

The City of Houston Housing and Community Development Department is soliciting public and community groups to provide feedback regarding the relocation of eight (8) historical homes located in Houston’s Fifth Ward community. Additional project information may be viewed at www.houstontx.gov/housing/public-notices-html. Public comments may be submitted by email to hcdenvironmental@houstontx.gov. The public comment period is fifteen (15) calendar days from the date of the publication of this memorandum.

**MEMORANDUM OF AGREEMENT
BETWEEN THE CITY OF HOUSTON
[the "Agency"]**

AND

THE TEXAS HISTORIC PRESERVATION OFFICER [the "SHPO"]

AND

FWCRC Rawley SR LLC [the "OWNER"]

**REGARDING THE RAWLEY RENTAL HOMES LOCATED ON THE SOUTHWEST
CORNER OF RAWLEY AND STAPLES STREETS IN HOUSTON, TX 77020**

WHEREAS, Owner plans to construct three (3) new duplexes, referred to as “Project”, on the site generally located at the corner of Rawley Street and Staples Street, referred to as the “Site”; and

WHEREAS, Owner plans to relocate the existing eight (8) structures consisting of three (3) shotguns and five (5) two-bedroom cottages; and

WHEREAS, the Agency plans to fund the Project pursuant to the U.S. Department of Housing and Urban Development’s Community Development Block Grant – Disaster Recover, thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 C.F.R. part 800; and

WHEREAS, Agency has defined the undertaking's area of potential effect (APE) as described in Attachment A-1; and

WHEREAS, Agency has determined that the undertaking may have an adverse effect on the cottages at Rawley and Staples Streets, which are eligible for listing in the National Register of Historic Places, and has consulted with the SHPO pursuant to 36 C.F.R. part 800; and

WHEREAS, Owner has consulted with community stakeholders in the development and design of the Project; and

WHEREAS, Owner has consulted with **City of Houston Historic Preservation Officer, Preservation Houston, Harris County Historical Commission, and various other community organizations**, regarding the effects of the undertaking on historic properties and has invited them to participate in the development of this MOA; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), **Agency** has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii);

NOW, THEREFORE, Agency and the **SHPO** agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties including residential structures, and on communities.

STIPULATIONS

Agency shall ensure that the following measures are carried out:

I. CONSULTATION AND COORDINATION

- A. **Agency** shall consult with signatory parties to review the implementation plan.
- B. **Agency** has consulted with ACHP and five (5) Indian tribes, including Alabama-Coushatta Tribe of Texas, Apache Tribe of Oklahoma, Comanche Nation, Coushatta Tribe of Louisiana, and Tonkawa Tribe of Indians of Oklahoma.
- C. **Owner**, working with **Agency** will make a reasonable and good faith effort to identify any additional parties that might attach religious and cultural significance to historic properties in the APE for and invite those parties to participate in Section 106 consultation. **Owner's** identification will be subject to review and approval by **Agency**.
- D. Electronic mail (email) will serve as the official correspondence method for all communications regarding this Agreement and its provisions. See Attachment B-1 for a list of contacts and email addresses. Contact information in Attachment B-1 may be updated as needed without an amendment to this Agreement.
- E. All standard response timeframes established by 36 CFR Part 800 will apply to this Agreement, unless an alternative response timeframe is agreed to by the signatory parties.
- F. Public responses from community groups and will be accepted up-to fifteen (15) calendar days.
- G. All time designations will be in calendar days. If any party does not comment within the agreed upon timeframes, **Agency** may assume that party's concurrence with

Agency's determination and will notify all consulting parties of the action and proceed in accordance with this Agreement.

II. RESOLUTION OF ADVERSE EFFECTS

- A. Within 120 days of execution of this Agreement, the Owner shall relocate the eight (8) existing structures from the Site to other lots located within the 5th Ward Community.
- B. Structures will be rehabilitated to provide additional housing to members of the 5th Ward Community.

III. RECORDATION OF BUILDINGS

- A. Within 60 days of execution of this Agreement, the Owner shall digitally photograph the buildings. The photography shall comply with the requirements of the National Park Service's (NPS's) May 2013 National Register Photo Policy Factsheet or the latest guidance from NPS.
 - 1. Image files shall be saved as uncompressed Tagged Image File Format (TIFF) files
 - 2. Image size shall be 1200x1600 megapixels at 300 pixels per inch (ppi) or larger.
 - 3. Images shall be saved in an 8-bit or larger color format.
 - 4. Images of each building shall be saved according to NPS's 2009 Photograph Policy Update with a separate photo log created that contains the following information for each image:
 - a) Name and address of building;
 - b) Date of photograph;
 - c) Name of photographer; and
 - d) Description of the view, including the direction of the camera.
- B. Images taken of each building shall include:
 - 1. One (1) view of each façade;
 - 2. Two (2) oblique views, taken from opposing corners to show all facades;
 - 3. One (1) contextual view.
- C. The **Owner** shall submit the files via Dropbox or other acceptable platform, containing the digital images, and a photo log to **SHPO** for review and approval. **SHPO** shall advise the **Owner** within 30 days of receipt if the submitted documentation is satisfactory or request specific revisions. Upon acceptance by **SHPO**, the work proposed in this document for the building may proceed.
- D. The **Owner** shall provide a final copy of the completed documentation to a historical repository determined in consultation with the **SHPO**.

IV. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

Prior to the date hereof, identification and evaluation efforts of the signatory parties followed the ACHP's Section 106 Archeology Guidance, the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, and the SOI's Standards and Guidelines

for Federal **Agency** Historic Preservation Programs Pursuant to the National Historic Preservation Act, as applicable. As a result of said identification and evaluation efforts, the signatory parties acknowledge and agree as follows:

- A. **Agency** has consulted with **SHPO** with respect to the APE.
- B. **Agency**, in consultation with the **SHPO**, has defined and documented the APE for purposes of this undertaking.
- C. Pursuant to determinations of **SHPO**, **Agency** has ensured that an appropriate level of archival research has been conducted related to the site.
- D. Pursuant to determinations of **SHPO**, **Agency** has ensured that an appropriate level of public participation through community meetings, consultation and opportunities to comment on the impact of the Project on the APE has occurred prior to the date hereof. Public participation includes any actions taken by **Owner** to facilitate community input and involvement for this project, as concurred with by **Agency**.

V. DURATION

This MOA will be null and void if its stipulations are not carried out within two (2) years from the date of its execution. At such time, and prior to work continuing on the undertaking, **Agency** shall either (a) execute a MOA pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. Prior to such time, **Agency** may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below. **Agency** shall notify the signatories as to the course of action it will pursue.

VI. POST-REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found by **Owner** or **Owner's** agents during the course of development, the following discovery plan shall be initiated by the **Owner** and accepted and implemented by the **Agency**:

- A. **Owner** shall immediately secure the vicinity, and make a reasonable effort to avoid or minimize harm to the resource, and notify **Agency** and **SHPO** immediately. All activities shall cease within a minimum of 50 feet from the inadvertent discovery until authorized by **Agency**.
- B. **Agency** shall immediately contact the **SHPO**, as required, within 24 hours of being notified of the finding, and request consultation to resolve potential adverse effects. If **SHPO** agrees that the cultural resource is not eligible for the National Register of Historic Places (NRHP) then the suspension of work will end. If **SHPO** agrees that the cultural resource is eligible for the NRHP, then the suspension of work will continue, and **Agency**, in consultation with the **Owner**, and **SHPO**, will determine actions to avoid, minimize, or mitigate effects to the historic property and will ensure that the appropriate actions are carried out.
- C. In the event that effects to historic properties are identified following the completion of a project activity, **Owner** must provide **Agency** with evidence of such effects. **Agency** shall review the evidence and consult with **Owner** and **SHPO** to resolve any adverse effects.

VII. MONITORING AND REPORTING

Each month following the execution of this MOA until it expires or is terminated, **Agency** shall provide all parties to this MOA a summary report detailing work carried out pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in **Agency's** efforts to carry out the terms of this MOA. Effective monitoring and execution of this MOA, including the summary report, will depend on consistent and effective recording and reporting of work performed by **Owner** to **Agency**. Therefore, **Owner** will be required to regularly notify **Agency** of all significant work performed at the site, so that **Agency** may review it, determine its acceptability, and rely on it to prepare monthly summary reports.

VIII. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, **Agency** shall consult with such party to resolve the objection. If **Agency** determines that such objection cannot be resolved, **Agency** will:

- A. Forward all documentation relevant to the dispute, including the **Agency's** proposed resolution (which can also be recommended by **Owner** and accepted by **Agency**), to the ACHP. The ACHP shall provide **Agency** with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, **Agency** shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. **Agency** will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, **Agency** may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, **Agency** shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response. Final agency decision may need to rely upon all appropriate historical authorities including but not limited to the City of Houston's Preservation Office, in any instance where a determination cannot readily be made without further information. If further information can be obtained internally, **Agency** reserves the right to make final determination without further consultation
- C. **Agency's** responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

IX. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

X. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, **Agency** must either (a) execute an MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. **Agency** shall notify the signatories as to the course of action it will pursue.

EXECUTION of this MOA by the **Agency** and **SHPO** and implementation of its terms evidence that **Agency** has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

**City of Houston Housing and Community
Development Department**

Date: _____

Division Manager, Real Estate Compliance & Operations

Texas Historic Preservation Officer

Date: _____

Executive Director/State Historic Preservation Officer (SHPO), Mark Wolfe

Fifth Ward Community Redevelopment Corporation

Date: _____

Kathy Payton, President/CEO

**ATTACHMENT A-1
AREA OF POTENTIAL AFFECTS (APE)**

The area encompassing the new housing development is referred to as the “5TH Ward,” and is considered a low-income, historically minority community, with housing structures that date back to 1929. The eight existing residential units are “shot-gun” style, wood built, one story, pier and beam homes. The site is bordered on all four sides by two-lane, paved residential streets. Surrounding housing stock consists of existing homes in similar style and age to newly constructed homes with modern façades and materials.

The existing single-family homes have not been directly identified as being historic in nature by the THC nor by the City of Houston’s Historical Department. According to the THC’s online Atlas map, historical markers and an historical survey area are within a 2200-foot radius of the subject site. Based on the local history of the 5th Ward and other surrounding communities, this style of home has architectural significance in areas identified as historic by the City of Houston. The shotgun style, exterior wood siding, roof gables, front porches, and pier-and-beam construction may be considered significant when located in historically designated communities.