



NEW HOME DEVELOPMENT PROGRAM GUIDELINES



CITY OF HOUSTON, TX

**DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT**

SINGLE-FAMILY - NEW HOME DEVELOPMENT PROGRAM

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I. Introduction and Authority

The objective of the City of Houston's (City) New Home Development Program (NHDP) is to provide newly constructed, affordable single-family homes for low and moderate-income homebuyers. These Guidelines will govern the implementation of this program. Possible sources of funding for the NHDP will be Community Development Block Grant (CDBG) (to the extent such funds are subject to a waiver granted by the US Department of Housing and Urban Development (HUD) permitting their use for the construction of new homes), CDBG-Disaster Recovery funds, TIRZ affordable housing set-aside funds, HOME Investment Partnership Grant (HOME) funds, any related program income, and any other funding that may be available.

These Guidelines will govern current allocations, and any future allocations of federal and/or local funds for New Home Development Program activities. The staff of the Housing and Community Development Department (HCDD) will administer the program in accordance with United States Housing and Urban Development Department (HUD) regulations. The Director of the HCDD (Director) or a Designee will have approval authority for administrative matters related to the NHDP and may delegate said authority by written instrument.

II. Definitions

AMFI: Area Median Family Income, as determined by HUD for the City of Houston -The Woodlands-Sugar Land MSA.

Community Development Block Grant Program (CDBG): A federal program administered by the HUD which funds local community development activities such as affordable housing. The CDBG program provides annual grants on a formula basis to local governments and states.

Community Land Trust (CLT): An existing or to be created "community land trust" operating in the City, organized as a Texas nonprofit corporation under Texas Business Organizations Code §22.001(5) and/or any applicable section of the Local Government Code.

Contractor: An entity to which the City provides funding for the construction of new Homes.

Construction Agreement: An agreement entered into by the City, the landowner and a Contractor for the purpose of funding and carrying out eligible activities on one or more eligible properties.

Director: The Director of HCDD or any other person(s) that may be designated to perform the various functions assigned to the Director.

HOME: The HOME Investment Partnerships Program (HOME) is a federal program administered by HUD to provide decent and affordable housing. It is the largest Federal block grant to States and local governments designed exclusively to create affordable housing for low-income families.

Home: A new single-family home that is constructed under the NHDP.

Homebuyer: Person(s) eligible to purchase a home developed under the NHDP.

Houston Land Bank: Land Assemblage Redevelopment Authority dba Houston Land Bank, a Texas local government corporation created pursuant to Tex. Transp. Code Ann. §431.101.

Low- Moderate Income: A household/family having an income equal to or less than 80% of the AMFI established by HUD for a particular Metropolitan Statistical Area.

Program Funds: Funds that have been duly appropriated or allocated to the NHDP.

Project Budget: Any and all costs associated with the development of the new Home.

Project Funding: Any and all governmental and private funds, used to pay for hard and soft costs to carry out the construction of a new single-family home.

Tax Increment Reinvestment Zone (TIRZ): Special zones created by the City Council of the City of Houston, pursuant to the provisions of Chapter 311, Texas Tax Code, as amended, to attract new

investment in an area. TIRZ help finance costs of redevelopment and encourage development in areas that would otherwise not attract sufficient market development in a timely manner. Taxes attributable to new improvements (tax increments) are set-aside in a fund to finance public improvements within the boundaries of the zone.

III. Acquisition Process

- A. The Houston Land Bank (“HLB”) and the Housing and Community Development Department (“HCDD”) of the City of Houston will enter into an Acquisition and Development Agreement (“Agreement”) pursuant to which HLB agrees to acquire certain properties at HCDD’s expense and to set-aside at HCDD’s request certain properties previously acquired. HLB will hold said properties for new home development, which will be executed by HCDD and sold to LMI homebuyers in accordance with customary policy and procedures noted in the Agreement.
- B. HLB will hold title for such properties and HCDD will reimburse HLB for all reasonable costs associated with this transaction.
- C. HCDD will act as the developer of said properties and will cover all costs associated with the development and construction of a new single-family home.

IV. Property Considerations

A. Lots for Construction

All homes built under the NHDP will be within the property tax jurisdiction of the City of Houston. The Agreement will describe the procedure by which HCDD will identify lots to be built upon and define duties and responsibilities of the respective parties for the acquisition and development of such lots. HCDD may also fund the development of lots where eligible owners of damaged homes wish to exchange their damaged real property for a new Home developed by HCDD on another lot. The damaged home would either be repaired, demolished and rebuilt, or converted into green space.

B. Diligence and Environmental Review

Prior to development, HCDD will require a title report, a survey and an environmental review (including a Phase I and a Phase II, if necessary) and an environmental report on each property.

V. Construction

A. Generally

Subject to authorization by Council, the City will enter into a Construction Agreement with Contractors for the construction of homes, and such Agreement will reference the terms of the Contractors’ Master Contractor Agreements with the City. Prior to the commitment of funds for any new construction, a Contractor shall submit a Construction Budget and Plans (if plans and specs are not provided by HCDD to the contractor to bid) to the Director, and have such Construction Budget and Plans approved by the Director.

The Contractor will be responsible for obtaining all necessary permits and construction documents. The Contractor will also be responsible for identifying the site-specific cost items to be included

in its budgeted soft and hard costs for construction. HCDD will develop independent cost estimates with industry-standard software to ensure cost reasonableness.

Homes developed under the NHDP may be purchased by an eligible Homebuyer, through methods including, but not limited to, the following (i) application through the HCDD's Homebuyer Assistance Program; (ii) HLB's digital marketing platform and community outreach program; (iii) the CLT if in existence, or (iv) listing with a licensed real estate broker. The City may pursue additional means for marketing and selling the properties. Title to a developed property will be held and the property will be insured and maintained by the HLB or, following a transfer, by the CLT if existing until an appropriate purchaser is identified.

At time of transfer of title from the HLB to a Homebuyer or the CLT, the Contractor will have been paid pursuant to the Construction Contract, and the purchase price will be paid by the purchaser or by the assistance program, if applicable, and will be disbursed to pay (i) closing costs and other eligible expenses associated with the transfer of title, (ii) all reasonable costs incurred by HLB associated with the lots, pursuant to the Agreement, and (iii) the City will recover a portion or all development costs. Any net proceeds from closing shall be returned to HCDD. Any such net proceeds returned to HCDD will be deemed program income and shall be governed by all applicable requirements for their reallocation and future use.

B. Funding of Construction Work and Soft Costs

Program Funds shall be made available to pay for all pre-development, hard construction costs and soft costs that are indicated in the Construction Budget, up to the funding amounts stated in the Project Budget.

1. Fees and Interest Payments

Reasonable and customary fees and interest payments for lines of credit and construction loans secured by the contractors may be eligible costs for reimbursement by the City and will be counted toward the total cost basis of the development of the property. The City will review these costs to determine if they are eligible for reimbursement.

2. Construction Costs

Construction costs will be funded by the City as follows:

- a) A Contractor will prepare draw requests conforming to the payment provisions described in its Master Contractor Agreement, Contractor Agreement, and Construction Agreement, which will include a 10% retainage for each draw. The aggregate retainage amount for a contractor will be included in the Contractor's final draw request or invoice, which will be presented to HCDD following completion, inspection and approval by HCDD of all identified final punch list items.

Requests for funding of soft costs must be accompanied by invoices or other documents from subcontractors or other third parties indicating payment of eligible new construction soft costs as indicated by the line items in the Construction Budget.

Contractors will be responsible for obtaining performance and payment bonds and builder's risk insurance, in accordance with, or in addition to, the terms of their Master Contractor Agreement and Construction Agreement.

VI. Pricing of Homes

It is the intent of the NHDP to develop Homes that are affordable to eligible Homebuyers. The final sales price of a Home will be determined by the market value. Eligible homebuyers may receive assistance from HCCDD's Homebuyer Assistance Program in order to make the cost of the home affordable to them.

VII. Affordability Period, Recapture and Resale Restrictions

To preserve the long-term affordability of Homes, Homes purchased with assistance from HCDD's Homebuyer Assistance Program will be subject to restrictions imposing a 20-year affordability period, which will be secured by a no-interest forgivable promissory note payable to the City (in the amount of the homebuyer assistance received) and either a first or second lien, depending on whether a conventional loan is funding a portion of the purchase price. The balance of the promissory note will be forgiven on a pro-rata basis annually, with the lien discharged at the fulfillment of the affordability period.

In the event the Community Land Trust is in existence and newly constructed homes that are not pre-sold will be transferred to the CLT. The CLT will assume responsibility to market, sell and maintain affordability on all homes in the CLT.

VIII. Marketing and Sales of Homes

The marketing and sales of homes may be implemented through the following: Homebuyer Assistance Program, Houston Land Bank digital marketing platform and community outreach program, Community Land Trust (if existing), and the Real Estate Professional Services market.

A. Responsibility for Marketing and Sales

In the event HLB secures the services of a Real Estate Professional Brokerage Service, they will be fully responsible for marketing NHDP homes and selling them to eligible buyers. The real estate professional may show the applicant all NHDP homes meeting the applicant's needs and budget.

B. Marketing Plan and Budget

Prior to marketing the first completed home, the Real Estate Professional must obtain written approval from HLB and HCDD for a program marketing plan and budget. The marketing plan will include the following elements:

1. Methods of affirmative outreach to residents;
2. Other means of advertising homes for sale, including such means as Multiple Listing Service, advertising, flyers, etc.; printed materials and advertisements must include equal opportunity language;
3. Approved language for use in flyers, advertising and listings regarding income qualifications of buyers and financing being offered to buyers;

4. Method and timing of prequalifying prospective buyers, in terms of income eligibility and eligibility for mortgage financing;
5. Policy for managing a waiting list of potential buyers;
6. Sample disclosure statements to be given and explained to buyers prior to signing purchase agreements and at closing;
7. Sample form of purchase contract.
8. Provisions for establishing and adjusting sale prices.

VIII. Homebuyer Eligibility

All prospective Homebuyers must meet income criteria to be eligible for assistance under the NHDP. To meet the income eligibility requirement for Homes developed by HCDD using CDBG funds, applicant's household must earn less than 80% of the Area Median Family Income (AMFI) for the Houston-The Woodlands-Sugar Land MSA. Unless otherwise required by applicable laws, regulations, or program guidelines, the households of applicants for Homes that are not developed with CDBG funds must earn less than 120% of the AMFI to be income eligible for the NHDP. HUD publishes AMFI levels annually and NHDP income eligibility will be based on the most recent HUD income limits, adjusted by family size. The income limits are subject to change without notice by HUD and the most current AMFI link can be found at: https://www.huduser.gov/portal/datasets/il/il2017/select_Geography.odn.

HCDD Housing Assistance Program staff will determine household income based on the HUD definition described in the Code of Federal Regulations, Title 24 – Housing and Urban Development – Section 5.609 – Annual Income (24 CFR 5.609) known as “Part 5”.

In addition to the income criteria above, each potential Homebuyer must meet the following eligibility requirements:

- Complete an eight-hour certified Homebuyer Education Course through an HUD-approved counseling agency.
- Must be a U.S. citizen or permanent resident alien.
- Must be able to obtain a fixed-rate mortgage for the purchase price. The program does not accept adjustable-rate mortgages (ARM) or seller-financed mortgages.
- Must agree to occupy the Home as their principal residence.
- Must accept a 20 year soft second forgivable mortgage/lien, which may be subordinated to the lien securing a commercial loan, to secure compliance with affordability restrictions.

Homebuyers seeking funding from HCDD's Homebuyer Assistance Program must comply with all additional terms of that program.

X. Regulatory Considerations

Davis-Bacon Overview

All federal government construction contracts and most contracts for federally-assisted construction over \$2,000 must include provisions for paying workers on-site no less than the local prevailing wages and benefits paid on similar projects. Residential properties containing fewer than 8 units are exempt from Davis-Bacon (see Section 110(a), Housing and Community Development Act (HCDA) of 1974). The “eight-unit threshold” applies to the number of units on a property; not the number of units being rehabilitated or constructed nor the number of units being funded with federal funds. A property is defined as one or more buildings on an undivided lot or on contiguous lots or parcels, which are commonly-owned and operated as one rental, cooperative, or condominium project. In light of the above, HCDD does not expect that Homes constructed under the NHDP will be subject to Davis-Bacon requirements.

HUD Section 3 Program

The Section 3 policy of the Housing and Urban Development Act of 1968 was established to ensure that “employment, training and contracting opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.” Section 3 requirements apply to contractors and subcontractors performing work on Section 3 covered projects for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

Minority Women Small Business Enterprises

It is the policy of the City to stimulate the growth of local minority, women and small business enterprises by encouraging the full participation of these business enterprises in various phases of city contracting. Contracting Departments are responsible for ensuring contractors make a good faith effort to meet minority participation goals. Goal-oriented contracts requirements are based on construction contracts in excess of \$1,000,000 or the supply of goods or non-personal or non-professional services in excess of \$100,000.

The HCDD has a MWSBE goal of 12% for federally-funded construction projects. Progress made towards meeting MWSBE goals will be counted based on participation credits of companies certified through the City of Houston, Office of Business Opportunity. If a project is not federally funded, other City MWSBE requirements may be imposed.