

**COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND INTENT TO  
REQUEST RELEASE OF FUNDS**

**November 14, 2019**

City of Houston  
Housing and Community Development Department (HCDD)  
2100 Travis, 9<sup>th</sup> Floor  
Houston, TX 77002  
(832) 394-6018

**This Notice shall satisfy the above-cited two separate but related procedural notification requirements.**

**REQUEST FOR RELEASE OF FUNDS**

On or about **December 3, 2019** the City of Houston's Housing and Community Development Department will submit a request to the Texas General Land Office (GLO), who is acting in the role of the U.S. Department of Housing and Urban Development (HUD) for the release of federal Community Development Block Grant Disaster Recovery (DR-16) (CDBG-DR) funds authorized by the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, (Public Law 110-329), enacted on September 30, 2008, as amended subsequently by acts including P.L. 114-223, 114-254, and 115-31. These particular funds are part of a CDBG grant administered by the Texas General Land Office (GLO) for Disaster Recovery, specifically to be used in the recovery process to address impacts caused by the 2016 Flood Events. GLO will act in the stead of the Department of Housing and Urban Development (HUD) and be overseen by HUD.

Project Title: Floodplain Preservation (Green Space and/or Water Detention Area) at Former Boardwalk Apartments Site (Voluntary Buyout)

**Location:** 9100 Fondren Rd., Houston, Harris County, Texas (SW Corner of Fondren Rd. & Wanda Ln.)

**Purpose of project:** This property, approximately 7.73 acres of land at 9100 Fondren (southwest corner of Fondren and Wanda, north of Brays Bayou) has been identified for detention use to improve overall drainage, and to assist local drainage projects in the area. An estimated 98 ac-ft of volume has been identified on this approximately 7.73 acre property site. Recommended alternatives to this and related projects require that there is no impact to the water surface elevation on Brays Bayou. To mitigate the bayou impact, detention is required.

This project includes an Option Agreement for Purchase and Sale of Real Property between BRE Boardwalk Agreements LLC (Seller) and City for the purchase of The Boardwalk Apartments (Property). The Property comprises approximately 7.73 acres of land and is located at 9100 Fondren Road. The Purchase Price is \$1,010,211.00, subject to adjustment based on final appraisal, but in no event, will exceed \$1,500,000.00, plus an additional due diligence and closing cost of \$40,000.00.

The acquisition of Property is an eligible Property under HCDD Disaster Recovery (DR16) Multi-family Voluntary Buyout Program ("MVB" Program). The Property was selected based on the following parameters:

- located in a Floodway and/or Floodplain
- affected by the 2016 Flood Events
- repetitive flood loss from the years 2015-2017 and
- adjacent to an ongoing HPW mitigation project, which supports the overall program to reduce the risk of future flooding

**HCDD in collaboration with Houston Public Works (HPW) intends to convert this site into detention and any related greenspace, which would help reduce the risk for future flooding.**

The Seller understands that there is no obligation to sell the Property under the MVB Program, but the Seller does so voluntarily, and that power of eminent domain will not be used to acquire the Property. The purchase of the Property is subject to environmental clearance from the U.S. Department of Housing and Urban Development and other approvals from the program guidelines from the Texas General Land Office.

**Federal funds are conditioned on the following measures:**

**This property is the former site of the Boardwalk Apartments, which was previously demolished and removed from the site. The land is now vacant.**

Since the project site is in the 100-year floodplain, with the southern portion being in the floodway, all work must be specifically limited to detention/flood control and the creation of any and all related green space (for floodplain preservation purposes), so that the requirements of HUD regulations governing floodplains found at 24 CFR 55 are met, specifically 55.12(c)(3), which covers:

The approval of financial assistance for restoring and preserving the natural and beneficial functions and values of floodplains and wetlands, including through acquisition of such floodplain and wetland property, but only if:

- (i) The property is cleared of all existing structures and related improvements;
- (ii) The property is dedicated for permanent use for flood control, wetland protection, park land, or open space; and
- (iii) A permanent covenant or comparable restriction is placed on the property's continued use to preserve the floodplain or wetland from future development.

As a project that is specifically for detention (flood control) and any and all related green space (floodplain preservation), this project will be required to meet the provisions of (c)(3) laid out above as a condition of federal funding.

Historical: While no historic resources were discovered, the following measures must be undertaken in the unforeseen event that any such resources are discovered.

#### **Above-Ground Resources**

- No historic properties are present or affected by the project as proposed. However, if historic properties are discovered or unanticipated effects on historic properties are found, work should cease in the immediate area; work can continue where no historic properties

are present. Please contact the THC's History Programs Division at 512-463-5853 to consult on further actions that may be necessary to protect historic properties.

**Archeology Comments**

- No historic properties present or affected. However, if buried cultural materials are encountered during construction or disturbance activities, work should cease in the immediate area; work can continue where no cultural materials are present. Please contact the THC's Archeology Division at 512-463-6096 to consult on further actions that may be necessary to protect the cultural remains.

Please note that if any of the above resources or cultural materials are tribal, the appropriate American Indian/Native American tribe must be consulted as well.

Any and all applicable mitigation must follow NEPA requirements codified at 40 CFR §1508.20 which not only equals specific actions that avoid or minimize a significant impact but also reduce the impact over time by preservation. Hence it must be noted that all applicable Federal Register (FR) requirements governing buyouts and detention/flood control must be followed, including but not limited to all requirements cited in the City of Houston Voluntary Buyout Program's Multifamily Voluntary Buyout Program (MVB) Guidelines. These include 81 FR 83254, Vol.81, No. 224, 82 FR 36812, Vol. 82, No. 150 and 82 FR 5591, Vol. 82, No. 11.

The FONSI, Request for Release of Funds, and Authority to Use Grant Funds (AUGF) will contain all applicable mitigation requirements as a condition of receiving federal funds.

Grant No. & Amount:                   **B-16-DL-48-0001.....\$1,500,000.00**

**FINDING OF NO SIGNIFICANT IMPACT**

The City of Houston has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at the above address and is available for public examination or copying weekdays 8 A.M. to 5 P.M.

**PUBLIC COMMENTS**

Any individual, group, or agency disagreeing with this determination or wishing to comment on the project may submit written comments to the City of Houston, Housing and Community Development Department, ATTN: Environmental Review Officer, 2100 Travis, 9<sup>th</sup> Floor, Houston, Texas 77002. All comments received by the close of business on **December 2, 2019** will be considered by the City of Houston prior to authorizing submission of a request for release of funds. Commenters should specify which part of this Notice they are addressing.

**RELEASE OF FUNDS**

The City of Houston certifies to GLO, acting in the role of HUD that Sylvester Turner, in his capacity as Mayor, consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. GLO's approval of the certification satisfies its responsibilities under NEPA and related laws

and authorities, and allows the City of Houston to use Program funds.

### **OBJECTIONS TO RELEASE OF FUNDS**

GLO, acting in the role of HUD will consider objections to its release of funds and the City of Houston certification received by the close of business on **December 18, 2019** or a period of fifteen days from its receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer or other officer of the City of Houston approved by certifies to GLO, acting in the role of HUD; (b) the City of Houston, as Responsible Entity, has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by GLO, acting in the role of HUD; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to: **Texas General Land Office, 3429 Executive Center, Suite 150, Austin, Texas 78731**. Potential objectors should contact GLO to verify the actual last day of the objection period.

Sylvester Turner, Mayor  
City of Houston