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2013 Permanent Supportive Housing (PSH) Request for Proposals

City of Houston, Houston Housing
Authority and Harris County Funding
Collaborative



HOUSTON
HOUSING AUTHORITY

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Part I. Overview—Initiative to End Chronic Homelessness & the Need for Permanent Supportive Housing (PSH)

As members of the Houston/Harris County Continuum of Care, the City of Houston through its Housing and Community Development Department, Harris County through its Community Services Department, and the Houston Housing Authority are participating in the community’s initiative to end chronic homelessness in Houston by 2016. To achieve this goal, a community plan has been generated that includes the creation of 2,500 units of permanent supportive housing (PSH).

Through annual point-in-time counts of our homeless population, it is estimated that on any given night in Houston, 6,400 individuals are homeless. Of these, approximately 2,500 are considered chronically homeless. HUD’s definition of a chronically homeless person is: “*a homeless individual or head of household with a disabling condition who has either been continuously homeless for a year or more OR has had at least four (4) episodes of homelessness in the past three (3) years*”. A disabling condition is defined as “*a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions*”.

These citizens frequently confront serious, persistent issues such as addiction or alcoholism, mental illness, HIV/AIDS, and other serious challenges to a successful life, and thus require a more substantial level of care in a supportive housing environment to return to housing stabilization. Permanent supportive housing is an evidence-based practice that has been proven to be the most successful intervention for chronically homeless persons. HUD has independently verified that more than 80% of tenants in permanent supportive housing remain stably housed for more than one year.

Part II. Developing Permanent Supportive Housing

A permanent supportive housing unit is defined as an affordable rental housing unit that is linked to a range of support services that enable tenants, especially the chronically homeless, to live independently and participate in community life. Permanent supportive housing units are:

- *Targeted* to households earning under 30% of Area Median Income with multiple barriers to housing stability;
- *Deeply affordable*. Rents are subsidized so that the tenant pays no more than 30% of household income towards rent, even where tenants have extremely limited or no income;
- *Lease-based*. Tenancy is based on a legally-enforceable lease or similar form of occupancy agreement, and there are no limits to a person’s length of tenancy as long as they abide by the conditions of the lease or agreement. Leases *do not* include additional requirements for tenancy beyond the market standards. (I.e. drug testing, unannounced access to unit, service participation requirements, curfews, unreasonable restrictions on visitors, and excessive inspections are all *excluded*.)
- *Supported* by the availability of a flexible array of comprehensive services, with tenant participation being *voluntary*. The tenant has access to this array of services, including, but not limited to, case management, medical, mental health, substance use treatment, employment and life skills counseling, eviction prevention programs, social and

recreational events, and tenant advocacy; however, a lease may not be terminated solely because a tenant chooses not to participate; and

- *Managed* through a working partnership that includes ongoing communication between service providers, property owners/managers, and subsidy programs.

The ultimate goal of permanent supportive housing is to help vulnerable tenants maintain long-term housing stability, be good neighbors, and improve the quality of their lives.

The goal of this RFP is to provide *permanent* supportive housing. Therefore transitional housing or any type of shared housing will not be considered. Projects can contain a mix of efficiency, one bedroom and two or more bedroom units. All units must contain a separate bathroom and a separate food preparation area, each with its own sink and fixtures. Projects may contain a mix of market rate, traditional affordable housing, and permanent supportive housing units, but Applicants should note that the amount of public investment available for any one project will be largely driven by the number of permanent supportive housing units being provided. Applicants must balance the availability of funding for PSH units, the challenge of proposing a property that will be financially feasible, and the necessity for a critical mass of homeless tenants to justify the resources of the service providers.

The development of permanent supportive housing includes an early examination of three budgets: capital, operating, and services.

- **Capital: City of Houston (HCDD) and Harris County** will provide funding support for capital investments in permanent supportive housing. As a *general* rule of thumb, HCDD expects to fund approximately \$40,000 per PSH unit.
- **Operating: Houston Housing Authority** has made operating subsidies available in the form of Section 8, Veterans Administration Subsidized Housing (VASH) and other vouchers for all permanent supportive housing units.
- **Services: City Health and Human Services Department** has contracted with several providers of integrated clinical and case management services. One of these providers will be assigned to each successful project, to provide the services specific to PSH. Developers will still need to supply some level of residential services via a third party contractor or non-profit agency, property management, or in-house resident services program, and must demonstrate a commitment to accommodating a broader array of services either on-site or easily accessible.

Capital Resources

Leveraging of the City and/or County funds is key to the ultimate success of PSH projects. The City and County will fund the *gap* between the cost of the entire project, and funds provided from all other sources. The City and County have developed a close working relationship with the Low Income Housing Tax Credits (LIHTC) program administered by the Texas Department of Housing and Community Affairs (TDHCA) as a frequent source of leverage. Additionally, utilization of conventional debt and equity financing, foundation grants, and other non-City/County funds may be a source of leverage. The City/County funds shall be used *only* to provide gap financing that is not otherwise available from other sources. No project will be funded 100% by the City and/or County.

Operating Resources

The Houston Housing Authority (HHA) has made Project-Based Rental Vouchers (PBRA) available to qualified applicants who are also applying for PSH capital funding. To be eligible for PSH capital resources, ***applicants MUST also apply to HHA for vouchers, as a threshold requirement if appropriate for the project.*** Please see the Application Process Section below for further details. Please note that a project will not be awarded capital resources until vouchers have been awarded by HHA or another operating subsidy has been secured. Applications under this RFP and under the HHA RFP should be submitted concurrently. **Funding under HCDD's RFP does not guarantee funding by HHA for vouchers, and approval of vouchers by HHA does not guarantee funding by HCDD or the County.**

Supportive Service Resources

Supportive services are the most critical part of Permanent Supportive Housing. Applicants must be willing to develop a resident services plan in partnership with either a homeless service provider that is under contract with the City's Health and Human Services Department, or with another source of similar services. The Health Department has funding to secure these integrated clinical and intensive case management services for all permanent supportive housing projects that are awarded capital resources. The Applicant is expected to provide office space free of charge to the on-site provider of supportive services.

Applicants must demonstrate an additional level of resident services at the time of application, such as: access to education, computer lab, resident services coordinators, life skills classes, social and recreational activities, day care, employment services, eviction prevention programs etc.

Part III. General Eligibility Criteria and Funding Areas

In addition to meeting the specific requirements detailed in each City, County and Housing Authority application, applicants must meet the minimum general eligibility criteria described below before submitting an application for consideration:

- Funding is available to private and nonprofit developer/owners of permanent supportive housing. The project site must have a City of Houston address to qualify for City of Houston and Houston Housing Authority subsidies. The project site may be located in either the City of Houston and/or within Harris County to qualify for Harris County funding. Projects that qualify for both City and County funding and are located in the City of Houston may be jointly funded by the City and County for capital resources.
- Organizations must not discriminate on the basis of ethnicity, race, color, creed, religion, gender, national origin, age, disability, marital status, sexual orientation, gender identity, or Veteran's discharge status. Single sex housing is not eligible to receive funding under this RFP.
- Applicants must agree to use the community's Coordinated Placement System as the ***sole referral source*** for the permanent supportive housing units. The Coordinated Placement system is the central access and referral point for all homeless individuals seeking housing in Houston. This system will prioritize the most vulnerable, chronically homeless individuals for placement into permanent supportive housing, and will identify

the most appropriate housing options for each individual,. The system will then maintain a steady flow of referrals to all available housing options, provided the housing will accommodate the most vulnerable, chronically homeless. To ensure these individuals have appropriate access to the housing being developed specifically to meet their unique needs, a project may need to modify its entrance criteria or use reasonable accommodation to admit tenants who would otherwise not qualify. By agreeing to use the coordinated access system as the sole referral source, Applicants agree to make reasonable accommodation to accept the referrals.

- Applicants must agree to operate projects under the “Housing First” model, meaning prospective tenants are not required to agree to participate in services prior to entering the housing nor can service participation be a requirement of tenancy. Tenants can be required to adhere to a standard market lease, and their tenancy should be supported by *eviction prevention strategies*, including the engagement of services as appropriate.
- Multiple organizations may apply as a collaborative or joint venture, however, a lead entity must be designated. For the purposes of this RFP, the lead entity must be the owner/developer of the project.

Summary of Funding Areas

Funding Area	Description	Grant Size	Application Process
City of Houston Development Capital for PSH	<ul style="list-style-type: none"> - Capital funding available for new construction or rehab to create PSH units in Houston - Must also apply to Houston Housing Authority for PBRA or provide evidence of other rent subsidy 	<ul style="list-style-type: none"> - \$12 million Bonds over the next two years - Potentially \$6-\$8 million HOME over the next two years - Other funds as available 	Submit application to City of Houston
Harris County Development Capital for PSH	<ul style="list-style-type: none"> - Capital funding available for new construction or rehab to create PSH units in Harris County - Must also apply to Houston Housing Authority for PBRA or provide evidence of other rent subsidy 	<ul style="list-style-type: none"> - \$1.5 million HOME first year - Similar amount likely in the second year 	Submit application to Harris County: http://www.csd.hctx.net/ps_rfp.aspx
Houston Housing Authority Project Based Vouchers	<ul style="list-style-type: none"> - HHA will provide project based vouchers to successful applicants for City/County Capital 	N/A	Submit application to HHA (RFP 13-25): http://www.housingforhouston.com/doing-business-with-hha/current-bidsrequest-for-proposalsrequest-for-quotes.aspx

Part IV. Allocation of City of Houston Multifamily Program Funds

The sources of funds available for these projects are listed below. The amounts shown are *estimates* inasmuch as the internal departmental allocations of HOME, CDBG, Bond and TIRZ funds remains fluid. Assistance may be provided in the form of fully repayable interest bearing loans, grants, or performance based (0% interest) loans repayable only upon sale of the asset or other capital event. Depending on the investment, affordability requirements will extend for 10 years or more. The department will determine the best source and mix of available funds.

HOME Investment Partnership Program Funds (Approximately \$4 Million/year)

This Federal program was established to expand the supply of safe, decent, affordable housing for low and very low-income households through public-private partnerships. HOME funds can be used for new construction, including the addition of new units to an existing property. For the HOME program, the applicant must show “Match” funds—contributions in the form of equity, donated money, time, goods, or services. Therefore the department is requiring that **all applications show a minimum of 12.5% of Match funds**. Documentation of the Applicant's ability to meet this requirement shall be presented in the Application in the form of a commitment from the organization providing the Match.

Community Housing Development Organization (CHDO) (15% of HOME funds)

Fifteen percent (15%) of HCDD’s HOME allocation must be set aside for organizations that have been certified by HCDD as a Community Housing Development Organization (CHDO). A CHDO is a community based not-for-profit entity. The CHDO application can be found on HCDD’s website at: <http://www.houstontx.gov/housing/rfp.html>

Community Development Block Grant (CDBG) (Amount TBD)

Use of CDBG funds must satisfy at least one of the following national objectives: 1) benefit to LMI income individuals, or 2) removal or prevention of slum and blight. CDBG funds are available for renovation and/or reconstruction, but are not available for new construction.

Homeless and Housing Bonds (Approximately \$12 Million over 2 years)

These bond funds have been approved in past municipal bond elections. Their use is specifically for affordable housing (including SRO, family homeless housing, housing for the disabled, and low-moderate income, as well as multifamily rehabilitation and construction). These funds may be used alone or in conjunction with HUD funds and/or conventional financing. Although they do not carry the same requirements as federal funds, HCDD may require restrictions similar to those that accompany HUD funds.

Tax Increment Revenue Zone (TIRZ) Funds (Amount TBD)

TIRZ funds collected by the City are specifically allocated to affordable housing. Although they do not carry the same requirements as federal funds, HCDD may require restrictions similar to those that accompany HUD funds.

Part V. Eligible Activities

As noted above, the purpose of this RFP is to solicit proposals for projects that will both house and serve the specific needs of the chronically homeless. Below is a list of activities which are eligible for funding:

- **Rehabilitation or reconstruction** of multifamily properties of 64 units or more.
- **New construction** of properties of 64 units or more.
- **Demolition as part of rehabilitation and reconstruction** which will serve to reduce density, if appropriate, making the property more manageable.
- **Acquisition of multifamily properties or of land for multifamily properties.** Again the focus is on housing the homeless.
- Project-related **soft costs** may be awarded on a limited basis and will be at the recommendation of staff and based on need determined during the underwriting review.
- Operating deficit reserves (up to 18 months). *HUD funds may not be used to fund any other type of reserves, such as operating reserves after initial lease-up, or capital expense reserves*

Please note that a property does not have to be designed *only* for PSH residents. In fact, HCDD encourages *mixed-income* projects. However, there must be a sufficient number of PSH units at a property to make the provision of social services feasible. We believe a critical mass of at least 25 tenants is needed.

Part VI. Eligibility Standards for Applicants

The following are representative of the requirements to be considered a qualified developer:

Corporate Structure: Applicants can be a for-profit or nonprofit entity. There is no requirement of a specific corporate or partnership structure.

Good Standing: Applicants and Applicants' team members must be in good standing with HCDD on all previous grants, loans, or loan commitments. In addition, Applicant must affirm that there are no defaults or negative collection actions relating to any financial obligation, either to the City of Houston or to any other public agency or private lender. Any Applicant, Developer or general contractor who is on the federal, state, county or city debarment list will not be allowed to participate. No Applicant, Developer or contractor with management or compliance issues outstanding with the Department or other public agency will be allowed to participate.

Site Control: Applicants must be either the current owner of the property or, at the time of application, have a binding contract to purchase the property. **Once an application has been received by HCDD, HUD funds cannot be used if the Applicant subsequently spends any funds on the property – either to close on the acquisition or begin construction – until HCDD's loan has closed.**

Experience: Applicants must have a *documented capacity* to construct, or rehabilitate, and operate multi-family housing that benefits low-income individuals, *and* must have the commitment to accommodate providers of Permanent Supportive Housing services. Applicants must provide a complete listing, with addresses, of multifamily properties developed or rehabbed, owned or managed by Applicant or Applicant's team during the past 5 years. These addresses may be cross-checked with the Neighborhood Protection Service and the Forfeiture

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

Financial Capacity: Audited financial statements and two years of tax returns of all Applicants and guarantors are required. If the Applicant is a nonprofit, a Single Audit is required. Applicants are expected to have *sufficient liquidity* to cover any funding shortfalls or delays that may occur during construction, lease-up and operation of the property.

Part VII. Financial Evaluation and Underwriting

The proposed developments will go through the underwriting process which will evaluate the ownership structure, property operations, the sources and uses of funds, and the financial statements of the owner and guarantor (if applicable).

The pro-forma operating statement must make adequate provisions for the anticipated number of rent-restricted units, vacancy rate (no greater than 10% stabilized), and replacement reserves of no less than \$300/unit/year. Depending upon the age of the property and the Property Condition Assessment, the replacement reserve may be increased.

HCDD will review the underlying proposed debt and operating pro-forma of the property to determine the development's feasibility during the affordability period (i.e. demonstration of an acceptable debt service coverage ratio indicating income adequate to cover operating expenses and all applicable debt service). For properties such as those for special needs population, which demonstrate that they cannot carry any debt service, income must exceed expenses. [A commitment of the ownership entity to cover any losses will be required in the event of cash flow shortfalls.](#)

Any proposal demonstrating a projected DSCR greater than 1.50 will be reviewed to assure that the City's contribution is not "over-enriching" the property owner.

Part VIII. Loan Limits and Financing Terms

As a policy, the City desires to provide enough funding to each approved transaction to increase the availability of affordable units, or substantially improve the quality of existing units, without over-subsidizing (enriching) the development or increasing the risk associated with over-leveraging the development (too much debt for the restricted rents to support). [The City reserves the right to determine award and financing terms based on the financial evaluation of the transaction in tandem with the program requirements and availability of funds.](#)

Loan Amount

Applicants should make [a specific loan request](#) to the City. The request should represent the [gap](#) between (a) the total project cost and (b) the Applicant's equity plus commercially available debt, grants, tax credits, and other capital contributions.

Interest Rate

Interest rates will vary based on the level and type of investment by the City and the program funding. Determination will occur during underwriting review, and the City will establish a final loan structure to meet financial feasibility and program regulatory requirements. The loan will be structured with a regular monthly payment beginning at construction completion and continuing for the loan term.

If the Borrower is a non-profit, the City will consider a zero percent (0%) performance based loan which is repayable only upon the sale of the property at an amount of 50% of the proceeds up to the loan amount.

Loan Position

The City's Land Use Restriction Agreement (LURA) must be **superior** to all other liens. In most cases the City loan position will be junior to Senior Debt; however the City reserves the right to have a position senior to other sources of financing.

Terms

HCDD will typically provide for a maximum eighteen (18) month rehabilitation/construction period. Any variation from this timeline should be explained in footnotes to the pro-forma project costs. The loan term and property affordability period will begin at the acknowledgement by the Department of successful completion of the project (IDIS completion). Loan commitments are not transferable and become due and payable in full in the event of noncompliance or default over the life of the agreement. The LURA term will be ten (10) years or more depending on funding amount, but the loan term may extend for up to forty (40) years.

Upon completion and stabilization of the development, any operating cash flow from the property in excess of 1.50x debt service coverage (based on *all* debt on the property) may only be used for project related expenses.

Applicants may not transfer ownership of the asset, or refinance its debt, throughout the affordability period except with the express consent of the Director of HCDD.

Material Changes

Any material changes to the project during underwriting or construction must be reported in writing to the Department. Failure to do so may result in a Default under the loan.

Guaranty

Developers will personally guarantee the loan until rehabilitation or construction is complete and all buildings receive a certificate of occupancy (Completion Guaranty). Upon completion, if the development is in compliance with applicable HUD requirements, personal liability of the guarantors will be released except for losses due to **fraud, theft, failure to pay taxes, failure to maintain insurance and similar acts or omissions** ("bad acts exceptions").

Affordability Covenants

A Land Use Restriction Agreement (LURA) requires that the rents charged to low-income tenants are based upon the renter's income as a percentage of Adjusted Median Income (AMI) established annually by HUD. The LURA also defines the number of units which must be

restricted to low-income tenants (“restricted units”). **These covenants must be in a lien position superior to all other debt, including existing debt, and will require any existing lender to subordinate to the rent restrictions.**

The LURA will be recorded in higher priority than any first lien made by a commercial lender and will remain in force throughout the affordability period despite bankruptcy, sale, or other event transferring title. The LURA will be insured with title insurance provided by the developer. Developers are advised to use the HOME restrictions (below) to underwrite all projects since they are the strictest with respect to affordability.

The Developer must use its best efforts to distribute the restricted units among unit sizes in proportion to the distribution of unit sizes in the Property and to avoid concentration of restricted units in any area or areas of the Property.

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

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

HOME Restrictions

The HOME program restricts rents for affordable (restricted) units based on income at each level. Projects funded with CDBG are expected to comply with the same restrictions. Pursuant to HUD regulations, tenants with income levels at 50% or below Adjusted Median Income (AMI) are eligible for **Low HOME rents**; tenants with income levels between 51% and 80% of AMI are eligible for **High HOME rents** *Notwithstanding the preceding phrases, HCDD further limits units leased at High HOME rents to tenants earning between 51% and 60% of AMI.*

The 2013 Low HOME and High HOME rents are shown below: **Revised 12-10-13**

	<u>Efficiency</u>	<u>1 BR</u>	<u>2 BR</u>	<u>3 BR</u>	<u>4 BR</u>
Low HOME Rent Limit	586	628	753	870	971
High HOME Rent Limit	636	765	945	1097	1205

Source: <http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/2013/tx.pdf>

The 2013 income limits for HOME and CDBG funded projects are as follows:

	<u>1 Person</u>	<u>2 Persons</u>	<u>3 Persons</u>	<u>4 Persons</u>	<u>5 Persons</u>	<u>6 Persons</u>	<u>7 Persons</u>	<u>8 Persons</u>
30% Limits	13,900	15,900	17,900	19,850	21,450	23,050	24,650	26,250
Very Low Income	23,200	26,500	29,800	33,100	35,750	38,400	41,050	43,700
60% Limits	27,840	31,800	35,760	39,720	42,900	46,080	49,260	52,440
Low Income	37,100	42,400	47,700	52,950	57,200	61,450	65,700	69,900

Source: <http://www.huduser.org/portal/datasets/il/il13/index.html>

HCDD will provide assistance and monitoring to property owners and managers to ensure the correct rents are being charged to the tenants.

Restricted Units

The number of restricted units for projects receiving HOME funds is based on the pro-rata share of the HOME funds to the total project cost. So, for a 100 unit project, if HCDD funds 15% of the total project cost, then 15 units or more must be restricted.

For properties receiving CDBG funds, 51% of all units in the property will be restricted (regardless of the share of CDBG funds in the project) to households below 80% AMI. The Department uses the lower of High Home Rents or FMR as the maximum chargeable for restricted CDBG units.

All restricted units must be leased to Low or Moderate Income (LMI) tenants throughout the affordability period. Furthermore, at least twenty percent (20%) of the restricted units must be reserved for households earning less than fifty percent (50%) of the AMI [For example, if HCDD contributes 10% of the funds for a 400 unit property, 40 units must be restricted to tenants who are LMI. Twenty percent of those 40 restricted units (i.e. 8 units) must be leased to households who are below 50% of AMI, and the remainder are to be restricted to tenants earning less than 60% of AMI.]

All PSH units will satisfy the requirements for restricted units.

Floating Units

Restricted units may "float" in the property, in accordance with the meaning ascribed by HUD. However, if both City and County HOME funds are combined in a project, the units will be "fixed".

Other Funding

All funding from sources other than HOME and CDBG that is made available through HCDD may carry with it the same federal income restrictions and federal rent limits as discussed above. The final determination of rent restrictions and limits will be at the discretion of the Department after the underwriting review and in tandem with Department housing goals.

Documentation of Agreement

This RFP is a framework upon which requests may be submitted. The [Loan/Grant Agreement](#) will be negotiated and signed by all parties before a Request for Council Action (RCA) is taken to City Council. All documents as required by the City and its attorneys including without limitation, the Deed of Trust, Promissory Note, Intercreditor Agreement, LURA, Uniform

Commercial Code (UCC) Financing Statement, and Assignment of all contracts, leases and rents, will be negotiated and presented as appendices to the Loan Agreement. Final documents will be executed prior to closing.

- **Closing** on the Loan shall be concurrent with closing any superior liens and any other sources of funds determined to be necessary for the long-term financial feasibility of the Development. All due diligence determined by the Department to be prudent and necessary to meet and to secure the interests of the Department and of the City of Houston must be complete prior to closing.
- **Insurance** - Title Insurance (both Loan and LURA coverage), Property Insurance, Flood Insurance, Wind Insurance, Builder's Risk Insurance, and Worker's Compensation Insurance will be required. Other insurance requirements apply and are more fully described in the loan documents.
- **Payment, Performance, and Maintenance Bonds** – The general contractor shall furnish a payment bond for the full amount of the construction contract, conditioned upon the contractor's full performance of the contract. The contractor shall also furnish a maintenance bond to secure the warranty required under the construction contract between the owner and the contractor. Bonds shall be made payable to the City and the owner, in a form approved by the Director of HCDD. The surety issuing the bond must be on the current list of accepted sureties on federal bonds published by the US Treasury Department and/or on the State Board of Insurance list of authorized insurance companies in Texas.
- **Completion Guaranty** – Borrower will be required to sign a Construction Completion Guaranty
- **Other liens** – After closing, Borrower will NOT be permitted to place subsequent liens against the subject property either in priority or subordinate to City's lien. No additional debt is allowed without prior written approval by the Director of HCDD. The City's lien (debt) position can be junior to an existing lender, but the LURA covenants must be superior to all other debt and liens including existing debt, and will require the existing lender to subordinate to the rent restrictions. Refinancing of senior debt will be allowed only with approval of the Director.

Part IX. DEVELOPMENT REQUIREMENTS

Minimum Units

Developments involving new construction or rehabilitation will include a minimum of 64 units (this amount may be reduced at the Director's discretion). A minimum of 25 PSH units is recommended.

Code Compliance

Upon completion, rehabilitated or newly constructed properties must comply with local building code, health code, safety code, and Minimum Property Standards (MPS) as defined by the Department. The MPS standards can be found using the following link: <http://www.houstontx.gov/housing/pdf/multifamilyminimumstandards.pdf>

Architectural or Engineering Evaluation and Property Life

For all rehabilitation or reconstruction projects, a **Property Condition Assessment** prepared by a qualified, independent, third party Engineer, **completed to ASTM Standards** must be

provided. This report must show that the planned improvements will bring the property into **compliance** with all building codes as well as the Department's **Minimum Property Standards for Rehabilitation**. The report must be dated no more than six months prior to application. The Department may utilize its own vendor or employees to verify information presented by the PCA in order to establish cost-reasonableness.

Property rehabilitation must generally extend the useful life of the property by 20 years. For new construction projects, the useful life of the property must be a minimum of 30 years. All projects will be subject to a third party plan and cost review.

Accessibility

Section 504 - All properties receiving funds from HCDD must be in compliance with UFAS, ADA 2010 Standards, and Fair Housing Accessibility Guidelines and/or other safe harbors for the FHA as defined in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C Sec 794). HUD has established rules explaining Section 504 as it applies to housing. They are found in the Code of Federal Regulations at 24 CFR Part 8. Section 504 requires that 5% of all units (or at least one unit) must be accessible to persons with physical disabilities. An additional 2% of all units (at least one) must be accessible to persons with visual or hearing disabilities. **These costs must be reflected in the Development Budget**. The architectural drawings will be reviewed by a third party consultant for compliance with these regulations. In addition, upon completion the property will be inspected by an accessibility expert, and must be deemed in compliance before retainage will be released.

Covered multifamily dwellings, as defined at 24 CFR Sec 100.201 as well as common use facilities in developments with covered dwellings must meet the design and construction requirements of CFR Sec 100.205, which implement the Fair Housing Act (42 U.S.C. Sec 3601-3619) . Additionally the project must comply with the Architectural Barriers Act of 1968 (42 U.S.C. Sec. 4151 et seq.), including use of telecommunications device of deaf persons (TDDs) or equally effective communication system.

Notwithstanding the general requirement of 5% accessibility and 2% visually and hearing impaired, the Department may waive this requirement for rehabilitation projects where the cost of rehabilitation is less than 75% of replacement costs. However, if this requirement is waived, the work done with any grant dollars must be made handicap accessible. Source: <http://www.hud.gov/offices/fheo/disabilities/sect504faq.cfm>

Since the potential tenant population is expected to include a higher than typical number of handicapped tenants, HCDD recommends that *all units* be constructed so as to be *adaptable* to UFAS and ADA standards as needed. This includes, but is not limited to, blocking for grab bars, proper turn radius in the restrooms and kitchens, and removable cabinets so that countertops are accessible. **Current data indicate that approximately 10% of chronically homeless individuals will require accessible units.**

Environmental Review

Once an application has been received by the Housing and Community Development Department, HCDD will conduct an environmental review. During this review period, **neither an Applicant nor any participant in the development process, including public or private nonprofit or for-profit entities or any of their contractors, may commit or expend any funds, including non-**

[HUD funds](#), or undertake any activities having either an adverse environmental impact or limitation on the choice of reasonable alternatives.

The environmental review process can take 120 days or more to complete, and includes a period of public posting. [If any funds \(private or public\) are spent or committed to a development prior to the completion of the environmental review process, the Housing and Community Development Department cannot provide federal funding for the development.](#)

The Environmental Review includes (but is not limited to) the following topics:

- Review of Phase I report (must be less than one year old)
- Texas Historical Commission review (existing properties)
- Floodplain
- Wetlands
- Coastal zone
- Sole source aquifers
- Endangered species
- Noise pollution

Rehabilitation of any buildings built before 1978 must comply with [federal lead-based paint](#) requirements including, lead screening, in accordance with 24 CFR Part 92.355 and 24 CFR Part 35, subparts A,B,J,K,M, and R.

All properties must be free of [contaminants/hazardous substances](#) that pose dangers to users of the property or conflict with the intended purpose of the property as explained in 24 CFR 58.5(i)(2)(i). This includes, but is not limited to, toxic mold and asbestos. If there might be a concern that a property contains toxic mold or asbestos, the developer will be responsible for the testing and either implementation of an O&M plan (operations and maintenance plan) or completion of the abatement process (by a certified asbestos contractor).

New construction is required to provide sufficient sound-proofing to maintain an [interior noise level below 45 decibels](#), and the exterior noise level must be below 75 decibels.

Development in the Floodplain or Floodway

Floodplain development is discouraged, but will be considered by the Department only when there is no practical alternative to performing work in the floodplain, and where all mitigation measures possible are implemented in order to avoid adverse impacts to the floodplain and to restore and preserve the natural and beneficial values of the floodplain. Mitigation includes but is not limited to Chapter 19 of the City's Code of Ordinances.

Floodplain development refers to work performed in the 100-year floodplain, with the exception of 'critical action' projects (defined in 24 CFR Part 55), where floodplain regulations apply to the 500-year floodplain in addition to the 100-year floodplain. Critical action projects involve facilities where even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property. Such projects include facilities that house hazardous materials, store irreplaceable records, provide vital services (i.e. police and fire stations), and provide care to persons who lack mobility (i.e. hospitals, nursing homes, convalescent homes, etc).

Multifamily development in the floodway is prohibited under all circumstances. Applicants are advised to check property address against the most recent flood maps which can be accessed at www.tsarp.org.

Site and Neighborhood Standards

Applications proposing New Construction, or rehab that includes increasing the number of units in the project, are subject to the Site and Neighborhood Standards as described in 24 CFR 983.57 (e) and 983.6(b). This section of the application will be reviewed by HCDD according to HUD's Fair Housing and Equal Opportunities (FHEO) standards before an award can be granted. Key standards include the following (this is *not* a complete list):

- Adequacy of the site for the proposed building;
- Suitable to furthering compliance with Title VI of the Civil Rights Act of 1964, the Fair Housing Act Executive Order #11063, and HUD regulations
- Not in an area of minority concentration, unless in a redevelopment zone;
- Evidence of significant public and/or private investment in the neighborhood
- If in racially mixed area, will not significantly increase the proportion of minorities;
- Project promotes greater choice of housing opportunities and avoids undue concentration of assisted persons;
- The neighborhood is not seriously detrimental to family life;
- Access to a broad range of services and facilities;
- Travel or access to jobs cannot be excessively difficult.

Applicant must provide a narrative describing the site's compliance with these standards. The narrative must include a discussion of public and/or private revitalization efforts or investment currently (or recently) underway in the immediate area.

Affirmative Marketing

Developers must initially complete and submit the outline form found at <http://www.houstontx.gov/housing/pdf/afhm20130801.pdf>, which shows the project area demographics and outlines the developer's marketing strategy. Once a project is selected, the developer must provide a detailed affirmative marketing plan in furtherance of the City's commitment to non-discrimination and equal opportunity in housing. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, gender, religion, familial status, or disability. The plan must provide detailed procedures and actions geared to attract eligible persons in the housing market area to the development. Beginning at lease-up, records must be maintained describing actions taken by the Developer to affirmatively market its units. The City will assess the results of these actions annually, for the duration of the funding agreement. Documentation of compliance with the Affirmative Marketing requirements in the Fair Housing Act is required. Applicants will be required to use HUD form 935.2a to meet these requirements.

Uniform Relocation Act

If tenants are required to move out of their units as a result of projects receiving federal funding, developers must comply with the Uniform Relocation Assistance Act and Real Property

Acquisition Policies Act of 1970 (URA) as amended, as well as HCDD's Policies and Procedures for Relocation. The URA requires that the owner of the property receiving federal funding must provide notices and assistance to tenants impacted by acquisition, demolition, and/or rehabilitation/reconstruction. HCDD staff will assist owners in complying with the URA.

Templates and the HCDD relocation policy may be found on the City website at: <http://www.houstontx.gov/housing/URA.html>. This site also includes the URA requirements for appraisals (C: Guide to Preparing an Appraisal Scope of Work). Details of the requirements for following URA regulations are also available in Handbook 1378 at the following web site: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/raining/web/relocation/overview

Construction Employment

Davis-Bacon and Related Acts/Labor Standards Provisions

HCDD anticipates that most developments selected will require compliance with the Davis-Bacon Labor standards. Applicants should take this into consideration when preparing their budget. Davis-Bacon and Related Acts require that prevailing wage rates be paid to all construction laborers. Practically, under most conditions, this will mean weekly payment and submission of weekly payrolls of *all contractors and lower tier-subcontractors*. HCDD staff will actively monitor the job site for compliance with these regulations.

Minority Business Enterprises/Small Business Enterprises

When the City's allocation of funds to a given project is in excess of \$1million, work using these public funds must provide for 14% Minority Business Enterprise (MBE) and 8% Small Business Enterprise (SBE). The percentages are based on the amount of funds awarded to the project by HCDD (*not* on the total project cost).

Section 3

Section 3 is a provision of the Housing and Urban Development Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires recipients of HUD funds to provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

Before construction may commence, the developer must have completed a Section 3 Utilization Plan and have received the City's approval of the plan. Approval will be granted once the developer has provided evidence that 10% of total hard costs, and 10% of hard costs for each subcontract that is over \$100,000, have been given to Section 3 subcontractors. In addition, 3% of all soft costs, and 3% of any subcontract for soft costs that is over \$100,000, must also be shown to have been awarded to Section 3 vendors.

Go to <http://www.houstontx.gov/housing/complianceandmonitoring.html> for additional information on Davis Bacon and Section 3.

Compliance

The payment of each draw (including the retainage draw) is subject to full compliance with the mandated requirements as listed above. The Real Estate Compliance Division will be responsible for monitoring and enforcing these requirements.

Bidding Process and Captive General Contractor

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

1. Bidding Process - The Borrower may choose to go through an open bidding process for selection of the General Contractor. This involves a) compiling plans, specs and a list of required qualifications, bonding requirements, etc. for the prospective contractor, b) conducting a pre-bid meeting with prospective bidders, c) advertising the bid process for two consecutive weeks, d) reviewing, evaluating and tabulating bids, and e) obtaining clearance from HCDD's Compliance and Monitoring division to proceed with the selected contractor. A more complete explanation of the process will be provided by Compliance & Monitoring.
2. Captive General Contractor - If the owner has the capacity to complete the construction work through a related entity as a **captive general contractor**, the City will pay for actual hard costs (and relocation costs) but **will not pay for general contractor conditions, profit and overhead**. If the construction costs are partially funded by a different federal or state program or other financing source for which general conditions, profit and overhead are eligible expenses, these costs may be paid out of the other program funds.
3. Hand-picked General Contractor - The Borrower may select a General Contractor of their choosing without going through a bidding process.

Under almost all conditions a Guaranteed Maximum Price Contract will be required. All subcontracts must be bid and tabulated. If the lowest responsive bidder is not selected, an explanation must be provided to substantiate the decision not to select the absolute lowest bidder. In addition, if a Section 3 subcontractor's bid is within 10% of the lowest bid, the contract must be awarded to that company.

Please note, regardless of the method of selection of a General Contractor, prior to award of contract the recipient must be approved by the Compliance and Monitoring Division. Therefore, Recipient must submit a Request for Contractor Clearance form to the Compliance and Monitoring Division and obtain approval for the proposed contractor prior to execution of a contract agreement.

Cost Overruns

Borrowers must demonstrate the ability to fund cost overruns either through personal net worth or a letter of credit.

Construction Draws and Inspections

During construction, HCDD will engage a third party firm to provide monthly inspections and confirm work in progress. If the Senior Lender or Tax Credit Investor uses a third party inspection firm, the City may rely on these inspection reports if the City is included as an addressee of the report. Borrowers will certify that each draw request is for actual costs

expended and must provide documentation to support such costs, [including sub-contractor invoices](#). The City will only pay for completed and documented work.

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

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

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

PART X. Application Submission Requirements

[The City of Houston as a unit of local government reserves the right to reject any and/or all proposals, reserves the right to waive any formalities or irregularities in the proposal or evaluation process, and reserves the right to award contract\(s\) in the best interest of the City of Houston.](#) As noted previously, Applicant must also apply for vouchers for their project from the Houston Housing Authority, or provide evidence of other rental subsidy.

Application Process

Applications under this RFP are due to the City of Houston and/or Harris County, as well as to the Houston Housing Authority, by **3:00 p.m. on ~~December 12, 2013~~ January 15, 2014.** Since applications will be reviewed and possibly rewarded as received, there is a possibility that moneys will not be available for the last applications received. To minimize duplication of effort in the application process, Harris County will accept City of Houston applications, with an attached Harris County application cover, and required attachments. Please see detailed instructions at http://www.csd.hctx.net/ps_rfp.aspx. Houston Housing Authority Project Based Voucher applications are available at <http://www.housingforhouston.com/doing-business-with-hha/current-bidsrequest-for-proposalsrequest-for-quotes.aspx>.

Application Format – Excel Workbook

- Complete each yellow cell of each Tab of the Application for City of Houston Funds, and provide all items listed on the Checklist (2nd tab of the Excel Application workbook). Print and sign one original and [two](#) copies. The complete original

Application for each proposed development plus two copies must be submitted in binders with tabs delineating the sections of the application. Improperly compiled and/or unbound Applications will not be accepted.

- An [electronic PDF](#) file must be provided on either a recordable compact disc (CD-R) or flash/jump drive.
- The **Bookmark** feature in the PDF file, delineating each section, **must** be used. [HCDD will not review any application that is not bookmarked.](#)
- [The Excel workbook must be provided in Excel \(not PDF\).](#)
- Page Limit – None.
- **The City encourages applicants to print double-sided to conserve paper.**
- Page Size – 8 ½ x 11; oversized or pullout pages must be folded to accommodate
- All applications must be signed by the organization’s Board Chair/Executive Director/President or Designee. Unsigned applications will not be accepted.
- Original Documents shall have original signatures and be clearly noted ORIGINAL.
- All statements requiring a notarized signature must be notarized.
- A \$1,000 [application fee](#) is required from for-profit Applicants; the fee for non-profits is \$500. The fee must be submitted with the application.

Prior to ~~December 12, 2013~~ [January 15, 2014](#) the Department will accept Applications from 8 a.m. to 5 p.m. each business day, excluding federal, state, and city holidays. A bound original, two bound copies, and an electronic copy of the complete application must be submitted. [Applications will be accepted ONLY if addressed as follows:](#)

Multi-Family Division
City of Houston Housing and Community Development Dept.
601 Sawyer, 4th Floor
Houston, TX 77007

All Applications submitted under this RFP must be received on or before [3:00 p.m. Thursday, December 12, 2013](#) [Wednesday, January 15, 2014](#). [Late proposals will not be accepted, and will be returned, unopened, to the proposer at the proposer’s expense.](#)

For questions regarding this RFP, please contact Juanita Moore in the Commercial Division via e-mail at Juanita.moore@houstontx.gov.

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

[Regulations](#)

Applicants must comply with all pertinent federal regulations as described herein and provided in the Loan Documents. These regulations include, but are not limited to:

- Community Development Block Grant Regulations (24 CFR Part 570)
- HOME Investment Partnership Program “Final Rule,” (24 CFR Part 92)
- Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) (24 CFR Parts 8-9)
- Davis-Bacon and Related Acts and Copeland Anti-Kickback Act

- Fair Labor Standards Act (29 CFR Part 5)
- Fair Housing (24 CFR Parts 100-115)
- Conflict of Interest Requirements (24 CFR 92.356(f))
- Environmental Requirements (24 CFR Part 58)
- Lead Safe Housing Rule (24 CFR Part 35)
- Uniform Relocation Act (49 CFR Part 24)
- Economic Opportunities for Low and Very Low Income Persons Section 3 (24 CFR Part 135)

ALL APPLICATION SUBMISSIONS BECOME THE PROPERTY OF HCDD.

Part XI. Application Selection Criteria

Applications will be reviewed and scored by a panel of HCDD personnel. All applications must meet a minimum threshold score of 60 points to be considered for additional review and underwriting. Should applications meeting this minimum threshold exceed available funding, eligible applications will be retained regardless of date of submission until such time that funding is available in sufficient amounts to fund the applications, or a subsequent RFP is released. If third party reports become “stale,” updates will be required.

Maximum Total Score = 100 Points:
 Organizational Expertise (25 Points)
 Supportive Services (10 Points)
 Location Information (20 Points)
 Project Information (25 Points)
 Third Party Reports (5 Points)
 Financial Analysis (15 Points)

Organizational Expertise (maximum 25 points)

1. Applicants’ prior experience with development of properties similar to proposed project, including acquisition, rehabilitation, marketing, and leasing of affordable rental housing
2. Number of multi-family units previously built and/or managed
3. Qualifications and experience of proposed staff and strength of the development team. The City reserves the right to refuse funding to a project if prior experience with the City was unfavorable
4. Availability of third party sources of funding
5. Overall financial condition and the applicant’s ability to fund potential cost overruns or other costs not anticipated in the project budget
6. Experience using government funds

Supportive Services (maximum 10 points)

1. Applicant’s prior experience in financing, owning and/or operating Permanent Supportive Housing
2. Property management’s experience in working with homeless individuals and support service providers
3. Discussion of other services which the Applicant will provide the residents.

Location Information (maximum 20 points)

1. Convenient access to local transit.
2. Proximity to medical facilities appropriate for PSH
3. Proximity to grocery store(s), pharmacies, and other amenities
4. Proximity to employment and training opportunities
5. Evidence of public/private revitalization efforts in the area
6. Located outside of the 100-year flood plain
7. Consistent with HUD Site & Neighborhood requirements regarding racial and poverty concentrations
8. Letters of Support from community and legislative representatives.

Project Information (maximum 25 points)

1. A defined scope of work including preliminary design plans and site plans.
2. Mixed income property
3. Designed to affirmatively further Fair Housing
4. Energy efficiency / sustainable practices
5. Site control documentation
6. Relocation Plan (if applicable)
7. Detailed cost estimates
8. Three years operating statements (if applicable)

Third Party Reports (maximum 5 points)

Do the following reports support the proposed project:

1. Appraisal
2. Phase I Environmental report (Phase II if needed)
3. Property Condition Report (rehab only)
4. Market Study
5. Survey

Financial Analysis (maximum 15 points)

1. Demonstration that the development is feasible in terms of costs, sources and uses, and financial thresholds.
2. Construction Cost per unit and Total Cost per unit relative to similar properties submitted under this RFP and in the marketplace.
3. Evidence of other funding sources, allowing HCDD to only provide gap financing
4. Evidence of Match funds
5. Proforma income and expenses reasonableness; debt coverage above 1.20

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