$1,387.00
UB27	1	Lump Sum	<p>When required by a homeowner with visual or hearing impairment and approved by the Program, installed Emergency Alarms for visual/hearing impaired occupants for all floor plans (per UFAS Section 4.28) as an upgrade to IRC required alarm system. The lump sum costs shall reflect only the increase in cost above the base costs of the item(s) included in the plans.</p>	\$551.00
UB28	1	Square Feet	<p>When required by a homeowner and approved by the Program, provide <u>all Vinyl Plank Flooring throughout unit</u> (4 mil Plank or approved equal). The lump sum costs shall reflect only the increase in cost above the base costs of the item(s) included in the plans.</p>	\$1.30

UB29	1	Lump Sum	<p><b>Attached Garage</b> – (For cities or subdivisions where each residential dwelling unit is required to have a garage permanently affixed to the land) The minimum floor space for the garage shall be two hundred fifty (250) square feet of 3000 psi concrete, must be constructed with the required anchoring system per state and local jurisdictional requirements, including tire stop, and the floor area used for vehicular parking must be sloped to facilitate the movement of liquids toward the main vehicle entry door. Exterior finish must match that of new home and interior finish must be enclosed with gypsum board and must be paint ready.</p>	\$16,312.00
UB30	1	Lump Sum	<p><b>Detached Garage</b> - (For cities or subdivisions where each residential dwelling unit is required to have a garage permanently affixed to the land) The minimum floor space for the garage shall be two hundred fifty (250) square feet of 3000 psi concrete, must be constructed with the required anchoring system per state and local jurisdictional requirements, including tire stop, and the floor area used for vehicular parking must be sloped to facilitate the movement of liquids toward the main vehicle entry door. Exterior finish must match that of the new home.</p>	\$19,534.00
UB31	1	Each	<p>Construct a 36" wide exterior Access Route (Wheelchair accessible Ramp) UFAS Sec. 4.3.3, 4.3.7, 4.3.8, 4.5 between <b>1.0 and 3.0 feet in height.</b></p>	\$4,470.00
UB32	1	Each	<p>Construct a 36" wide exterior Access Route (Wheelchair accessible Ramp) UFAS Sec. 4.3.3, 4.3.7, 4.3.8, 4.5 between <b>3.1 and 5.0 feet in height.</b></p>	\$6,658.00
UB33	1	Each	<p>Construct a 36" wide exterior Access Route (Wheelchair accessible Ramp) UFAS Sec. 4.3.3, 4.3.7, 4.3.8, 4.5 between <b>5.1 and 7.0 feet in height.</b></p>	\$9,179.00
UB34	1	Each	<p>Construct a 36" wide exterior Access Route (Wheelchair accessible Ramp) UFAS Sec. 4.3.3, 4.3.7, 4.3.8, 4.5 between <b>7.1 and 9.0 feet in height.</b></p>	\$12,339.00

**TYPICAL UPGRADE ITEMS**

All prices reflect only the increase in cost above the base cost of the item(s) included in the home plans.

Unit Item No.	Quantity	Units	Descriptions	Unit Price
UG1	1	Linear Feet	Bathroom - Cultured Marble Vanity top	\$33.00
UG2	1	Lump Sum	Bathroom - Enameled steel tub with ceramic tile shower surround	\$976.00
UG3	1	Lump Sum	Bathroom - Designer Faucet set	\$236.00
UG4	1	Square Feet	Flooring - upgraded carpet and pad	\$2.40
UG5	1	Square Feet	Flooring - ceramic tile	\$5.00
UG6	1	Square Feet	Flooring - wooden floor	\$5.40
UG7	1	Linear Feet	Kitchen - Solid Surface Countertops	\$68.00
UG8	1	Linear Feet	Kitchen - Premium Grade Cabinets and hardware Lower Base Units (no layout modifications allowed)	\$97.00
UG9	1	Linear Feet	Kitchen - Premium Grade Cabinets and hardware Upper Wall mounted units (no layout modifications allowed)	\$72.00

UG10	1	Lump Sum	Kitchen - Designer sink double bowl	\$378.00
UG11	1	Lump Sum	Kitchen - Designer faucet	\$207.00
UG12	1	Lump Sum	Kitchen - Upgrade electric appliance manufacturer and/or model (if same size, fuel and power requirements)	\$851.00
UG13	2	Lump Sum	Kitchen - Upgrade Gas appliance manufacturer and/or model (if same size, fuel and power requirements)	\$932.00
UG14	1	Lump Sum	Kitchen - Dishwasher	\$486.00
UG15	1	Linear Feet	Other - Finished interior 3 1/4" baseboard (Stain vs Paint)	\$1.00
UG16	1	Each Window	Other - Upgrade from aluminum to wood Mini-blind window package. (Window size 7.0 -14.0 sf)	\$62.00
UG17	1	Each Window	Other - Upgrade from aluminum to wood Mini-blind window package. (Window size 14.1 -20.0 sf)	\$88.00
UG18	1	Each Door	Other- solid core interior doors	\$198.00
UG19	1	Each fixture	Other - Designer exterior lights (replacement location only)	\$81.00

**REHAB MARKUP PERCENTAGES**

For rehabilitation, the Program will determine the base construction costs using the current month's price list generated by Xactimate for the City of Houston. Pricing from Xactimate includes labor, equipment, and materials. The Program will add a percentage markup on the base construction costs to allow for the variable costs itemized below.

Item No.	Quantity	Units	Descriptions	Percentage Markup
1	1	Percentage	Overhead - cost of project management, business development, scheduling, estimating, safety, accounting, advertising, insurance, interest, legal fees, labor burden, rent, repairs, supplies, taxes, telephone bills, travel expenditures, and utilities, etc. required to operate your business	15.50%
2	1	Percentage	Profit - profit after accounting for all costs and expenses	11.50%
3	1	Percentage	Bonding - cost to provide construction bond	1.75%
4	1	Percentage	Permitting - cost to secure permits and city code inspections.	1.25%
5	1	Percentage	General Conditions - cost of job site trailers, materials storage, radios, dumpsters, temporary toilets, site signage, site security, etc. required to complete the scope of work	3.00%
<b>Total Percentage Markup (Add lines 1 thru 5)</b>				<b>33.00%</b>



## Exhibit K

### HARVEY HOMEOWNER ASSISTANCE PROGRAM HOMEOWNER-CONTRACTOR AGREEMENT

This Harvey Homeowner Assistance Program Agreement ("Agreement") between Click or tap here to enter text ("Homeowner") and Click or tap here to enter text ("Contractor"), as provided in the Harvey Agreement for Housing Construction and Repair Services (Master Contractor Agreement) is effective on the date of the last signature date set forth below ("Effective Date"). Homeowner and Contractor may be collectively referred to as "Parties" and individually as a "Party." **Homeowner and Contractor acknowledge that the City of Houston, Texas ("City") is a third-party beneficiary of this Agreement and this Agreement may not be modified or changed without the prior written consent of the City Attorney of the City of Houston or the person he designates and the Director (as defined below). It is the Parties' intent and express purpose of this Agreement to benefit the City, a third party- beneficiary, who is the entity paying the Contractor for the Work (as defined herein) on the Project performed on behalf of the Homeowner and with whom the Homeowner will execute a separate Forgivable Loan Agreement (defined herein) outlining the conditions for the Homeowner accepting the City's loan which takes the form of the City's payment to the Contractor for the Work on the Project. The Parties further acknowledge and agree that this Agreement bestows rights upon the City, as a third-party beneficiary, the City is entitled to the rights and benefits hereunder, and the City is permitted to and may enforce the provisions hereof as if it were a party hereto, including the right to enforce this Agreement in the event of a breach by either Party.**

In consideration of the mutual covenants and agreements contained in this Agreement, the Parties agree as follows:

#### Section I – Definitions

Whenever used in this Agreement, the following words and terms shall have the meanings ascribed to them as set out below. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular include the plural. The word "shall" is always mandatory and not merely permissive.

- A. Business Day shall mean any calendar day except Saturdays, Sundays and full-day holidays for employees of the City (as designated by City Council).
- B. Certificate of Compliance (COC) shall mean the certificate received from the City's Permitting Center to document final completion of construction work.
- C. Change Order shall mean an amendment to the Work and/or Contract Price pertaining to a particular Project, submitted by Contractor and approved in writing by the Homeowner and Director in accordance with the Project Documents and the Guidelines.
- D. Chief Procurement Officer (CPO) shall mean the Chief Procurement Officer for the City of Houston, as set forth in Chapter 15 of the Houston Code of Ordinances.
- E. City shall have the meaning as defined in the preamble of this Agreement and includes its successors and assigns.
- F. Community Development Block Grant – Disaster Recovery (CDBG-DR) shall mean the federal program administered by the U.S. Department of Housing and Urban Development that provides funding to assist in the recovery from presidentially declared disaster events.
- G. Construction Documents shall mean all of the graphic and written information prepared or assembled by Contactor for communicating the design and for administering the bidding and construction of the Project, including engineering specifications, construction plans, and/or architectural plans for the construction of improvements funded under this Agreement.
- H. Contract Price the price to be paid by the City to the Contractor for the performance of the Work in connection with this Project.

- I. Contractor shall have the meaning given to it in the preamble, including its successors and assigns.
- J. Demolition shall mean the clearance and proper disposal of dilapidated buildings and improvements.
- K. Director shall mean the Director of Housing and Community Development for the City or any other person(s) that may be designated by the Director by notice to Contractor to administer this Agreement on behalf of the City and/or to perform the various functions assigned to the Director in this Agreement.
- L. Documents shall mean the reports, charts, analyses, maps, letters, tabulations, exhibits, notes, models, photographs, the original transparencies of all drawings, Construction Documents, computer programs including source and object codes, and other work products obtained by or prepared by Contractor as part of its services under this Contract. The Director shall specify the medium and format in which Contractor shall provide such documents.
- M. Final Inspection Document shall mean a written statement issued by the HCDD and signed by the HCDD, Homeowner, and Contractor, stating that all Work on the Project has been satisfactorily completed in accordance with the Plans and Specifications/Scope of Work.
- N. Forgivable Loan Documents shall mean all documents executed by the Homeowner and the City related to the Forgivable Loan, including but not limited to a Deed of Trust and Promissory note.
- O. Guidelines shall mean the Community Development Block Grant – Disaster Recovery (CDBG-DR) Harvey Homeowner Assistance (HoAP) Guidelines, Harvey Single Family Development Program Guidelines (HSFD) or Harvey Recovery Small Rental Program (HRSR) Guidelines, as applicable, and as each may be amended or revised from time to time. Guidelines shall mean the applicable Guideline in effect as of the date the Director first issues the Work Order for the Project, unless the Director indicates otherwise at any time during the Project provided any such change shall not cause the Project to exceed the maximum Contract Price allowed by the applicable Guideline.
- P. Include and including and words of similar import: shall be deemed to be followed by the words "without limitation."
- Q. Homeowner means the owner/occupant of a Housing Unit who qualifies for participation in the Homeowner Assistance Program (HoAP), Harvey Single Family Development (HSFD) or Harvey Recovery Small Rental (HRSR) Programs.
- R. Housing Quality Standards (HQS) shall mean the HUD Housing Quality Standards.
- S. Housing Unit shall mean one single-family dwelling or one unit in a multi-family residential complex.
- T. Houston Community Development Department (HCDD) shall mean the City Department assigned to manage the CDBG-DR funds.
- U. HUD shall mean the United States Department of Housing and Urban Development.
- V. Master Contractor Agreement shall mean the agreement between the City and Contractor attached as Exhibit "B". If a copy of the Master Contractor Agreement is not attached hereto, Master Contractor Agreement shall refer to the "Master Contractor Agreement" executed by the City and the Contractor. The terms and provisions of the Master Contractor Agreement are hereby incorporated into this Agreement.
- W. New Construction shall mean building a new Housing Unit on a lot or alternate site from the damaged dwelling.
- X. Notice to Proceed shall mean the written authorization issued by the Director or the CPO for the Contractor to proceed with Project.
- Y. Plans and Specifications shall mean a detailed itemized list approved by the Director that provides instructions to the Contractor for any Work to be done on the Property, which may include drawings, as applicable.
- Z. Program shall mean one of several HUD programs under which Contractor will perform Work under this Agreement, including without limitation Harvey Homeowner Assistance Repair Program (HoAP),

Harvey Single Family Development Program, Home Repair Program, and the Harvey Recovery Small Rental Program.

- AA. Progress Schedule shall mean the schedule of the Work to be performed by certain dates, as outlined in the Notice to Proceed and approved by the Director in connection with the Project.
- BB. Project shall mean the construction, Rehabilitation or Reconstruction Work to be done on a Property under this Agreement. Each Project shall be subject to and governed by the terms and provisions of the Project Documents.
- CC. Project Documents shall mean, as applicable, this Agreement, the Master Contractor Agreement, the Scope of Work, the Guidelines, the Plans and Specifications, the Progress Schedule, the Notice to Proceed, the Certificate of Compliance, the Forgivable Loan Documents, the Final Inspection Document, Change Orders approved and executed in conformance with this Agreement and the Master Contractor Agreement, if any, and all other documents pertaining to, or executed in connection with the Work on the Property.
- DD. Property shall mean a Housing Unit located within the incorporated areas of the City, to be repaired, constructed, reconstructed, or rehabilitated as described in the Project Documents related to the Property. The address and legal description of the Property are as follows:

Address	Legal Description
House and Street Houston, Texas Zip Code	Click or tap here to Legal Description.

- EE. Reconstruction shall refer to the rebuilding of a structure on the same site in substantially the same manner. The number of Housing Units on a site may not be increased, but the number of rooms per unit may be increased or decreased.
- FF. Rehabilitation shall mean the performing of repairs on Housing Units to be in compliance with the City of Houston Minimum Property Standards for Reconstruction and New Construction (revised April 2018) and applicable City of Houston adopted building codes, without the need of demolishing and reconstructing the Housing Unit.
- GG. Scope of Work shall mean a detailed itemized list approved by the Director providing instructions to the Contractor for the Work on the Project.
- HH. Subcontractor shall mean the person or other entity subcontracted by the Contractor to provide a portion of services required under this Agreement.
- II. Work shall mean all services required to complete the construction, repair, Reconstruction, Rehabilitation, including without limitation, labor, tools, material, superintendence, administration, equipment, utilities, transportation, and incidentals, and obtaining all permits, certifications, and licenses as may be required to complete the work during the term and the warranty period set forth herein, as detailed in this Agreement and its Exhibits and the Project Documents.
- JJ. Work Order shall mean the written document, signed by the Director that includes an assignment of Housing Units for which Contractor shall complete the Work.

**Section II – Terms and Conditions**

The Parties agree to the following:

- A. Funding for this Agreement is appropriated under the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56), enacted on September 8, 2017, to facilitate disaster recovery, restoration, economic revitalization, and to affirmatively further fair housing in accordance with Executive Order 12892, in areas affected by the Texas Hurricane Harvey (DR-4332), which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121, *et seq.*).

The City is a subrecipient of federal funds under Federal Award No. B-17-DM-48-001, awarded February 9, 2018, as amended August 14, 2018, and as may be further amended from time to time, administered by the General Land Office (GLO) under CFDA No. 97.048, Federal Disaster Assistance to Individuals and Households in Presidential Declared Disaster Areas. The Parties acknowledge that the City intends to seek reimbursement from the Texas General Land Office (GLO) for costs incurred under this Agreement. The fulfillment of this Agreement is based on those funds being made available to the City. All services under this Agreement must be provided and accepted in accordance with this Agreement, the City of Houston Code of Ordinances, the rules and regulations promulgated under the CDBG-DR Program and any other applicable federal, state and local laws, codes, rules, regulations and guidelines, including without limitation those issued by the City of Houston, HUD and the Texas General Land Office, Title 24, and Code of Federal Regulations (CFR) Part 570 (collectively "Applicable Laws"). Any finding of non-compliance with the Applicable Laws will be considered a breach of this Agreement and subject to associated funds to **recapture and repayment accordingly.**

- B. The City may terminate this Agreement and recapture, and be reimbursed by either Party for any payments made by the City (i) that exceed the maximum allowable HUD rate; (ii) that are not allowed under applicable laws, rules, and regulations; or (iii) that are otherwise inconsistent with this Agreement, the Project Documents, or the Master Contractor Agreement, including any unapproved expenditures. **This Recapture Provision applies to any funds expended for the Project or any program or activity that does not meet a CDBG-DR Program National Objective or that is not otherwise eligible under CDBG-DR regulations.**
- C. Pursuant to the terms of the Master Contractor Agreement, the City shall pay Contractor for the performance of the Work on the Project up to the amount of [Click or tap here to enter text.](#)("Contract Price").
- D. Any changes in the Contract Price shall only result from Change Orders approved and executed in conformance with this Agreement and the Master Contractor Agreement. The Contract Price shall be paid by the City for Work in the form of progress payments, which will be submitted according to the Progress Schedule and terms and conditions of the Master Contractor Agreement. The City's disbursement of the funds for the Work on the Project shall not exceed the Contract Price plus any Change Orders approved and executed in conformance with this Agreement and the Master Contractor Agreement. Pursuant to the terms of the Master Contractor Agreement, the City shall make payments for Work on the Project completed by the Contractor and authorized and approved by the Director. In no event shall the Contract Price plus any Change Orders exceed \$150,000.00 for Rehabilitation and \$250,000.00 for Reconstruction ("Contract Cap"), which Contract Cap shall be determined by the Director in accordance with the Guidelines and applicable laws, taking into account variables unique to the Property, such as access and functional needs, environmental needs (lead, asbestos, and mold removal), elevation, municipal ordinances, and neighborhood requirements.
- E. The Work on the Project under this Agreement shall commence on the issuance of the Notice to Proceed unless another date is specified in the Notice to Proceed. The Work on the Project shall be completed within the time outlined in the Notice to Proceed.
- F. For construction projects funded under this Agreement, Contractor shall place temporary signage erected in a prominent location at the Property or along a major thoroughfare within the locality. All signage required under this section shall contain the following:
- i. "This project is funded by the City of Houston, Texas General Land Office of the State of Texas, and the United States Department of Housing and Urban Development through the Community Development Block Grant Program to provide for disaster recovery and restoration of infrastructure for communities impacted by Hurricane Harvey."
- G. The Work on the Project shall be done in accordance with the Plans and Specifications or Scope of Work that is attached to this Agreement as Exhibit "A". The Scope of Work or Plans and Specifications may be amended by Change Orders approved and executed in conformance with this Agreement and the Master Contractor Agreement.

- H. The Work may include the Demolition of the existing residence and other structures, outbuildings, and garages located on the Property. By executing this Agreement, Homeowner hereby authorizes the Contractor to demolish any such residence, structures, outbuildings and garages, as deemed necessary by the Director.
- I. The Work performed on the Project shall be in conformance with the applicable building codes, the Plans and Specifications, and any manufacturer's recommendations.
- J. After Contractor has completed the Work on the Project, including any Change Orders approved and executed in conformance with this Agreement and the Master Contractor Agreement, Contractor shall arrange a walk-through inspection of the Property with the Homeowner. During the walk-through, the Contractor shall make a list of items ("Punch List") which the Parties determine need correction or completion. Disputes concerning the items to be included in the Punch List shall be resolved in accordance with Section VI below.
- K. Contractor shall obtain a COC and an elevation certificate (if applicable) and provide a copy of the certificate to the Homeowner, the Director, and upload the certificate in the City's system of record.
- L. Contractor shall transfer all operations and maintenance manuals, keys, warranty information and similar submittals required by the Agreement Documents to the Homeowner and/or the City as directed.
- M. Contractor shall provide all preconstruction and construction records and files to the City in the City's prescribed format within 7 days of the approved final inspection.
- N. The Work on the Project shall be deemed completed when HCDD has determined that:
  - i. the Work has been completed in accordance with this Agreement and the Master Contractor Agreement,
  - ii. Owner or Contractor shall have furnished to HCDD all necessary final certificates, licenses, consents and other approvals of the various governmental authorities having jurisdiction, including, a permanent certificate of occupancy, and
  - iii. all necessary certificates, licenses, consents and other approvals of governmental authorities acting in and for the locality in which the Dwelling is situated have been issued with respect to the work.
- O. Agreement Term. This Agreement is effective on the Effective Date and shall remain in effect for two (2) years after the last day on which the Final Inspection Document is signed by all Parties and the Director, unless sooner terminated under this Agreement; provided however, that in the event that the Master Contractor Agreement is terminated, this Agreement shall terminate at the same time.

### **Section III – Covenants and Agreements by Homeowner**

Homeowner covenants and agrees to the following:

- A. Homeowner has voluntarily applied for and has been selected to participate in the Program and agrees to the terms and conditions contained in this Agreement. In the event of the Homeowner's death before the Notice to Proceed is issued, any co-applicant or other adult household member(s) may be deemed eligible to participate in the Program pursuant to the applicable Guidelines to become the new Applicant of the household. If no co-applicant or adult household member is listed on the Program application; (i) the Contract will terminate upon the death of Homeowner; (ii) City will not issue a Notice to Proceed; and (iii) City will not be liable for any costs incurred by Contractor.
- B. Homeowner hereby authorizes the City to act on its behalf in connection with the Work on the Project performed by the Contractor.
- C. Homeowner shall not: (i) perform any form of voluntary labor; or (ii) cover any part of the costs of the Work on the Project, such as the purchase of materials or the direct hiring of the Contractor, contract with any other party for any aspect of the Work on the Project or serve as his or her own contractor

during the time between the date of this Agreement and the date the Final Inspection Document has been signed by all Parties.

- D. The City and Contractor may access the Property at all reasonable times. The City, Contractor, and their respective employees may reasonably use the common areas and roadways of Property, together with all facilities, equipment, improvements, and services provided in connection with the Property.
- E. The Parties acknowledge that time is of the essence. Each Party shall respond to any letter(s), emails, or other forms of written or electronic correspondence, notices and communications from the other Party or City within the time frame set forth in the document. Each party shall use its best efforts to respond to phone calls from the other Party or City within twenty-four (24) hours of receipt.
- F. Homeowner shall attend a mandatory pre-construction conference prior to the commencement of the Work on the Project.
- G. Homeowner shall provide the Director and the Contractor with copies of its deed restrictions or restrictive covenants, if applicable, that have been filed or appear in the real property records of the county in which the Property is located.
- H. **THE ASSESSED VALUE OF THE PROPERTY MAY INCREASE AS A RESULT OF THE WORK ON THE PROJECT, CAUSING AN INCREASE IN PROPERTY TAXES AND PROPERTY INSURANCE. HOMEOWNER ACCEPTS ALL RESPONSIBILITY FOR THE PAYMENT OF TAXES AND INSURANCE ON THE PROPERTY, AND FOR DECLARING THE PROPERTY AS HOMEOWNER'S HOMESTEAD TO TAKE ADVANTAGE OF ANY HOMESTEAD EXEMPTION FOR THE PROPERTY, IF APPLICABLE.**
- I. Homeowner is responsible for the timely relocation of all personal property. Without limiting the additional releases contained herein, Homeowner may not and will not have any right to claims against the City for damages or loss to any personal property not properly relocated.
- J. Homeowner agrees that the City and Contractor are not responsible for any conditions of the Property that are not addressed in the Scope of Work or Plans and Specifications.
- K. Homeowner is the owner and/or occupant, as applicable, of the Housing Unit on the Property.
- L. Homeowner has fee simple title to the Property.
- M. The Property is free and clear of all liens, encumbrances and encroachments; provided, however, that Homeowner is permitted to have a mortgage lien on the Property if that lien is subordinate to the City's lien on the Property, or if otherwise approved in writing by the Director.
- N. Taxes on the Property are paid current or current on a payment plan.
- O. Homeowner has obtained all forms and levels of insurance required under this Agreement or the Guidelines.
- P. The following occurrences shall constitute an event of default ("Default"):
  - (i) Homeowner gives false or inaccurate information in connection with the application for assistance under the Program; or
  - (ii) Homeowner fails to perform any covenant or agreement contained in this Agreement or any related document.
- Q. In the event of Default by the Homeowner, Director will notify Homeowner in writing of the occurrence of such Default.
- R. In the event the Default is not timely cured by the Homeowner, the City may exercise any remedies available at law or in equity to include, without limiting any other remedies, reimbursing the City for any and all costs incurred or to be incurred by the City under this Agreement and the Master Contractor Agreement for the Work on the Project covered hereunder. Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive but are cumulative of all rights and remedies

which exist now or in the future consistent with this Agreement. Neither Party may terminate its duties under this Agreement except in accordance with its provisions.

- S. HOMEOWNER HEREBY RELEASES AND DISCHARGES AND AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE "CITY") FROM ALL LIABILITY AND CLAIMS FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY, SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO THE WORK PERFORMED PURSUANT TO THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY SOLE OR CONCURRENT NEGLIGENCE OF CONTRACTOR ITS AGENTS, EMPLOYEES, OFFICERS AND LEGAL REPRESENTATIVES ("COLLECTIVELY CONTRACTOR FOR PURPOSES OF THIS PARAGRAPH), OR ANY OF CONTRACTOR'S SUBCONTRACTORS AND THEIR AGENTS, EMPLOYEES, OFFICERS AND LEGAL REPRESENTATIVES (COLLECTIVELY "SUBCONTRACTOR"), OR THE CITY. HOMEOWNER HEREBY RELEASES THE CITY FROM ALL FINES, DEMANDS, JUDGEMENTS, LIABILITIES OR CLAIMS ARISING BY REASON OF OR IN CONNECTION WITH THE ACTUAL OR ALLEGED ERRORS, OMISSIONS OR NEGLIGENT ACTS OF THE CITY, CONTRACTOR OR ANY SUBCONTRACTOR RELATING TO THE WORK ON THE PROJECT.**

#### **Section IV – Contractor's Duties**

Contractor understands, agrees and acknowledges the following:

- A. The terms, conditions and provisions of the Master Contractor Agreement are incorporated into this Agreement in their entirety. The Contractor shall perform all services and furnish to the Director a list of all materials needed, labor and equipment necessary to complete the Work on the Project.
- B. All Work to be performed on the Project and all performance specifications are identified in this Agreement, including the Project Documents and Master Contractor Agreement and all Exhibits attached hereto and incorporated herein by reference. **THE CONTRACTOR SHALL PERFORM NO OTHER WORK ON THE PROJECT UNLESS CHANGE ORDERS FOR ADDITIONAL WORK OR MATERIALS FOR THE PROJECT ARE ISSUED IN ACCORDANCE WITH THIS AGREEMENT.** All Change Orders approved and executed in accordance with this Agreement shall be made a part of this Agreement.
- D. Contractor agrees not to enter into any side agreements for additional Work on the Property or materials over and above those specified in the Project Documents.
- E. **CONTRACTOR AGREES TO PROTECT, DEFEND, AND HOLD HARMLESS, AND INDEMNIFY HOMEOWNER FROM ANY CLAIMS FOR UNPAID WORK, LABOR, OR MATERIALS WITH RESPECT TO CONTRACTOR'S PERFORMANCE OF THE WORK ON THE PROJECT EVEN IF THE CLAIMS ARE CAUSED BY THE SOLE OR CONCURRENT NEGLIGENCE OF CONTRACTOR, ITS AGENTS, EMPLOYEES, OFFICERS AND LEGAL REPRESENTATIVES, OR ANY OF CONTRACTOR'S SUBCONTRACTORS AND THEIR AGENTS, EMPLOYEES, OFFICERS AND LEGAL REPRESENTATIVES.**
- F. Upon completion of Work on the Project, Contractor shall remove all construction debris and surplus material from the Property and leave the Property in a neat and broom clear condition.
- G. If Contractor defaults under this Agreement, the Director may terminate this Agreement after providing Contractor written notice and an opportunity to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies that exist now or in the future. Default by Contractor occurs if:
  - i. Contractor fails to perform any of its material duties under this Agreement;
  - ii. Contractor becomes insolvent;
  - iii. All or a substantial part of Contractor's assets are assigned for the benefit of its creditors;
  - iv. A receiver or trustee is appointed for Contractor;

- v. Contractor abandons the performance of services under this Agreement, neglects to perform the Work on the Project as set out in the Scope of Services in connection with the Agreement in a timely manner, or refuses or neglects to supply or proper or sufficient materials or workmen, or fails to perform under the provisions of any of the Project Documents pertaining to the Work as set out in Scope of Services;
  - vi. Any warranty or representation made by the Contractor in this Agreement is at any time false or misleading in any respect;
  - vii. Contractor violates any law or ordinance;
  - viii. Contractor fails to secure or maintain required insurance;
  - ix. Contractor fails to secure or maintain bonds (payment or performance) in the required amounts; or.
  - x. Contractor is found in default under the terms of the Master Contractor Agreement.
- H. In case of termination of this Agreement in its entirety or as to Work Order(s) or Project(s) for cause pursuant to this subsection, the Contractor shall not be entitled to receive any payment for any Project until the Work for such Project is completed by the City or the third-party entity completing the Work on the City's behalf. Upon completion of any such Project, the Contractor shall be given any balance of the Contract Price less any damages and less the amount of expenses incurred by the City in finishing or causing to be finished the Work for such Project, including any costs in addition to or in excess of those originally contemplated in the Project Documents for such Project. If the cost in completing the Work for any such Project is greater than the original Contract Price, the Contractor shall pay the difference to the City upon ten (10) days written demand.
- I. CONTRACTOR HEREBY RELEASES AND DISCHARGES AND AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE "CITY") FROM ALL LIABILITY AND CLAIMS FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY, SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO THE WORK PERFORMED PURSUANT TO THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY SOLE OR CONCURRENT NEGLIGENCE OF ANY SUBCONTRACTOR AND THEIR AGENTS, EMPLOYEES, OFFICERS AND LEGAL REPRESENTATIVES (COLLECTIVELY "SUBCONTRACTOR"), OR THE CITY. CONTRACTOR HEREBY RELEASES THE CITY FROM ALL FINES, DEMANDS, JUDGEMENTS, LIABILITIES OR CLAIMS ARISING BY REASON OF OR IN CONNECTION WITH THE ACTUAL OR ALLEGED ERRORS, OMISSIONS OR NEGLIGENT ACTS OF THE CITY OR ANY SUBCONTRACTOR RELATING TO THE WORK ON THE PROJECT.**

#### **Section V – Contractor's Warranties**

Contractor will provide warranties and, as applicable, third-party warranties, for all Work on the Project performed under this Agreement as follows:

- A. Contractor expressly and unconditionally warrants and guarantees that all Work on the Project performed under this Agreement shall be done in a good and workmanlike manner and in accordance with the standards of quality prevailing in Harris County, Texas for rehabilitation, construction, demolition and reconstruction services for similar projects at the time such services are performed. Contractor shall perform all Work on the Project using trained and skilled persons having substantial experience performing the work required under this Agreement. This warranty includes, without limitation, any condition that may impair or tend to impair the safe and normal use, functioning or enjoyment of the Property and which results in any manner from all labor and/or materials used or supplied under for the Project.
- B. The warranty shall not limit or in any way modify any warranties or guarantees placed upon any material, appliances, fixtures or devices by their manufacturers, or any components for which a longer



period of warranty is provided or required under the Project Documents.

- C. Third-Party Warranties. Without in any way relieving Contractor of its obligations hereunder, Contractor shall, for the protection of Homeowner, obtain third-party warranties offered by a Federal Housing Administration (FHA), U.S. Department of Veteran's Affairs (VA), GLO, State of Texas, or HUD approved or accepted warranty company to provide the warranty coverage in conformance with this subsection 2.12.1.3, which warranties shall be assignable to Homeowner in accordance with this Agreement without affecting the validity of the warranty. The Contractor shall deliver the warranties and documents evidencing the assignment of said warranties to the Homeowner prior to submitting Contractor's request for final payment. Contractor may not submit, and the City will not begin to process Contractor's request for final payment until the Contractor has assigned and delivered the warranties to the Homeowner and the Director. Contractor shall be responsible for enforcing all such third-party warranties until such time as the Homeowner takes possession of the Property. The warranty period shall commence on the date of Final Inspection Document is signed by the Homeowner for the Project and end 1 year thereafter for workmanship and materials, 2 years thereafter for a warranty covering a mechanical or delivery system, including electrical delivery systems, plumbing delivery systems, ventilation, heating and air conditioning systems, and 10 years for the structural warranty, including without limitation 10 years for major structural components of a Housing Unit, as each warranty is applicable to the Work on the Project..
- D. The Contractor shall also provide:
- i. For any items for which standards are not published, the standards of construction established under the Housing Quality Standards that have been approved by the U.S. Department of Housing and Urban Development; and
  - ii. Except where preempted by the above express standards, all applied warranties.
- E. The Contractor shall include this Section's warranty provisions in all of the Contractor's subcontracts for Work on the Project under this Agreement. The Contractor further acknowledges and agrees that it is not eligible for final payment until all the warranties required by this Agreement and the Project Documents have been delivered to Housing Unit Homeowner with such copy signed by the Housing Unit Homeowner evidencing the Housing Unit Homeowner's receipt of such warranty policies.
- F. Contractor shall repair or replace, free of cost or charges to the City and the Homeowner, any defects that arise out of defective workmanship or materials which appear within the warranty period, whether the materials or equipment are guaranteed by the manufacturer or supplier.
- G. Contractor shall furnish the Director and Homeowner with all manufacturer's and supplier's written guarantees, warranties and operating instructions covering materials and equipment furnished under this Agreement together with any documentation required for validation.
- H. Contractor warrants that each item meets or exceeds the manufacturer's specifications and requirements for the equipment, structure or other improvement in which the item is installed.
- I. Contractor warrants that each replacement item is new, in accordance with original equipment manufacturer's specifications, and are of a quality at least as good as the quality of the item which it replaces (when the replaced item was new) and that no item or its use infringes any patent, copyright, or proprietary right.
- J. In the event that Contractor is notified by the Director or Homeowner of a defect that has arisen during the warranty period, Contractor shall begin to correct the defect within 10 business days after receipt of notification and shall complete the correction of the defect within 10 days thereafter, unless Contractor receives a written authorization from the Director to extend the correction period, but in no event longer than 30 days from receipt of notice of the defect. The Director, in his discretion, may find a defect to be hazardous. In the event of a hazardous defect, Contractor shall begin to correct the hazardous defect within 24 hours after receipt of the notice and shall continue work until the hazardous defect is cured. Contractor shall correct all warranty items within the time frames set forth above, free of cost or charges to the City or the Homeowner, whether or not the materials or equipment are

guaranteed by the manufacturer or supplier. Notice of the defect must be given during the warranty period.

- K. If Contractor fails to timely complete the Work under the Project Documents, or fails to perform satisfactorily under this Agreement or any Notice to Proceed, the City may require Contractor, at its sole expense to (a) repair or replace defective or damaged materials; (b) refund payment for defective or damaged materials and accept the return thereof; and/or (c) take necessary action to ensure that future performance of Work conforms to the Agreement and applicable Notice to Proceed.
- L. Survival of Warranty Provisions. The terms of this Section shall expressly survive the termination of this Agreement. Contractor's failure to address any defect in compliance with this Agreement may, at the Director's discretion, result in a monetary offset from funds owed to the Contractor by the City under this Agreement, any open Homeowner Agreement, or any other existing contracts or agreements between the Contractor and the City, to cover the amount of funds necessary for the City to correct any defect not corrected by the Contractor under a warranty.

**Section VI – Dispute Resolution**

- A. Homeowner and Contractor shall submit any disputes arising out of this Agreement to the Director.
- B. For purposes of this Section VI, "Project Manager" means the person the Director designates to monitor the progress of Contractor's performance under this Agreement. Except as may otherwise be provided by law, a dispute that (1) does not involve a question of law; (2) arises during the performance of this Agreement; and (3) is not resolved between the Project Manager, Homeowner, and Contractor, must be handled as described below:
  - I. The Project Manager shall put its decision in writing and mail or otherwise furnish the Parties with a copy. The Parties may abide by the decision or may appeal the decision to the Director.
  - II. If one or both Parties desires to appeal a decision of the Project Manager, the appealing Party(ies) must submit a written appeal to the Director. The appealing Party(ies) must file its written appeal within 7 Business Days following receipt of the Project Manager's original decision. The Director shall provide the Parties with a written response to the appeal within 14 Business Days following its receipt. The decision of the Director is final. If the appealing Party(ies) disagree with the decision of the Director, the appealing Party(ies) is permitted to pursue any legal rights and remedies in accordance with applicable law.

**Section VII – Address and Notice**

- A. Unless otherwise provided in this Agreement, all notices including any communication, request, reply or advice shall be in writing. If mailed, notice shall be deemed the date that it is deposited in the United States mail. Notices given in any other manner shall be effective the date received by the party to be notified.
- B. Notice shall be made to the following physical addresses:

To Director:	To Contractor:	To Homeowner:
601 Sawyer, Suite 400 Houston, Texas 77007 ATTN: HoAP	Click or tap here to enter text. Click or tap here to enter text. <b>ATTN:</b> Click or tap here.	Click or tap here to enter text. Click or tap here to enter text.

- B. The Parties and the Director shall have the right to change its respective address or addressee for notice under this Agreement, provided that at least ten (10) days written notice is given of such new address to the other party.

### Section VIII – Assignment and Amendment

- A. Contractor shall not delegate any portion of its performance under this Agreement without the Director's prior written consent. Notwithstanding this provision, it is mutually understood and agreed that Contractor may subcontract with others for some of the services and Work on the Project to be performed and goods to be provided under this Agreement. Contractor shall obtain written agreements from each subcontractor that bind the subcontractor to the terms in this Section and the applicable sections of this Agreement (including the exhibits) (collectively "the Agreement" in this subsection). Notwithstanding anything to the contrary herein, nothing in this Agreement (including Contractor's ability to or decision to subcontract) shall be construed to relieve Contractor of any of its liability (including Contractor's liability and responsibility for any losses, damages, errors, or omissions, or to indemnify the City), duties, requirements or obligations to the Homeowner or City under this Agreement, and its responsibility to comply with and fulfill the terms of this Agreement, including to perform the Work on the Project in accordance with this Agreement, and to ensure that the goods provided and/or services rendered and the Work on the Project (whether provided or performed by Contractor or any of its subcontractor) comply with all terms and provisions of this Agreement. On a monthly basis, Contractor shall provide written notification to the Director of any such subcontractor performing 25% or more of the Work on the Project under this Agreement, including the subcontractor's name, taxpayer identification number, the task being performed, the number of subcontractor employees expected to work on the task, and a copy of any agreements and notices between the Contractor and subcontractor related to this Agreement (if such agreement or notice is requested by the Director), including without limitation any amendments, renewals, terminations, and notices of default.
- B. All amendments to this Agreement shall be written, executed by the Parties, and approved by the Director. Any amendment which does not comply with this provision will be void.

### Section IX – Miscellaneous

- A. Independent Contractor. Contractor is an independent contractor and shall perform the services provided for in this Agreement in that capacity. All personnel Contractor uses or provides are its employees or subcontractors and not the City's employees, subcontractors or agents for any purpose whatsoever. Contractor is solely responsible for the compensation of its personnel, including but not limited to: the withholding of income, social security, and other payroll taxes, and all worker's compensation benefits coverage, if any.
- B. Revocation. This Agreement can be terminated by the Director or the Contractor if the City notifies the Contractor that revoked that the Property cannot be repaired within the limits of the Program.
- C. Destruction. In the event that the Property is partially destroyed prior to the completion of the Work and the Director determines that the Property can still be rehabilitated or reconstructed within the limits of the HoAP, then the amount of the Forgivable Loan and the Contract Price will be reduced to the extent that insurance proceeds, if any, are available to cover a portion of the Work. Homeowner shall transfer any such insurance proceeds to the City or authorize its insurance company to disburse such funds directly to the City.
- D. Law and Venue. The Parties shall comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances. The venue for any litigation relating to this Agreement is in Harris County, Texas.
- E. Priority of Documents. If there is a conflict between any of the Project Documents, such conflict shall be resolved in the following order of precedence: first the Master Contractor Agreement, then this Homeowner-Contractor Agreement, then Exhibit "A" (Plans and Specifications/ Scope of Work and any authorized Change Orders), then the Forgivable Loan Documents (the promissory note, then the deed of trust), then the Notice to Proceed, then the Certificate of Compliance, then the Final Inspection Document, and then the Guidelines.

- F. Survival. Contractor and Homeowner shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the Project Documents and the indemnity provisions.
- G. Force Majeure. The Parties hereto shall not be responsible for delays in performance beyond such party's control, including without limitation, fires, floods, labor disputes, epidemics, abnormal weather conditions, delays in receiving materials or machinery, or acts of God.
- H. Record Keeping. All original records and Documents pertinent to this Agreement shall be retained by the Parties hereto for five (5) years following the date of termination of this Agreement, except any litigation, claim or audit that is started before the expiration of the five-year period and extends beyond the five-year period, the records will be maintained until all litigation, claims or audit findings involving the records have been resolved, or until the expiration of any minimum record retention requirement required by law, whichever is greater.
- I. No Quantity Guarantee. This Agreement does not create an exclusive right in Contractor to perform all services concerning the subject of this Agreement. The City may procure and execute contracts with other contractors for the same, similar, or additional services as those set forth in this Agreement or any Scope of Services or Change Order. The City makes no express or implied representations, warranties, or guarantees whatsoever, that any particular quantity, type, task area, or dollar amount of services will be procured or purchased from Contractor through this Agreement or any Scope of Services; nor does the City make any express or implied representations, warranties, or guarantees, whatsoever for the amount or value of revenue that Contractor may ultimately derive from or through this Agreement.
- J. Entire Agreement. This Agreement, as defined in the introductory paragraph hereof and the Project Documents, including documents incorporated herein and therein by reference and the attachments hereto and thereto, contain the entire agreement of the Parties relating to the subject matter hereof and is a full and final expression of the agreement between the Parties.

**[Signature Pages Follow]**

**IN WITNESS WHEREOF**, the Parties have executed this Agreement in multiple copies, each of which is an original. The Parties hereby agree that each Party may sign and deliver this Agreement electronically or by electronic means and that an electronic transmittal of a signature, including but not limited to, a scanned signature page, will be as good, binding, and effective as an original signature. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

**CONTRACTOR:**

**HOMEOWNER:**

\_\_\_\_\_  
*(Signature)*  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
*(Signature)*  
\_\_\_\_\_  
*(Signature)*  
Date: \_\_\_\_\_

**EXHIBIT A**  
**PLANS AND SPECIFICATIONS/ WORK WRITE-UP**

**EXHIBIT "B"**  
**MASTER CONTRACTOR AGREEMENT**

## EXHIBIT "L"

### CDBG PROGRAM REQUIREMENTS

All references in this document to "Contractor" shall apply to the Contractor and any contractor or subcontractor performing work in connection with any Program subject to this Agreement.

#### SECTION 1

##### **Public Law 88-352 and Public Law 90-284; Affirmatively Furthering Fair Housing; Executive Order 11063**

A. The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352 42 U.S.C. 2000d et seq.) ("Title VI") and with Title 24 Code of Federal Regulations (CFR) Part 1, which implements Title VI. In accordance with Title VI, no person in the United States shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Contractor receives federal financial assistance. The Contractor will immediately take any measures necessary to comply with Title VI. If any real property or structure thereon is provided or improved with the aid of federal financial assistance, this clause shall obligate the owner, or in the case of any transfer of such property, any transferee, to comply with the requirements and restrictions contained in this clause for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. **[24 CFR §570.601]**

B. The Contractor shall comply with Public Law 90-284, which is the Fair Housing Act (42 U.S.C. 3601-3620). In accordance with the Fair Housing Act, the Secretary requires that grantees administer all programs and activities related to housing and urban development in a manner to affirmatively further the policies of the Fair Housing Act. Furthermore, in accordance with section 104(b)(2) of the Act, for each community receiving a grant under subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to take meaningful actions to further the goals identified in the grantee's AFH conducted in accordance with the requirements of 24 CFR §5.150 through 5.180 and take no action that is materially inconsistent with its obligation to affirmatively further fair housing. **[24 CFR §570.601]**

C. Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Com., p. 652; 3 CFR, 1980 Comp., p 307) (Equal Opportunity in Housing), and implementing regulations in 24 CFR part 107, if applicable. **[24 CFR §570.601]**

#### SECTION 2

##### **Section 109 of The Housing and Community Development Act of 1974**

The Contractor shall comply with Section 109 of the Housing and Community Development Act of 1974 ("Section 109") and implementing federal regulations, **24 CFR §570.602**, issued pursuant to Section 109. No person in the United States shall, on the basis of race, color, national origin, religion or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with community development funds. Section 109 also prohibits discrimination on the basis of age under the Age Discrimination Act and on the basis of disability under Section 504 of the



Rehabilitation Act, which shall apply to programs or activities receiving Federal financial assistance under Title I programs. The policies and procedures necessary to ensure enforcement of Section 109 are codified in 24 CFR Part 6. [24 CFR §570.602]

### SECTION 3

#### Environmental Standards

Contractor understands that it does not assume the environmental responsibilities located at 24 CFR §58. [24 CFR §570.604]

### SECTION 4

#### National Flood Insurance Program

A. If applicable, this Agreement is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234) for areas identified by HUD as having special flood hazards. The use of any funds provided for acquisition or construction in identified areas shall be subject to the Mandatory Purchase of Flood Insurance requirements of section 102(a) of said act.

B. Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared, or improved with assistance provided under this Agreement shall contain, if the land is located in an area identified by HUD as having a special flood hazard, provisions which obligate the transferee and its successors or assigns to obtain and maintain, during the life of the project, flood insurance as required under section 102(a) of the Flood Disaster Protection Act of 1973. These provisions shall be required notwithstanding the fact that the construction on the land is not itself funded with funds provided under this Agreement. [24 CFR § 570.605]

### SECTION 5

#### Displacement, Relocation, Acquisition and Replacement of Housing

Contractor understands that projects funded hereunder are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655), as applicable; and that individuals or businesses that are required to move from real property, permanently or involuntarily as a direct result of rehabilitation, demolition, or acquisition for the project assisted hereunder must be compensated pursuant to the URA. [24 CFR § 570.606]

### SECTION 6

#### Employment and Contracting Opportunities

A. Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (Equal Employment Opportunity)

The Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion sex, or national origin. Contractor will

take affirmative action to ensure applicants are employed, and employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Contractor will send to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided by the City, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor set forth at 41 CFR § 60.
5. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of the U.S. Department of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of the U.S. Department of Labor, or as otherwise provided by law.
7. The Contractor will include provisions similar to paragraph 1 through 7 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of the U.S. Department of Labor, issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon subcontractors or vendors. The Contractor will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the Contractor may request the United States to enter into such litigation to protect the interests of the United States. **[24 CFR § 570.607]**

**B. Section 3 of The Housing And Urban Development Act Of 1968**

1. The Work on the Project to be performed under this Agreement is on a project assisted under a program providing federal financial assistance from the Department of Housing and Urban Development (HUD). Section 3 of the Housing and Urban Development Act of 1968, as amended, (12 U.S.C. 1701u, "Section 3") and implementing regulations at 24 CFR Part 135 apply to the Agreement. Under Section 3, to the greatest extent feasible, for any contract award in excess of \$100,000, the Contractor shall give opportunities for training and employment to lower-income residents of the City and shall award contracts for Work in connection with the Project to business concerns which are located in or owned in substantial part by persons residing in the City.
2. The Contractor will comply with the provisions of Section 3, and all applicable rules and orders of HUD issued thereunder prior to the execution of the Agreement. The Contractor certifies and agrees that there is no contractual or other disability which would prevent compliance with these requirements.
3. The Contractor shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the labor organization or workers' representative of the commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The Contractor will include or have included a Section 3 clause in every subcontract for Work in connection with the Project. The Contractor shall, at the direction of the City, take appropriate action pursuant to any subcontract upon a finding that the subcontractor is in violation of this Section 3 clause. The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135. The Contractor shall not let any subcontract unless the subcontractor has provided the Contractor with a preliminary statement of ability to comply with the requirements of this Section 3 clause.
5. Compliance with the provisions of Section 3, and all applicable rules and orders of HUD issued thereunder prior to the execution of this Agreement shall be a condition of the federal financial assistance provided to the project. These provisions are binding upon the City, its contractors and subcontractors, their successors and assigns. Failure to fulfill these requirements shall subject the City, its contractors and subcontractors, their successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided.
6. The Contractor shall have completed, signed and delivered a Voluntary Compliance Form (provided by the City) to the Director prior to the execution of this Agreement.

**SECTION 7**

**Lead-Based Paint Poisoning Prevention Act**

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856), and the implementing regulations at 24 CFR Part 35, Subparts A, B, J, K and R may apply to activities under the Agreement. **[24 CFR §570.608]**

## SECTION 8

### Use Of Debarred, Suspended, Or Ineligible Contractors or Subrecipients

A. The Contractor shall not employ, award contracts to, or otherwise engage the services of any contractor or subcontractor during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 5 or under the authority of the City.

B. The Contractor shall not use CDBG funds for any contract for the construction, alteration or repair of the project funded under this Agreement with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, that is identified by the Office of the United States Trade Representative as discriminating against U.S. firms in conducting procurement for public works projects. This restriction covers, without limitation, all architectural, engineering and construction services, and includes all products or goods, except construction equipment or vehicles used during the construction, alteration or repair which do not become part of a delivered structure, product or project. [24 CFR § 570.609]

## SECTION 9

### Uniform Administrative Requirements, Cost Principles and Audit Requirements

The Contractor shall comply with 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards", as applicable, and as they relate to the acceptance and use of Federal funds. [24 CFR §570.610]

## SECTION 10

### Conflict of Interest

A. In the procurement of supplies, equipment, construction, and services by the City or a subrecipient, the conflict of interest provisions in 2 CFR Part 200, Subpart D - Post Federal Award Requirements, shall apply.

B. In all cases not governed by 2 CFR Part 200, Subpart D - Post Federal Award Requirements, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient, by its subrecipients, or to individuals, businesses or other private entities under eligible activities which authorize such assistance (e.g. rehabilitation, preservation, and other improvements of private properties or facilities pursuant to §570.202, or grants, loans and other assistance to businesses, individuals and other private entities pursuant to 24 CFR §570.203, § 570.204 or §570.455) or §570.703(l).

1. No persons described in paragraph (ii) (below) who exercise or have exercised any functions or responsibilities with respect to CDBG activities or who are in a position to participate in a decision-making process or gain inside information with regard to CDBG assisted activities, may obtain a personal or financial interest or benefit from, or have any interest in any contract, subcontract, or agreement or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter with respect to the CDBG assisted activity, or with respect to the proceeds of the CDBG assisted activity.

2. The requirements of paragraph (i) apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, of any designated public agency, or subrecipient which receives funds under the CDBG grant. [24 CFR §570.611]

## SECTION 11

### Executive Order 12372

Contractor understands that implementing regulations at 24 CFR Part 52 are applicable to planning or construction of water or sewer facilities only, and that such regulation does not impart any responsibility upon it, rather the regulation imposes the Executive Order Review Process upon the City when funds are proposed for activities subject to review. [24 CFR § 570.612].

## SECTION 12

### Eligibility for Certain Resident Aliens

A. Contractor understands that certain newly legalized aliens, as described in 24 CFR Part 49, are not eligible to apply for benefits under activities meeting the requirements of section 24 CFR § 570.208 (a) that either (1) have income eligibility requirements limiting the benefits exclusively to low and moderate income persons, or (2) are targeted geographically or otherwise to primarily benefit low and moderate income persons (excluding activities serving the public at large, such as sewers, roads, sidewalks, and parks), and that provide benefits to persons on the basis of application.

B. Contractor further understands that this restriction applies to covered activities funded under the Housing and Community Development Act of 1974, as amended; and that "benefits" under this section means financial assistance, public services, jobs, and access to new rehabilitated housing and other facilities made available under covered activities funded by the Community Development Block Grant Program. Benefits do not include relocation services and payments to which displacees are entitled by law. Furthermore, these restrictions apply only to applicants for new benefits not being received by covered resident aliens as of the effective date of this section. Compliance can be accomplished by obtaining certification as provided in 24 CFR § 49.20. [24 CFR § 570.613]

## SECTION 13

### Findings Confidential

All of the reports, information, data, etc., prepared or assembled by the Contractor for purposes of meeting program requirements are confidential and the Contractor agrees that they shall not be made available to any individual or organization, other than an agency of the United States Government, without the prior approval of the City.

## SECTION 14

### Court Actions

The Contractor agrees to give the City immediate notice in writing of any actions or suits

filed and prompt notices of any claims made against the City, the Contractor, or any of the parties involved in the implementation and administration of this Agreement.

## SECTION 15

### Compliance with Clean Air and Water Acts

This Agreement is subject to the requirements of the Clean Air Act, as amended (42 U.S.C. 7400 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.) and the regulations of the Environmental Protection Agency, **40 CFR §15**. In compliance with the regulations, the Contractor agrees that:

1. No facility to be utilized in the project or program is listed on the list of Violating Facilities issued by the U.S. Environmental Protection Agency (EPA) pursuant to **40 CFR §15.20**.
2. The Contractor will comply with all the requirements of section 114 of the Clean Air Act, as amended, (42 U.S.C. 7414) and section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1318) pertaining to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308, and all regulations and guidelines issued thereunder.
3. As a condition for the award of this Agreement, the Contractor shall give prompt notice to the City of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized is under consideration to be listed on the EPA List of Violating Facilities.
4. The Contractor will include or cause to be included the requirements contained in paragraphs 1 through 3 of this clause in every lower-tier nonexempt contract and will take such action as the City may direct as a means of enforcing such provisions.
5. In no event shall any amount of the funds provided under the Agreement be utilized with respect to a facility which has given rise to a conviction under section 113(c)(1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act.

## SECTION 16

### Architectural Barriers Act and The Americans with Disabilities Act

A. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 CFR §40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (Appendix A to 24 CFR Part 40 for residential structures, and Appendix A to 41 CFR Part 101-19, Subpart 10119.6, for general type buildings).

B. The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 25, 1993 that are readily accessible

to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable--that is, easily accomplishable and able to be carried out without much difficulty or expense. [24 CFR § 570.614]

## SECTION 17

### Records for Audit Purposes

Without limitation to any other provision of this Agreement the Contractor shall maintain all records concerning the program or project financed under this Agreement which the City reasonably requires for **five years** from the expiration date of the Agreement unless a longer period is required under **24 CFR §570.502**. The Contractor shall maintain records required by **24 CFR §135.120** for the period that HUD requires the records to be maintained. The Contractor will give the City, HUD, the Comptroller General of United States, the General Accounting Office, or any of their authorized representatives access to and the right to examine, copy, or reproduce all records pertaining to the acquisition and construction of the project and the operation of the program or project. The right to access shall continue as long as the records are required to be maintained.

## SECTION 18

### Audit Requirements

A. Limited Scope Audit - Contractor understands that Non-Federal entities that expend less than \$750,000 a year in Federal awards are exempt from Federal audit requirements for that year, but records must be available to review and audit as described hereinabove at Section 17. Contractor further understands that limited scope audits can and may be required by the City for non-Federal entities that expend less than \$750,000. If the City requires such limited scope audits, same shall be performed in accordance with 2 CFR Part 200, Subpart F - Audit Requirements.

B. Single Audit - Single Audit - Contractor further understands that non-Federal entities that expend \$750,000 or more a year in Federal awards shall have a single audit conducted pursuant to 2 CFR Part 200, Subpart F - Audit Requirements, except when an election is made to have a program specific audit pursuant to and described in 2 CFR 200, Subpart F - Audit Requirements. Once the Contract is executed, Contractor understands that it is barred from considering such audit and must have a single audit conducted as described hereinabove.

## EXHIBIT "M"

### EQUAL OPPORTUNITY CLAUSE

The applicant/Contractor hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this Agreement, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:  
Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor legal duty to furnish information.
- (4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Agreement or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor,



or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government Agreements or federally assisted construction Agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontract or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant/Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement.

The applicant/Contractor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractor and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant/ Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractor and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

## EXHIBIT "N"

### CITY OF HOUSTON HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT MINIMUM PROPERTY STANDARDS FOR

### NEW CONSTRUCTION, RE-CONSTRUCTION OR REHABILITATION FOR SINGLE-FAMILY HOUSING

#### OVERVIEW

The standards contained in this document establish the minimum property standards for new construction, re-construction and rehabilitation under the City of Houston's (COH) Single Family Housing Program that receives assistance through federal funding from U.S. Department of Housing and Urban Development (HUD).

#### APPLICABILITY

These minimum standards apply to single-family housing units that currently receive federal assistance or acquired/developed/rehabilitated using federal assistance.

#### PURPOSE

This document is intended to provide the minimum acceptable standards for existing single household Housing Units rehabilitated or reconstructed in whole with the City of Houston, Housing and Community Development Department. These standards apply to all communities within the incorporated City of Houston. These standards are not intended to reduce or exclude the requirements of any local, county or state building or housing codes, standards, or ordinances that may apply a more stringent requirement. In any case, this standard will serve as the minimal requirement. In addition to these standards all units must comply with the following:

- The International Building Code (IBC) 2006 adopted by the City of Houston or the latest edition of the IBC and any applicable code required by the pertaining Municipality.
- The International Residential Code (IRC) 2000 adopted by the City of Houston or the latest edition of the IRC and any applicable code required by the pertaining Municipality.
- The International Energy Conservation Code (IECC) 2006 adopted by the City of Houston or the latest edition of the Model Energy Code (MEC) and any applicable code required by the pertaining Municipality.
- The Lead Based Paint regulations as described in 24 CFR, Part 35 for units built before 1978.
- HUD 24 C.F.R Part 91 and 92 HOME Investment Partnership Program
- HUD 24 C.F.R Part 91 and 92 HOME Investment Partnership Program: Improving Performance and Accountability; and Updating Property Standards
- The requirements from other governing entities such as Homeowners Associations and Local and Federal regulations pertaining to zoning, traffic, drainage, flood plains and fire prevention (NFPA)

#### I. Preface

The City of Houston's Minimum Housing Rehabilitation / Reconstruction Standards are designed

to include and to expand on the requirements of the HUD Section 8 Housing Quality Standards (HQS) (CDBG funded activities) and the Minimum Property Standards (MPS) (HOME funded activities). Many of the requirements and standards of this document exceed the requirements of the HUD Section 8 Housing Quality Standards and/or the Minimum Property Standards, and are determined necessary to further define the intent or outcome of these standards and to expand on the common definitions of "safe, decent, and sanitary" housing; "non-luxury, suitable amenities" housing; and "good quality, reasonably priced" housing, that is affordable to persons that are low or low and moderate income. These standards are also designed to assist in achieving consistency throughout the City for single-family and Duplex Reconstruction activities funded with the Federal and State Funds.

Through the City of Houston Minimum Housing Rehabilitation / Reconstruction Standards, "sustainable design" principles have been incorporated, intended to minimize negative environmental impacts and to promote the health and comfort of the occupants of housing reconstructed to these standards. Included herein are measures to reduce consumption of non-renewable resources, minimize waste, and to create healthy productive environments. Standard measures have been incorporated herein relating to energy conservation, energy efficiency, water conservation, and indoor air quality.

Whenever possible and practical, contractors are encouraged to specify materials or products that are made from recycled materials (such as crushed concrete, carpeting or flooring made from recycled materials, etc.) or specify materials and products produced from rapidly renewable materials (such as cork or bamboo). To the extent possible and practical, avoid using products from non-renewable resources (such as vinyl siding, windows and flooring; asphalt roofing materials; etc.).

All components, systems and equipment of a dwelling referenced in this document shall be in good working order and condition and be capable of being used for the purpose in which they were intended and/or designed. Components, systems and/or equipment that are not in good working order and condition shall be repaired or replaced. When installing such items (systems, components or equipment), the items must conform to these standards. These standards also will take into account any extraordinary circumstances of the occupants of the dwelling (e.g., physical disabilities) and reflect a means to address such circumstances for that dwelling.

All interior ceilings, walls and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing components or other serious damage. The roof must be structurally sound and weather resistant. All exterior walls (including foundation walls) must not have any serious defects such as leaning, buckling, sagging, large holes, or defects that may result in the structure not being weather-resistant or that may result in air infiltration or vermin infestation. The condition of all interior and exterior stairs, halls, porches, walkways, etc. must not present a danger of tripping or falling.

## II. Definitions

- A. **Egress** – A permanent and unobstructed means of exiting from the dwelling in an emergency escape or rescue situation.
- B. **Habitable Space (Room)** – Space (rooms) within the dwelling for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas (rooms) are not considered habitable spaces (rooms).

- C. **Energy Star Rated** – Includes all systems, components, equipment, fixtures and appliances that meet strict energy efficiency performance criteria established, as a joint effort, by the federal Environmental Protection Agency, the U.S. Department of Energy and the U.S. Department of Housing and Urban Development and that carry the Energy Star label as evidence of meeting this criterion.
- D. **FAIR HOUSING ACT (24CFR§100.25)** — Federal law that prohibits discrimination by direct providers of housing, such as landlords and real estate companies as well as other entities, such as municipalities, banks or other lending institutions and insurance companies whose discriminatory practices make housing unavailable to persons because of race or color, religion, sex, national origin, family status or disability.
- E. **GROUND COVER** — Suitable material applied to the ground to prevent erosion of the soil and includes concrete, flagstone, gravel, asphalt, grass or other form of landscaping.
- F. **MINIMUM PROPERTY STANDARDS (MPS)** — The standards for the maintenance and occupancy prescribed for a single-family property. Using these standards as a baseline for monitoring, a housing inspector identifies the physical deficiencies of a property and Housing Unit that need to be repaired.
- G. **PEST**— Any mouse, rat, bed bug, flea, wasp, hornet or cockroach, but does not include and domesticated mouse or rat.
- H. **REPAIR** — Includes the provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a property conforms to the standards established in a by-law passed under this section. All repairs shall be made in a good workmanlike manner with materials that are suitable and sufficient for the purpose and free from defects. The requirement that repairs be made in a "good workmanlike manner" includes, ensuring the component repaired can perform its intended function and finishing the repair in a manner reasonably compatible in design and color with adjoining decorative finishing materials. Repairs shall be made with "materials that are suitable and sufficient for the purpose" includes a requirement for materials reasonably compatible in design and color with adjoining decorative finishing materials.
- I. **SEWAGE SYSTEM** — The City sanitary sewer system or a private sewage disposal system approved by the City.
- J. **SPECIFICATIONS** — Sometimes referred to as "written rehabilitation standards" or "specs," that identify the minimum acceptable grades and types of materials to be used and to provide the basis for how materials and equipment shall be installed.
- K. **WORKMANSHIP** — refers to the quality of the work performed by a craftsman.

### III. Minimum Standards for Basic Equipment and Facilities

- A. **Kitchens** – Every dwelling shall have a kitchen room or kitchenette equipped with the following:

1. **Kitchen Sink.** The dwelling shall have a kitchen sink, connected to both hot and cold potable water supply lines under pressure and to the sanitary sewer waste line. When installing such components, water supply shut off valves shall be installed. A minimum sink depth of 10", sink strainers, and food disposal shall be used in each dwelling.
2. **Oven and Stove or Range.** The dwelling shall contain a stove and vent hood (and/or microwave oven-vent hood combo), gas with electrical option, in good working order and capable of supplying the service for which it is intended.
3. **Refrigerator.** The dwelling shall contain a refrigerator, connected to the power supply, in good working order and capable of supplying the service for which it is intended. Minimum of 18Cu.ft capacity.
4. **Counter Space Area.** Every kitchen or kitchenette shall have a minimum storage area of eight (8) square feet with a minimum vertical clearance of twelve inches (12") and a minimum width of twelve inches (12"). Every kitchen or kitchenette shall have a minimum of four (4) square feet of counter space.

**B. Toilet Room:** Every dwelling shall contain a room which is equipped with a flush toilet and a lavatory. The flush water closet shall be connected to the cold potable water supply, under pressure, and to the sanitary sewer. The lavatory shall be connected to both a hot and cold potable water supply, under pressure, and connected to the sanitary sewer. When installing such components, water supply shut off valves shall be installed. When installing toilets, these will have a flush valve that use less than or equal to 1.6 gallons per flush. Toilet throat size will be no less than 2 inches and glazed smooth.

**C. Bath Required:** Every dwelling shall contain a bathtub and/or shower.

1. The bathtub and/or shower unit(s) need not be located in the same room as the flush water closet and lavatory. The bathtub and/or shower unit may be located in a separate room.
2. The bathtub and/or shower unit shall be connected to both hot and cold potable water supply lines, under pressure, and shall be connected to the sanitary sewer. All shower heads must be equal to or less than 2.0 (GPM) water flow. Shut off valves shall be installed on the water supply lines. All faucets shall be water balancing scald guard type faucets.

**D. Privacy in Room(s) Containing Toilet and/or Bath:** Every toilet room and/or every bathroom (the room or rooms containing the bathtub and/or shower unit) shall be contained in a room or rooms that afford privacy to a person with said room or rooms.

1. Every toilet room and/or bathroom shall have doors equipped with a privacy lock or latch in good working order.

**E. Hot Water Supply:** Every dwelling shall have supplied water-heating equipment (water heater and hot water supply lines) that is free of leaks, connected to the source of fuel or power, and is capable of heating water to be drawn for general usage. New construction shall have a gas connection.

1. No water heaters (except point-of-use water heaters) shall be allowed in the toilet rooms or bathrooms, bedrooms or sleeping rooms. No gas water heaters shall be allowed in a clothes closet(s).
2. All gas water heaters shall be vented in a safe manner to a chimney or flue leading to the exterior of the dwelling. Unlined brick chimneys must have a metal B-vent liner installed to meet manufacturer's venting requirements. Size of the B-vent is critical for proper venting. Install according to manufacturer's recommendations.
3. All water heaters shall be equipped with a pressure/temperature relief valve possessing a full-sized (non-reduced) rigid copper or steel discharge pipe to within six (6) inches of the floor. The steel discharge pipe shall not be threaded at the discharge end.
4. All water heaters must be installed to manufacturer's installation specifications.
5. All water heaters shall have internal foam insulation that is a minimum of R10. Gas water heaters shall have an EF rating of .62 or higher and a recovery efficiency of .75 or better and/or meet Energy Star requirements at the time of installation. Electric water heaters shall be Energy Star Rated.
6. Where feasible, tank-less water heaters may be installed in accordance with manufacturer's guidelines and sized to provide adequate hot water supply to all fixtures. Gas supply lines and or electrical capacity must be evaluated before installing tank-less water heaters. Before installing, careful consideration should be made regarding supply and water temperature to owners.

**F. Exits:** Every exit from every dwelling shall comply with the following requirements:

1. Every habitable room shall have two (2) independent and unobstructed means of egress. This is normally achieved through an entrance door and an egress window.
2. All above grade egress windows from habitable rooms shall have a net clear opening of 5.7 square feet. The minimum net clear opening width dimension shall not be less than twenty inches (20") wide, and the minimum net clear opening height dimension shall not be less than twenty-four inches (24") wide. Note that the combination of minimum window width and minimum window height opening size does not meet the 5.7 square feet requirements. Therefore, the window size will need to be greater than the minimum opening sizes in either width or height. Where windows are provided as a means of escape or rescue, they shall have a finished sill height of not more than forty-four inches (44") above the floor. Egress windows with a finished sill height of more than forty-four inches (44") shall have a permanently installed step platform that follows stair construction standards. All at grade egress windows from habitable rooms may be reduced in size to 5.0 square feet of operable window area, but the area must meet the minimum width and/or and height requirement restrictions of all egress windows.

**G. Stairs:** Stairs shall conform to the requirement of 2006 IRC. All newly constructed stairs (interior and exterior stairways) shall comply with the following requirements:

1. All stairways and steps of three (3) or more risers shall have at least one (1) handrail. All stairways and steps which are five (5) feet or more in width shall have a handrail on each side.
2. All handrails shall be installed not less than thirty-four inches (34") nor more than thirty-eight inches (38"), measured plumb, above the nosing of the stair treads. Handrails adjacent to a wall shall have a space of not less than one and one-half inches (1 1/2") between the wall and the handrail. All handrails shall be turned back into the wall on railing ends. The size of a round railing must be a minimum of 1.25 inches, but not more than 2 inches. Railings must be continuous from the top riser to the bottom riser.
3. Porches, balconies or raised floor surfaces, including stairway riser and/or landing, located more than thirty (30) inches above the floor or the grade, shall have guardrails installed that are not less than thirty-six inches (36") in height. Open guardrails and stair railings shall have intermediate rails or ornamental pattern such that a sphere four inches (4") in diameter cannot pass through.
4. All stairs and steps shall have a riser height of not more than eight inches (8") and a tread depth of not less than nine inches (9"). All newly constructed stairs shall have a riser height of not more than seven and three quarters (7 3/4") and a tread depth of not less than ten inches (10"). Risers and treads cannot be different in size by more than 3/8 of an inch from the top to the bottom of the stairs.

**H. Walk ways & Entry:** All walkways and entry points to the dwelling structure shall be a minimum of thirty-six inches wide (36") with an access point from the driveway to the dwelling entrance and/or an access point to the road.

**I. Smoke Detectors:** All smoke detectors shall be hard-wired with battery back-up and interconnected with all other alarms. There shall be a minimum of one (1) smoke detector per floor (including the basement) and a smoke detector shall be located adjacent to all bedrooms/sleeping rooms and adjacent to the central heating source. A smoke detector shall be installed in each sleeping room. All smoke detectors shall be installed per manufacturer's installation instructions.

**J. Carbon Monoxide Detectors:** Where a heating system source, other than solid fuel burning appliances (e.g., wood stoves), and/or water heater that burns solid, liquid or gaseous fuels is located horizontally adjacent to any habitable room, a hard-wired with battery back-up carbon monoxide detector is required and is to be installed per the manufacturer's instructions. Any dwelling that has a fuel source heating system (not electric), other solid fuel burning appliances (e.g., wood stoves, pellet, or corn stoves), and/or fuel source water heater (not electric), a hard-wired with battery back-up combination smoke alarm/carbon monoxide detector is required to be installed per the manufacturer's instructions on the main living area floor.

#### **IV. Minimum Standards for Ventilation**

**A.** In general, sufficient ventilation shall be present to ensure adequate air circulation in the dwelling.

**B.** Every habitable room shall have at least one (1) exterior operable window. All operable

windows shall be capable of being easily opened and held in an open position by window hardware. All operable exterior windows shall be provided with screens. Half screens on windows are allowable.

**C.** Bathrooms, including toilet rooms, shall be provided with a mechanical means of ventilation that is rated at 50 CFM or greater or a window to serve as ventilation. Fans shall be ducted to the outside of the dwelling. All bathroom fans will be installed on a separate switch from the light.

**D. Attic Ventilation:**

1. When using roof vents without soffit vents and without a ceiling vapor barrier, sufficient vents shall be used to provide one square foot of free vent area for each one hundred fifty (150) square feet of ceiling area.
2. When using roof vents without soffit vents with a ceiling vapor barrier, sufficient vents shall be used to provide one square foot of free vent area for each three hundred (300) square feet of ceiling area.
3. When using a combination of roof and soffit vents and no ceiling vapor barrier, sufficient vents shall be used to provide one square foot of free vent area for each three hundred (300) square feet of ceiling area. Vents shall be installed with no less than fifty percent (50%), and no more than eighty percent (80%) of the total vent area in the roof near the peak with the balance of vents in the soffit.
4. To conserve energy, power roof ventilation systems will be used only as a method of last resort. Roof ventilation should be accomplished through correctly sized gable vents, ridge vents, and/or roof pod ventilation systems, and soffit vents.

**V. Minimum Standards for Electrical Service**

**A. Minimum Electrical Service:**

1. Every Housing Unit, at a minimum, shall have a 150 ampere breaker w/ 12- wiring controlled electrical panel. All electrical work shall be in compliance with adopted electrical code requirements in accordance with any local, county or state requirements having jurisdiction. The panel, service mast, etc. shall also be installed to local utility company requirements.

**B. Convenience Outlets:**

1. Every habitable room within the dwelling shall contain at least two (2) separate duplex, wall-type electrical outlets. Placement of such outlets shall be on separate walls. All newly installed receptacles shall be grounded duplex receptacles or GFCI protected.
2. All electrical outlets used in bathrooms and toilet rooms, all outlets within six foot (6'-0") of a water source (excluding designated simplex equipment circuits for clothes washing machines and sump pumps), outlets located on open porches or breezeways,



exterior outlets, outlets located in garages and in non-habitable basements, except those electrical outlets that are dedicated appliance outlets. All kitchen receptacles serving the countertop area shall be ground fault circuit interrupter (GFCI) protected. All exterior receptacles shall be covered by a receptacle cover that when a cord is plugged in, the GFCI outlet will stay covered and protected.

3. All electrical outlets carrying heavy appliance loads (i.e., window air conditioning units, central air-conditioning units where they exist, refrigerators, freezers, electric stoves, microwaves, clothes washing machines, dish washing machines, electric clothes dryers, furnaces, etc.) shall be simplex receptacles on a separate circuit of the proper amperage and wire size.
4. Every habitable room within such dwelling shall contain:
  - a. at a minimum, 2 separate and remote wall type electric convenience outlets. Habitable rooms over 120 square feet, shall contain,
  - b. at a minimum, 3 separate and remote wall type electric convenience outlets. All newly installed outlets shall be grounded type outlets.
  - c. Temporary wiring or extension cords shall not be used as permanent wiring.
  - d. Minimum wiring shall be 12-2 romex.
5. All fixtures and wiring shall be adequately installed to ensure safety from fire so far as visible components are observed.
6. Each receptacle or switch located on an exterior wall shall have a foam seal placed under the cover.

**C. Lighting:**

1. Every habitable room and every bathroom (including toilet room), laundry room, furnace or utility room, and hallway shall have at least one (1) ceiling or wall-type electric light fixture, controlled by a remote wall switch. Habitable rooms (except kitchens or kitchenettes) may have a wall-type electrical outlet controlled by a remote wall switch in lieu of a ceiling or wall-type light fixture. Energy efficient fixtures that meet energy star ratings and compact florescent bulbs shall be installed in all new fixture installations.
2. Basements with no habitable rooms shall have a light illuminating the stairs with a switch controlling the light located at the top of the stairs. Basements with habitable rooms shall have at least one light fixture controlled by a remote wall switch at the top and bottom of the stairs. Energy Star rated fixtures shall be installed with compact florescent bulbs.
3. Porcelain type fixtures with pull chains are acceptable for use in basements (except for the one controlled by a remote wall switch) cellars, and attics.
4. All closet lights shall be covered.

## VI. Minimum Standards for Heating Systems

**A. Heating System:** All heating systems shall be capable of safely and adequately heating for all living space.

**B. Cooling System:** All central air-conditioning systems shall be capable of safely and adequately cooling for all living space.

### **C. Requirements for Heating and or Cooling Systems:**

1. Every heating system burning solid, liquid or gaseous fuels shall be vented in a safe manner to a chimney or flue leading to the exterior of the dwelling. The heating system chimney and/or flue shall be of such design to assure proper draft and shall be adequately supported.
2. No heating system source burning solid, liquid or gaseous fuels shall be located in any habitable room, bathroom, toilet room, storage closet, and sealed attic space.
3. Every fuel burning appliance (solid, liquid or gaseous fuels) shall have adequate combustion air and ventilation air. All solid and liquid furnaces will have sealed combustion with combustion air brought in from the exterior of the house and installed in accordance with manufacturer's guidelines. Combustion air for gas furnaces shall be in accordance with 2006 IRC. 2006 IRC allows combustion air from inside of building as well for gas furnaces.
4. Every heat duct, steam pipe and hot water pipe shall be free of leaks and shall function such that an adequate amount of heat is delivered where intended. All duct joints must be sealed with mastic or any other acceptable product. All ductwork must be sealed. All steam piping and hot water piping must be installed with an approved material.
5. Every seal between any of the sections of the heating source(s) shall be airtight so that noxious gases and fumes will not escape into the dwelling.
6. No space heater shall be of a portable type.
7. Minimum requirements for forced air furnaces, when installed, will be no less than a 92% AFUE, or the minimum AFUE, if greater than 92%, to obtain a local utility rebate (Energy Star rated for Southern climates). Also install a digital programmable thermostat. Condensate lines will drain to a floor drain or have a condensate pump installed and piped to discharge. All furnace duct work shall be equipped with an air filter clean out location that has a tight-fitting cover installed over it.
8. All boilers will have an "A" rating and be no less than 87% AFUE rating. All combustion air will be from the exterior of the house. The addition of zone valves may be useful to reduce energy cost. Heat lines shall be insulated with approved material. Programmable thermostats will be installed.
9. A/C units shall not be less than 18 SEERS or the lowest SEER rating that is available at the time of installation but not less than 18 SEER. All units shall be installed, when possible, on either the north or east side of the dwelling or in an area that will provide shade for the unit. The correct coil will be installed that is compatible with both the

furnace and A/C unit. The unit shall be a Trane, Carrier, Amnana, or Lenox.

10. Venting and combustion air must be installed in accordance with manufacturer's requirements.
11. The installation of Energy Star rated ceiling fans shall be installed in general living areas (living room and all bed rooms). Fans must be installed to manufacturer's requirements.

## VII. Energy Conservation

A. All structures shall comply with certain energy conservation measures (U.S. Department of Energy recommendations). These measures include, but are not necessarily limited to, the following:

1. The provision of insulation at various locations and at the following recommended resistance factors (r-values). Insulation shall be primarily made from fiber glass when available.
  - a) Ceilings – R-30 or as close as possible to these requirements where sloped ceilings exist.
  - b) Walls - R-13
  - c) Crawl Spaces (floors or walls) – R-19
  - d) Band Joists – R-19
  - e) Close cell Foam (Manufacture specification to meet R Value or Noise Values)
2. Exterior walls are to be provided with insulation and the minimum R factor shall be R-19 or R-13 plus R-5 foam. In addition, an air infiltration barrier, such as Tyvek or approved equal, shall be installed on all exterior walls. The installation of fan-fold foam or foam sheathing may be added to increase household R-ratings.
3. When siding is being replaced and/or interior wall finishes of exterior walls are being replaced on a dwelling, such exterior walls are to be provided with insulation and at the recommended resistance factor (r-value) of R13, or that which is allowed by the stud cavity space. In addition, an air infiltration barrier, such as Tyvek or approved equal, shall be installed on all exterior walls.
4. The installation of fan-fold foam or foam sheathing may be added to increase household R-ratings.
5. The installation of weather stripping at all exterior doors, windows, ground entry basement doors, etc. is required. Doors shall be a metal clad insulated door (energy star rated for Southern climates). Storm doors are encouraged, but not required. Door jams will be sealed, and thresholds will be caulked.
6. The provision of caulking around exterior doors and windows, at the foundation/sill plate union, and at other air infiltration areas.
7. Windows must be current Energy Star rated for Southern climate to obtain local window rebates. All windows will have the window jamb sealed. Where Historic

Preservation requirements will restrict the installation of vinyl or aluminum windows, the specifications will be written to come as close as possible to achieving Energy Star requirements. In these such cases where the restrain exist, all rope weight openings will be insulated, and all windows will have the window jamb sealed.

8. All heat ducts and hot water or steam heat distribution piping shall be insulated or otherwise protected from heat loss where such ducts or piping runs are located in unheated spaces. Similarly, distribution piping for general use hot water shall also be protected from heat loss where such piping is located in unheated spaces. All water distribution piping shall be protected from freezing.
9. Attic access passage ways (scuttle holes) shall be no less than 22" by 30" Scuttle holes shall extend up a minimum 14 inches above the ceiling. Weather stripping shall be installed at the top of this 14-inch scuttle hole extension and shall be covered with ¾ inch plywood or OSB covered by 2-inch, R-10, foam. The gypsum opening on the ceiling will also be weather stripped and covered with 4 inches of foam. Both doors will be made to sit tight against the weather stripping.
10. Attic stairs units shall be an insulated manufactures design with weather stripping around the perimeter. Also, ladder design shall be a minimum capacity rating of 300lbs.

## **VIII. Minimum Standards for the Interiors of Structures**

### **A. Interior Walls, Floors, Ceilings, Doors and Windows:**

1. All interior walls, floors, ceilings, doors and windows shall be capable of being kept in a clean and sanitary condition by the owner.
2. Every bathroom and/or toilet room, kitchen or kitchenette, and utility room floor surface shall be constructed such that they are impervious to water and can easily be kept in a clean and sanitary condition by the owner.
3. All interior doors shall be capable of affording the privacy for which they are intended.
4. The dwelling must have at least one bedroom or living/sleeping room for each two persons. Children of the opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.
5. No dwelling containing two or more bedrooms shall have a room arrangement that access to a bathroom, toilet room, or a bedroom can be achieved only by going through another bathroom, toilet room, or another bedroom.
6. All bedrooms shall be a minimum of ten feet (10'0) by nine feet (9'0) in size or 90 square feet.
7. All paints, stains, varnishes, lacquers and other finishes shall be durable with EPA acceptable levels of VOCs or no VOC paint finishes and installed as required by the manufacture. Minimum Satin finish on all walls and ceilings.

8. Every occupant of every Housing Unit shall have unrestricted access to a toilet, to a bath, and to a kitchen sink and lavatory basin located within that Housing Unit. No dwelling or Housing Unit containing (2) or more sleeping rooms shall have such room arrangement that access to a bathroom or toilet room intended for use by the occupants can be had only by going through another sleeping room or bathroom or toilet room.
9. Carpets shall have a good quality underlay, be clean, of reasonable quality and free from all defects such as excessive wear, loose seams, and tainting, bare patches and so on. Carpeting in bathrooms is generally not considered an appropriate floor material.
10. Floor covering in bathroom and kitchen areas shall be vinyl type or tile and shall be free from defects. Floor finishes shall be slip resistant when wet and shall be sealed around their edges with silicone sealant. Any flooring material that permits water to seep into the sub floor is unacceptable.

## **IX. Minimum Standards for the Exterior of Structures**

### **A. Texas Government Code Section 2306.514. Construction Requirements for Single Family Affordable Housing**

#### **§ 2306.514. CONSTRUCTION REQUIREMENTS FOR SINGLE FAMILY AFFORDABLE HOUSING.**

- (a) If a person is awarded state or federal funds by the State of Texas to construct single family affordable housing for individuals and families of low and very low income, the affordable housing identified on the person's funding application must be constructed so that:
  - (1) at least one entrance door, whether located at the front, side, or back of the building:
    - (A) is on an accessible route served by a ramp or no-step entrance; and (B) has at least a standard 36-inch door;
  - (2) on the first floor of the building:
    - (A) each interior door is at least a standard 32-inch door, unless the door provides access only to a closet of less than 15 square feet in area;
    - (B) each hallway has a width of at least 36 inches and is level, with ramped or beveled changes at each door threshold;
    - (C) each bathroom wall is reinforced for potential installation of grab bars;
    - (D) each electrical panel or breaker box, light switch, or thermostat is not higher than 48 inches above the floor; and
    - (E) each electrical plug or other receptacle is at least 15 inches above the floor; and
  - (3) each breaker box is located inside the building on the first floor.
    - (A) A person who builds single family affordable housing to which this section applies may obtain a waiver from the department of the requirement described by Subsection (a)(1)(A) if the cost of grading the terrain to meet the requirement is prohibitively expensive.

Added by Acts 1999, 76th Leg., ch. 1581, § 1, eff. Sept. 1, 1999.  
*Last modified: August 10, 2007*

**B. Foundations, Exterior Walls, Roofs, Soffits and Fascia:**

1. Every foundation, exterior wall, roof, soffit and fascia shall be made weather resistant. Products for exterior walls, roofs, soffits, and fascia shall be installed in accordance with the manufacturer's guidelines.
2. The content of fly ash in the concrete that are exposed to weather shall be controlled to the extent that no rust stains or dark spotting will appear year years after installation. Concrete shall be a minimum 3000 PSI with a 28-day cure.
3. if noise attenuation is requiring, the dwelling must meet the federal requirement not to exceed more than 45db for interior sound. There must be a Noise Certification or Sound Testing performed if noise attenuation is required.
4. Roofing shall be installed in accordance with the manufacturer's requirements. When installing asphalt or fiberglass shingles, a minimum of a 25-year shingle shall be used. Other products such as metal roofing may be considered.
5. All wall studs, ceiling joist, and rafters shall be a minimum of #2 SYP or Douglas Fir. No finger joint material will be allowed. Stud walls and rafters shall be 16" O.K. All roof decking shall be CDX plywood or better.
6. All exterior wall finishes and columns shall be brick veneer.
7. All areas around the housing structure shall have sod at least 20 feet from slab to the left, right and rear of house and front full sod. Note: The final grade must have proper slopes away from house with a minimum 6" slab exposure and must be level with all flat work at a minimum.
8. Minimum of 2 trees with a caliper of 2" diameter is required.
9. Siding, soffit, and fascia shall be fiber cement siding manufactured by James Hardie Siding or Centainteed Siding.
10. Lead roof jacks shall be used on all plumbing vents and noncorrosive metal on all others.
11. Full continuous ridge vents and/or air hawks if insufficient length of ridge for square footage of air movement. (See 2006 IRC requirements.)

**C. Drainage:**

1. All rainwater shall be conveyed and drained away from every roof so as not to cause wetness or dampness in the structure. No roof drainage systems shall be connected to a sanitary sewer.
2. The ground around the dwelling shall be sloped away from foundation walls to divert water away from the structure.
3. If present, all rainwater draining devices such as gutters and downspouts shall be kept

in a state of maintenance and repair.

4. Nowhere on the property shall there be standing water that causes a public health hazard. Run off shall not encroach on adjacent property to create a hazard or drainage issue.
5. All of the property shall have a minimum drainage to drain water from the swell of the house. The rear should drain to the sides and the sides to the front; or to the rear when feasible with proper ditches or retention.
6. If feasible, the collection of roof water is encouraged.

**D. Windows, Exterior Doors and Egress (Including Cellar Hatchways):**

1. Every window, exterior door, basement entry and cellar hatchway shall be tight fitting within their frames, be pest, rodent-proof, insect-proof and be weatherproof such that water and surface drainage is prevented from entering the dwelling. In addition, the following requirements shall also be met:
  - a. All exterior doors and windows shall be equipped with security locks.
  - b. Every window sash shall be fully equipped with glass window panes which are without cracks or holes. Every window sash shall use Energy Star rated for Southern climate windows. Every window sash shall fit tightly within its frame and be secured in a manner consistent with the window design. All window jambs will be sealed. Energy Star rated for Southern climate.
  - c. Storm doors, when installed, shall also be equipped with a self-closing device.
  - d. Every exterior door, when closed, shall fit properly within its frame and shall have door hinges and security locks or latches. All exterior doors will be no less than metal clad insulated (foam filled) doors. All jambs shall to be painted and sealed. Thresholds will be zero step entry clearance and sealed.
  - e. Every exterior door shall be not less than thirty-two inches (2'8") in width and not less than six foot-six inches (6'-6") in height. At least one exterior door shall not be less than 36 inches wide and no less than 6'-8" high.

**X. Minimum Space, Use and Location Requirements**

**A.** No main floor habitable room in a dwelling shall have a ceiling height of less than eight feet (8'). At least one-half of the floor area of every habitable room located above the first floor shall have a minimum ceiling height of eight feet (8'). The floor area of any room where the ceiling height is less than four feet in height shall not be considered floor area in computing the total floor area of the room.

**B.** A minimum ceiling height of eight feet (8') is acceptable in bathrooms, toilet rooms, habitable basement space, and hallways.

C. All habitable rooms, except kitchens and/or kitchenettes, shall have a minimum width of seven feet (7').

D. Single bedrooms shall be at least 100 square feet in area with the room having a minimum dimension on one side of 8'-0". Bedrooms accessed off another bedroom shall not count as a separate room.

E. Living rooms shall be at least 80 square feet in area and large enough to comfortably contain a sofa, 2 armchairs and a television. Rooms of less than 50 square feet cannot be used as living rooms or bedrooms.

F. All bedrooms must have access to closets for storage of clothing. On existing housing, closets in adjoining hall areas are acceptable.

G. **Lot Dimensions.** Land use shall follow all City, State and Federal requirements.

1. All lot shall be a minimum of forty feet (40') by one hundred feet (100') or 4000 square feet in size. Exceptions will be reviewed on a case by case basis with approval by the Director.
2. Lot use and structure will conform to neighborhood esthetics.
3. All new construction Housing Units will have a minimum of 3 bedrooms. The Director has discretion to require more bedrooms in design.

## **XI. Minimum Standards for Plumbing Systems**

A. All dwelling plumbing systems shall be capable of safely and adequately providing a water supply and wastewater disposal for all plumbing fixtures. Every dwelling plumbing system shall comply with the following requirements.

1. All plumbing systems and plumbing system components shall be free of leaks. Any type of pipe allowed by the plumbing code shall be allowed in accordance with any local, county or state requirements having jurisdiction.
2. All plumbing system piping shall be of adequate size to deliver water to plumbing fixtures and to convey wastewater from plumbing fixtures (including proper slope of wastewater piping (as designed by the fixture manufacturer). CPVC, Cooper, PEX or equivalent pipes shall be used for water distribution. Steel pipe shall be used for gas distribution.
3. All plumbing fixtures shall be in good condition, free of cracks and defects, and capable of being used for the purpose in which they were intended.
4. The plumbing system shall be vented in a manner that allows the wastewater system to function at atmospheric pressure and prevents the siphoning of water from fixtures. Venting by mechanical vents is accepted as an alternative to exterior atmospheric venting.



5. All fixtures that discharge wastewater shall contain, or be discharged through, a trap that prevents the entry of sewer gas into the dwelling.
6. All plumbing system piping and fixtures shall be installed in a manner that prevents the system, or any component of the system, from freezing.
7. All plumbing fixtures and water connections shall be installed in such a way as to prevent the backflow of water from the system into the plumbing system's water source.
8. All faucets shall have aerators that restrict water flow to about 2 GPM. Toilets shall only use 1.6 gallons per flush, or less.
9. Valves shall be installed with the valve in the upright position. When replacing valves, the use of a full port ball-valve shall be encouraged.

## **XII. Minimum Standards for Potable Water Supply**

- A. Every dwelling shall be connected to an approved (by the jurisdiction having authority) potable water source.
- B. All potable water fixtures and equipment shall be installed in such a manner as to make it impossible for used, unclean, polluted or contaminated water, mixtures or substances to enter any portion of the potable water system piping. All equipment and fixtures shall be installed with air gaps (traps) to prevent back siphon age. All outlets with hose threads (except those serving a clothes washing machine) shall have a vacuum breaker for use with the application. No water piping supplied by a private water supply system shall be connected to any other source of water supply without the approval of the jurisdiction having authority over the installation.
- C. All unused wells on the property shall be abandoned and plugged in accordance with any city or state requirements having jurisdiction. All cisterns shall be drained and filled, and if applicable, in accordance with any city or state requirements having jurisdiction.

## **XIII. Minimum Standards for Connection to Sanitary Sewer**

- A. Every dwelling shall be connected to an approved (by the jurisdiction having authority) sanitary sewer system or properly operating septic a system.

## **XIX. Rights to Alter Design**

- A. The City of Houston reserves the right to alter plans to accommodate site specific design or elements to accommodate end user for accessibility or program requirements.

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**EXHIBIT "O"**

**COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (CDBG-DR)  
HARVEY HOMEOWNER ASSISTANCE (HOAP) GUIDELINES**



# **City of Houston Build It Forward Housing Recovery Program**

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## **Harvey Homeowner Assistance Program(HoAP) Guidelines**

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January 4, 2018

City of Houston  
Housing and Community Development Department

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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 in community amenities, economic engines, and resilience activities. We will use data to design and evaluate the success of our programs, and will be transparent about how the recovery is unfolding. Recovery from Hurricane Harvey presents a historic opportunity to build forward into a Houston that’s stronger than ever before.*

## HoAP Program Administration

The Harvey Homeowner Assistance Program (HoAP) is intended to assist eligible City of Houston (City) applicants whose residences were directly impacted by Hurricane Harvey. 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). Of this \$5 billion allocation, the City of Houston (City) has received a direct allocation from the GLO of \$1,175,954,338 for development and implementation of programs that directly benefit the residents of the City of Houston. HUD outlined the allocations and applicable waivers and alternative requirements in Federal Register Notices published on February 9, 2018 (83 FR 5844). Subsequent publications of waivers and alternative requirements can be found in the table below under Applicable Laws & Regulations.

The City’s Housing and Community Development Department’s (HCDD) goal and objective is to provide housing programs that will preserve and expand the housing stock while creating sanitary, safe, energy efficient housing, and a resilient community. HCDD’s objectives also include prioritizing elderly and disabled households, households in which members are under the age of 18, and households at or below 50% area median income while affirmatively furthering fair housing. The City of Houston also places an emphasis on housing choices and designs that reduce maintenance and insurance costs as well as provide independent living options. The focus of the program is to fulfill an unmet housing need for extremely low-, low- and moderate-income applicants. The program will also secure housing by bringing existing units into compliance with applicable health and safety codes or by replacing those existing structures that cannot be repaired because of structural or economic barriers.

The City of Houston will administer its Homeowner Assistance Program in accordance with these Harvey Housing Guidelines, 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 and program components

(reimbursement, rehabilitation, reconstruction, demolition, acquisition and interim mortgage assistance) if doing so would better serve the affected communities and their residents.

The City of Houston reserves the sole discretion of interpreting and applying these Harvey Housing Guidelines, except for those items where GLO or HUD has indicated that their prior approval is required for implementation. HCDD will utilize administrative procedures to implement the programs and modify them to meet any changes made to such rules and regulations of the oversight entities, which may occur over time. At all times, should any conflict in these procedures exist with the applicable funding resource, the requirements of the funding source shall take precedence, other than "local preferences" that are allowable under federal regulations.

Daily administration of the programs will be under the direct supervision of the Director of HCDD or his designee. Intake Specialists will be responsible for accepting applications during the intake process through the HCDD Outreach and Intake contractor. Further processes, such as eligibility; duplication of benefits review; inspection and environmental protocols; award determination; builder assignment; construction; and completion, will be administered and implemented by HCDD staff, the Master Program Manager and the selected Construction Managers. The HCDD Finance Division will authorize payments to contractors after review and validation of submitted invoice packages by HCDD and the Master Program Manager.

## CDBG-DR National Objectives

In support of the U.S. Department of Housing and Urban Development's (HUD) recovery objectives, the City of Houston has specifically designed its storm recovery programs to help impacted residents and communities recover from damage inflicted by Hurricane Harvey. As expressed in the Federal Housing and Community Development Act, the primary objective of the general Community Development Block Grant (CDBG) program is "the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-and moderate -income (LMI)." Community Development Block Grant – Disaster Recovery funding appropriated in response to disasters must meet the general goals of the CDBG program.

All CDBG-DR funded activities through the City of Houston HoAP must meet at least one of the three National Objectives defined in the authorizing statute of the CDBG program:

- Benefiting Low- and Moderate-Income Persons (LMI) (80% of Area Median Income)
- Preventing or Eliminating Slum or Blight (SB) through buyout or acquisition with demolition

- Meeting an Urgent Need (UN) by providing housing assistance to applicants making in excess of 80 percent of the area median income (AMI)

All activities funded through the City of Houston HoAP, unless the requirement is waived by HUD, are required to meet one of the National Objectives. The City must document how each program and/or activity funded under Urgent Need responds to a disaster-related impact as noted in 24 C.F.R. § 570.208(c).

## Applicable Laws & Regulations

Public Laws	Federal Register (FR)	Date of Publication	Location
P.L. 115- 56	83 FR 5844, Vol. 83, No. 28	02/09/2018	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-02-09/pdf/2018-02693.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-02-09/pdf/2018-02693.pdf</a>
P.L. 115- 123	83 FR 40314, Vol. 83, No. 157	08/14/2018	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-08-14/pdf/2018-17365.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-08-14/pdf/2018-17365.pdf</a>

## HoAP Overview

The Homeowner Assistance Program (HoAP) consists of five program options to assist eligible homeowners with their rehabilitation, reconstruction, and/or other eligible housing needs. Program options are Reimbursement, City Managed Rehabilitation and Reconstruction, Acquisition, Homeowner Managed Rehabilitation, and Interim Mortgage Assistance. The City will assist homeowners to identify the best option to meet their needs based on eligibility, the condition of their home and where they are in the recovery process. Program options are as follows:

1. **Reimbursement:** Homeowners who have completed partial or full repairs on their home may be eligible for reimbursement of eligible expenses paid prior to applying to the program for work performed. The reimbursed value of repair work will be limited to the cost of achieving minimum construction standards. As per HUD regulations, any work considered for reimbursement must have been performed prior to program application and following an environmental "Tier II" clearance. Xactimate® or similar industry standard tool will be used to ensure cost reasonableness, and the work will be validated through an on-site inspection. The Reimbursement option may be combined with the Homeowner Managed and City Managed Rehabilitation options. The maximum amount of reimbursement funds is not to exceed \$80,000.



2. **City Managed Rehabilitation and Reconstruction:** The City will manage and complete the construction process for the rehabilitation or reconstruction of Harvey-damaged homes on behalf of homeowners. The City will contract with multiple firms to provide design and construction services for the rehabilitation or reconstruction of damaged properties. The City's procedures for vetting of construction firms includes, but are not limited to: competitive procurement, reviewing and documenting the file with debarment verification, completing a Contractor Eligibility Verification form, and searching known databases for information. The City Managed Rehabilitation option may be combined with the Reimbursement option. The maximum amount of assistance per household for rehabilitation, including both rehabilitation cost and additional allocations, is \$150,000. The maximum amount of assistance per household for rehabilitation with elevation, including both repair costs and additional allocations, is \$250,000 and the maximum amount for reconstruction, including both reconstruction cost and additional allocations, is \$250,000.
  
3. **Homeowner Managed Rehabilitation:** This option will allow homeowners who have started the process, and are under contract with a contractor at the time of application, but need financial assistance to complete repairs. The City will assist homeowners participating under this option to navigate program compliance requirements and funding process. Services are anticipated to include general customer service assistance, identification and referral to community resources, program guidance, support in accessing funds, progress inspections, and on a case-by-case basis, limited construction information. Homeowners will select their own licensed and insured contractor(s) and contract verifications, subject to approval and verification by HCDD. Xactimate® or similar industry standard tools will be used to ensure cost reasonableness and the work will be validated through an on-site inspection. Homeowner managed rehabilitation will only be available to homeowners who have initiated the repair process and are under contract with a contractor at the time of application. Program Standard Operating Procedures will fully address program details, including minimum construction standards, environmental compliance, program controls, and circumstances under which this option may be provided. The Homeowner Managed Rehabilitation option may be combined with the Reimbursement option. The maximum amount of assistance per household for rehabilitation, including both rehabilitation cost and additional allocations, is \$150,000. The maximum amount of assistance per household for rehabilitation with elevation or reconstruction, including both repair costs and additional allocations, is \$250,000.

4. **Acquisition:** Homeowners may be eligible to have their property acquired by the City. Homeowners who are eligible for this program and choose this program option will also be eligible to apply to the Single Family Development and/or Homebuyer Assistance programs. This is a voluntary acquisition program and applicants will be notified according to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and notified of other program options available for participation. The maximum amount of assistance is \$200,000. To the extent allowed by law, the City will dispose of acquired properties by sale, lease, donation, or redevelopment, and may dispose of properties to homebuyers, developers or nonprofits. The method of disposition will be established by HCDD according to the ultimate end-use of the property. As CDBG-DR funds will be used to acquire properties under the program, all proceeds obtained from the sale or lease of the acquired properties, if any, shall be program income.
  
5. **Interim Mortgage Assistance (IMA):** Interim Mortgage Assistance (IMA) may be provided to homeowners participating in HoAP who are making both a mortgage payment on their storm-damaged home and making a rental payment for a temporary home. These homeowners may be eligible to receive up to 20 months of assistance based on the lesser of their monthly mortgage and temporary rental housing payments. This option may be considered when the rehabilitation or reconstruction of a home extends beyond three months, during which mortgage payments may be due, but the home remains uninhabitable. This assistance will help to ease the financial hardship homeowners may face during the post disaster recovery period and prevent homeowners from going into foreclosure. This option is not eligible to be combined with the Acquisition option.

Assistance for Reimbursement, City Managed Rehabilitation and Reconstruction, and Homeowner Managed Rehabilitation is provided in the form of a zero-interest, forgivable loan, secured by placement of a lien on the applicant's real property during the compliance period, if the amount provided to the homeowner exceeds \$20,000. The lien, if any, will be placed in the highest available position on each property. For assistance below \$20,000 homeowner's will execute contract documents that do not include a lien on the property.

## HoAP General Prioritizations

Funding priorities have been established to assist vulnerable populations based on Area Median Income (AMI), including low to moderate income households, elderly or disabled persons, and households with a child or children under age 18. Applicant prioritization sequence for funding will be based on the following criteria:

1. Households at or below 80% AMI with elderly (62 years or older) or disabled members
2. Households at or below 80% AMI with a child or children under the age of 18
3. Households at or below 50% AMI
4. Households at or below 80% AMI

Note: Upon exhaustion of applications eligible for priorities 1-4 under each option, a review will be completed for eligible households above 80% AMI. Meeting one or all prioritization criteria does not guarantee assistance, as allocated funding and program timelines are limited. HCDD reserves the right to cap assistance to households above 80% AMI at \$150 million.

Applicants with HoAP specific housing needs who are also identified in open priority tiers, will be sent invitations to complete a HoAP application by mail (released in weekly batches) with a 30-day deadline to apply. This will be extended no more than 3 times, along with additional contact efforts before applicants may be moved to the waiting list or administratively withdrawn.

From the date of application invitation, applicants will be assisted on a first come- first serve basis until the intake phase is considered complete. A formal eligibility review will then be initiated by the City which is based on the date of receipt of a completed application, eligibility determination results, and a second prioritization/scoring final review determination. Based on that review, an applicant will then be placed in the appropriate sequence for the Initial Site Inspection and/or resulting Commitment Letter notification. Applicants determined to be eligible, but who fall out of "open" priority groups, will be placed on the waiting list until such priority tiers have been opened to all potential applicants. Applicants who have lower scoring but are still included in open priority groups will be assessed and sent Commitment Letters (and invitation to schedule their benefit selection meeting and loan closing) in weekly batches, based on readiness and general priority ranking queues.

**Scoring Criteria for Priorities**

Scoring Criteria	Priority Group								Points Assigned
	1	2	3		4		5	6	
Applicant age*	62+	62+	62+	<62	62+	<62	<62	--	10
Disabled Person in household**	Yes	Yes	No	Yes	No	Yes	No	--	10
Children 18 years old or younger	Yes	No	Yes	Yes	No	No	Yes	--	5
In floodplain	--	--	--	--	--	--	--	Yes	5
Completed all repairs***	Yes / No	Yes / No	Yes / No	Yes / No	Yes / No	Yes / No	Yes / No	Yes / No	20
Household at or below AMI % Income level	30%	30%	30%	30%	30%	30%	30%	--	5
	50%	50%	50%	50%	50%	50%	50%	--	4
	80%	80%	80%	80%	80%	80%	80%	--	3

Highest # of points	50	45	40	40	35	35	30	27
Lowest # of points	28	23	18	18	13	13	8	7

\*If 62 or older, 10 points assigned. If under 62, no points assigned.

\*\*If yes, responses receive the points assigned to each criterion. All responses are as of time of the survey.

\*\*\*20 points added for respondents who completed all repairs and have a Certificate of Compliance and no issues when inspected.

Applicants who indicate all repairs are complete and this can be verified through a Certificate of Compliance, affidavit or acceptable equivalent, may score enough points to enter a higher priority/AMI scoring tier to receive an invitation to apply to the Homeowner Assistance Program. The City is incentivizing repair completions to allow for expedited reimbursements. This approach should assist the overall process by relieving administrative burdens to allow greater resources and efficiencies to be placed with applicants who have the greatest needs for day-to-day intake assistance.

Based on household composition and qualified income sources, applicants' income will be evaluated using HUD's most recent Area Median Income (AMI) as published annually by HUD. The Housing and Community Development Department (HCDD) will use a definition of income, as defined by HUD and the General Land Office, and will use a method of calculating adjusted gross income using an IRS Form 1040 for purposes of verifying and determining income eligibility for the program. Income limits are updated annually and will be published on HCDD's Disaster Recovery website. The 2018 annual income limits are as follows for this publication:

**2018 HUD Income Limits Summary**

Family Size	1	2	3	4	5	6	7	8
Low-Mod (80%) Income Limits	\$41,950	\$47,950	\$53,950	\$59,900	\$64,700	\$69,500	\$74,300	\$79,100

All local property taxes must be current or on a current payment plan for less than \$5,000. In addition, applicants must demonstrate child support payments are current or on an approved payment plan that is current.

**HoAP Eligibility Overview**

General housing activities allowed under CDBG-DR; Housing and Community Development Act Section 105(a)(1), 105(a)(3-4), 105(a)(8) 105(a)(11), 105(a)(18), and 105(a)(25), 24 C.F.R. § 570.201(g) include but are not limited to:

1. Single family owner-occupied rehabilitation and reconstruction
2. Demolition
3. Hazard mitigation
4. Property Acquisition

5. Reimbursement for the (HUD-CDBG-DR eligible) repairs, rehabilitation, and reconstruction of existing owner-occupied property damaged as a result of Hurricane Harvey.
6. Other activities associated with the recovery of impacted single-family housing stock.

This eligibility overview provides the requirements, income criteria, and funding priorities that applicants must meet to be eligible for the City of Houston's CDBG-DR funds, specifically for the Homeowner Assistance Program. All eligibility and verification methods are subject to City of Houston's Housing and Community Development Department (HCDD), GLO, and HUD approval. HCDD will engage HUD Certified Counselors when applicable to assist applicants with assessing their financial situation and evaluating options for full benefit of the offered programs. The program requirements and eligibility elements include but are not limited to meeting a National Objective, verification of income, duplication of benefits, property location, ownership, occupancy, primary residence, documented damage and flood insurance.

Additionally, the City of Houston defines "not suitable for rehabilitation" for the HoAP as such:

- Structures that are considered "beyond rehabilitation" and do not meet the HoAP's housing rehabilitation standards, and/or federal, state, local code requirements shall be deemed not suitable for rehabilitation, as determined by the program and consistent with program guidelines. See section below - City Managed Rehabilitation and Reconstruction Participation Terms for additional requirements.
- Residential properties that have experienced repetitive losses under FEMA's National Flood Insurance Program (NFIP).

The following eligibility criteria must be met prior to participation in any of the Homeowner Assistance Program's five (5) options:

#### **HoAP Property Eligibility Requirements**

- a. Must be located outside of the floodway
- b. Must have been owner-occupied at the time of Hurricane Harvey (August 25, 2017)
- c. Must have been the applicant's primary residence at the time of Hurricane Harvey
- d. Must have sustained damage from Hurricane Harvey
- e. Must have an environmental review record completed and evaluated for eligibility
- f. All types of damaged properties will be considered for assistance including mobile home, MHU, and stick built. Replacement properties are discussed in sections below.

#### **HoAP Homeowner Eligibility Requirements**

- a. All homeowner/applicants and household members over age 18 must be current on payments for child support.
- b. Homeowner/applicants must furnish evidence that property taxes are current, under an approved payment plan, or that there is an exemption under current laws. Deferments are only accepted in conjunction with a payment plan for a total amount of \$5,000 or less.
- c. Homeowner/applicants must agree to a limited subrogation of any future awards related to Hurricane Harvey, to ensure duplication of benefits compliance.
- d. Assistance will be provided in the form of a zero-interest forgivable loan, secured by placement of a (second) lien on the applicant property for benefits over \$20,000. Homeowners are required to maintain principal residency in the assisted property throughout the length of the compliance period. Cash-out refinancing, home equity loans, or any loans utilizing the assisted property as collateral must be approved during the compliance period. A violation of this policy may activate the loan repayment terms.
- e. Program participants must continue to make payments on any existing liens or mortgages and ensure the participant remains current on its mortgage payments, if any. The City will not pay or compensate for any existing liens or mortgages on properties.
- f. Program participants must agree to compliance period and lien requirements. The compliance period of homes will be based on the amount of assistance provided:

For Rehabilitation

- No lien for assistance less than \$20,000
- Five-year lien period for \$20,000 to \$40,000 of assistance,
- 10-year lien period for \$40,001 to \$80,000 of assistance.

For Reconstruction

- 20-year lien period for reconstruction.

The lien on the property will be removed upon completion of the terms and conditions of all documents related to the program and completion of the compliance period.

- g. Forgiveness of the loan provided will be prorated over the course of the determined compliance period. The proration percentage will depend on the length of the period, with 100% of the loan being forgiven and the lien satisfied at the termination of the compliance period. Should the homeowner use the property as collateral, sell, or otherwise convey their ownership interest in the property during the compliance period (except as provided in subsection h below regarding inherited property), the remaining prorated amount of assistance will become immediately due and payable.

- h. Harvey-damaged property inherited from a program participant will not be subject to the repayment requirements. The damaged property will continue its compliance period.
- i. Program participants who receive funds for the repair or (re)construction of their home must maintain insurance for the assisted property. Hazard, flood, and windstorm (if applicable) insurance will be monitored during the length of the compliance period. Please note, flood insurance must be maintained on the property during the life of the property, regardless of transfer of ownership. Failure to maintain flood insurance may result in the denial of future federal disaster assistance should another event occur.
- j. Upon receipt of the disaster recovery benefit, if the property is sold, flood insurance requirements are transferred to the new homeowner. Program participants must notify the new homeowner in accordance with 42 U.S.C. § 5154a. Such notification and transfer parameters must be contained in writing in documents evidencing the transfer of ownership of the property. A program participant may be subject to liability if he or she fails to provide the notice required by 42 U.S.C. § 5154a (see also 83 F.R. 5844, Vol. 83, No. 28, Section 40(b)(3)).
- k. Must meet one of the two (2) applicable HUD CDBG National Objectives: Low- and moderate-income (LMI) benefit or Urgent Need.
- l. Specific eligibility criteria also apply to the individual HoAP options: Reimbursement, City Managed Program, Homeowner Managed, Acquisition, and Interim Mortgage Assistance as outlined below.

## **Additional Eligibility Requirements**

### **1. Reimbursement Participation Terms**

Conditions for participation and receipt of funds via the reimbursement option of HoAP include, but may not be limited to the following:

- a. If all necessary repairs are completed as determined by the City, Certificate of Compliance (COC) if applicable, affidavit or acceptable equivalent document must be submitted to the HoAP prior to the release of funds. A COC is granted upon completion of required municipal code parameters, as set forth by the City of Houston's Permitting Center.
- b. The release of reimbursement funds for applicants that have not completed all necessary repairs will occur after a grant award has been finalized.
- c. Applicant must provide a written affidavit and/or certification to include a detailed description and cost of completed repairs (which will also be validated by a City-issued

site inspection), external third-party funding resources received/used for purposes of repairs, as well as time-periods of repairs and contractor information.

- d. An executed contract document signed by the applicant indicating understanding of (and adherence to) all HoAP program compliance requirements.
- e. Sweat equity repair costs are ineligible for reimbursement funds. All construction repair work must be validated through a site inspection verifying completion of repairs, identified as a "Work in Place" inspection.

## **2. Maximum Assistance for Reimbursement Option**

- a. The maximum amount of reimbursement funds is not to exceed \$80,000.
  - i. For LMI households at or below 80% AMI: Reimbursement allowed will be 100% of eligible repairs, not to exceed \$80,000 in benefit; as determined by a self-certification or Xactimate validation, whichever is of lesser value.
  - ii. For households between 81%-120% AMI: Reimbursement allowed will be 50% of eligible repairs, not to exceed \$40,000 in benefit; as determined by a self-certification or Xactimate validation, whichever is of lesser value.
  - iii. For households over 120% AMI: Reimbursement allowed will be 25% of eligible repairs, not to exceed \$20,000 in benefit; as determined by a self-certification or Xactimate® validation, whichever is of lesser value.
- b. The following types of repairs/expenses are ineligible reimbursable items for the program (this list may not be all inclusive):
  - i. Personal property (e.g. vehicles, furniture, goods, clothing, etc.)
  - ii. Repairs made to nonresidential structures that are not attached to primary residence (pools, sheds, detached garages)
  - iii. Tools and equipment
  - iv. Playground equipment, satellite dishes, and security systems
  - v. Appliances and housing components that are not integral to the structure of the home, such as garage door openers, washers, dryers, luxury items, and microwaves.
  - vi. Outdoor items such as fences, landscaping, decorative paving, decking, and sprinkler systems.
- a. Eligible properties with \$5,000 or less in remaining repair costs (inclusive of elevation requirements) to receive COC or equivalent will only be considered for participation within the HoAP Reimbursement option.
- b. The Program assessment, conducted via site inspection, estimates the value of completed permanent repairs using standardized Xactimate® pricing to ensure that all applicants are reimbursed fairly and equally, the costs are reasonable, and the repairs were necessary.



- c. The Program will reimburse homeowners who participate in the Reimbursement Only option for repairs meeting Housing Habitability Standards (HHS) and/or elevation costs that were completed according to applicable requirements at the time elevation was completed.

**3. City Managed Rehabilitation and Reconstruction Participation Terms**

- a. HoAP Contractors will be directly assigned to the applicant by the HCDD.
- b. All contractors and applicants under this program option must execute contract documents that incorporate Program requirements and the City-provided scope of work, before contractor is provided a formal Program Notice to Proceed to work on a specific applicant's home.
- c. Feasibility determinations regarding the suitability for rehabilitation or reconstruction are completed by the City. If the total cost of repairs is less than 50% of the program's cost to rebuild, the Program recommendation of feasibility will be rehabilitation. If the total cost of repairs compared to the cost to rebuild are between 51% and 75%, the Program recommendation of feasibility will be reconstruction, however the homeowner will have the option to select rehabilitation. For total repair costs above 75% of the program's cost to rebuild, the program recommendation of feasibility will be reconstruction. However, the homeowner will have the option to select rehabilitation, but the Program will only supply funding for a portion of the Program's cost to rebuild, and any additional costs for the rehabilitation must be supplied by the homeowner. If the applicant chooses rehabilitation when costs exceed 75% of the program's costs to rebuild, the applicant must first provide the program with a licensed engineer's report to confirm there are no structural integrity issues prior to contractor notice to proceed for rehabilitation repairs.

**4. Maximum Assistance for City Managed Rehabilitation and Reconstruction HoAP Option**

- a. Rehabilitation: Costs as determined by utilizing Xactimate® cost estimating software to address repairs in accordance with, and program award costs not to exceed, the City's approved and published minimum construction standards. The base rehabilitation may not exceed \$80,000.
- b. Reconstruction: The base reconstruction amount may not exceed \$200,000 per unit based on household size and builder's house plans. The program standard unit size will be 1,300-1,400 square feet for 3 bedrooms and 2 bathrooms. For households with 5 or more members the unit size will be 1,500 -1,600 square feet for 4 bedroom and 2 bathrooms. Modifications to unit size will be considered by HCDD for special circumstances such as familial status, property lot constraints, city ordinances and

financial hardships. reconstructed properties will be either MHU or stick built construction depending on the damaged property type, property lot ownership and City ordinances.

- c. Eligible properties with \$5,000 or less in remaining repair costs (inclusive of elevation requirements) to receive COC or equivalent will only be considered for participation in the HoAP Reimbursement option.
- d. Additional allocations of funds may be provided to address certain site-specific conditions including Access and Functional Needs (AFN), environmental, resiliency/mitigation measures, elevation, municipal ordinances, and homeowner/neighborhood requirements. Additional allocations will be allowed at the discretion of the City based on the submitted application, onsite inspection and additional requirements that will be outlined in the Standard Operating Procedures.

**Maximum Assistance for City Managed Rehab and Reconstruction**

Construction Type	Cap	Elevation	Environmental, Lead, Asbestos, Mold	Resiliency Measures	Accessibility	Maximum Allowed Assistance*
Rehab	\$80,000	n/a	\$35,000	\$10,000	\$25,000	\$150,000
Rehab with Elevation	\$80,000	100,000	\$35,000	\$10,000	\$25,000	\$250,000
Reconstruction	\$200,000	n/a	\$35,000	\$10,000	\$25,000	\$250,000

\*It is anticipated that no home would need all additional funding allocations, therefore the maximum assistance is below the sum of all possible allocations.

**5. Homeowner Managed Rehabilitation and Reconstruction Participation Terms**

- a. All contractors and applicants under this program option must amend and fully execute contract documents which incorporate Program requirements and the City-provided scope of work, to their existing contract agreement before contractor is provided a formal Program Notice to Proceed to work on a specific applicant’s home.
- b. The applicant’s chosen contractor will be verified by the Program and must have required licensure and insurance that meet program standards.
- c. All disbursements will be made directly to the homeowner, after the work has been performed and validated via an onsite inspection by City designated staff.

**Payment Schedule**

	Milestone Payment 1	Milestone Payment 2	Milestone Payment 3	Final Retainage
Rehabilitation	45%	45%	N/A	10%
Reconstruction	30%	30%	30%	10%

**6. Homeowner Managed - Maximum Assistance**

- a. Rehabilitation: Costs as determined by utilizing Xactimate® cost estimating software to address repairs in accordance with, and program award costs not to exceed, the City’s approved and published minimum construction standards. The base rehabilitation may not exceed \$80,000.
- b. Reconstruction: The base reconstruction amount may not exceed \$200,000 per unit based on household size and builder’s house plans. The program standard unit size will be 1,300-1,400 square feet for 3 bedrooms and 2 bathrooms. For households with 5 or more members the unit size will be 1,500 -1,600 square feet for 4 bedrooms and 2 bathrooms. Modifications to unit size will be considered by HCDD for special circumstances such as familial status, property lot constraints, city ordinances and financial hardships. reconstructed properties will be either MHU or stick built construction depending on the damaged property type, property lot ownership and City ordinances.
- c. Eligible properties with \$5,000 or less in remaining repair costs (inclusive of elevation requirements) to receive COC or equivalent will only be considered for participation in the HOAP Reimbursement option.
- c. Additional allocations of funds may be provided to address certain site-specific conditions including Access and Functional Needs (AFN), environmental, resiliency/mitigation measures, elevation, municipal ordinances, and homeowner/neighborhood requirements. Additional allocations will be allowed at the discretion of the City based on the submitted allocation, onsite inspection and additional requirements that will be outlined in the Standard Operating Procedures.

**Maximum Assistance for Homeowner Managed Rehab and Reconstruction**

Construction Type	Cap	Elevation	Environmental, Lead, Asbestos, Mold	Resiliency Measures	Accessibility	Maximum Allowed Assistance*
Rehab	\$80,000	n/a	\$35,000	\$10,000	\$25,000	\$150,000
Rehab with Elevation	\$80,000	100,000	\$35,000	\$10,000	\$25,000	\$250,000
Reconstruction	\$200,000	n/a	\$35,000	\$10,000	\$25,000	\$250,000

\* It is anticipated that no home would need all Additional Funding Allocations, therefore the maximum assistance is below the sum of all possible buckets.

**7. Acquisition Participation Terms**

- a. HoAP eligible owner-occupant properties must be classified as substantially damaged as provided by the local flood plain administrator and/or in accordance with program.

- i. Each verified homeowner property must be classified as substantially damaged or determined infeasible for rehabilitation through a program acquisition feasibility analysis. A substantial damage status is established by written local municipal determination letter. In the absence of a substantial damage or non-substantial damage determination by the City, the HoAP may determine substantial damage using an agreed upon feasibility model.
- b. All properties must have clear title. City designated staff will work with other city departments, state agencies, and approved external partners as necessary to conduct basic titles searches. Complex cases will be referred to outside partners qualified to research and resolve issues. Title searches will be conducted as often as necessary to determine ownership.

**8. Maximum Assistance for HoAP Acquisition Option**

- a. Applicants who are interested and eligible for the HoAP Acquisition option will have the damaged property assessed at current fair market value not to exceed \$200,000.
- b. If acquisition is determined by HCDD to be the best option, reimbursements for any repairs to existing structures following Harvey will not be provided.
- c. Eligible acquisition program participants will receive monetary compensation for properties acquired by the City using the current fair market value.
- d. Eligible HoAP applicants will not be allowed to participate in the Acquisition option if they have an existing mortgage or existing liens they are unable to pay off on the property.
- e. Additional incentives may be offered to eligible applicants, based on hardship, whose homes are acquired. Such incentives include but are not limited to relocation assistance, priority purchase of newly constructed homes, and others, as applicable, to be determined upon creation of the program Standard Operating Procedures

**8. Interim Mortgage Assistance (IMA) Participation Terms**

- a. Interim Mortgage Assistance (IMA) may be provided to homeowners while in construction under the Homeowner Assistance Program who are making both a mortgage payment on their storm-damaged home and making a rental payment for a temporary home.
- b. IMA will be considered when the rehabilitation or reconstruction of a home is at least three (3) months or more, during which mortgage payments may be due, but the home remains uninhabitable.
- c. Other mortgage assistance to HoAP eligible applicants may be available on a case-by-case basis, with HCDD approval, if applicant provides documentation of hardship.

- d. Homeowners who are receiving housing benefits (temporary housing, rental payments, or other assistance) through FEMA are not eligible for the Interim Mortgage Assistance Program.
- e. Homeowners may be eligible to receive up to 20 months of assistance to pay the mortgage on their Harvey damaged dwelling. The amount of assistance equals the lesser of their monthly mortgage or temporary rental housing payments, not to exceed Fair Market Rents (FMR) for the Houston-The Woodlands-Sugar Land HUD Metro area

**9. Interim Mortgage Assistance (IMA) Maximum Assistance:**

- a. Program mortgage assistance payments cannot exceed Fair Market Rents (FMR) for the Houston-The Woodlands-Sugar Land HUD Metro area. The 2018 FMRs are listed below for reference and are adjusted annually and published on HCDD’s Disaster Recovery website.
- b. Eligible properties with \$5,000 or less in remaining repair costs (inclusive of elevation requirements) to receive COC or equivalent will only be considered for participation in the HOAP Reimbursement Option only.

**Final FY 2018 FMRs by Unit Bedrooms**

Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
\$772	\$871	\$1,066	\$1,456	\$1,844

Meeting the Homeowner Assistance Program eligibility criteria does not guarantee assistance as allocated funding and program timelines are limited.

**10. General HoAP Ineligible Activities**

- a. Forced mortgage payoffs
- b. Incentive payments to households to move to Harvey disaster-impacted floodplains
- c. Properties that served as second homes at the time of the Harvey disaster, or following the Harvey disaster, are not eligible for rehabilitation assistance or housing incentives.
- d. Rehabilitation/reconstruction of a home where:
  - i. The combined household income is greater than 120 percent AMI or the national median, AND
  - ii. The property was located in a floodplain at the time of the Harvey disaster, AND
  - iii. The property owner did not maintain flood insurance on the damaged property, even when the property owner was not required to obtain and maintain such insurance.

- e. Assistance for the repair, replacement, or restoration of a property to a person who has failed to meet Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. § 5154a), which states that no federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for “repair, replacement, or restoration” for damage to any personal, residential, or commercial property if that person at any time has received federal flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable federal law on such property.

### HoAP Options & Award Methodology

HoAP Program/Option	Policy Summary/Recovery Status
HoAP Reimbursement	<ul style="list-style-type: none"> <li>• Eligible and cost reasonable Xactimate® estimated repairs/materials completed at the time of application submittal</li> <li>• Eligible and cost reasonable Xactimate® estimate repairs/materials completed at the time of the initial site inspection (if under contract/modular property built off site)</li> </ul>
HoAP Homeowner Managed ( <i>Rehab or Recon</i> )	<ul style="list-style-type: none"> <li>• Allowed if repairs exceed \$5K in costs as determined by program during initial site inspection AND under contract (with non-debarred contractor) by date of HoAP application</li> </ul>
HoAP City Managed ( <i>Rehab or Recon</i> )	<ul style="list-style-type: none"> <li>• Default option if repairs needed (repairs must be greater than \$5K as assessed by program) and NOT already under contract (with contractor who is in good standing or not debarred)</li> </ul>
Interim Mortgage Assistance (IMA)	<ul style="list-style-type: none"> <li>• Must have an existing mortgage AND rental payment to apply</li> <li>• Must have repairs needed that will take more than 3 months to complete</li> </ul>
Acquisition	<ul style="list-style-type: none"> <li>• Property must be classified as substantially damaged or determined infeasible for rehabilitation Homeowners must not be in floodway or within targeted buyout areas as identified by local agencies such as Houston Public Works to participate in this option</li> </ul>

## Community Engagement/Affirmative Marketing/ Outreach Plan

The City of Houston has engaged in a robust community engagement strategy to inform Houstonians on the status of the local government's efforts to secure funding for its long-term recovery from Hurricane Harvey. The City of Houston, through HCDD, is committed to affirmatively furthering fair housing through established affirmative marketing policies. Affirmative marketing efforts will include the development of an Affirmative Marketing & Outreach Plan based on U.S. Department of Housing and Urban Development (HUD) regulations to ensure that units financed through the Program are affirmatively marketed to the public at large. This plan will ensure that outreach and communication efforts reach eligible homeowners and renters from all racial, ethnic, national origin, religious, familial status, disabled, and gender groups. The Affirmative Marketing & Outreach Plan will give detailed information about how the City of Houston plans for effective outreach to all groups of homeowners, landlords, and renters mentioned above, as well as how the application and enrollment process for programs will be suitable for persons with limited English proficiency, persons with disabilities and those with special needs. For each program offered by the City of Houston, notification to these populations will include: information on vacant units available for sale and/or rent; information on how to apply for unit purchase, rehabilitation or rental; opportunities to buy and/or rent the unit of their choice, and opportunities to rehabilitate their primary residence to address storm-impact.

Particular emphasis will be focused on successful outreach to LMI areas and those communities with minority concentrations that were affected by the storm. Outreach efforts will include door-to-door canvassing and special outreach efforts to hard-to-reach populations (e.g. seniors and persons with severe disabilities who either do not have information about the resources or are unable to independently apply for resources).

In addition to marketing through widely available media outlets, efforts may be taken to affirmatively market the CDBG-DR Disaster Recovery Program as follows:

- Advertise with the local media outlets, including newspapers and broadcast media, which provide unique access for persons who are considered members of a protected class under the Fair Housing Act.
- Include flyers in utility bills advertising the City of Houston's Hurricane Harvey CDBG-DR funded recovery programs.
- Reach out to public or non-profit organizations and hold/attend community meetings.
- Other forms of outreach tailored to reaching the eligible population may be used, including door-to-door outreach, if necessary, particularly on the weekends.

- Measures will be taken by the City to make the CDBG-DR Disaster Recovery Program accessible to persons who are members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), providing American Sign Language (ASL) translation when requested, and providing special assistance for those who are hearing or visually impaired when requested.
- Applications and forms will be offered in English and other languages, including Spanish, Vietnamese, Chinese, Arabic, and French, prevailing in the region in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 C.F.R. § 8.6), Limited English Proficiency (LEP) and other fair housing and civil rights requirements, such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such applicants in the application process.
- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.

The City of Houston is required to use the fair housing logo in Program advertising, post fair housing posters and related information, and, in general, inform the public of its rights under fair housing regulations and laws. HCDD will regularly evaluate outreach activities and applications received to determine if outreach is successful and applications that are being received accurately reflect socioeconomic and other forms of demographic diversity.

HCDD has discretion in the modification and/or addition of requirements to the Affirmative Marketing & Outreach Plan.

## Needs Assessment

The City of Houston completed its Local Housing Needs Assessment to identify the impact of Hurricane Harvey on the city's housing stock. Information has been gathered from a number of sources to document the impact of Hurricane Harvey including demographic profile of impacted households including low-and moderate households.

The impact on housing is based on an estimation of the extent and depth of flooding using a flood risk assessment methodology and an estimation of damage to all buildings in Houston using a damage assessment methodology. The two methodologies provide an assessment of the impact of Hurricane Harvey's rainfall on residential buildings. The models used in these methodologies provide information on the level of inundation in each structure and the associated damage in dollar amounts to the building structure and its contents.



The entire City of Houston is located in an area HUD identified as “most impacted and distressed” as it relates to the damage from Hurricane Harvey. The City of Houston’s Local Action Plan and Local Housing Needs Assessment are the basis for the development and prioritization of recovery activities in Houston using CDBG-DR funds. For details on the priorities and income buckets, please reference the Action Plan and Needs Assessment documents. The City has consulted with affected residents and stakeholders, such as the Houston Housing Authority to assess needs. As additional data becomes available and as additional community and stakeholder engagements take place, the unmet needs and activities to address community needs through CDBG-DR funds may be updated. Deviations from goals must be approved by the City before the Program may move forward. Each needs assessment will be posted for a 30-day public comment period and approved by the GLO before implementation.

**Houston's HoAP Funding Targets (%) by Income Category**

Income Category	Impacted Households	Percent of Impacted Households	Minimum Target	Maximum
Greater of 0-30% AMI or Federal Poverty Level	36,752	17.62%	17.62%	
31-50% AMI	30,353	14.56%	14.56%	
51-80% AMI	36,346	17.43%	17.43%	
0-80% AMI (Non-Targeted)			20.39%	
Above 80% AMI	105,080	50.39%		30.00%
<b>Total</b>	<b>208,531</b>	<b>100.00%</b>	<b>70.00%</b>	<b>30.00%</b>
Total LMI	103,451	49.61%	70.00%	100.00%

\*FEMA IA Registrants (owners, primary residence) with FEMA Verified Loss >\$0. Data as of June 25, 2018.

**Houston's HoAP Funding Targets (\$) by Income Category**

	Minimum Target	Maximum
Greater of 0-30% AMI or Federal Poverty Level	\$ 69,215,570.98	
31-50% AMI	\$ 57,164,242.11	
51-80% AMI	\$ 68,450,945.33	
0-80% AMI (Non-Targeted)	\$ 80,079,846.78	

Above 80% AMI	-	\$ 117,818,830.80
<b>Total</b>	<b>\$ 274,910,605.20</b>	<b>\$ 117,818,830.80</b>
Total LMI	\$ 274,910,605.20	\$ 392,729,436.00

## Procurement

Adequate documentation to show that selection processes were carried out in an open, fair, uniform, and thorough manner to ensure that federal (2 C.F.R. §§ 200.318–200.326), state, and City requirements were met must be maintained by the City.

Record retention records must include, but are not limited to, the following information:

- Rationale for the method of procurement;
- Evaluation and selection criteria;
- Contractor selection or rejection; and
- The basis for the cost or price.

During the procurement process, solicitations should clearly identify any items included in the bid/purchase. Additional guidance can be found in HUD's CDBG-DR and Procurement Guidance.

Goods and services must be procured using the federal procurement and contract requirements outlined in 2 C.F.R. §§ 200.318 – 200.326. These procurement requirements must be followed for reimbursement from grant allocations of CDBG-DR funds provided by HUD. Subrecipients, vendors and contractors are required to follow procurement requirements in 2 C.F.R. Part 200, as applicable.

Regardless of the type of procurement used, an executed contract between selected bidder and the City must document the period of performance, the work to be completed, the agreed price or not to exceed amount, and contractor or provider's required compliance with all applicable federal, state, and local requirements. If there is a conflict between federal, state, and local laws and regulations regarding procurement, the more stringent law or regulation will apply.

Additionally, the Subrecipient is required to achieve compliance with Section 3 (24 C.F.R. Part 135). It is strongly suggested that HUD's best practices be utilized to help achieve compliance (HUD Model Section 3 Plan), including creating a Section 3 Plan. The Subrecipient is also required to "take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible." (2 C.F.R. § 200.321).

Furthermore, HUD and GLO require the City maintain a comprehensive public website that provides information for individuals and entities awaiting assistance for Harvey related damage, and the general public to see how all grant funds are used and managed/administered, as well as Federal Register notices and updates related to Hurricane Harvey. To meet this requirement, the City and its Subrecipients must make the following applicable items available to post on City's website [[www.recovery.houstontx.gov](http://www.recovery.houstontx.gov)]: procurement policies and procedures; description of services or goods currently being procured by Subrecipients; Subrecipient and state administrative contracts and a summary of all procured contracts (as defined in 2 C.F.R. § 200.22), including those procured by Subrecipients, or the City (e.g., a summary list of procurements, the phase of the procurement, details of ongoing procurement processes, requirements for proposals, etc.). Updated summaries must also be posted monthly on the website. HUD will post guidance related to this requirement on the HUD Exchange website ([www.hudexchange.info](http://www.hudexchange.info)).

## Financial Management

The City of Houston, as a CDBG-DR recipient, is required to follow the financial administration requirements outlined in 2 C.F.R. Part 200. These standards help ensure that the financial systems put in place by the City:

1. Provide adequate, current, and complete disclosure of the financial results (regular financial reporting) of all financially assisted activities, in accordance with the financial reporting requirements of the grant;
2. Document that funds have been used only for authorized purposes. For CDBG-DR this includes not only eligible activities but that the funded projects meet a National Objective;
3. Maintain accounting records that show the sources and uses of funds, displaying funds authorized, obligated and unobligated balances, assets, liabilities, outlays or expenditures and income;
4. Establish effective internal controls over all cash, real and personal property, and other assets acquired with program funds;
5. Track actual program cost against program budget in a manner that relates to program productivity and accomplishments;
6. Use Uniform Administrative Requirements outlined in 2 C.F.R. Part 200 principles to determine whether program costs are reasonable, allowable, and can be allocated, either directly or indirectly;
7. Maintain source documentation for accounting records;
8. Implement procedures for cash management that permit the timely disbursement to applicants and Subrecipients and complete and accurate monitoring and reporting; and Comply with 2 C.F.R. Part 200 Subpart F.

9. Conduct single or program specific audits in accordance with the applicable federal requirements. Vendors and contractors employed by the City will be required to comply with the audit requirements as applicable.

The roles and responsibilities described below are related to the financial management of the City of Houston's CDBG-DR allocation for Hurricane Harvey. These descriptions are not intended to be an exhaustive list of activities performed by each entity in relation to the CDBG-DR grant or in general.

### **The City of Houston**

1. Finance Department – The Strategic Procurement Division (SPD) is housed within the City of Houston's Finance Department and is responsible for procuring goods and services for CDBG-DR funded activities.
2. The City Controller – The Office of the City Controller certifies the availability of funds prior to City Council approval of City commitments, processes and monitors disbursements, invests the City's funds, conducts internal audits of the City's departments and federal grant programs, operates and maintains its financial management system, conducts the sale of public improvement and revenue bonds and produces a comprehensive annual report of City finances - Comprehensive Annual Financial Report (CAFR). The Controller will be responsible for providing a variety of approvals for release of CDBG-DR funds as payment to vendors, contractors and beneficiaries.
3. Housing and Community Development Department (HCDD) – HCDD is the grant manager for Houston's Hurricane Harvey CDBG-DR allocation and responsible for administering all programs outlined in the City's Local Action Plan.
  - a. Disaster Recovery and Public Services Division: This division is responsible for program development and oversight, as well as community outreach.
  - b. Finance Division: This division is responsible for processing CDBG-DR grant funding through the Systems Applications and Products (SAP), performing draws in HUD's Integrated Disbursement Information System (IDIS) and Disaster Recovery Grant Reporting (DRGR) System, and reconciling budgets and expenditures. This division is also responsible for processing payment requests in SAP and federal reimbursement requests to the GLO to be realized in the City's budget.
  - c. Planning and Grants Management Division: This division is responsible for the City's CDBG-DR Local Action Plan, Local Needs Assessment, program applications, other rated planning documents, substantial amendments, project/activity budget set-up and completion in IDIS and DRGR and related reporting to HUD and GLO.

## Key Funding Objective

At least 70% of the City of Houston's CDBG-DR funds must be spent on LMI impacted residents and will require close monitoring of the eligibility and award calculation stages.

## Duplication of Benefits

Many federal and state agencies are involved in responding to Presidentially declared major disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (the "Stafford Act"). Grantees must be aware that the Supplemental Appropriations Act authorizing CDBG funding or the Stafford Act may include restrictions on using those program funds to provide assistance when insurance providers or other federal or state agencies have already funded all or a portion of the activity. Certain Supplemental Appropriations Acts also include restrictions against use of those program funds as a matching requirement, share, or contribution for any other federal program.

Each application will be reviewed to determine if previous funding awarded to the applicant was appropriately used on the home and if any funds were received for the same purpose. The applicant must have an unmet need to move forward in the program. The City must determine the applicant's unmet needs first and then calculate the applicant's Duplication of Benefits (DOB). Applicants must provide documentation of insurance, Federal Emergency Management Agency (FEMA), Small Business Administration (SBA), and any other type of funding received. Additionally, the City will verify that the submitted documentation is accurate and current at the time of the award, to the extent possible (e.g., validate against FEMA data). 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, as part of the application review. With the applicant's approval, private insurance companies will be notified and asked to verify/confirm values received.

HCDD will ensure compliance with the Stafford Act through collection, analysis, and verification of third-party benefits received by applicants for purposes of repairs and/or other duplicate services offered through the HoAP housing options.

Any sources of funds previously received for the same recovery will be deducted based on information obtained from private insurance, SBA, FEMA, and/ or volunteer organizations (including in-kind assistance) used for the same purpose that the CDBG-DR award is intended to assist. The award amount will be determined by onsite inspection of each damaged property to determine the applicant's unmet recovery need. That amount will be reduced by all previously

received funding to determine the final award. Any amounts that are determined to be allowable activities will not be included in the reduction of the final award. Allowable activities will include activities that are excludable from the DOB calculation per the Stafford Act and HUD guidance.

The City will use a Insurance, Benefits, and Expenditures certification to collect initial data as well as an Affidavit of No Insurance (at the time of the storm) form, which will be recorded in every file.

The applicant must repay any assistance later received for the same purpose as those awarded or provided for with CDBG-DR funds. The applicant is obligated to certify he or she understands this requirement as outlined in detail within the subrogation terms included in the applicant's contract documents with the City.

To comply with these requirements, the City of Houston will design Standard Operating Procedures to ensure that any funds determined to be a DOB are deducted from the final assistance award amount for each applicant across the eligible activities of all programs.

## Survey and Application Process

Individuals seeking to participate in Harvey related CDBG-Disaster recovery programs administered through the City of Houston will be required to first complete a survey. The survey will be accessible through various means, including the HCDD-DR website, in-person or through an intake kiosk at area Housing Resource Centers (HRC's), community outreach events, as well as over the phone with direct assistance from an assigned Housing Advisor.

The HoAP survey serves many purposes. Initially, the data collected through the survey will help to better identify specific housing needs across the City of Houston's area population and highlight the alignment with the targeted household prioritizations as revealed through the Needs Assessment results. Additional purposes of the survey will include assessing the impacts of the Affirmative Marketing & Outreach Plan and identifying actions for ongoing outreach efforts.

HCDD will develop a process to accept applications for funding to serve extremely low-, low-, and moderate-income households. Funding priorities will be developed in a manner that affirmatively furthers fair housing objectives.

The provision of assistance is contingent upon the availability of funding. When funding is limited or unavailable, the City may create a waiting list pending notification from the GLO and

HUD of additional funding. Applicants seeking assistance may be placed on a waiting list after the survey phase, if necessary.

Once a wait list is opened, if funding is available, applicants will be served based on the program priority groups and affiliated scoring tiers. Applicants with the most points will be processed first when funding becomes available. If all or several applicants have an equal number of points, then applicants will be served and ranked based on the time of application (on a first come-first served basis). Completed applications of income-eligible households will be prioritized on a weekly basis. Qualified households who are not in one of the priority categories will have their application considered once priority applications have been considered, and contingent on available funding.

### **Application Intake**

The application packet will be available online and will include detailed instructions for completing the application, scoring and priority criteria (if applicable), policy overview and eligibility criteria, steps for appeals and/or program escalations, document checklists, environmental requirements, and program contact information including location and hours of area Housing Resource Centers (HRC's), etc.

HCDD Intake Specialists will be responsible for receiving program specific applications and supplemental documentation during the intake process from the applicant until all required information is collected for HCDD to make an official eligibility determination. As applications are being accepted and reviewed for determinations of eligibility to participate in the Program, each applicant will be assisted with documentation collection and made aware of their application status. Applicants will also be able to create an account in the City's system of record to upload documents and monitor their application status.

Applications will be offered in a manner consistent with the requirements of other fair housing and civil rights requirements, such as 24 CFR § 8.6, the effective communication requirements under the Americans with Disabilities Act (ADA) and Limited English Proficiency (LEP) requirements under Title VI. Applications and forms will be offered in English and other languages prevailing in the region, including Spanish, Chinese, Vietnamese, Arabic, and French, in accordance with Title VI of the Civil Rights Act of 1964. Intake Specialists or Language Specialists Assistants will be assigned to assist applicants and communicate in their primary language. Every effort will be made to assist applicants in the application process.

The Application Intake phase will be initiated by invitation only (dependent on priority and volume of survey respondents received). Priority tiers will be assessed on a regular basis and

formally announced on the website and through updated program memos/e-blasts. All official applicant program notifications will be made by US Mail (using the mailing address provided by the applicant or communication designee). However, additional contact attempts will also be made via phone and email and/or text if provided. Applicants will be provided an initial 30 days to respond to the invitation to complete a HoAP Application from the date of the official Invitation Notification letter. Applicants, if necessary, will be provided up to two (2) more mailed notifications with an additional 30-days to apply (totaling 90+ days). If no response is made to the invitation to apply after all three (3) official Invitation to Apply notifications, applicants will be automatically withdrawn from the active HoAP population (requiring a formal HoAP appeal for consideration of reinstatement).

Applicants who initiate the Application and Intake phase within the prescribed timelines, will be allowed **90 days** to fully complete the application and required supplemental documentation. An Application Document Checklist will be provided along with every Application to clearly identify document types accepted for each eligibility criteria. In addition to assigning Intake Specialists to each Applicant, extensive efforts will be made to assist applicants to successfully complete the Intake phase within this timeline, including actively working with area nonprofits and case managers, providing limited legal aid and translation services, offering routine community outreach events, and making mobile area and house visits. Extensions to the 90-day Intake time period will be formally made in writing on a case-by-case basis by the City.

Other Survey and Application Intake deadlines may be determined in the future based on the date of invitation and initiation of Application and overall availability of CDBG-DR/HoAP specific funding. Prior to the loan closing date, all applicants will be informed, in writing, that funding even after eligibility determination, will not be guaranteed. New policy and critical date determinations will be provided on the website and shared through written Harvey Recovery Program notifications. Case management will be provided throughout the process to assist applicants and their families through clear and transparent communication to understand the program's housing options, determine eligibility, navigate the construction process, execute necessary documentation, and close out the project while decreasing barriers to participate in the program.

Paper records will not be accepted and will be returned by mail if received. All records will be developed and signed via DocuSign within the systems and/or scanned electronic records. Paper records, originals or copies, will not be retained over a long-term period. The program's Document Management Standard Operating Procedures will provide specifics of document naming conventions, receipt, transfer, tracking, and general record retention details.



### **Power of Attorney & Communication Designee**

For the Homeowner Assistance Program, an owner who occupied the property as a primary residence at the time of the storm must be the applicant. An individual with Power of Attorney (POA) or approved Communication Designee for the owner-occupant may assist with the completion of applicant's application. Only a properly executed POA allows another individual to sign on behalf of the applicant.

### **Applicant Contract Award Meeting (Forgivable Loan Closing)**

HCDD will hold contract award meetings with all eligible applicants. These meetings will be used to walk applicants through the scope of work of their project, execute all required contract documents and explain compliance periods, escalations and warranty information.

### **Applicant Voluntary Withdrawal**

If an applicant chooses to voluntarily withdraw or is administratively withdrawn from the Program, the applicant is required to return ALL previously disbursed funds back to the Program. Applicants must clearly provide a written reason and notice of intent to voluntarily withdraw their application. HCDD will send the applicant a written notice of acknowledgement of his/her voluntary withdrawal.

### **Voluntary Withdrawal Reinstatement Requests**

Applicants who have voluntarily withdrawn from the Harvey CDBG-DR programs may submit a written request for reinstatement based on extenuating circumstances. The request will be reviewed and approved by HCDD, on a case-by-case basis.

### **Administrative Withdrawals**

Applicants may be administratively withdrawn for multiple reasons; the following are several example reasons:

- Any applications that are started but not completed and not submitted within sixty (60) days of the initial start of the application or by the end of the application period will be formally withdrawn.
- The program confirms that an application is a duplication of other valid applications or results in an overlap of other program funds.
- An applicant fails to provide required documentation or information after receiving a written request, or to communicate a reasonable timeframe for supplying said documentation;
- An applicant is aggressive and/or abusive to a HCDD employee or any other representative or affiliate of the program.

- An applicant violates the statement to provide true and complete information by providing false or misleading information.

## Construction

Housing that is constructed or rehabilitated with CDBG-DR funds must meet all applicable local, codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. When CDBG-DR funds are used for a rehabilitation development, the entire unit must be brought up to the applicable property standards and meet Housing Quality Standards. The City will conduct an initial damage assessment, progress inspections and final inspections of the property. Any deficiencies identified in the final inspection must be corrected before final retainage is released.

The City of Houston, through its Standard Operating Procedures and Housing and Construction Repair Services Agreement will outline detailed procedures for the tools and interfaces associated with the construction management and oversight function.

The warranty period shall commence on the date of issuance of the Certificate of Compliance for the Home and end 1 year thereafter for workmanship and materials, 2 years thereafter for a warranty covering a mechanical or delivery system, including electrical delivery systems, plumbing delivery systems, ventilation, heating and air conditioning systems, and 10 years for the structural warranty, including without limitation 10 years for major structural components of a Housing Unit.

Contractor shall provide to the Director all necessary final certificates, licenses, consents and other approvals of the various governmental authorities having jurisdiction, including, a permanent Certificate of Compliance, as applicable. All COC, warranties, and other final documents will be provided to the homeowner upon completion of the work.

## Site and Development Restrictions

### 1. General Standards

All housing units participating in the Homeowner Assistance Program (HoAP) will be required to meet Housing Quality Standards detailed under 24 C.F.R. § 982.401 and Fair Housing Accessibility Standards. Housing activities must also meet all local building codes or standards that may apply. All Single Family Homes should also incorporate resiliency solutions which may include: elevating the first floor of the habitable area; windstorm protection; reinforced roofs; storm shutters; use of ENERGY STAR appliances and fixtures;

and use of mold and mildew resistant products. All new construction projects must also meet Green Building Standards.

**2. Lead-Based Paint**

All projects must comply with the lead-based paint requirements of 24 C.F.R. Part 35, Subparts A, B, J, K, and R. See additional information regarding lead-based paint abatement in Sections 4.E.(1) and 4.H.(1)(f) of these guidelines.

**3. Housing Quality Standards (HQS)**

All CDBG-DR assisted rehabilitation projects must meet Housing Quality Standards at completion, at a minimum, as well as all applicable local codes and ordinances.

**4. Standards for:**

- a. Constructed or Substantial Improvements – City’s adopted 2012 International Residential Code (IRC) (with windstorm provisions) and International Building Code (IBC) (and subsequent adoptions thereafter in accordance required IRCs and IBCs) must be met where they apply. All rehabilitation, reconstruction, and new construction should be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Whenever feasible, HCDD will follow best practices, such as Professional Certifications and Standard Work Specifications provided in the U.S. Department of Energy’s Guidelines for Home Energy Professionals.
- b. Green Building Standards – New housing construction, reconstruction or substantially rehabilitated housing must comply with ONE of the following Green Standards:
  - i. ENERGY STAR (Certified Homes);
  - ii. EPA Indoor Air Plus (Energy Star a prerequisite);
  - iii. LEED (New Construction, Homes, or Neighborhood Development); or
  - iv. ICC–700 National Green Building Standard
- c. Elevation – The City of Houston will apply the following elevation standards to new construction, repair of substantial damage, or Substantial Improvement of structures located in an area delineated as a Flood Hazard Area or equivalent in FEMA’s data source identified in 24 C.F.R. § 55.2(b)(1). All structures, as defined under 44 C.F.R. § 59.1, designed principally for residential use and located in the 500-year (or 0.2 percent annual chance) floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined under 24 C.F.R. § 55.2(b)(10), must be elevated with the lowest floor, including the basement, at least 2 feet above the annual floodplain elevation or as modified by local code.

**5. Standards for Rehabilitation of non-substantial damaged residential structures**

Contractors and the City must follow the HUD CPD Green Building Retrofit Checklist available at <https://www.hudexchange.info/resource/3684/guidance-on-the-cpd-green-building-checklist/>. Contractors and the City must apply these guidelines to the extent applicable to the rehabilitation work undertaken.

**6. Accessibility**

Single Family Housing Units must meet the accessibility requirements at 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and the City's Visitability Standards in City ORD 2003-1239. Covered multifamily dwellings, as defined at 24 C.F.R. § 100.201, as well as common use facilities in developments with covered dwellings, must meet the design and construction requirements at 24 C.F.R. § 100.205, which implement the Fair Housing Act (42 U.S.C. §§ 3601–3619), the design and construction requirements of the Fair Housing Act Design Manual and the ADA 2010 requirements with the HUD exceptions (79 FR 29671, May 23, 2014).

## Initial HoAP Start Up

The initial HoAP start up team will include a small population of potential applicants to allow expedited development of the program operations system, test the current program design procedures and ensure all impacted residents receive maximum efficiency in customer service from start up to closeout. This approach results in earlier service to all program applicants by engaging early on select applicant sites that can be quickly qualified and executed during the start up phase. The start up pool will include households that have already inquired and/or applied to area nonprofits and HCDD programs. The initial subset will help to expedite the implementation phase by identifying and resolving potential bottleneck areas in advance of the full program rollout.

## Environmental

In accordance with the US Department of Housing and Urban Development's (HUD) regulations for implementing the National Environmental Policy Act at 24 C.F.R. Part 58, the City of Houston's Housing and Community Development Department (HCDD) must perform and complete Environmental Reviews of proposed programs, projects, and activities that will utilize Hurricane Harvey CDBG-DR funds. These funds will be administered by the Texas General Land Office (GLO), which will review all levels of Environmental Review documentation submitted before issuing environmental clearance for each proposed action to utilize funds. GLO will maintain an Environmental Review Record (ERR) of approved documentation as a compilation

of each level of environmental review performed under the City's CDBG-DR funded programs. HCDD maintains an ERR of all submitted and GLO-approved compliance documentation. HCDD also maintains a record of site-specific documentation that demonstrates environmental compliance of GLO-approved construction activities.

HCDD's ERR will compile all levels of environmental review documentation required under 24 C.F.R. Part 58. This includes HUD required forms and checklists submitted and approved by GLO for activities determined exempt according to 24 C.F.R. § 58.34 or those that are Categorically Excluded Activities Not Subject to the Section 58.35 Statutes (24 C.F.R. § 58.35(b)). These contain documentation of compliance with the statutes and regulations listed at 24 C.F.R. § 58.6 (e.g. Flood Disaster Protection Act of 1973, Coastal Barriers Resources Act, as amended by the Coastal Barrier Improvement Act of 1990, and Runway Clear Zone or Clear Zone). The ERR will also contain GLO-approved site-specific environmental assessments of proposed actions per 24 C.F.R. § 58.40.

Where considered appropriate, one or more of the City's CDBG-DR funded programs will be subject to a tiered environmental review process in accordance with 24 C.F.R. § 58.15. The tiered approach allows for a Tier I level broad environmental analysis of proposed policy and action(s) in the early stage of strategic development when site-specific analysis is not yet feasible, yet those actions are known to be geographically and/or functionally aggregated. The Tier I Broad Environmental Review thus identifies environmental compliance factors that can be analyzed and resolved with policies and decisions at this stage, to streamline or narrow the focus of the Tier II site-specific environmental assessment of potential environmental impacts once construction sites are known and appropriate mitigation measures can be specified. Therefore, HCDD's ERR will also maintain the GLO-approved versions of all Tier I and Tier II level environmental reviews performed.

While not currently anticipated, certain proposed actions undertaken by the City with CDBG-DR funds may be determined to have a potentially significant impact on the human environment and therefore require an Environmental Impact Statement in accordance with 24 C.F.R. § 58.37. In the event such an effort becomes necessary, all required documentation developed during the process would also become part of HCDD's ERR.

## Appeals and Complaints

Applicants have a right to appeal an eligibility determination, grant calculation or final scope of work via the formal appeals process that will be prescribed in detail in program determination letters/notifications. The City's appeal process will be provided in writing to each applicant. Appeals steps will also be clearly posted on the City's Harvey Disaster Recovery website and will

include escalation steps for submission to the Texas General Land Office. Both applicants and HCDD representatives are responsible for submitting and responding to appeals in a timely and professional manner. HCDD will keep a record of each appeal that it receives to include all communications and their resolutions. When an appeal is received, a Program representative will respond to the appellant within three (3) business days where practicable. For expediency, the City shall utilize telephone communication during business hours of 8am to 5pm as the primary method of contact; however, email and postmarked letters may be used as necessary to document the telephone communication. All telephone correspondence will be logged into the City's system of record. The mailing address is 2100 Travis Street, 9<sup>th</sup> floor, Houston TX 77002.

Since program staff are most often the first line of communication for program beneficiaries, HCDD will implement an internal procedure for handling incoming issues or concerns, including a formal escalation process to ensure concerns are handled at the earliest stage in the process. A designated Escalations and Constituent Services Representative will track issues and resolutions. Documentation for each formal appeal must be maintained. Each file must include the following:

1. Contact information for the complainant/appellant;
2. Initial reason for appeal/concern;
3. Address and assigned project number (if applicable);
4. Any communications to and from complainant or appellant;
5. Results of the investigation, together with any notes, letters, or other investigative documentation;
6. The date the complaint or appeal was closed; and
7. Any other action taken.

## Guideline Updates/ Waivers /Public Comments

HCDD will publish all Program Guidelines on the City's website [[www.recovery.houstontx.gov](http://www.recovery.houstontx.gov)]. All guidelines will initially be published for a 30-day public comment period. Any subsequent changes to the Guidelines will be posted for a minimum of seven days for public comment and after approval by the Texas General Land Office the latest versions will be available on the City's website.

As the HoAP matures, it is possible there will be requests for waivers and alternative requirements to these Guidelines. These requested changes and waivers must be consolidated, reviewed, and approved by the GLO.

To request a waiver, HCDD must submit a written request on HCDD letterhead that includes the following:

1. The Guideline for which the waiver applies
2. The requirement to be waived or altered
3. Alternative requirement or language
4. Detailed statement of how the request is necessary to address unmet recovery needs

#### *General Program Waiver Request*

A General Program Waiver request includes a requested change to the Guidelines for administrative, eligibility, national objective, expenditure deadline, or overall benefit requirements, for which approval from the GLO is needed within thirty (30) days. The request must demonstrate that the funds will be used for an eligible CDBG-DR eligible activity and meet a national objective.

Waivers of this category must be published for seven (7) days and public comment received and addressed before submission to the GLO for approval and implementation.

#### *Emergency Waiver Request*

An Emergency Program Waiver Request is a requested change to the Guidelines for administrative, eligibility, national objective, expenditure deadline, or overall benefit requirements that must be implemented as soon as possible, for example, to resolve or prevent a compliance issue. An Emergency Waiver Request must be submitted to GLO immediately and a response should be received from GLO within five (5) business days.

In the case of requests that must be routed to HUD for approval, it is expected that GLO and the City of Houston will request an expedient response. If the request will not be approved prior to the anticipated or necessary implementation timeline, GLO must notify the City of Houston via official letter of the necessary escalation to HUD and anticipated timing.

Additional requirements may be requested as required for submission depending on waiver type and category.

## **Cross Cutting Federal Regulations**

The HoAP will be designed and implemented in compliance with cross-cutting federal regulations when applicable, including:

#### *Americans with Disabilities Act (ADA)*

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state, and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of telecommunications device for the deaf (TDD)/telephone relay services. The City of Houston Housing and Community Development Department (HCDD) takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by HCDD, and that any services are delivered in the most integrated manner possible. HCDD's mandate to conform to the requirements of ADA flows down to every stakeholder, including Subrecipients, vendors, contractors and developers.

#### *Davis-Bacon Labor Standards*

The Davis-Bacon Act and Related Acts (DBRA) applies to contractors and subcontractors carrying out certain federally funded or assisted construction contracts in excess of \$2,000 and requires, the payment of the prevailing wages (including fringe benefits) for corresponding work on similar projects in the area. In some cases, City of Houston Prevailing Wage Law is in effect. In the event of a difference in the prevailing wage rate between the rates of the funding entity (e.g. the federal government) and the City, the higher prevailing wage rate must be adhered to and made applicable. For certain federally assisted prime construction contracts of more than \$100,000 subject to the DBRA, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Additionally, HCDD must follow the reporting requirements per HUD and the U.S. Department of Labor regulations. This requirement also extends to HCDD's sub-recipients and contractors.

#### *Equal Employment Opportunity*

Executive Order 11246, Equal Employment Opportunity, as amended, prohibits federal contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in government business in one year from discriminating in employment decisions based on race, color, religion, sex, sexual orientation, gender identity, or national origin. The Executive Order also requires government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. This regulation is adhered to within HCDD programs.

#### *Fair Housing*

The Fair Housing Act requires all grantees, Subrecipients, and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status. HCDD enforces the Fair Housing Act by



ensuring that all grantees, Subrecipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements, provide a marketing plan, and report on compliance in accordance with the Fair Housing Act and the associated forms on HCDD's website, where applicable. The Affirmative Marketing Plan must comply with applicable Fair Housing Laws and demonstrate how the applicant will affirmatively further fair housing throughout applicable HCDD disaster recovery programs.

*Fair Labor Standards Act of 1938, as Amended*

The Fair Labor Standards Act of 1938, as amended (FLSA), establishes the basic minimum wage standards work and requires the payment of overtime, for certain employees, at the rate of at least one and one-half times the basic hourly rate of pay for hours worked after 40 hours of work in a workweek. These labor standards are applicable to the entire construction contract, regardless if CDBG-DR funds finance only a portion of the project.

*Limited English Proficiency*

Federal Executive Order 131661 requires HCDD and all satellite offices, programs, Subrecipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. HCDD ensures fair access through the implementation of a Language Assistance Plan (LAP), which includes non-English-based outreach, translation services of vital documents, free language assistance services, and staff training. Refer to the "Language Assistance Plan" Provision of Language Assistance Services for additional guidance and protocols.

*Minority- and/or Woman-Owned Business Enterprises*

The Federal Executive Order 12432 guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned Business Enterprises (MBEs). 2 C.F.R. § 200.321 requires the non-federal entity to take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible and for the non-federal entity to require its prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of 2 C.F.R. § 200.321(b).

*Section 3*

Section 3 of the Housing and Urban Development Act of 1968 requires that grantees, subrecipients, contractors, sub-contractors, and/or developers funded in whole or in part by CDBG-DR funding, to the greatest extent feasible, extend economic opportunities such as hiring opportunities and contracts to Section 3- eligible residents and businesses. Section 3-eligible residents are low- and very low- income persons who live in the metropolitan area or non-

metropolitan county where a HUD-assisted project for housing or community development is located and people who live or reside in public or government assisted housing.

*Residential Anti-Displacement*

All Subrecipients must follow HCDD's Residential Anti-Displacement Policy.

*Uniform Relocation Act and Real Property Acquisition (URA)*

The acquisition of real property using CDBG- DR federal funds, as administered by HCDD, is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 C.F.R. Part 24 (URA), 24 C.F.R. part 42, Section 104(d) of the Housing and Community Development Act (42 U.S.C. § 5304(d) ("Section 104(d)"), and in the Tenant Assistance, Relocation and Real Property Acquisition Handbook (HUD Handbook 1378). The February 9, 2018 Federal Register Notice (FR-6066-N-01) waived the one-for-one replacement requirements at Section 104(d)(2)(A)(i)-(ii) and (d)(3) and 24 C.F.R. § 42.375.

Subrecipients or contractors must provide the following benefits to households or businesses that they displace:

- Relocation advisory services;
- A minimum of 90-day notice to vacate;
- Reimbursement for moving expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing.

HCDD programs subject to the URA and Section 104(d) include the CDBG-DR programs. HCDD policies and procedures, Notice of Funding Availability (NOFA), applicant certifications and/or written agreements for funds subject to the URA and Section 104(d) shall refer to federal and state rules, as appropriate.

*Real Property*

If CDBG-DR funds are used to acquire real property, HCDD will ensure that the property continues to be used for its intended (and approved) purpose; proper records are maintained to keep track of it; steps are taken to protect and maintain it; and that if the property is sold, HCDD is reimbursed for the CDBG-DR share of the property's value. HCDD, as the grantee, along with its Subrecipients and contractors, must tag and log all property valued greater than \$1,000 and update inventory records annually.

The federal requirements relating to real property are organized according to title (ownership), use, and disposition and outlined in 2 C.F.R. § 200.311. In general, the property management

system must provide for accurate records, the performance of regular inventories, adequate maintenance and control, and proper sales procedures. Grantees must follow sales procedures that provide for competition, to the extent practicable, and that result in the highest possible return.

#### *Acquisition of Real Property*

Upon notification of permission from HCDD, the City proceeds with efforts to acquire any real property, including easements and right-of-way, required for the project. CDBG-DR federal funds, administered by HCDD and disbursed to Subrecipients and direct contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 C.F.R. Part 24 (URA), 24 C.F.R. Part 42 (Section 104(d)), and in Tenant Assistance, Relocation and Real Property Acquisition Handbook (HUD Handbook 1378).

Subrecipients or contractors must provide the following benefits to households that they displace:

1. Relocation advisory services;
2. A minimum of 90-day notice to vacate;
3. Reimbursement for moving expenses; and
4. Payments for added cost of renting or purchasing comparable replacement housing.

A purchase option agreement on a proposed site or property prior to the completion of the environmental review is allowed if the option agreement is subject to a determination by the sub-recipient on the desirability of the property for the project after the environmental review is completed and the cost of the option is a nominal portion of the purchase price. Prior to advertising for bids, the Subrecipient must have obtained all lands, rights-of-way, and easements necessary for carrying out the project.

HCDD will provide property owners with the appropriate forms, including Involuntary Preliminary Acquisition Notice; Invitation to Accompany an Appraiser; Written Offer to Purchase; Statement of Basis of Just Compensation; Notice of Intent Not to Acquire; Donation and Appraisal Waiver; and Administrative Settlement.

#### *Insurance and Property Management*

For all projects in the Program, all property owners must procure and maintain insurance for the duration of the agreement to protect all contract assets from loss due to any cause, such as

theft, fraud, and physical damage. If CDBG-DR funds are used to acquire real property or personal property, the property owner is responsible for ensuring that:

1. The property continues to be used for its intended (and approved) purpose;
2. The Subrecipient keeps track of, and takes care of, the property; and
3. If the Subrecipient sells or disposes of the property during the contract period, the Subrecipient reimburses HCDD for the share of the property's value according to the agreement.

#### *Record Keeping, Retention and File Management*

In accordance with HUD regulations, the GLO as the grantee, and HCDD as the sub- grantee and prime recipient of CDBG-DR funds follow the records retention requirements cited in 2 C.F.R. Part 200, which includes financial records, supporting documents, statistical records and all other pertinent records. HCDD establishes recordkeeping and retention requirements in its sub- recipient and contractor agreements in accordance with the guidelines stated in 24 C.F.R. § 570.503(b)(2).

#### *Reporting*

As a recipient of CDBG-DR funds, HCDD, working with the GLO, will establish reporting requirements in accordance with 24 C.F.R. § 570.503(b)(2). HCDD has established its own reporting requirements in accordance with the provisions as found in 2 C.F.R. Part 200, as applicable:

- At execution of agreements;
- Monthly;
- Quarterly;
- Annually; and
- As required.

#### *Record Retention*

Record retention is a requirement of the program. Records are maintained to document compliance with program requirements and federal, state, and local regulations and to facilitate a review or audit by HUD. The HCDD Records Management Program seeks to ensure that:

- HCDD complies with all requirements concerning records and records management practices under federal and state regulations;
- HCDD has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements, and community expectations; and
- These records are managed efficiently and can be easily accessed and used for as long as they are required.

These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2.

*Access to Records (State – City)*

24 C.F.R. § 570.490 Recordkeeping requirements:

“(c) Access to records.

(1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.

(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.”

The availability of records is subject to the exceptions to public disclosure set forth in Chapter 552 of the Texas Public Information Act, of the Texas Government Code (“TPIA”). Requests under the TPIA must be made in writing to the Public Information Officer and will be processed in accordance with the procedures set forth in the TPIA and applicable City policies, such as Administrative Procedure 2-9, Guidelines for Responding to Requests for Public Information.

*Audit Requirements*

In accordance with Subpart F of 2 C.F.R. 200, non-federal entities that expend \$750,000 or more during their fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions therein. HCDD is responsible for conducting reviews of these single or program-specific audit reports and for coordinating the issuance of management decisions for audit findings relating to HCDD-provided federal funds.

*Fraud, Waste and Abuse*

The City will assess all program systems, processes and Standard Operating Procedures from an anti-fraud, waste, and abuse perspective. The City will provide anti-fraud training to program staff. Anyone with information regarding known or suspected misappropriation of funds or resources is encouraged to report the information to the City by sending a written report via

U.S. mail to the following address: City of Houston, Housing and Community Development Department, 2100 Travis Street, 9<sup>th</sup> floor, Houston TX 77002.

#### *Conflicts of Interest*

The program requires all program staff to disclose any relationship with an applicant, vendor or contractor. Program staff, sub-grantees, program administrators, vendors and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude to financially or otherwise benefit themselves, the applicant, vendor or the contractor. For example, a customer representative may not perform work on the application of family. For purposes of this regulation, "family" is defined to include spouse, parents, mother-in-law, father-in-law, grandparents, siblings, brother-in-law, sister-in-law, and children of an official covered under the CDBG conflict of interest regulations at 24 C.F.R. § 570.489(h).

HCDD may consider granting an exception to the conflict of interest provisions per 24 C.F.R. § 570.489(h)(4) if HCDD has determined that the Subrecipient, vendor or contractor has adequately and publicly addressed all the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974, as amended and the Subrecipient has complied with the requirements listed in 24 C.F.R. § 570.489(h)(4)(i) and (ii). HCDD considers the factors set forth in 24 C.F.R. § 570.489(h)(5), such as whether the exception provides a significant cost benefit or essential degree of expertise; whether the opportunity was provided for under open competitive bidding or negotiation; whether the person affected is an LMI person, whether the affected person has withdrawn from his or her functions or responsibilities; whether the interest or benefit was present before the affected person was in a position to benefit from the conflict of interest; or whether undue hardship results from failure to grant the exception.

#### *Confidentiality/Privacy*

The Program is committed to protecting the privacy of all individual stakeholders, including the public and those individuals working on the program. The program's policies describe how information is to be handled and protected. The purpose of this privacy policy is to establish when and under what conditions certain information relating to individuals may be disclosed. The data collected from applicants for the Program may contain personal information on individuals that is covered by the Federal Privacy Act of 1974, as well as applicable state laws. These laws provide for confidentiality and restrict the disclosure of confidential and personal information. Unauthorized disclosure of such personal information may result in personal liability with civil and criminal penalties. The information collected may only be used for limited official purposes:

- Program staff may use personal information throughout the award process to ensure compliance with program requirements, reduce errors, and mitigate fraud and abuse.
- Independent auditors, when hired by the City to perform a financial or programmatic audit of the program, may use personal information in determining program compliance with all applicable HUD and federal regulations, including the Stafford Act, CDBG-DR requirements and State and local law.
- HCDD may disclose personal information on an applicant to those with official Power of Attorney for the applicant or for whom the applicant has provided written consent to do so.

Organizations assisting HCDD in executing the CDBG-DR Program must comply with all federal and state law enforcement and auditing requests, including, but not limited to requests from HUD, FEMA, FBI, Office of the Comptroller, and the Office of the Inspector General.

## Monitoring

HCDD's Compliance and Monitoring Plan (Plan) will outline principles of governance and standards and management supporting the City of Houston's (City) HoAP Program. The Plan is mandated to establish a coherent governance structure, management standards and content requirements for policies and processes to manage compliance risk factors of the Program.

The Plan will outline the activities required by the City and the records required to document these activities. In addition to monitoring, this includes activities required to correct any issues raised as part of the monitoring process and documentation of activities required to remedy these issues. The Plan will also aim to do so in a way that balances HCDD's need to examine a sufficient sample of all Program applications processed by contractors against the constraint of limited resources within the City for this purpose. Compliance monitoring is necessary to validate the key assumptions, data sources and procedures used in measuring and monitoring compliance risks and to confirm controls are working as intended.

HCDD will formulate its own monitoring plan, which will encompass all compliance-related issues that are specified in the Guidelines and Standard Operating Procedures (SOP); and HCDD will establish detailed tools and checklists to fulfill the Program requirements regarding:

1. Case Management/Intake Phase
2. Planning
3. Pre-Construction
4. Construction
5. Close-out

## Program Closeout

HCDD assigned program staff will coordinate all required file documentation with homeowners, vendors and contractors necessary to verify completion of construction to program requirements. In accordance with HCDD approved Standard Operating Procedures, the HCDD assigned project staff will ensure compliance with program construction requirements. In addition to construction closeout documents, closeout staff will make sure that all relevant applicant, procurement, and audit documents are maintained to document compliance with program requirements and federal, state, and local regulations and to facilitate a review or audit by HUD. Both contractor and program retainage will be released based on the approval of the Director when all closeout requirements are completed in accordance with applicable contract documents. In addition, HCDD will maintain monitoring staff to assist program closeout through compliance periods.



## Version History

Date	Description
11/1/2018	Original, published by HCDD
1/9/2019 (tentative)	Approved by City Council

## Definitions

*Acquisition:* The process of purchasing or obtaining real property at post-disaster fair market value (FMV) of the land and structures that allows City to acquire real property for any public purpose, as set forth in 24 C.F.R. § 570.201(a).

*Adjusted Gross Income (AGI):* AGI is an individual's total gross income minus specific deductions as shown on the federal tax return.

*Affirmatively Furthering Fair Housing (AFFH):* AFFH is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The HUD AFFH assessment tool and final rule can be found here: [https://www.huduser.gov/portal/affht\\_pt.html](https://www.huduser.gov/portal/affht_pt.html).

*Applicant/Homeowner/Survivor:* (Used interchangeably) Individuals whose homes or housing units were destroyed, made uninhabitable, need repairs, or who suffered disaster-related displacement from their primary residences and/or loss of property.

*Area Median Income (AMI):* Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the programs.

*Beneficiary:* The recipient deriving advantage from CDBG-DR funding.

*Builder/Contractor:* (Used interchangeably) A person who contracts to construct or repair houses or buildings and/or supervises building operations.

*Builder Assignments:* A qualified pool of builders developed by contractors or the City.

*Case Management:* The process of working with applicants and their families through clear and transparent communication to understand the program's housing options, determine eligibility, navigate the construction process, execute necessary documentation, and close out the project while decreasing barriers to participate in the program.

*Compliance Period:* The time period during which a property must comply with CDBG-DR program rules and regulations, including primary residency, income, and rent restrictions as applicable.

*Damage Assessment:* An inspection by a certified or licensed inspector (HQS, TREC, or similar license) to specifically and clearly document storm-related property damage and the cost to repair according to local code via photographic evidence and detailed narratives.

*Demolition:* The clearance and proper disposal of dilapidated Home/Housing Unit and improvements.

*Duplication of Benefits:* The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other source.

*Elevation Standards:* Standards that apply to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 C.F.R. § 55.2(b)(1).

*Environmental Review:* This process, under which all qualified projects must undergo, to ensure that the activities comply with National Environmental Policy Act (NEPA) and other applicable state and federal laws.

*Event:* The Presidentially declared Hurricane Harvey, and subsequent flooding, disaster event.

*Family:* The term "family" means all persons living together in the same Housing Unit, as further defined under 24 C.F.R. § 570.3.

*Flood Hazard Area:* Areas designated by FEMA as having risk of flooding.

*Floodplain:* FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

- "100-year floodplain" — the geographical area defined by FEMA as having a one percent chance of being inundated by a flooding event in any given year.
- "500-year floodplain" — the geographical area defined by FEMA as having a 0.2 percent change of being inundated by a flooding event in any given year.

*Floodway:* FEMA designated channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*General Land Office (GLO):* The Texas General Land Office is the lead agency for managing the State's Community Development Block Grant – Disaster Recovery grants.

*Green Building Standards:* All rehabilitation (meeting the definition of substantial improvement), reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR (Certified Homes), (2) EPA Indoor Air Plus (Energy Star a prerequisite), (3) LEED (New Construction, Homes, or Neighborhood Development), or (4) ICC-700 National Green Building Standard.

*Home/Housing Unit:* (used interchangeably) a house, apartment, group of rooms, or single room occupied or intended for occupancy as separate living quarters.

*Household:* A household is defined as all persons occupying the same Housing Unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

*Housing and Community Development Act of 1974, as amended by the Supplemental Appropriations Act of 1984:* Establishes the program of Community Development Block Grants to finance the acquisition and rehabilitation of real property and which defines the recipients and uses of such grants, with the primary goal of benefitting LMI persons.

*Housing and Urban Development Act of 1968, Section 3:* Requires program administrators ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 C.F.R. § 135.32.

*Housing Quality Standards (HQS):* The minimum quality standards for buildings, including new single-family and multi-family housing constructed under HUD housing programs as outlined in 24 C.F.R. § 982.401.

*Low/Mod Income (LMI):* Activities which benefit persons of income that does not exceed 80 percent of the area median income:

- Extremely low: Household's annual income is up to 30 percent of AMI, as determined by HUD, adjusted for family size;
- Low: Household's annual income is between 31 percent and 50 percent of AMI, as determined by HUD, adjusted for family size; and
- Moderate: Household's annual income is between 51 percent and 80 percent of AMI, as determined by HUD, adjusted for family size.

*Manufactured Housing Unit (MHU):* A structure, transportable in one or more sections which in the traveling mode is 8 body-feet or more in width, or 40 body-feet or more in length, or when erected on site, is at least 320 square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

*Mitigation:* Improvements made to reduce the possibility of property damage, personal and commercial hardship, as well as long lasting monetary burdens. For example, creating a flood mitigation program such as an acquisition of at-risk flood-prone property/housing, and elevation of housing in high-risk floodplains are two visible and effective mitigation projects that can be taken to make residents and communities safer in the face of natural disasters.

*Modular Housing:* A home built in sections in a factory to meet state, local, or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site.

*Multifamily Rental:* Eight or more rental units in the property.

*Needs Assessment:* A needs assessment is a critical component in the allocation of funding across and within National Objectives for CDBG-DR funds. A needs assessment will recommend the proportions of funding that should be set aside to benefit each LMI and non-LMI economic group. The needs assessment will determine the activities to be offered, the demographics to receive concentrated attention, the disabled, "special needs," vulnerable populations, and target areas to be served. The needs assessment will also include an assessment of the types of public services activities that may be needed to complement the program. The needs assessment should set goals within the income brackets similar to the housing damage sustained within the impacted areas.

*New Construction:* A replacement home that exceeds the original footprint on the existing lot (if permitted) or the construction of a new home in a new location.

*Reconstruction:* Demolition and rebuilding of a stick-built or Modular Housing unit on the same lot in substantially the same footprint and manner. This activity also includes replacing an existing substandard Manufactured Housing Unit (MHU) with a new or standard MHU or stick-built housing unit. The number of units on the lot may not increase, and the total square footage of the original, principal residence structure to be reconstructed may not be exceeded; however, the number of rooms in a unit may be increased or decreased based on the applicant's current household size.

*Rehabilitation:* Repair or restoration of storm-damaged Housing Units to applicable construction codes and standards.

*Single Family Home:* A single-unit family residence detached or attached to other housing structures.

*Slum and Blight National Objective:* Activities which help to eliminate slum and blighted conditions. (Use of this National Objective is limited due to its inability to contribute towards the overall requirement for 70 percent LMI to benefit low- to moderate-income beneficiaries.) See 24 C.F.R. § 570.208(b).

Slum and Blight activities must meet the criteria of one of the three following categories:

- Prevent or eliminate slum and blight on an area basis;
- Prevent or eliminate slum and blight on a spot basis; or
- Be in an urban renewal area.

*Subrecipient:* Cities, counties, Indian tribes, local governmental agencies (including COGs), private non- profits (including faith-based organizations), or a for-profit entity authorized under 24 C.F.R. § 570.201(o). The definition of subrecipient does not include procured vendors, private grant administrators, or contractors providing supplies, equipment, construction, or services and may be further restricted by Program rules or other guidance including applications. See vendor definition for further clarification.

*Substantial Damage:* Has the meaning set forth in See 44 C.F.R. § 59.1, as may be amended from time to time, which, at the time of publication reads: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred ().

*Substantial Improvement:* Has the meaning set forth in See 44 C.F.R. § 59.1, as may be amended from time to time, which, at the time of publication reads: Any reconstruction, rehabilitation, addition, or other improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

*Urgent Need National Objective:* An urgent need that exists because conditions pose serious and immediate threat to the health or welfare of the community; the existing conditions are recent or recently became urgent; and the applicant cannot finance the activities on its own because other funding sources are not available.

*Vendor:* A provider of goods, equipment, and/or services or private grant administrators procured by the City or contractors to implement the Program and/or to serve homeowner assistance needs. Upon approval by the HCDD Director, the vendor may implement various elements of the Program.

**EXHIBIT "P"**

**HARVEY SINGLE FAMILY DEVELOPMENT PROGRAM GUIDELINES (HSFD)**





**CITY OF HOUSTON BUILD IT FORWARD  
HOUSING RECOVERY PROGRAM**

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Harvey Single Family Development Guidelines

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Version 1.5  
November 28, 2018

**CITY OF HOUSTON  
HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT**



# Harvey Single Family Development

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# Harvey Single Family Development

## HSFD PROGRAM ADMINISTRATION

The Harvey Single Family Development Program (HSFD) is intended to assist eligible City of Houston (City) applicants whose residences were directly impacted by Hurricane Harvey. 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). Of this \$5 billion allocation, the City of Houston (City) has received a direct allocation from the GLO of \$1,175,954,338 for development and implementation of programs that directly benefit the residents of the City of Houston. HUD outlined the allocations and applicable waivers and alternative requirements in Federal Register Notices published on February 9, 2018 (83 FR 5844). Subsequent publications of waivers and alternative requirements can be found in the table below under Applicable Laws & Regulations.

The City's Housing and Community Development Department's (HCDD) goal and objective is to provide housing programs that will preserve and expand the housing stock while creating sanitary, safe, energy efficient housing, and a resilient community. HCDD's objective includes assisting LMI homebuyers and LMI individuals that have participated in the Harvey Acquisition or Buyout programs. The City of Houston also places an emphasis on housing choices and designs that reduce maintenance and insurance costs as well as provide independent living options. The focus of the program is to fulfill an unmet housing need for extremely low-, low- and moderate-income applicants.

The City of Houston will administer its Single Family Development Program in accordance with these Harvey Single Family Development Guidelines, 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 and program components if in doing so would it better serve the affected communities and their residents.

The City of Houston reserves the sole discretion of interpreting and applying these Guidelines, except for those items where GLO or HUD has indicated that their prior approval is required for implementation. HCDD will utilize administrative procedures to implement the programs and modify them to meet any changes made to such rules and regulations of the oversight entities, which may occur over time. At all times, should any conflict in these procedures exist with the applicable funding resource, the requirements of the funding source shall take precedence, other than "local preferences" that are allowable under federal regulations.

Daily administration of the Programs will be under the direct supervision of the Director of HCDD, or his designee. Intake Specialists will be responsible for accepting applications during the intake process through the HCDD Outreach and Intake contractor. Further processes, such as eligibility; duplication of benefits review; inspection and environmental protocols; award determination; contract and contractor assignment; construction; and completion, will be administered and implemented by the selected Contractors and the Master Program Manager. The HCDD Finance Division will authorize payments to contractors after review and validation of submitted invoice packages by HCDD and the Master Program Manager.



# Harvey Single Family Development

## CDBG-DR NATIONAL OBJECTIVES

In support of the U.S. Department of Housing and Urban Development's (HUD) recovery objectives, the City of Houston has specifically designed its storm recovery programs to help impacted residents and communities recover from damage inflicted by Hurricane Harvey. As expressed in the Federal Housing and Community Development Act, the primary objective of the general Community Development Block Grant (CDBG) program is "the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate -income (LMI)." Community Development Block Grant – Disaster Recovery funding appropriated in response to disasters must meet the general goals of the CDBG program.

All CDBG-DR funded activities through the City of Houston HSFDR must meet the following National Objective:

- Benefiting Low- and Moderate-Income Persons (LMI) (80% of Area Median Income)

## APPLICABLE LAWS & REGULATIONS

Public Laws	Federal Register (FR)	Date of Publication	Location:
P.L. 115- 56	83 FR 5844, Vol. 83, No. 28	02/09/2018	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-02-09/pdf/2018-02693.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-02-09/pdf/2018-02693.pdf</a>
P.L. 115- 123	83 FR 40314, Vol. 83, No. 157	08/14/2018	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-08-14/pdf/2018-17365.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-08-14/pdf/2018-17365.pdf</a>

## HSFD OVERVIEW

The Single-Family Development Program will provide new affordable single-family homes for renters and homeowners with annual household income at or below 80% of the Area Median Income (AMI). HCDD will work with City-procured builders, for-profit and non-profit contractors and organizations to implement the program. Properties or lots for new construction will be identified from a variety of sources, including the Houston Land Bank, HCDD's Homeowner Assistance Program, and other organizations that have existing land available. If needed, the City may use the funds to purchase vacant lots suitable for new construction.

This program will give opportunity to Harvey-impacted residents to move out of areas within the floodplain or areas that are prone to repetitive flooding. It may also give Harvey-impacted homeowners that need reconstruction the immediate opportunity to move to a new home offered for sale through this program. This program will work in conjunction with the Harvey Homeowner Assistance Program Acquisition and Buyout program for those directly impacted by Hurricane Harvey and those indirectly impacted due to the resulting housing shortage.

The City may enter into Memorandums of Understanding (Agreement) with prospective partners, pursuant to which the partner agrees to acquire said properties for new home development, which will be sold to LMI homebuyers in accordance with customary policy and procedures noted in the MOU.



# Harvey Single Family Development

## HSFD GENERAL PRIORITIZATIONS

Funding priorities have been established to assist LMI homebuyers and LMI individuals that have participated in the City's Homeowner Assistance Acquisition or Buyout program.

Based on household composition and qualified income sources, applicants' income will be evaluated using HUD's recent Area Median Income (AMI) as published annually by HUD. The Housing and Community Development Department (HCDD) will use a definition of income, as allowed by HUD, and will use the IRS Method for purposes of verifying and determining income eligibility for the Program. Income limits are updated annually and published on HCDD's Disaster Recovery website. The 2018 annual income limits are as follows for this publication:

2018 Income Limits Summary								
Family Size	1	2	3	4	5	6	7	8
Low to Mod (80%) Income Limits	\$41,950	\$47,950	\$53,950	\$59,900	\$64,700	\$69,500	\$74,300	\$79,100

## HSFD ELIGIBILITY OVERVIEW

New construction is eligible based on information provided in the Federal Register waiving the requirements of 42 U.S.C.(a) HCDA Section 105 (a)(1), 105(a)(4), 105(a)(7-8), 105(a)(11), 105(a)(14-15).

- New construction of single-family homes
- Replacement of existing owner-occupied property damaged as a result of Hurricane Harvey

This eligibility overview provides the requirements, income criteria, and funding priorities that applicants must meet to be eligible for the City of Houston's CDBG-DR funds, specifically for the Harvey Single Family Development Program. All eligibility and verification methods are subject to City of Houston's Housing and Community Development Department (HCDD), GLO, and HUD approval. HCDD will engage HUD Certified Counselors when applicable to assist applicants with assessing their financial situation and evaluating options for full benefit of the offered programs. The program requirements and eligibility elements include but are not limited to meeting a National Objective, verification of income, duplication of benefits, property location, ownership, occupancy, primary residence, documented damage and flood insurance.

Participants of the Single-Family Development program may have participated in the Homeowner Assistance Program (HoAP) Acquisition or Buyout options.

The following eligibility criteria must be met prior to participation in any of the Harvey Single Family Development Program.



# Harvey Single Family Development

**HSFD PROPERTY ELIGIBILITY REQUIREMENTS:**

- i. Must be located within the incorporated limits of the City of Houston
- ii. Must be located outside of the floodway
- iii. Must have an environmental review record completed and evaluated for eligibility

**HSFD HOMEOWNER ELIGIBILITY REQUIREMENTS:**

- i. Must have resided within the incorporated limits of the City of Houston at the time of the storm (August 25, 2017)
- ii. Must have been directly impacted by Hurricane Harvey or indirectly impacted due to the resulting housing shortage.
- iii. All homeowner/applicants and co-applicants and household members over age 18 must be current on payments for child support.
- iv. Homeowner/applicants must furnish evidence that property taxes are current, under an approved payment plan, or that there is an exemption under current laws.
- v. Eligible homeowner/applicants will not be allowed to participate in the program if they have an existing mortgage they are unable to pay off or if they have existing liens on a property.
- vi. Homeowner/applicants must agree to a limited subrogation of any future awards related to Hurricane Harvey, to ensure duplication of benefits compliance.
- vii. Assistance will be provided in the form of a zero-interest forgivable loan, secured by placement of the highest lien position possible on the property.
- viii. Homeowners are required to maintain principal residency in the assisted property throughout the length of the compliance period. Cash-out refinancing, home equity loans, or any loans utilizing the assisted property as collateral are not allowed during the compliance period. A violation of this policy will activate the loan repayment terms.
- ix. Program participants must agree to compliance period and lien requirements. The compliance period of homes purchased will be tiered based on the amount of assistance received. The lien on the property will be removed upon completion of the terms and conditions of all documents related to the program and completion of the compliance period.

Amount of Assistance	Compliance/Lien Period
Less than \$40,000	5 years
\$40,001 - \$80,000	10 years
\$80,001 and above	20 years

- x. Forgiveness of the loan provided will be prorated over the course of the determined compliance period. The proration percentage will depend on the length of the period, with 100% of the loan being forgiven and the lien satisfied at the termination of the compliance period. Should the homeowner use the property as collateral, sell, or otherwise convey their ownership interest in the property during the compliance period, the remaining prorated amount of assistance will become immediately due and payable.



## Harvey Single Family Development

- xi. Program participants must maintain insurance for the property. Hazard, flood, and windstorm (if applicable) insurance will be monitored during the length of the compliance period. Please note, flood insurance must be maintained on the property during the life of the property, regardless of transfer of ownership. Failure to maintain flood insurance may result in the denial of future federal disaster assistance should another event occur.
- xii. Upon receipt of the disaster recovery benefit, if the property is sold, flood insurance requirements are transferred to the new homeowner. Such requirements and transfer parameters must be conveyed in writing with documents evidencing the property transfer and ensuring the new homeowner understands and accepts all terms and conditions.
- xiii. Must meet the HUD CDBG National Objective: Low- and moderate-income (LMI).

### Maximum Assistance:

The amount of assistance is \$200,000 per property, however additional allocations, above the \$200,000 threshold may be provided to address certain site-specific conditions including Access and Functional Needs (AFN), resiliency/mitigation measures, municipal ordinances, and homeowner/neighborhood requirements. Additional allocations will be allowed at the discretion of the City based on the submitted application, onsite inspection and additional requirements that will be outlined in the Standard Operating Procedure. The maximum amount of assistance inclusive of site-specific conditions shall not exceed \$237,000.

Site Specific Condition	Funding Allocation
Resiliency Measures	\$10,000
Limited Mobility & Accessibility Needs	\$25,000
Municipal, HOA, and Neighborhood Requirements	\$2,000

The City will work with applicants who require AFN accommodations by providing an opportunity to select properties that satisfy their AFN needs and/or will incorporate AFN construction in at least 25% of all new homes built.

## COMMUNITY ENGAGEMENT/AFFIRMATIVE MARKETING/ OUTREACH PLAN

The City of Houston has engaged in a robust community engagement strategy to inform Houstonians on the status of the local government's efforts to secure funding for its long-term recovery from Hurricane Harvey. The City of Houston, through HCDD, is committed to affirmatively furthering fair housing through established affirmative marketing policies. Affirmative marketing efforts will include the development of an Affirmative Marketing & Outreach Plan based on U.S. Department of Housing and Urban Development (HUD) regulations to ensure that units financed through the Program are affirmatively marketed to the public at large. This plan will ensure that outreach and communication efforts reach eligible homeowners and renters from all racial, ethnic, national origin, religious, familial status, disabled, and gender groups. The Affirmative Marketing & Outreach Plan will give detailed information about how the City of Houston plans for effective outreach to all groups of homeowners, landlords, and renters mentioned above, as well as how the application and enrollment process for programs will be suitable for persons with limited English proficiency, persons with disabilities and those with special needs. For each program offered by the City of Houston, notification to these populations will include:



## Harvey Single Family Development

information on vacant units available for sale and/or rent; information on how to apply for unit purchase, rehabilitation or rental; opportunities to buy and/or rent the unit of their choice, and opportunities to rehabilitate their primary residence to address storm-impact.

Particular emphasis will be focused on successful outreach to LMI areas and those communities with minority concentrations that were affected by the storm. Outreach efforts will include door-to-door canvassing and special outreach efforts to hard-to-reach populations (e.g. seniors and persons with severe disabilities who either do not have information about the resources or are unable to independently apply for resources.)

In addition to marketing through widely available media outlets, efforts may be taken to affirmatively market the CDBG-DR Disaster Recovery Program as follows:

- Advertise with the local media outlets, including newspapers and broadcast media, which provide unique access for persons who are considered members of a protected class under the Fair Housing Act.
- Include flyers in utility and tax bills advertising the City of Houston's Hurricane Harvey CDBG-DR funded recovery programs.
- Reach out to public or non-profit organizations and hold/attend community meetings.
- Other forms of outreach tailored to reaching the eligible population may be used, including door to door outreach if necessary particularly on the weekends.
- Measures will be taken by the City to make the CDBG-DR Disaster Recovery Program accessible to persons who are considered members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), providing American Sign Language (ASL) translation when requested, and providing special assistance for those who are hearing or visually impaired when requested.
- Applications and forms will be offered in English and other languages, including Spanish, French, Urdu, Chinese, and Vietnamese, prevailing in the region in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 CFR 8.6), Limited English Proficiency (LEP) and other fair housing and civil rights requirements, such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such applicants in the application process.
- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.

The City of Houston is required to use the fair housing logo in Program advertising, post fair housing posters and related information, and, in general, inform the public of its rights under fair housing regulations law. Evaluation of outreach activities and applications received will be necessary to determine if outreach is successful and applications that are being received accurately reflect the socioeconomic and other forms of demographic diversity. Evaluation will be an ongoing process.

HCDD has discretion in the modification and/or addition of requirements to the Affirmative Marketing & Outreach Plan.





# Harvey Single Family Development

## NEEDS ASSESSMENT

The City of Houston completed its Local Housing Needs Assessment to identify the impact of Hurricane Harvey on the city's housing stock. Information has been gathered from a number of sources to document the impact of Hurricane Harvey including demographic profile of impacted households including low-and moderate households.

The impact on housing is based on an estimation of the extent and depth of flooding using a flood risk assessment methodology and an estimation of damage to all buildings in Houston using a damage assessment methodology. The two methodologies provide an assessment of the impact of Hurricane Harvey's rainfall on residential buildings. The models used in these methodologies provide information on the level of inundation in each structure and the associated damage in dollar amounts to the building structure and its contents.

The entire City of Houston is located in an area HUD identified as "most impacted and distressed" as it relates to the damage from Hurricane Harvey. The City of Houston's Local Action Plan and Local Housing Needs Assessment are the basis for the development and prioritization of recovery activities in Houston using CDBG-DR funds. The City has consulted with affected residents and stakeholders, such as the Houston Housing Authority to assess needs. As additional data becomes available and as additional community and stakeholder engagements take place, the unmet needs and activities to address community needs through CDBG-DR funds may be updated.

## PROCUREMENT

Adequate documentation to show that selection processes were carried out in an open, fair, uniform, and thorough manner to ensure that federal (2 CFR 200.318–200.326), state, and City requirements were met must be maintained.

Record retention records must include, but are not limited to, the following information:

- Rational for the method of procurement;
- Evaluation and selection criteria;
- Contractor selection or rejection; and
- The basis for the cost or price.

During the procurement process, solicitations should clearly identify any items included in the bid/purchase that are not included in the CDBG-DR agreement with the City. Additional guidance can be found in HUD's CDBG-DR and Procurement Guidance.

Goods and services must be procured using the federal procurement and contract requirements outlined in 2 CFR 200.318 – 200.326. These procurement requirements must be followed for reimbursement from grant allocations of CDBG-DR funds provided by HUD. Subrecipients and the City are also required to follow state and local procurement law and policies, as well as the additional requirements stated in 2 CFR Part 200.



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Additionally, the City's Strategic Procurement Division may review draft solicitations or responses prior to award for compliance with applicable city, state and federal rules and regulations. Subrecipients and the City should clearly identify during the procurement process any items included in the bid/purchase that are not included in the CDBG-DR contract.

Regardless of the type of procurement used, an executed contract between selected bidder and the City must document the period of performance, the work to be completed, the agreed price, and contractor or provider's required compliance with all applicable federal, state, and local requirements that subrecipients and the City must follow. If there is a conflict between federal, state, and local laws and regulations regarding procurement, the more stringent law or regulation will apply.

Additionally, subrecipients are required to achieve compliance with Section 3 (24 CFR Part 135). It is strongly suggested that HUD's best practices be utilized to help achieve compliance (HUD Model Section 3 Plan), including creating a Section 3 Plan. Subrecipients are also required to "take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible." (HUD CFR 200.321).

Furthermore, the City will maintain a comprehensive public website that provides information for individuals and entities awaiting assistance for Harvey related damage, and the general public to see how all grant funds are used and managed/administered, as well as Federal Register notices and updates related to Hurricane Harvey. To meet this requirement, the City and its subrecipients must make the following applicable items available to post on City's website [[www.recovery.houstontx.gov](http://www.recovery.houstontx.gov)]: procurement policies and procedures; description of services or goods currently being procured by subrecipients; subrecipient and state administrative contracts and a summary of all procured contracts (as defined in 2 CFR 200.22), including those procured by subrecipients, or the city (e.g., a summary list of procurements, the phase of the procurement, details of ongoing procurement processes, requirements for proposals, and any liquidation of damages associated with a contractor's failure or inability to implement the contract, etc.). Updated summaries must also be posted monthly on the website. HUD will post further guidance related to this requirement on the HUD Exchange website ([www.hudexchange.info](http://www.hudexchange.info)).

## FINANCIAL MANAGEMENT

The City of Houston, as a CDBG-DR recipient, is required to follow the financial administration requirements outlined in 24 CFR Part 85.20 (Subpart C). These standards help ensure that the financial systems put in place by the City:

- i. Provide adequate, current, and complete disclosure of the financial results (regular financial reporting) of all financially assisted activities, in accordance with the financial reporting requirements of the grant.
- ii. Document that funds have been used only for authorized purposes. For CDBG-DR this includes not only eligible activities but that the funded projects meet a National Objective;



## Harvey Single Family Development

- iii. Maintain accounting records that show the sources and uses of funds, displaying funds authorized, obligated and unobligated balances, assets, liabilities, outlays or expenditures and income;
- iv. Establish effective internal controls over all cash, real and personal property, and other assets acquired with program funds;
- v. Track actual program cost against program budget in a manner that relates to program productivity and accomplishments;
- vi. Use Uniform Administrative Requirements outlined in 2 CFR 200 principles to determine whether program costs are reasonable, allowable, and can be allocated, either directly or indirectly;
- vii. Maintain source documentation for accounting records;
- viii. Implement procedures for cash management that permit the timely disbursement to applicants and subrecipients and complete and accurate monitoring and reporting; and
- ix. Comply with 2 CFR 200 Subpart F

The roles and responsibilities described below are related to the financial management of the City of Houston's CDBG-DR allocation for Hurricane Harvey. These descriptions are not intended to be an exhaustive list of activities performed by each entity in relation to the CDBG-DR grant or in general.

### The City of Houston

- I. Finance Department – The Strategic Procurement Division (SPD) is housed within the City of Houston's Finance Department and is responsible for procuring goods and services for CDBG-DR funded activities.
- II. The City Controller –The Office of the City Controller certifies the availability of funds prior to City Council approval of City commitments, processes and monitors disbursements, invests the City's funds, conducts internal audits of the City's departments and federal grant programs, operates and maintains its financial management system, conducts the sale of public improvement and revenue bonds and produces a comprehensive annual report of City finances - Comprehensive Annual Financial Report (CAFR). The Controller will be responsible for providing a variety of approvals for release of CDBG-DR funds as payment to contractors and beneficiaries.
- III. Housing and Community Development Department (HCDD) – HCDD is the grant manager for Houston's Hurricane Harvey CDBG-DR allocation and responsible for administering all programs outlined in the City's Local Action Plan.
  - a. Disaster Recovery and Public Services Division: This division is responsible for program development and oversight, as well as community outreach.
  - b. Finance Division: This division is responsible for processing CDBG-DR grant funding through the Systems Applications and Products (SAP), performing draws in HUD's Integrated Disbursement Information System (IDIS) and Disaster Recovery Grant Reporting (DRGR) System, and reconciling budgets and expenditures. This division is also responsible for processing payment requests in SAP and federal reimbursement requests to the GLO to be realized in the City's budget.



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- c. Planning and Grants Management Division: This division is responsible for the City's CDBG-DR Local Action Plan, Local Needs Assessment, program applications, other rated planning documents, substantial amendments, project/activity budget set-up and completion in IDIS and DRGR and related reporting to HUD and GLO.

### Key Funding Objective

At least 70% of the City of Houston's CDBG-DR funds must be spent on LMI impacted residents and will require close monitoring of the eligibility and award calculation stages.

## DUPLICATION OF BENEFITS

Many federal and state agencies are involved in responding to Presidentially declared major disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (the "Stafford Act"). Grantees must be aware that the Supplemental Appropriations Act authorizing CDBG funding or the Stafford Act may include restrictions on using those program funds to provide assistance when insurance providers or other federal or state agencies have already funded all or a portion of the activity. Certain Supplemental Appropriations Acts also include restrictions against use of those program funds as a matching requirement, share, or contribution for any other federal program.

Each application will be reviewed to determine if previous funding awarded to the applicant was appropriately used on the home and if any funds were received for the same purpose. The applicant must have an unmet need to move forward in the program. The City must determine the applicant's unmet needs first and then calculate the applicant's Duplication of Benefits (DOB). Applicants must provide documentation of insurance, FEMA, SBA, and any other type of funding received. Additionally, the City will verify that the submitted documentation is accurate and current at the time of the award, to the extent possible (e.g., validate against FEMA data). 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, as part of the application review. Private insurance companies will be notified with applicant approval to contact, to verify/confirm values received as well.

HCDD will ensure compliance with the Stafford Act through collection, analysis, and verification of third-party benefits received by applicants, as necessary.

Any sources of funds previously received for the same recovery will be deducted based on information obtained from private insurance, SBA, FEMA, and/ or volunteer organizations (including in kind assistance) used for the same purpose that the CDBG-DR award is intended to assist. That amount will be reduced by all previously received funding to determine the final award. Any amounts that are determined to be allowable activities will not be included in the reduction of the final award. Allowable activities will include activities that are excludable per Stafford Act and HUD guidance.

The applicant must repay any assistance later received for the same purpose as those awarded or provided for with CDBG-DR funds. The applicant is obligated to certify they understand this requirement as outlined in detail within the subrogation terms included in their Grant Agreement.



## Harvey Single Family Development

To comply with these requirements, the City of Houston will design Standard Operating Procedures to ensure that any funds determined to be a DOB are deducted from the final assistance award amount for each applicant across the eligible activities of all programs.

### SURVEY AND APPLICATION PROCESS

Individuals seeking to participate in Harvey related CDBG-Disaster recovery programs administered through the City of Houston will be required to first complete a survey. The survey will be accessible through various means, including the HCDD-DR website, in-person or through an Intake Kiosk at area Housing Resource Centers (HRC's), community outreach events, as well as over the phone with direct assistance from an assigned Housing Advisor.

The survey serves a number of purposes. Initially, the data collected through the survey will help to better identify specific housing needs across the City of Houston's area population and highlight the alignment with the targeted household prioritizations as revealed through the Needs Assessment results. Additional purposes of the survey will include assessing the impacts of the Affirmative Marketing & Outreach Plan, and identifying actions for ongoing outreach efforts.

HCDD will develop a process to accept applications for funding to serve extremely low-, low-, and moderate-income households. Funding priorities will be developed in a manner that affirmatively furthers fair housing objectives.

#### **Application Intake**

For those not in the Subrecipient Selection process, the application packet will be available online and will include detailed instructions for completing the application, scoring and priority criteria (if applicable), policy overview and eligibility criteria, steps for appeals and/or program escalations, document checklists, environmental requirements, program contact information including location and hours of area Housing Resource Centers (HRC's), etc.

HCDD Intake Specialists will be responsible for receiving program specific applications and supplemental documentation during the intake process from the applicant until all required information is collected for HCDD to make an official eligibility determination. As applications are being accepted and reviewed for determinations of eligibility to participate in the Program, each applicant will be assisted with documentation collection and made aware of their application status.

Applications and forms will be offered in English and other languages prevailing in the region, including are Spanish, Vietnamese, Chinese, Arabic, and French, in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 CFR 8.6), Limited English Proficiency (LEP) and other fair housing and civil rights requirements, such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such applicants in the application process.

Intake Specialists or Language Specialists Assistants must be able to communicate with applicant in their primary language and assigned to the clients as appropriate. Additionally, they must ensure effective communications with persons with disabilities pursuant to 24 CFR 8.6 and other fair housing and civil rights requirements (such as the effective communication requirements under the Americans with Disabilities Act).



## Harvey Single Family Development

The Application Intake phase will be initiated by invitation only (dependent on priority and volume of survey respondents received). Priority tiers will be assessed on a monthly basis and formally announced on the website and through updated program memos/e-blasts. All official applicant program notifications will be made by US Mail (using the mailing address provided by the applicant or communication designee). However, additional contact attempts will also be made via phone and email and/or text if provided. Applicants will be provided an initial 30 days to respond to the invitation to complete a HSF Development Application from the date of the official Invitation Notification letter. Applicants, if necessary, will be provided up to two (2) more mailed notifications with an additional 30-day time period to apply (totaling 90+ days). If no response is made to the invitation to apply after all three (3) official Invitation to Apply notifications, applicants will be automatically withdrawn from the active HSF Development population (requiring a formal HSF Development appeal for consideration of reinstatement).

Applicants who initiate the Application and Intake phase within the prescribed timelines, will be allowed 90 days to fully complete the application and required supplemental documentation. An Application Document Checklist will be provided along with every Application to clearly identify document types accepted for each eligibility criteria. In addition to assigning Intake Specialists to each Applicants, extensive efforts will be made to assist applicants to successfully complete the intake phase within this timeline, including actively working area nonprofits and case managers, providing limited legal aid, translation services, routine community outreach events, and making mobile area and house visits. Extensions to a 90-day Intake time period will be formally made in writing on a case-by-case basis by the City.

Other Survey and Application Intake deadlines may be determined in the future based on date of invitation and initiation of Application and overall availability of CDBG-DR/HSFD specific funding. All applicants prior to the loan closing date, will be informed in writing that funding even after eligibility determination, will not be guaranteed. New policy and critical date determinations will be provided on the website and shared through written Harvey Recovery Program notifications.

Original (paper) records will not be accepted and will be returned by mail if received. All records will be developed and signed via DocuSign within the systems and/or scanned electronic records. Paper records, originals or copies, will not be retained over a long-term period. The programs Document Management Standard Operating Procedures will provide specifics of document naming conventions, receipt, transfer, tracking, and general record retention details.



# Harvey Single Family Development

## **Subrecipient Selection Process**

The City of Houston, with approval from the GLO, will administer a Subrecipient Selection process for a portion of the Single Family Development program. The solicitation will clearly establish the process and acceptance period, threshold criteria (including applicable building codes), selection criteria, and the award process. Selected projects must be completed within 18 months of the effective date of the contract, unless otherwise extended by GLO. Project selection criteria and process information will be established in the program guidelines. The selection criteria will likely include, but is not limited to, the following:

- a. Organizational experience
- b. Housing types
- c. Project location information
- d. Financial analysis

All awarded applications will be evaluated to confirm compliance with environmental and Affirmatively Furthering Fair Housing (AFFH) requirements.

## **Power of Attorney & Communication Designee**

An individual with Power of Attorney (POA) or approved Communication Designee for the owner-occupant may assist with the completion of applicant's application. Only a properly executed POA allows another individual to sign on behalf of the applicant.

## **Applicant Contract Award Meeting (Forgivable Loan Closing)**

The provision of assistance is contingent upon the availability of funding. When funding is limited or unavailable, the City may create a waiting list pending notification from the GLO and HUD of additional funding. Applicants seeking assistance may be placed on a waiting list after the survey and application phase if necessary.

Once a wait list is opened, if funding is available, applicants will be served based on the program priority groups and affiliated scoring tiers. Applicants with the most points will be processed first when funding becomes available. If all or several applicants have an equal number of points, then applicants will be served and ranked based on the time of application (on a first come-first served basis). Completed applications of income-eligible households will be prioritized on a weekly basis. Qualified households who are not in one of the priority categories will have their application considered once priority applications have been considered, and contingent on available funding.

## **Applicant Voluntary Withdrawal**

If an applicant chooses to voluntarily withdraw or is administratively withdrawn from the Program, the applicant is required to return ALL previously disbursed funds back to the Program. Applicants must clearly provide a written reason and notice of intent to voluntarily withdraw their application. HCDD will send the applicant a written notice of acknowledgement of his/her voluntary withdrawal.



# Harvey Single Family Development

## **Voluntary Withdrawal Reinstatement Requests**

Applicants who have voluntarily withdrawn from the Harvey CDBG-DR programs may submit a written request for reinstatement based on extenuating circumstances. The request will be reviewed and approved by HCDD, on a case-by-case basis.

## **Administrative Withdrawals**

Applicants may be administratively withdrawn for multiple reasons; the following are several example reasons:

- Any applications that are started but not completed and not submitted within sixty (60) days of the initial start of the application or by the end of the application period will be formally withdrawn.
- The program confirms that an application is a duplication of other valid applications or results in an overlap of other program funds.
- An applicant fails to provide required documentation or information after receiving a written request, or to communicate a reasonable timeframe for supplying said documentation;
- An applicant is aggressive and/or abusive to a HCDD employee or any other representative or affiliate of the Build it Forward Program.

## **CONSTRUCTION**

Housing that is constructed with CDBG-DR funds must meet all applicable local, codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. This includes proof of Certificates of Compliance as required.

HCDD has identified the following unit sizes below to be offered in the HSF program. Each will have a minimum of two (2) plan options for selection by the applicant. This list is not all inclusive and unit sizes and plans may be modified at the discretion of HCDD, and for the accommodation of any applicants with accessibility and mobility adaptations.

1. Two bedroom-one bath, area of 1,100 sq. ft. – 1,200 sq. ft.
2. Three bedroom-two baths, area of 1,300 sq. ft – 1,400 sq. ft.
3. Four bedroom-two bath, area of 1,500 sq. ft. -1,600 sq. ft.

The City of Houston, through its Standard Operating Procedures will outline detailed procedures for the performing, tools and interfaces associated with the construction management and oversight function. The Standard Operating Procedures will include construction inspection information for progress, final and TREC compliance along with payment requirements.





# Harvey Single Family Development

## Warranties and Retainage

- When the results of the final inspection indicate that the work is completed in accordance with the contract, the city will submit the contractor's request for payment and, upon receipt of the funds, disburse the funds to the contractor. The city shall retain 10 percent of the construction contract value for 30 days. During this time the city will collect all remaining compliance documentation and prepare any required bond release. Following receipt and QC of any required documentation, the retainage will be paid to the contractor upon availability of grant funds following the final 30-day period.
- In addition, should the contractor be doing other work under this Single Family Homeowner Program and fail to correct any warranty problems, no other payments will be made to him/her until such problems are corrected. This will affect a builder's assignment method and these actions shall be recorded.
- All work performed by the contractor will be guaranteed for a period of 1 year. Such warranty will be stipulated in the construction contract between the contractor and the homeowner. For a period of 1 year, the assisted homeowner may require the contractor to correct defects or problems arising from his/her work under this contract. Should the contractor fail to do so, the assisted homeowner may take any necessary legal recourse as prescribed in the rehabilitation or new construction contract. A reasonable amount of time will be given to correct the problem; however, in no case will such time exceed 2 weeks to respond.
- Warranty notices must be issued by the contractor in advance of expiration of the 1-year workmanship and material warranty. (e.g., 6 months and 1 month prior to expiration date of the warranty).
- In addition to the 1-year warranty referenced above, the contractor shall provide a third-party extended warranty that shall cover, at a minimum, the appliances and major systems (HVAC, Plumbing, Electric, etc.) for a period of 2 years, and structural integrity and the foundation for a period of 10 years. (Commonly referred to as a 2-10 warranty) The City will inform the applicant at closing what the home warranty terms are and when they expire.

What's Covered?	What homes are covered?	Policy Duration?	Who supplies coverage?
All Workmanship & Materials as per the scope of work	Reconstruction Rehabilitation New Construction	1 year	Contractor or Third-Party Policy
All Appliances & major systems of the home that were part of the scope of work.	Reconstruction Rehabilitation New Construction	2 years	Third Party Policy
Foundation & Structural Components	Reconstruction New Construction	10 years	Third Party Policy



# Harvey Single Family Development

## SITE AND DEVELOPMENT RESTRICTIONS

### Site and Development Restrictions

#### 1. General Standards

All housing units participating in the Harvey Single Family Development Program (HSFD) will be required to meet Housing Quality Standards detailed under 24 CFR 982.401 and Fair Housing Accessibility Standards. Housing activities must also meet all local building codes or standards that may apply. All single-family homes should also incorporate resiliency solutions which may include: elevating the first floor of the habitable area; windstorm protection, reinforced roofs; storm shutters; use of ENERGY STAR appliances and fixtures; and mold and mildew resistant products. All new construction projects must also meet Green Building Standards.

#### 2. Standards for:

##### a. Constructed or Substantial Improvements

City's adopted 2012 International Residential Code (IRC) (with windstorm provisions) and International Building Code (IBC) (and subsequent adoptions thereafter in accordance required IRCs and IBCs) must be met where they apply. All rehabilitation, reconstruction, and new construction should be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Whenever feasible, HCDD will follow best practices, such as Professional Certifications and Standard Work Specifications provided in the U.S. Department of Energy's Guidelines for Home Energy Professionals.

##### b. Green Building Standards

New housing construction, reconstruction or substantially rehabilitated housing must comply with ONE of the following Green Standards:

- i. ENERGY STAR (Certified Homes);
- ii. EPA Indoor Air Plus (Energy Star a prerequisite);
- iii. LEED (New Construction, Homes, or Neighborhood Development); or
- iv. ICC-700 National Green Building Standard.

##### c. Elevation

The City of Houston will apply the following elevation standards to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1). All structures, as defined under 44 CFR 59.1, designed principally for residential use and located in the 500-year (or 0.2 percent annual chance) floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined under 24 CFR 55.2(b)(10), must be elevated with the lowest floor, including the basement, at least 2 feet above the annual floodplain elevation or as modified by local code. Mixed-use structures with no dwelling units and no residents below the annual floodplain must be elevated or floodproofed in accordance with FEMA floodproofing standards under 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least 2 feet above the annual floodplain or as modified by local code.



## Harvey Single Family Development

Applicable state, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, will be followed.

### 3. Accessibility

Single Family Housing Units 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 the City's Visitability Standards.

## ENVIRONMENTAL

In accordance with the US Department of Housing and Urban Development's (HUD) regulations for implementing the National Environmental Policy Act at 24 CFR Part 58, the City of Houston's Housing and Community Development Department (HCDD) must perform and complete Environmental Reviews of proposed programs, projects, and activities that will utilize Hurricane Harvey CDBG-DR funds. These funds will be administered by the Texas General Land Office (GLO), which will review all levels of Environmental Review documentation submitted before issuing environmental clearance for each proposed action to utilize funds. GLO will maintain an Environmental Review Record (ERR) of approved documentation as a compilation of each level of environmental review performed under the City's CDBG-DR funded programs. HCDD maintains an ERR of all submitted and GLO-approved compliance documentation. HCDD also maintains a record of site-specific documentation that demonstrates environmental compliance of GLO-approved construction activities.

HCDD's ERR will compile all levels of environmental review documentation required under 24 CFR Part 58. This includes HUD required forms and checklists submitted and approved by GLO for activities determined exempt according to 24 CFR 58.34 or those that are Categorically Excluded Activities Not Subject to the Section 58.5 Statutes (24 CFR 58.35(b)). These contain documentation of compliance with the statutes and regulations listed at 24 CFR 58.6 (Floodplain Disaster Protection Act, Coastal Barriers Resources Act, Airport Runway Clear Zone or Runway Protection Zone, and Clear Zone Disclosures). The ERR will also contain GLO-approved site-specific environmental assessments of proposed actions per 24 CFR Part 58.40.

Where considered appropriate, the City will utilize a tiered environmental review process in accordance with 24 CFR Part 58.15. The tiered approach allows for a Tier I level broad environmental analysis of proposed policy and action(s) in the early stage of strategic development when site-specific analysis is not yet feasible, yet those actions are known to be geographically and/or functionally aggregated. The Tier I Broad Environmental Review thus identifies environmental compliance factors that can be analyzed and resolved with policies and decisions at this stage, to streamline or narrow the focus of the Tier II site-specific environmental assessment of potential environmental impacts once construction sites are known and appropriate mitigation measures can be specified. Therefore, HCDD's ERR will also maintain the GLO-approved versions of all Tier I and Tier II level environmental reviews performed.

While not currently anticipated, certain proposed actions undertaken by the City with CDBG-DR funds may be determined to have a potentially significant impact on the human environment and therefore require an Environmental Impact Statement in accordance with 24 CFR part 58.37. In the event such



## Harvey Single Family Development

an effort become necessary, all required documentation developed during the process would also become part of HCDD's ERR.

### APPEALS

Applicants have a right to appeal an eligibility determination, grant calculation or final scope of work via the formal appeals process that will be prescribed in detail on program determination letters/notifications. The City's appeal process will be provided in writing. Appeals steps will also be clearly posted on the City's Harvey Disaster Recovery website. Both applicants and HCDD representatives are responsible for submitting and responding to appeals in a timely and professional manner. HCDD will keep a record of each appeal that it receives to include all communications and their resolutions. When an appeal is received, a Program representative will respond to the appellant within three (3) business days where practicable. For expediency, the City shall utilize telephone communication as the primary method of contact; however, email and postmarked letters may be used as necessary. All telephone correspondence will be logged into the City's system of record.

Since program staff are most often the first line of communication for program beneficiaries, HCDD will implement an internal procedure for handling incoming issues or concerns, including a formal escalation process to ensure concerns are handled at the earliest stage in the process. A designated Escalations and Constituent Services Representative will track issues and resolutions. Documentation for each formal appeal must be maintained. Each file must include the following:

- Contact information for the complainant/appellant;
- Initial reason for appeal/concern;
- Address and assigned project number (if applicable);
- Any communications to and from complainant or appellant;
- Results of the investigation, together with any notes, letters, or other investigative documentation;
- The date the complaint or appeal was closed; and
- Any other action taken.



# Harvey Single Family Development

## CROSS CUTTING FEDERAL REGULATIONS

The HSFD will be designed and implemented in compliance with cross-cutting federal regulations when applicable, including:

- Americans with Disabilities Act (ADA)
- Davis-Bacon Labor Standards
- Equal Employment Opportunity
- Fair Labor Standards Act of 1938, as Amended
- Minority- and/or Woman-Owned Business Enterprises
- Section 3
- Fair Housing
- Limited English Proficiency
- Residential Anti-Displacement
- Uniform Relocation Act and Real Property Acquisition
- Real Property
- Acquisition of Real Property
- Insurance and Property Management
- Record Keeping, Retention and File Management
- Reporting
- Record Retention
- Access to Records (State – City)
- Audit Requirements including Single Audit (2 CFR Section 200.501)
- Fraud, Waste and Abuse
- Conflict of Interest and Confidentiality



# Harvey Single Family Development

## MONITORING

HCDD's Compliance and Monitoring Plan (Plan) will outline principals of governance, standards and management, supporting the City of Houston's (City) HSFDP Program. The Plan is mandated to establish a coherent governance structure, management standards and content requirements for policies and processes to manage compliance risk factors of the Program.

The Plan will outline the activities required by the City and expected from applicants and subrecipients, and the records required to document these activities. In addition to monitoring, this includes activities required to correct any issues raised as part of the monitoring process and documentation of activities required to remedy these issues. The Plan will also aim to do so in a way that balances HCDD's need to examine a sufficient sample of all Program applications processed by contractors against the constraint of limited resources within the City for this purpose. Compliance monitoring is necessary to validate the key assumptions, data sources and procedures used in measuring and monitoring compliance risks and to confirm controls are working as intended.

HCDD will formulate its own monitoring plan, which will encompass all compliance-related issues that are specified in the Guidelines and Standard Operating Procedures (SOP); and HCDD will establish detailed tools and checklists to fulfill the Program requirements regarding:

1. Case Management
2. Planning
3. Pre-Construction
4. Construction
5. Close-out

## PROGRAM CLOSEOUT

HCDD assigned program staff will coordinate all required file documentation with homeowners and contractors necessary for verification of completion of construction to program requirements and submit for approval of completion and closeout and proper record keeping and retention of relevant documents for at least 5 years beyond grant closing. In accordance with HCDD approved Standard Operating Procedures, the HCDD assigned project staff will ensure compliance with program construction requirements.

## GUIDELINE UPDATES/PUBLIC COMMENTS

HCDD will publish all Program Guidelines on the City's website [[www.recovery.houstontx.gov](http://www.recovery.houstontx.gov)]: All guidelines will initially be published for a 30-day public comment period. Any subsequent changes to the Guidelines after approval by the Texas General Land Office will be posted for a minimum of seven days for public comment and the latest versions available on the City's website.





# Harvey Single Family Development

## DEFINITIONS

*Acquisition:* Acquisition of Real Property at 100 percent post-disaster fair market value (FMV) of the land and structures that allows City to acquire real property for any public purpose, as set forth in 24 CFR 570.201(a). Acquisition-only is typically not considered a complete activity in the Program and may be combined with another eligible activity (i.e., relocation assistance and new construction of housing). Methods of acquisition include purchase, long-term lease (15+ years), donation or otherwise (CPD-17-09). The City has the flexibility to hold any property purchased through acquisition as undeveloped green space in perpetuity or to redevelop it in a resilient manner.

*Adjusted Gross Income (AGI):* AGI is an individual's total gross income minus specific deductions as shown on the federal tax return.

*Affirmatively Furthering Fair Housing (AFFH):* AFFH is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The HUD AFFH assessment tool and final rule can be found here: [https://www.huduser.gov/portal/affht pt.html](https://www.huduser.gov/portal/affht_pt.html).

*Applicant/Homeowner/Survivor:* (Used interchangeably) Individuals whose homes or housing units were destroyed, made uninhabitable, needed repairs, or who suffered disaster-related displacement from their primary residences and/or loss of property.

*Area Median Income (AMI):* Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the programs. May also be referred to Area Median Income (AMI) in other program documents.

*Beneficiary:* The recipient deriving advantage from CDBG-DR funding.

*Builder/Contractor:* (Used interchangeably) A person who contracts to construct or repair houses or buildings and/or supervises building operations.

*Builder Assignments:* A qualified pool of builders developed by contractors or the City. They must also meet state, city and federal procurement requirements and possess controls that will ensure quality construction that meets the standards of the CDBG-DR Housing Program.

*Case Management:* Working with individual survivors and their families to understand the Program's housing options, resulting in clear and transparent determination of eligibility. Case managers must consider all special circumstances of the survivor's needs to decrease their barriers to participate in the program where possible. Staff should meet at designated locations and supply information in a standard format.

*Compliance Period:* The time period during which a property must comply with CDBG-DR program rules and regulations, including primary residency, income, and rent restrictions as applicable.





## Harvey Single Family Development

*Damage Assessment:* An inspection of the housing unit to document damage from the event. The assessment by a certified or licensed inspector (HQS, TREC, or similar license) is required to specifically and clearly document storm-related property damage via photographic evidence and detailed narratives. Damage assessments must include final cost of repair estimates according to local code, an assessment of the cost-effectiveness of each recommended activity (rehabilitation, reconstruction, or new construction), mold remediation, and assistance needed to bring the home up to code at completion.

*Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts (DBRA):* All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. This applies to the rehabilitation and reconstruction of residential property only if such property contains not less than 8 units.

*Demolition:* The clearance and proper disposal of dilapidated buildings and improvements.

*Duplication of Benefits:* The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other source.

*Elevation Standards:* Standards that apply to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1).

*Environmental Review:* All qualified projects must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable state and federal laws.

*Event:* The Presidentially declared Hurricane Harvey, and subsequent flooding, disaster event.

*Family:* The term "family" means all persons living together in the same housing unit, as further defined under 24 CFR 570.3.

*Flood Disaster Protection Act of 1973 and Sec. 582(a) of the National Flood Insurance Reform Act of 1994:* Compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in Special Flood Hazard Areas (SFHAs) may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if: (1) the person had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and (2) that person failed to obtain and maintain flood insurance as required under applicable federal law on such property.



# Harvey Single Family Development

*Flood Hazard Area:* Areas designated by FEMA as having risk of flooding.

*Flood Insurance:* The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). To be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

*Floodplain:* FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

- "100-year floodplain" — the geographical area defined by FEMA as having a one percent chance of being inundated by a flooding event in any given year.
- "500-year floodplain" — the geographic area defined by FEMA as having a 0.2 percent chance of being inundated by a flooding event in any given year.

*Floodway:* FEMA designated channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*General Land Office (GLO):* The Texas General Land Office is the lead agency for managing the State's Community Development Block Grant – Disaster Recovery grants.

*Grant Agreement:* A funding agreement detailing eligible program costs and project-specific award agreements between HUD and the GLO, including regulatory provisions, certifications, and requirements.

*Green Building Standards:* All rehabilitation (meets the definition of substantial improvement), reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR (Certified Homes or Multifamily High-Rise), (2) EPA Indoor Air Plus (Energy Star a prerequisite), (3) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), or (4) ICC-700 National Green Building Standard.

*Home/Housing Unit:* (used interchangeably) a house, apartment, group of rooms, or single room occupied or intended for occupancy as separate living quarters.

*Household:* A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the LMI National Objective is based on the LMI of the household.



## Harvey Single Family Development

*Housing and Community Development Act of 1974, as amended by the Supplemental Appropriations Act of 1984:* Established the program of Community Development Block Grants to finance the acquisition and rehabilitation of real property and which defined the recipients and uses of such grants, with the primary goal of benefitting LMI persons.

*Housing and Urban Development Act of 1968, Section 3:* Requires program administrators ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 CFR 135.32.

*Housing Quality Standards (HQS):* The HQS establish certain minimum standards for buildings constructed under HUD housing programs. This includes new single-family homes and multifamily housing as outlined in 24 CFR 982.401.

*Low/Mod Housing (LMH):* Any activity that involves the buyout, acquisition, or rehabilitation of property to provide housing or improve permanent residential structures will upon completion benefit and must be occupied by low- and moderate-income households (42 U.S.C. 5305(c)(3)). Income eligibility will be determined using Area Median Income (AMI), adjusted for family size and verified in accordance with City's Adjusted Gross Income Methodology. The most current income limits, published annually by HUD, shall be used by the City to verify the income eligibility of each household applying for assistance at the time assistance is provided.

*Low/Mod Income (LMI):* Activities which benefit persons of income that does not exceed 80 percent of the area median income:

- Extremely low: Household's annual income is up to 30 percent of AMI, as determined by HUD, adjusted for family size;
- Low: Household's annual income is between 31 percent and 50 percent of AMI, as determined by HUD, adjusted for family size; and
- Moderate: Household's annual income is between 51 percent and 80 percent of AMI, as determined by HUD, adjusted for family size.

*Manufactured Housing Unit (MHU):* A structure, transportable in one or more sections which in the traveling mode is 8 body-feet or more in width, or 40 body-feet or more in length, or when erected on site, is at least 320 square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.



## Harvey Single Family Development

*Mitigation:* Improvements made to reduce the possibility of property damage, personal and commercial hardship, as well as long lasting monetary burdens. For example, creating a flood mitigation program such as an acquisition of at-risk flood-prone property/housing, and elevation of housing in high-risk floodplains are two visible and effective mitigation projects that can be taken to make residents and communities safer in the face of natural disasters.

*Modular Housing:* A home built in sections in a factory to meet state, local, or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site.

*Multifamily Rental:* Eight or more rental units in the property.

*Needs Assessment:* A needs assessment is a critical component in the allocation of funding across and within National Objectives for CDBG-DR funds. A given needs assessment will recommend the proportions of funding that should be set aside to benefit each LMI and non-LMI economic group. The needs assessment will determine the activities to be offered, the demographics to receive concentrated attention, the disabled, "special needs," vulnerable populations, and target areas to be served. The needs assessment will also include an assessment of the types of public services activities that may be needed to complement the program. The needs assessment should set goals within the income brackets similar to the housing damage sustained within the impacted areas. Deviations from goals must be approved by the City before the Program may move forward. Each needs assessment will be posted for a 30-day public comment period and approved by the GLO before implementation.

*New Construction:* A replacement home that substantially exceeds the original footprint on the existing lot (if permitted) or the construction of a new home in a new location.

*One for One Replacement:* Subpart B Requirements Under Section 104(d) of the Housing and Community Development Act of 1974, 24 CFR 42.375 provides for public and/or assisted lower-income dwelling units to be demolished or converted to a use be replaced with comparable lower-income dwelling units.

*Overall Benefit:* The City must certify that, in the aggregate, not less than 70 percent of the CDBG-DR funds received by the City will be used for activities that benefit LMI households.

*Reconstruction:* Demolition and rebuilding of a stick-built or modular housing unit on the same lot in substantially the same footprint and manner. This activity also includes replacing an existing substandard manufactured housing unit (MHU) with a new or standard MHU or stick-built/modular housing unit. The number of units on the lot may not increase, and the total square footage of the original, principal residence structure to be reconstructed may not be substantially exceeded; however, the number of rooms in a unit may be increased or decreased based on the applicant's current household size.

*Rehabilitation:* Repair or restoration of storm-damaged housing units to applicable construction codes and standards.



## Harvey Single Family Development

**Reimbursement Program:** Program designed for eligible applicants who have used non-disaster relief funds for completed reconstruction, rehabilitation, elevation, and/or mitigation on single family homes prior to the date of application to a disaster relief program. Reimbursement for costs after application are ineligible.

**Single Family Home:** A single-unit family residence detached or attached to other housing structures.

**Slum and Blight National Objective:** Activities which help to eliminate slum and blighted conditions. (Use of this National Objective is limited due to its inability to contribute towards the overall requirement for 70 percent LMI to benefit low- to moderate-income beneficiaries.) See 24 CFR 570.208(b).

Slum and Blight activities must meet the criteria of one of the three following categories:

- Prevent or eliminate slum and blight on an area basis;
- Prevent or eliminate slum and blight on a spot basis; or
- Be in an urban renewal area.

**Subrecipient:** Cities, counties, Indian tribes, local governmental agencies (including COGs), private non-profits (including faith-based organizations), or a for-profit entity authorized under 24 CFR 570.201(o). The definition of subrecipient does not include procured vendors, private grant administrators, or contractors providing supplies, equipment, construction, or services and may be further restricted by Program rules or other guidance including applications. See vendor definition for further clarification.

**Subrogation Agreement:** An agreement executed by the beneficiary agreeing to repay any duplicative assistance if the beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (44 CFR 59.1).

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure which the cost equals or exceeds 50 percent of the fair market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure" (44 CFR 59.1).



## Harvey Single Family Development

*Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et seq.) (URA):* Applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program or projects. URA's objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) acquisition or multifamily damaged/occupied activities that require the relocation of the tenants. A displaced person is eligible to receive a rental assistance payment that is calculated to cover a period of 42 months, as waived by the FR.

*Urgent Need National Objective:* An urgent need that exists because conditions pose serious and immediate threat to the health or welfare of the community; the existing conditions are recent or recently became urgent; and the applicant cannot finance the activities on its own because other funding sources are not available. The city must document how each program and/or activity funded under this category responds to a disaster-related impact. See 24 CFR 570.208(c).

*Vendor:* Vendors and private grant administrators procured by the city or contractors to provide supplies, equipment, or services necessary to implement the Program and to serve homeowner assistance needs. Upon approval, the vendor may implement the Program or act on behalf of the City.

**EXHIBIT "Q"**

**HARVEY RECOVERY SMALL RENTAL PROGRAM (HRSR) GUIDELINES**



**CITY OF HOUSTON BUILD IT FORWARD  
HOUSING RECOVERY PROGRAM**

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Harvey Recovery Small Rental (HRSR) Guidelines

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October 30, 2018\*

**CITY OF HOUSTON**  
**HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT**

\*The draft guidelines were originally posted on October 16, 2018. This version has been revised.



Harvey Recovery Small Rental Program (HRSR)

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## HRSR PROGRAM ADMINISTRATION

The Harvey Recovery Small Rental (HRSR) is intended to assist eligible City of Houston (City) applicants whose affordable housing units were directly impacted by Hurricane Harvey. 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). Of this \$5 billion allocation, the City of Houston (City) has received a direct allocation from the GLO of \$1,175,954,338 for development and implementation of programs that directly benefit the residents of the City of Houston. HUD outlined the allocations and applicable waivers and alternative requirements in Federal Register Notices published on February 9, 2018 (83 FR 5844). Subsequent publications of waivers and alternative requirements can be found in the table below under Applicable Laws & Regulations.

The City's Housing and Community Development Department's (HCDD) goal and objective is to provide housing programs that will preserve and expand the housing stock while creating sanitary, safe, energy efficient housing, and a resilient community. The City of Houston also places an emphasis on housing choices and designs that reduce maintenance and insurance costs as well as provide independent living options. The focus of the program is to fulfill an unmet housing need for extremely low-, low- and moderate-income applicants. The program will also secure housing by bringing existing units into compliance with applicable health and safety codes or by replacing those existing structures that cannot be repaired because of structural or economic barriers.

The City of Houston will administer its Harvey Recovery Small Rental program in accordance with these Harvey Housing Guidelines, 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 and program components (reimbursement, rehabilitation, reconstruction, demolition, and interim mortgage assistance) if in doing so would it better serve the affected communities and their residents.

The City of Houston reserves the sole discretion of interpreting and applying these Guidelines, except for those items where GLO or HUD has indicated that their prior approval is required for implementation. HCDD will utilize administrative procedures to implement the programs and modify them to meet any changes made to such rules and regulations of the oversight entities, which may occur over time. At all times, should any conflict in these procedures exist with the applicable funding resource, the requirements of the funding source shall take precedence, other than "local preferences" that are allowable under federal regulations.

Daily administration of the Programs will be under the direct supervision of the Director of HCDD, or his designee. Intake Specialists will be responsible for accepting applications during the intake process through the HCDD Outreach and Intake contractor. Further processes, such as eligibility; duplication of benefits review; inspection and environmental protocols; award determination; contract and contractor assignment; construction; and completion, will be administered and implemented by the selected Construction Manager and the Master Program Manager. The HCDD Finance Division will authorize

## Harvey Recovery Small Rental Program (HRSR)

payments to contractors after review and validation of submitted invoice packages by HCDD and the Master Program Manager.

## CDBG-DR NATIONAL OBJECTIVES

In support of the U.S. Department of Housing and Urban Development's (HUD) recovery objectives, the City of Houston has specifically designed its storm recovery programs to help impacted residents and communities recover from damage inflicted by Hurricane Harvey. As expressed in the Federal Housing and Community Development Act, the primary objective of the general Community Development Block Grant (CDBG) program is "the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate -income (LMI)." Community Development Block Grant – Disaster Recovery funding appropriated in response to disasters must meet the general goals of the CDBG program.

All CDBG-DR funded activities through the City of Houston HRSR must meet at least one of the three National Objectives defined in the authorizing statute of the CDBG program:

- Benefiting Low- and Moderate-Income Persons (LMI) (80% of Area Median Income)
- Preventing or Eliminating Slum or Blight (SB) through buyout or acquisition with demolition
- Meeting an Urgent Need (UN) by providing housing assistance to applicants making in excess of 80 percent of the area median income (AMI)

All activities funded through the City of Houston HRSR, unless the requirement is waived by HUD, are required to meet one of the National Objectives.

## APPLICABLE LAWS & REGULATIONS

Federal Register (FR)	Date of Publication	Public Laws	Location:
83 FR 5844, Vol. 83, No. 28	02/09/2018	P.L. 115- 56	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-02-09/pdf/2018-02693.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-02-09/pdf/2018-02693.pdf</a>
83 FR 40314, Vol. 83, No. 157	08/14/2018	P.L. 115- 123	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-08-14/pdf/2018-17365.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-08-14/pdf/2018-17365.pdf</a>

## HRSR OVERVIEW

The Harvey Recovery Small Rental (HRSR) Housing Program aims to rebuild the affordable rental housing stock by rehabilitating small rental properties (defined for this purpose as individual buildings with no more than seven residential units) damaged by Hurricane Harvey and to create new housing stock, through infill development of new 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 applicants who serve a low- to moderate-income market. This program will assist in

Harvey Recovery Small Rental Program (HRSR)

expanding the affordable rental housing options, while also stimulating economic growth by assisting landlords and creating jobs in the housing rehabilitation and construction sectors.

As outlined below, the Harvey Recovery Small Rental (HRSR) Housing Program will have distinct policies and operational processes for 1) reconstruction and rehabilitation projects and 2) new construction projects.

Additionally, the City of Houston defines "not suitable for rehabilitation" for the HRSR as such:

- Structures that are considered "beyond rehabilitation" and do not meet the HRSR's rehabilitation standards, and/or federal, state, local code requirements shall be deemed not suitable for rehabilitation, as determined by the program and consistent with program guidelines.
- Residential properties that have experienced repetitive losses under FEMA's National Flood Insurance Program (NFIP).

## HRSR ELIGIBILITY OVERVIEW

- a. Eligible Applicants:
  - i. Not-for-profit developers/ borrowers
  - ii. For-profit developers/ borrowers
  - iii. Public housing authorities
  - iv. Units of local governments
  
- b. Eligibility Criteria:
  - i. Project must meet CDBG-DR eligibility requirements
  - ii. Development must be located within the city limits of Houston
  - iii. Program participants must agree to compliance period and lien requirements. Participants for the program will be required to provide a 20-year compliance period. The lien on the property will be removed upon completion of the terms and conditions of all documents related to the program and completion of the compliance period.
  - iv. Any substantial rehabilitation, as defined by 24 CFR 5.100, or new construction of a building with more than four rental units will include installation of broadband infrastructure, as required.
  - v. Applicants receiving disaster assistance that triggers the flood insurance purchase requirement have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance in writing and to maintain such written notification in the documents evidencing the transfer of the property, and the transferring owner may be liable if he or she fails to do so.
  - vi. Federal flood disaster assistance will not be provided for repair, rehabilitation, new construction or reconstruction in the case of an owner was conditioned to have obtained flood insurance under applicable Federal law and subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

Harvey Recovery Small Rental Program (HRSR)

I. RECONSTRUCTION AND REHABILITATION PROJECTS

**Eligible Activities**

- i. Repair or rehabilitation of buildings that consist of 1-7 units.
- ii. Reconstruction or conversion of non-disaster damaged property to meet the needs of renters impacted by the shortage of affordable rental housing exacerbated by Hurricane Harvey
- iii. Housing for special populations
- iv. Rental income subsidies
- v. Resilience measures
- vi. Accessibility
- vii. Environmental
- viii. Homeowner Association Requirements as part of repairs, if in excess of Minimum Program Property Standards

- a. **Eligible Applicants** – Property owners (who owned the property on August 25, 2017 acting individually or as participants in a limited partnership (LP) or limited liability corporation (LLC):
  - i. Not-for-profit developers/ borrowers
  - ii. For-profit developers/ borrowers
  - iii. Public housing authorities
  - iv. Units of local government

b. **Eligibility Criteria:**

The department may finance the construction of multiple buildings on scattered sites. Applicants will be limited to three projects during administration of this program.

Property owner applicants must

- i. Provide proof that
  - 1. Property taxes are current,
  - 2. There is an approved payment plan, or
  - 3. Furnish evidence that property taxes are current, under an approved payment plan, or that there is an exemption under current laws. Deferments are only accepted in conjunction with a payment plan and a total amount of \$2,000 or less
- ii. Agree to a limited subrogation of any future awards related to Hurricane Harvey according to duplication of benefits requirements
- iii. Agree to pay monitoring fees to ensure commitment to compliance on an annual basis

Property must:

- a. Not be in a floodway
- b. Have sustained damage from Hurricane Harvey
- c. Have an environmental review record completed and evaluated
- d. Be located within the city limits of Houston

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**Maximum Assistance -**

The Program will provide zero interest forgivable loans to existing owners of rental properties with 1 to 7 units requiring rehabilitation or reconstruction.

- For owners who commit, for the duration of the compliance period, to rent to households verified to be between 0-30% LMI, awards will be up to \$80,000 per affordable rental housing unit plus any required resiliency, accessibility, and environmental costs.
- For owners who commit, for the duration of the compliance period, to rent to households verified to be between 31-80% LMI, awards will be equal to the lesser of \$60,000, or 75% of the estimated cost to repair the property as determined by the Program less Duplication of Benefits (DOB) as calculated in accordance with the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act). Under this scenario, the property owner will agree to provide 25% of personal funds prior to disbursement of program funds.

- c. **Project Selection:** Projects will be selected by the following:
- i. 1-7 Units: Applicants will apply through the universal intake process and have an Intake Specialist and Housing Coordinator assigned to collect the appropriate documentation.

**Priorities for funding will be provided to projects based on the following criteria:**

1. First priority will be extended to properties located *outside* of the floodplain
  2. Properties containing units that are or will be dedicated for special needs populations
- ii. Selected projects must be completed within 12 months of the effective date of the contract.

**II. NEW CONSTRUCTION PROJECTS**

a. **Eligible Activities**

- i. New construction of buildings that consist of 1-7 units.
- ii. Reconstruction or conversion of non-disaster damaged property to meet the needs of renters impacted by the shortage of affordable rental housing exacerbated by Hurricane Harvey
- iii. Housing for special populations
- iv. Rental income subsidies
- v. Resilience measures
- vi. Accessibility
- vii. Environmental
- viii. Homeowner Association Requirements as part of repairs, if excess of Minimum Program Property Standards

- c. **Eligible Applicants** – Property owners acting individually or as participants in a limited

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partnership (LP) or limited liability corporation (LLC):

- i. Public housing authorities
- ii. Units of local governments
- iii. Not-for-profit developers/ borrowers
- iv. For profit developers/ borrowers
- v. All applicants must own the property, have site control, or at minimum, a written purchase agreement

d. **Eligibility Criteria:**

The department may finance the construction of multiple buildings on scattered sites. Property owner applicants must:

- i. Provide proof that
  1. Property taxes are current,
  2. They have an approved payment plan, or
  3. Furnish evidence that property taxes are current, under an approved payment plan, or that there is an exemption under current laws. Deferments are only accepted in conjunction with a payment plan and a total amount of \$2,000 or less.
- ii. Agree to a limited subrogation of any future awards related to Hurricane Harvey according to duplication of benefits requirements
- iii. Agree to monitoring fees to ensure commitment to compliance on an annual basis
- iv. Be in good standing with HCDD on all previous grants, loans, or loan commitments
- v. Possess a proven track record of successful development and/or rehabilitation of at least one multifamily housing development(s). The applicant must have financial and organizational capacity to complete the project.
- vi. Agree to pay required HCDD annual compliance monitoring fees

Property must:

- a. Not be in a floodway
- b. Have sustained damage from Hurricane Harvey
- c. Have an environmental review record completed and evaluated
- d. Be located within the city limits of Houston

**Maximum Assistance** - The department may elect to provide an individual award that accounts for 100% of total sources. Maximum amount of award is \$3,500,000 per development and limited to two awards per applicant.

e. **Project Selection:** Projects will be selected by the following:

1-7 Units: Applicants will apply through a Notice of Funding Availability (NOFA) process and have an Underwriter assigned to underwrite and collect the appropriate documentation. The NOFA will clearly establish the process and acceptance period, threshold criteria (including applicable building codes), selection criteria, HCDD underwriting criteria, and the award process.

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**Priorities for funding will be provided to projects based on the following criteria:**

1. First priorities will be extended to properties located *outside* of the floodplain
  2. Properties containing units that are or will be dedicated for special needs populations
- f. Selected projects must be completed within 12 months of the effective date of the contract, unless otherwise extended by HCDD and/or GLO. Additional project selection criteria and process information will be established in the NOFA guidelines.
- g. Subrecipient - The department may choose to directly allocate and award to a subrecipient in which subrecipient guidelines will apply.

## PROGRAM REQUIREMENTS

### HRSR General Requirements

- i. Unit Requirements: at least 51% of units in each building must be reserved for low- and moderate- income households.

Number of Units	Units Reserved for Low- and Moderate- Income Households
1 (Single Family)	1
2 (Duplex)	2
3 (Triplex)	2
4 (Quad)	3
5	3
6	4
7	4

- ii. Program participants must agree to compliance period and lien requirements. Participants in the program will be required to provide a 20-year compliance period. The lien on the property will be removed upon completion of the terms and conditions of all documents related to the program and completion of the compliance period. Violation of compliance period and lien requirements will activate the loan repayment terms.
- iii. Program participants must agree to monitoring fees to ensure commitment to compliance on an annual basis;
- iv. Program participants must agree to a limited subrogation of any future awards related to Hurricane Harvey, according to duplication of benefits requirements;
- v. Any substantial rehabilitation, as defined by 24 CFR 5.100, or new construction of a building with more than four rental units will include installation of broadband infrastructure, as required;
- vi. Applicants receiving disaster assistance that triggers the flood insurance purchase requirement have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance in writing and to maintain such written notification in the documents evidencing the transfer of the property, and the transferring owner may be liable if he or she fails to do so.



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Additional program requirements also apply to the specific HRSR programs.

## COMMUNITY ENGAGEMENT/AFFIRMATIVE MARKETING PLAN/OUTREACH PLAN

The City of Houston has engaged in a robust community engagement strategy to inform Houstonians on the status of the local government's efforts to secure funding for its long-term recovery from Hurricane Harvey. The City of Houston, through HCDD, is committed to affirmatively furthering fair housing through established affirmative marketing policies. Affirmative marketing efforts will include the development of an Affirmative Marketing & Outreach Plan based on U.S. Department of Housing and Urban Development (HUD) regulations to ensure that units financed through the Program are affirmatively marketed to the public at large. This plan will ensure that outreach and communication efforts reach eligible homeowners and renters from all racial, ethnic, national origin, religious, familial status, disabled, and gender groups. The Affirmative Marketing & Outreach Plan will give detailed information about how the City of Houston plans for effective outreach to all groups of homeowners, landlords, and renters mentioned above, as well as how the application and enrollment process for programs will be suitable for persons with limited English proficiency, persons with disabilities and those with special needs. For each program offered by the City of Houston, notification to these populations will include: information on vacant units available for sale and/or rent; information on how to apply for unit purchase, rehabilitation or rental; opportunities to buy and/or rent the unit of their choice, and opportunities to rehabilitate their primary residence to address storm impact.

Particular emphasis will be focused on successful outreach to LMI areas and those communities with minority concentrations that were affected by the storm. Outreach efforts will include door-to-door canvassing and special outreach efforts to hard-to-reach populations (e.g. seniors and persons with severe disabilities who either do not have information about the resources or are unable to independently apply for resources.)

In addition to marketing through widely available media outlets, efforts may be taken to affirmatively market the CDBG-DR Disaster Recovery Program as follows:

- Advertise with the local media outlets, including newspapers and broadcast media, which provide unique access for persons who are considered members of a protected class under the Fair Housing Act.
- Include flyers in utility and tax bills advertising the City of Houston's Hurricane Harvey CDBG-DR funded recovery programs.
- Reach out to public or non-profit organizations and hold/attend community meetings.
- Other forms of outreach tailored to reaching the eligible population may be used, including door to door outreach if necessary particularly on the weekends.
- Measures will be taken by the City to make the CDBG-DR Disaster Recovery Program accessible to persons who are considered members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with

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Disabilities Act (ADA), providing American Sign Language (ASL) translation when requested, and providing special assistance for those who are hearing or visually impaired when requested.

- Applications and forms will be offered in English and other languages, including Spanish, French, Urdu, Chinese, and Vietnamese, prevailing in the region in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 CFR 8.6), Limited English Proficiency (LEP) and other fair housing and civil rights requirements, such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such applicants in the application process.
- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.

The City of Houston is required to use the fair housing logo in Program advertising, post fair housing posters and related information, and, in general, inform the public of its rights under fair housing regulations law. Evaluation of outreach activities and applications received will be necessary to determine if outreach is successful and applications that are being received accurately reflect the socioeconomic and other forms of demographic diversity. Evaluation will be an ongoing process.

HCDD has discretion in the modification and/or addition of requirements to the Affirmative Marketing & Outreach Plan.

## NEEDS ASSESSMENT

The City of Houston completed its Local Housing Needs Assessment to identify the impact of Hurricane Harvey on the city's housing stock. Information has been gathered from a number of sources to document the impact of Hurricane Harvey including demographic profile of impacted households including low-and moderate households.

The impact on housing is based on an estimation of the extent and depth of flooding using a flood risk assessment methodology and an estimation of damage to all buildings in Houston using a damage assessment methodology. The two methodologies provide an assessment of the impact of Hurricane Harvey's rainfall on residential buildings. The models used in these methodologies provide information on the level of inundation in each structure and the associated damage in dollar amounts to the building structure and its contents.

The entire City of Houston is located in an area HUD identified as "most impacted and distressed" as it relates to the damage from Hurricane Harvey. The City of Houston's Local Action Plan and Local Housing Needs Assessment are the basis for the development and prioritization of recovery activities in Houston using CDBG-DR funds. The City has consulted with affected residents and stakeholders, such as the Houston Housing Authority to assess needs. As additional data becomes available and as additional community and stakeholder engagements take place, the unmet needs and activities to address community needs through CDBG-DR funds may be updated.

## PROCUREMENT

Subrecipients, vendors, and contractors shall provide adequate documentation to show that selection processes were carried out in an open, fair, uniform, and thorough manner to ensure that federal (2 CFR 200.318–200.326), state, and City requirements were met.

Record retention records must include, but are not limited to, the following information:

- Rational for the method of procurement;
- Evaluation and selection criteria;
- Contractor selection or rejection; and
- The basis for the cost or price.

During the procurement process, subrecipients, vendors and contractors should clearly identify any items included in the bid/purchase that are not included in the CDBG-DR agreement with the City. Subrecipients, vendors, contractors and the City may utilize HUD's CDBG-DR and Procurement Guidance.

Subrecipients, vendors and contractors must procure goods and services using the federal procurement and contract requirements outlined in 2 CFR 200.318 – 200.326. These procurement requirements must be followed for reimbursement from grant allocations of CDBG-DR funds provided by HUD. Subrecipients, vendors and contractors and the City are also required to follow state and local procurement law and policies, as well as the additional requirements stated in 2 CFR Part 200.

Additionally, the City's Strategic Procurement Division may review draft solicitations or responses prior to award for compliance with applicable city, state and federal rules and regulations. Subrecipients and the City should clearly identify during the procurement process any items included in the bid/purchase that are not included in the CDBG-DR contract.

Regardless of the type of procurement used, subrecipients, vendors, contractors and the City must execute a contract to document the period of performance, the work to be completed, the agreed price, and contractor or provider's required compliance with all applicable federal, state, and local requirements that subrecipients and the City must follow. If there is a conflict between federal, state, and local laws and regulations regarding procurement, the more stringent law or regulation will apply. Additionally, subrecipients, vendors and contractors are required to achieve compliance with Section 3 (24 CFR Part 135). It is strongly suggested that HUD's best practices be utilized to help achieve compliance (HUD Model Section 3 Plan), including creating a Section 3 Plan. Subrecipients, vendors and contractors are also required to "take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible." (HUD CFR 200.321).

Furthermore, HUD and GLO require the City maintain a comprehensive public website that provides information for individuals and entities awaiting assistance for Harvey related damage, and the general public to see how all grant funds are used and managed/administered. To meet this requirement, the City and its subrecipients must make the following applicable items available to post on City's website: procurement policies and procedures; description of services or goods currently being procured by

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subrecipients; subrecipient and state administrative contracts and a summary of all procured contracts (as defined in 2 CFR 200.22), including those procured by subrecipients, vendors, contractors, or the city (e.g., a summary list of procurements, the phase of the procurement, details of ongoing procurement processes, requirements for proposals, and any liquidation of damages associated with a contractor's failure or inability to implement the contract, etc.). Updated summaries must also be posted monthly on the website. HUD will post guidance related to this requirement on the HUD Exchange website ([www.hudexchange.info](http://www.hudexchange.info)).

## FINANCIAL MANAGEMENT

The City of Houston, as a CDBG-DR recipient, is required to follow the financial administration requirements outlined in 24 CFR Part 85.20 (Subpart C). These standards help ensure that the financial systems put in place by the City:

- i. Provide adequate, current, and complete disclosure of the financial results (regular financial reporting) of all financially assisted activities, in accordance with the financial reporting requirements of the grant.
- ii. Document that funds have been used only for authorized purposes. For CDBG-DR this includes not only eligible activities but that the funded projects meet a National Objective;
- iii. Maintain accounting records that show the sources and uses of funds, displaying funds authorized, obligated and unobligated balances, assets, liabilities, outlays or expenditures and income;
- iv. Establish effective internal controls over all cash, real and personal property, and other assets acquired with program funds;
- v. Track actual program cost against program budget in a manner that relates to program productivity and accomplishments;
- vi. Use Uniform Administrative Requirements outlined in 2 CFR 200 principles to determine whether program costs are reasonable, allowable, and can be allocated, either directly or indirectly;
- vii. Maintain source documentation for accounting records;
- viii. Implement procedures for cash management that permit the timely disbursement to applicants and subrecipients and complete and accurate monitoring and reporting; and
- ix. Comply with 2 CFR 200 Subpart F

The roles and responsibilities described below are related to the financial management of the City of Houston's CDBG-DR allocation for Hurricane Harvey. These descriptions are not intended to be an exhaustive list of activities performed by each entity in relation to the CDBG-DR grant or in general.

### The City of Houston

- I. Finance Department – The Strategic Procurement Division (SPD) is housed within the City of Houston's Finance Department and is responsible for procuring goods and services for CDBG-DR funded activities.

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- II. The City Controller –The Office of the City Controller certifies the availability of funds prior to City Council approval of City commitments, processes and monitors disbursements, invests the City's funds, conducts internal audits of the City's departments and federal grant programs, operates and maintains its financial management system, conducts the sale of public improvement and revenue bonds and produces a comprehensive annual report of City finances - Comprehensive Annual Financial Report (CAFR). The Controller will be responsible for providing a variety of approvals for release of CDBG-DR funds as payment to contractors and beneficiaries.
- III. Housing and Community Development Department (HCDD) – HCDD is the grant manager for Houston's Hurricane Harvey CDBG-DR allocation and responsible for administering all programs outlined in the City's Local Action Plan.
  - a. Disaster Recovery and Public Services Division: This division is responsible for program development and oversight, as well as community outreach.
  - b. Finance Division: This division is responsible for processing CDBG-DR grant funding through the Systems Applications and Products (SAP), performing draws in HUD's Integrated Disbursement Information System (IDIS) and Disaster Recovery Grant Reporting (DRGR) System, and reconciling budgets and expenditures. This division is also responsible for processing payment requests in SAP and federal reimbursement requests to the GLO to be realized in the City's budget.
  - c. Planning and Grants Management Division: This division is responsible for the City's CDBG-DR Local Action Plan, Local Needs Assessment, program applications, other rated planning documents, substantial amendments, project/activity budget set-up and completion in IDIS and DRGR and related reporting to HUD and GLO.

**Key Funding Objective**

At least 70% of the City of Houston's CDBG-DR funds must be spent on LMI impacted residents and will require close monitoring of the eligibility and award calculation stages.

**DUPLICATION OF BENEFITS**

Many federal and state agencies are involved in responding to Presidentially declared major disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (the "Stafford Act"). Grantees must be aware that the Supplemental Appropriations Act authorizing CDBG funding or the Stafford Act may include restrictions on using those program funds to provide assistance when insurance providers or other federal or state agencies have already funded all or a portion of the activity. Certain Supplemental Appropriations Acts also include restrictions against use of those program funds as a matching requirement, share, or contribution for any other federal program.

Each application will be reviewed to determine if previous funding awarded to the applicant was appropriately used on the home and if any funds were received for the same purpose. The applicant must have an unmet need to move forward in the program. The City must determine the applicant's

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unmet needs first and then calculate the applicant's Duplication of Benefits (DOB). Applicants must provide documentation of insurance, FEMA, SBA, and any other type of funding received. Additionally, the City will verify that the submitted documentation is accurate and current at the time of the award, to the extent possible (e.g., validate against FEMA data). 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, as part of the application review.

The applicant must repay any assistance later received for the same purpose as those awarded or provided for with CDBG-DR funds. The applicant is obligated to certify they understand this requirement as outlined in detail within the subrogation terms included in their Grant Agreement.

To comply with these requirements, the City of Houston will design Standard Operating Procedures to ensure that any funds determined to be a DOB are deducted from the final assistance award amount for each applicant across the eligible activities of all programs.

## SURVEY AND APPLICATION PROCESS

Applicants seeking to participate in Harvey related CDBG-Disaster recovery programs administered through the City of Houston will be required to first complete a survey. The survey will be accessible through various means, including the HCDD-DR website, in-person or through an Intake Kiosk at area Housing Resource Centers (HRC's), community outreach events, as well as over the phone with direct assistance from an assigned Housing Advisor.

The survey serves a number of purposes. Initially, the data collected through the survey will help to better identify specific housing needs across the City of Houston's area population and highlight the alignment with the targeted household prioritizations as revealed through the Needs Assessment results. Additional purposes of the survey will include assessing the impacts of the Affirmative Marketing & Outreach Plan, and identifying actions for ongoing outreach efforts.

HCDD will develop a process to accept applications for funding to serve extremely low-, low-, and moderate-income households. Funding priorities will be developed in a manner that affirmatively furthers fair housing objectives.

### **Application Intake**

The application packet will be available online and will include detailed instructions for completing the application, scoring and priority criteria (if applicable), policy overview and eligibility criteria, steps for appeals and/or program escalations, document checklists, environmental requirements, program contact information including location and hours of area Housing Resource Centers (HRC's), etc.

HCDD Intake Specialists will be responsible for receiving program specific applications and supplemental documentation during the intake process from the applicant until all required information is collected for HCDD to make an official eligibility determination. As applications are being accepted and reviewed

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for determinations of eligibility to participate in the Program, each applicant will be assisted with documentation collection and made aware of their application status.

Applications and forms will be offered in English and other languages prevailing in the region, including Spanish, Chinese, Vietnamese, Urdu, and French, in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 CFR 8.6), Limited English Proficiency (LEP) and other fair housing and civil rights requirements, such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such applicants in the application process.

Intake Specialists or Language Specialists Assistants must be able to communicate with applicant in their primary language and assigned to the clients as appropriate. Additionally, they must ensure effective communications with persons with disabilities pursuant to 24 CFR 8.6 and other fair housing and civil rights requirements (such as the effective communication requirements under the Americans with Disabilities Act).

### **Notice of Funding Availability (NOFA)**

The City of Houston will solicit participation in New Construction through a Notice of Funding Availability process to include additional project selection criteria and process information.

### **Applicant Contract Award Meeting (Forgivable Loan Closing)**

The provision of assistance is contingent upon the availability of funding. When funding is limited or unavailable, the City may create a waiting list pending notification from the GLO and HUD of additional funding. Applicants seeking assistance may be placed on a waiting list after the survey and application phase if necessary.

Once a wait list is opened, if funding is available, applicants will be served based on the program priority groups.

### **Applicant Voluntary Withdrawal**

If an applicant chooses to voluntarily withdraw or is administratively withdrawn from the Program, the applicant is required to return ALL previously disbursed funds back to the Program. Applicants must clearly provide a written reason and notice of intent to voluntarily withdraw their application. HCDD will send the applicant a written notice of acknowledgement of his/her voluntary withdrawal.

### **Voluntary Withdrawal Reinstatement Requests**

Applicants who have voluntarily withdrawn from the Harvey CDBG-DR programs may submit a written request for reinstatement based on extenuating circumstances. The request will be reviewed and approved by HCDD, on a case-by-case basis.

### **Administrative Withdrawals**

Applicants may be administratively withdrawn for multiple reasons; the following are several example reasons:

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- Any applications that are started but not completed and not submitted within sixty (60) days of the initial start of the application or by the end of the application period will be formally withdrawn.
- The program confirms that an application is a duplication of other valid applications or results in an overlap of other program funds.
- An applicant fails to provide required documentation or information after receiving a written request, or to communicate a reasonable timeframe for supplying said documentation; An applicant is aggressive and/or abusive to a HCDD employee or any other representative or affiliate of the Build it Forward Program.

## CONSTRUCTION

Housing that is constructed or rehabilitated with CDBG-DR funds must meet all applicable local, codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. When CDBG-DR funds are used for a rehabilitation development, the entire unit must be brought up to the applicable property standards and meet Housing Quality Standards. The City will conduct an initial damage assessment, progress as well as final inspections of the property. Any deficiencies identified in the final inspection must be corrected before final retainage is released.

The City of Houston, through its Standard Operating Procedures will outline detailed procedures for the performing, tools and interfaces associated with the construction management and oversight function.

## SITE AND DEVELOPMENT RESTRICTIONS

### Site and Development Restrictions

#### 1. General Standards

All housing units participating in the Harvey Recovery Small Rental Assistance Program (HRSR) will be required to meet Housing Quality Standards detailed under 24 CFR 982.401 and Fair Housing Accessibility Standards. Housing activities must also meet all local building codes or standards that may apply. All single-family homes should also incorporate resiliency solutions which may include: elevating the first floor of the habitable area; windstorm protection, reinforced roofs; storm shutters; use of ENERGY STAR appliances and fixtures; and mold and mildew resistant products. All new construction projects must also meet Green Building Standards.



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## 2. Lead-Based Paint

All projects must comply with the lead-based paint requirements of 24 CFR Part 35, Subparts A, B, J, K, and R. See additional information regarding lead-based paint abatement in Sections 4.E.(1) and 4.H.(1)(f) of these guidelines.

## 3. Housing Quality Standards (HQS)

All CDBG-DR assisted rehabilitation projects must meet HQS (24 CFR 982.401) at completion, at a minimum, as well as all applicable local codes and ordinances.

## 4. Standards for:

## a. Constructed or Substantial Improvements

City's currently adopted IRC or higher (IRC) (with windstorm provisions) and International Building Code (IBC) must be met where they apply. All rehabilitation, reconstruction, and new construction should be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Whenever feasible, HCDD will follow best practices, such as Professional Certifications and Standard Work Specifications provided in the U.S. Department of Energy's Guidelines for Home Energy Professionals.

## b. Green Building Standards

New housing construction, reconstruction or substantially rehabilitated housing must comply with ONE of the following Green Standards:

- i. ENERGY STAR (Certified Homes);
- ii. EPA Indoor Air Plus (Energy Star a prerequisite);
- iii. LEED (New Construction, Homes, or Neighborhood Development); or
- iv. CC-700 National Green Building Standard.

## c. Elevation

The City of Houston will apply the following elevation standards to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1). All structures, as defined under 44 CFR 59.1, designed principally for residential use and located in the 500-year (or 0.2 percent annual chance) floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined under 24 CFR 55.2(b)(10), must be elevated with the lowest floor, including the basement, at least 2 feet above the annual floodplain elevation or as modified by local code. Mixed-use structures with no dwelling units and no residents below the annual floodplain must be elevated or floodproofed in accordance with FEMA floodproofing standards under 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least 2 feet above the annual floodplain or as modified by local code.

Applicable state, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, will be followed.

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5. Standards for Rehabilitation of non-substantial damaged residential Contractors and the City must follow the HUD CPD Green Building Retrofit Checklist available at <https://www.hudexchange.info/resource/3684/guidance-on-the-cpd-green-building-checklist/>. Contractors and the City must apply these guidelines to the extent applicable to the rehabilitation work undertaken.
6. Accessibility  
Single Family Housing Units 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 the City's Visitability Standards. Covered multifamily dwellings, as defined at 24 CFR 100.201 as well as common use facilities in developments with covered dwellings, must meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619), the design and construction requirements of the Fair Housing Act Design Manual and the ADA 2010 requirements with the HUD exceptions (79 FR 29671, May 23, 2014).

## ENVIRONMENTAL

In accordance with the US Department of Housing and Urban Development's (HUD) regulations for implementing the National Environmental Policy Act at 24 CFR Part 58, the City of Houston's Housing and Community Development Department (HCDD) must perform and complete Environmental Reviews of proposed programs, projects, and activities that will utilize Hurricane Harvey CDBG-DR funds. These funds will be administered by the Texas General Land Office (GLO), which will review all levels of Environmental Review documentation submitted before issuing environmental clearance for each proposed action to utilize funds. GLO will maintain an Environmental Review Record (ERR) of approved documentation as a compilation of each level of environmental review performed under the City's CDBG-DR funded programs. HCDD maintains an ERR of all submitted and GLO-approved compliance documentation. HCDD also maintains a record of site-specific documentation that demonstrates environmental compliance of GLO-approved construction activities.

HCDD's ERR will compile all levels of environmental review documentation required under 24 CFR Part 58. This includes HUD required forms and checklists submitted and approved by GLO for activities determined exempt according to 24 CFR 58.34 or those that are Categorically Excluded Activities Not Subject to the Section 58.5 Statutes (24 CFR 58.35(b)). These contain documentation of compliance with the statutes and regulations listed at 24 CFR 58.6 (Floodplain Disaster Protection Act, Coastal Barriers Resources Act, Airport Runway Clear Zone or Runway Protection Zone, and Clear Zone Disclosures). The ERR will also contain GLO-approved site-specific environmental assessments of proposed actions per 24 CFR Part 58.40.

Where considered appropriate, one or more of the City's CDBG-DR funded programs will be subject to a tiered environmental review process in accordance with 24 CFR Part 58.15. The tiered approach allows for a Tier I level broad environmental analysis of proposed policy and action(s) in the early stage of strategic development when site-specific analysis is not yet feasible, yet those actions are known to be

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geographically and/or functionally aggregated. The Tier I Broad Environmental Review thus identifies environmental compliance factors that can be analyzed and resolved with policies and decisions at this stage, to streamline or narrow the focus of the Tier II site-specific environmental assessment of potential environmental impacts once construction sites are known and appropriate mitigation measures can be specified. Therefore, HCDD's ERR will also maintain the GLO-approved versions of all Tier I and Tier II level environmental reviews performed.

While not currently anticipated, certain proposed actions undertaken by the City with CDBG-DR funds may be determined to have a potentially significant impact on the human environment and therefore require an Environmental Impact Statement in accordance with 24 CFR part 58.37. In the event such an effort become necessary, all required documentation developed during the process would also become part of HCDD's ERR.

## APPEALS

Applicants have a right to appeal an eligibility determination, grant calculation or final scope of work via the formal appeals process that will be prescribed in detail on program determination letters/notifications. The City's appeal process will be provided in writing. Appeals steps will also be clearly posted on the City's Harvey Disaster Recovery website. Both applicants and HCDD representatives are responsible for submitting and responding to appeals in a timely and professional manner. HCDD will keep a record of each appeal that it receives to include all communications and their outcomes.

Since program staff are most often the first line of communication for program beneficiaries, HCDD will implement an internal procedure for handling incoming issues or concerns, including a formal escalation process to ensure concerns are handled at the earliest stage in the process. A designated Escalations and Constituent Services Representative will track issues and resolutions. Documentation for each formal appeal must be maintained. Each file must include the following:

- i. Contact information for the complainant/appellant;
- ii. Initial reason for appeal/concern;
- iii. Address and assigned project number (if applicable);
- iv. Any communications to and from complainant or appellant;
- v. Results of the investigation, together with any notes, letters, or other investigative documentation;
- vi. The date the complaint or appeal was closed; and
- vii. Any other action taken.

## CROSS CUTTING FEDERAL REGULATIONS

The HRSR will be designed and implemented in compliance with cross-cutting federal regulations when applicable, including:

- Americans with Disabilities Act (ADA)
- Davis-Bacon Labor Standards
- Equal Employment Opportunity
- Fair Housing
- Fair Labor Standards Act of 1938, as Amended
- Limited English Proficiency
- Minority- and/or Woman-Owned Business Enterprises
- Section 3
- Residential Anti-Displacement
- Uniform Relocation Act and Real Property Acquisition
- Real Property
- Acquisition of Real Property
- Insurance and Property Management
- Record Keeping, Retention and File Management
- Reporting
- Record Retention
- Access to Records (State – City)
- Audit Requirements
- Fraud, Waste and Abuse
- Conflict of Interest and Confidentiality

## MONITORING

HCDD's Compliance and Monitoring Plan (Plan) will outline principals of governance, standards and management, supporting the City of Houston's (City) HRSR Program. The Plan is mandated to establish a coherent governance structure, management standards and content requirements for policies and processes to manage compliance risk factors of the Program.

The Plan will outline the activities required by the City and expected from applicants, contractors, subcontractors, subrecipients and vendors, and the records required to document these activities. In addition to monitoring, this includes activities required to correct any issues raised as part of the monitoring process and documentation of activities required to remedy these issues. The Plan will also aim to do so in a way that balances HCDD's need to examine a sufficient sample of all Program

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applications processed by contractors against the constraint of limited resources within the City for this purpose.

Compliance monitoring is necessary to validate the key assumptions, data sources and procedures used in measuring and monitoring compliance risks and to confirm controls are working as intended.

HCDD will formulate its own monitoring plan, which will encompass all compliance-related issues that are specified in the Guidelines and Standard Operating Procedures (SOP); and HCDD will establish detailed tools and checklists to fulfill the Program requirements regarding:

1. Case Management
2. Planning
3. Pre-Construction
4. Construction
5. Close-out

## PROGRAM CLOSEOUT

HCDD assigned program staff will coordinate all required file documentation with applicants and contractors necessary for verification of completion of construction to program requirements and submit for approval of completion and closeout and proper record keeping. In accordance with HCDD approved Standard Operating Procedures, the HCDD assigned project staff will ensure compliance with program construction requirements.

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## DEFINITIONS

**Acquisition:** Acquisition of Real Property at 100 percent post-disaster fair market value (FMV) of the land and structures that allows City to acquire real property for any public purpose, as set forth in 24 CFR 570.201(a). Acquisition-only is typically not considered a complete activity in the Program and may be combined with another eligible activity (i.e., relocation assistance and new construction of housing). Methods of acquisition include purchase, long-term lease (15+ years), donation or otherwise (CPD-17-09). The City has the flexibility to hold any property purchased through acquisition as undeveloped green space in perpetuity or to redevelop it in a resilient manner.

**Adjusted Gross Income (AGI):** AGI is an individual's total gross income minus specific deductions as shown on the federal tax return.

**Affirmatively Furthering Fair Housing (AFFH):** AFFH is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The HUD AFFH assessment tool and final rule can be found here: <https://www.huduser.gov/portal/affht pt.html>.

**Applicant/Homeowner/Survivor:** (Used interchangeably) Individuals whose homes or housing units were destroyed, made uninhabitable, needed repairs, or who suffered disaster-related displacement from their primary residences and/or loss of property.

**Area Median Income (AMI):** Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the programs. May also be referred to Area Median Income (AMI) in other program documents.

**Beneficiary:** The recipient deriving advantage from CDBG-DR funding.  
**Builder/Contractor:** (Used interchangeably) A person who contracts to construct or repair houses or buildings and/or supervises building operations.

**Builder Assignments:** A qualified pool of builders developed by contractors or the City. They must also meet state, city and federal procurement requirements and possess controls that will ensure quality construction that meets the standards of the CDBG-DR Housing Program.

**Case Management:** Working with individual survivors and their families to understand the Program's housing options, resulting in clear and transparent determination of eligibility. Case managers must consider all special circumstances of the survivor's needs to decrease their barriers to participate in the program where possible. Staff should meet at designated locations and supply information in a standard format.

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*Compliance Period:* The time period during which a property must comply with CDBG-DR program rules and regulations, including primary residency, income, and rent restrictions as applicable.

*Damage Assessment:* An inspection of the housing unit to document damage from the event. The assessment by a certified or licensed inspector (HQS, TREC, or similar license) is required to specifically and clearly document storm-related property damage via photographic evidence and detailed narratives. Damage assessments must include final cost of repair estimates according to local code, an assessment of the cost-effectiveness of each recommended activity (rehabilitation, reconstruction, or new construction), mold remediation, and assistance needed to bring the home up to code at completion.

*Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts (DBRA):* All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. This applies to the rehabilitation and reconstruction of residential property only if such property contains not less than 8 units.

*Demolition:* The clearance and proper disposal of dilapidated buildings and improvements.

*Duplication of Benefits:* The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other source.

*Elevation Standards:* Standards that apply to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1).

*Environmental Review:* All qualified projects must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable state and federal laws.

*Event:* The Presidentially declared Hurricane Harvey, and subsequent flooding, disaster event.

*Family:* The term "family" means all persons living together in the same housing unit, as further defined under 24 CFR 570.3.

*Flood Disaster Protection Act of 1973 and Sec. 582(a) of the National Flood Insurance Reform Act of 1994:* Compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in Special Flood Hazard Areas (SFHAs) may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if: (1) the person had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and (2) that

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person failed to obtain and maintain flood insurance as required under applicable federal law on such property.

*Flood Hazard Area:* Areas designated by FEMA as having risk of flooding.

*Flood Insurance:* The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

*Floodplain:* FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

- "100-year floodplain" — the geographical area defined by FEMA as having a one percent chance of being inundated by a flooding event in any given year.
- "500-year floodplain" — the geographical area defined by FEMA as having a 0.2 percent change of being inundated by a flooding event in any given year.

*Floodway:* FEMA designated channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*General Land Office (GLO):* The Texas General Land Office is the lead agency for managing the State's Community Development Block Grant – Disaster Recovery grants.

*Grant Agreement:* A funding agreement detailing eligible program costs and project-specific award agreements between HUD and the GLO, including regulatory provisions, certifications, and requirements.

*Green Building Standards:* All rehabilitation (meets the definition of substantial improvement), reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR (Certified Homes or Multifamily High-Rise), (2) EPA Indoor Air Plus (Energy Star a prerequisite), (3) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), or (4) ICC-700 National Green Building Standard.

*Home/Housing Unit:* (used interchangeably) a house, apartment, group of rooms, or single room occupied or intended for occupancy as separate living quarters.

*Household:* A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the LMI National Objective is based on the LMI of the household.



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*Housing and Community Development Act of 1974, as amended by the Supplemental Appropriations Act of 1984:* Established the program of Community Development Block Grants to finance the acquisition and rehabilitation of real property and which defined the recipients and uses of such grants, with the primary goal of benefitting LMI persons.

*Housing and Urban Development Act of 1968, Section 3:* Requires program administrators ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 CFR 135.32.

*Housing Quality Standards (HQS):* The HQS establish certain minimum standards for buildings constructed under HUD housing programs. This includes new single-family homes and multifamily housing as outlined in 24 CFR 982.401.

*Low/Mod Housing (LMH):* Any activity that involves the buyout, acquisition, or rehabilitation of property to provide housing or improve permanent residential structures will upon completion benefit and must be occupied by low- and moderate-income households (42 U.S.C. 5305(c)(3)). Income eligibility will be determined using Area Median Income (AMI), adjusted for family size and verified in accordance with City's Adjusted Gross Income Methodology. The most current income limits, published annually by HUD, shall be used by the City to verify the income eligibility of each household applying for assistance at the time assistance is provided.

*Low/Mod Income (LMI):* Activities which benefit persons of income that does not exceed 80 percent of the area median income:

- Extremely low: Household's annual income is up to 30 percent of AMI, as determined by HUD, adjusted for family size;
- Low: Household's annual income is between 31 percent and 50 percent of AMI, as determined by HUD, adjusted for family size; and
- Moderate: Household's annual income is between 51 percent and 80 percent of AMI, as determined by HUD, adjusted for family size.

*Manufactured Housing Unit (MHU):* A structure, transportable in one or more sections which in the traveling mode is 8 body-feet or more in width, or 40 body-feet or more in length, or when erected on site, is at least 320 square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

*Mitigation:* Improvements made to reduce the possibility of property damage, personal and commercial hardship, as well as long lasting monetary burdens. For example, creating a flood mitigation program such as an acquisition of at-risk flood-prone property/housing, and elevation of

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housing in high-risk floodplains are two visible and effective mitigation projects that can be taken to make residents and communities safer in the face of natural disasters.

*Modular Housing:* A home built in sections in a factory to meet state, local, or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site.

*Multifamily Rental:* Eight or more rental units in the property.

*Needs Assessment:* A needs assessment is a critical component in the allocation of funding across and within National Objectives for CDBG-DR funds. A given needs assessment will recommend the proportions of funding that should be set aside to benefit each LMI and non-LMI economic group. The needs assessment will determine the activities to be offered, the demographics to receive concentrated attention, the disabled, "special needs," vulnerable populations, and target areas to be served. The needs assessment will also include an assessment of the types of public services activities that may be needed to complement the program. The needs assessment should set goals within the income brackets similar to the housing damage sustained within the impacted areas. Deviations from goals must be approved by the City before the Program may move forward. Each needs assessment will be posted for a 30-day public comment period and approved by the GLO before implementation.

*New Construction:* A replacement home that substantially exceeds the original footprint on the existing lot (if permitted) or the construction of a new home in a new location.

*One for One Replacement:* Subpart B Requirements Under Section 104(d) of the Housing and Community Development Act of 1974, 24 CFR 42.375 provides for public and/or assisted lower-income dwelling units to be demolished or converted to a use be replaced with comparable lower-income dwelling units.

*Overall Benefit:* The City must certify that, in the aggregate, not less than 70 percent of the CDBG-DR funds received by the City will be used for activities that benefit LMI households.

*Reconstruction:* Demolition and rebuilding of a stick-built or modular housing unit on the same lot in substantially the same footprint and manner. This activity also includes replacing an existing substandard manufactured housing unit (MHU) with a new or standard MHU or stick-built/modular housing unit. The number of units on the lot may not increase, and the total square footage of the original, principal residence structure to be reconstructed may not be substantially exceeded; however, the number of rooms in a unit may be increased or decreased based on the applicant's current household size.

*Rehabilitation:* Repair or restoration of storm-damaged housing units to applicable construction codes and standards.

*Reimbursement Program:* Program designed for eligible applicants who have used non-disaster relief funds for completed reconstruction, rehabilitation, elevation, and/or mitigation on single family homes

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prior to the date of application to a disaster relief program. Reimbursement for costs after application are ineligible.

*Single Family Home:* A single-unit family residence detached or attached to other housing structures.

*Slum and Blight National Objective:* Activities which help to eliminate slum and blighted conditions. (Use of this National Objective is limited due to its inability to contribute towards the overall requirement for 70 percent LMI to benefit low- to moderate-income beneficiaries.) See 24 CFR 570.208(b).

Slum and Blight activities must meet the criteria of one of the three following categories:

- Prevent or eliminate slum and blight on an area basis;
- Prevent or eliminate slum and blight on a spot basis; or
- Be in an urban renewal area.

*Subrecipient:* Cities, counties, Indian tribes, local governmental agencies (including COGs), private non-profits (including faith-based organizations), or a for-profit entity authorized under 24 CFR 570.201(o). The definition of subrecipient does not include procured vendors, private grant administrators, or contractors providing supplies, equipment, construction, or services and may be further restricted by Program rules or other guidance including applications. See vendor definition for further clarification.

*Subrogation Agreement:* An agreement executed by the beneficiary agreeing to repay any duplicative assistance if the beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

*Substantial Damage:* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (44 CFR 59.1).

*Substantial Improvement:* Any reconstruction, rehabilitation, addition, or other improvement of a structure which the cost equals or exceeds 50 percent of the fair market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure" (44 CFR 59.1).

*Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et seq.) (URA):* Applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program or projects. URA's objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) acquisition or multifamily damaged/occupied activities that require the relocation of the tenants. A displaced person is eligible to

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receive a rental assistance payment that is calculated to cover a period of 42 months, as waived by the FR.

*Urgent Need National Objective:* An urgent need that exists because conditions pose serious and immediate threat to the health or welfare of the community; the existing conditions are recent or recently became urgent; and the applicant cannot finance the activities on its own because other funding sources are not available. The city must document how each program and/or activity funded under this category responds to a disaster-related impact. See 24 CFR 570.208(c).

*Vendor:* Vendors and private grant administrators procured by the city or contractors to provide supplies, equipment, or services necessary to implement the Program and to serve program needs. Upon approval, the vendor may implement the Program or act on behalf of the City.

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