



# **CITY OF HOUSTON BUILD IT FORWARD HOUSING RECOVERY PROGRAM**

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## **Harvey Single Family Development Program Guidelines**

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**Version 1.0  
6/24/2021**

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

## Version History

Version Number	Date	Comments
0.1	11/26/2018	<ul style="list-style-type: none"> <li>Initial draft</li> </ul>
0.2	6/30/2019	<ul style="list-style-type: none"> <li>Revisions made to answer questions posed by GLO, City of Houston Legal staff, HCDD DR staff, and other commenters</li> </ul>
0.3	8/09/2019	<ul style="list-style-type: none"> <li>Sales Price Ceiling Set</li> <li>Site Specific Conditions named</li> <li>Minority concentration was changed to communities were most impacted by Hurricane Harvey's flooding</li> <li>Resilient Home Construction added</li> <li>Conditions for Accelerated Forgiveness added</li> </ul>
0.4	03/09/2020	<ul style="list-style-type: none"> <li>Changes related to land acquisition costs, single family development cap aligned with HOME Max Purchase Price for LMI homebuyers and Housing Trust Fund Homeownership Value Limits for homebuyers.</li> </ul>
0.5	07/02/2020	<ul style="list-style-type: none"> <li>Written Agreement was added</li> <li>Recapture Provision was added</li> <li>Section 3 Requirements were enhanced</li> <li>Nonprofit Developer Selection Process was clarified</li> <li>Application Intake now includes Integrated Grant Reporting (TIGR) System.</li> <li>Harvey Buyout option removed</li> <li>Funding amount changed to \$122,269,086</li> <li>Conditionally Approved by GLO on July 27, 2020</li> </ul>
0.6	8/24/2020	<ul style="list-style-type: none"> <li>Revisions made to address GLO's comments</li> <li>Funding amount updated to \$222,269,086</li> <li>Clarified subsidy inclusion within the Homeownership Value Limit</li> <li>Clarified target Household prioritization</li> <li>Revised Needs Assessment Definition</li> <li>Sent to GLO for review and comments</li> </ul>
0.7	9/23/2020	<ul style="list-style-type: none"> <li>Revisions made to address GLO's comments:</li> <li>Added the term "target areas"</li> <li>Added clarifying language for developer's assistance and "pass-through" buyer's assistance.</li> <li>Replaced the use of the term developer's assistance with "pass-through" assistance as applicable.</li> <li>Added the term "Cap" to the New Construction/Site-specific chart</li> <li>Sent to GLO for review and comments</li> </ul>
0.8	03/18/2021	<ul style="list-style-type: none"> <li>Amendments to Construction Options</li> </ul>

		<ul style="list-style-type: none"> <li>• Updated Harvey Single Family Development Program funding allocation to \$60,000,000.</li> <li>• Aligned the Guidelines with Action Plan 8</li> <li>• Removed exhaustive language on Written Agreement, Section 3, &amp; Recapture Provision.</li> <li>• Removed HoAP Acquisition Program option, subrecipient term, construction and site-specific cap. Added clarifying language to Homebuyer Assistance, HSFDD Construction Options, Deceased Homebuyer, Applicant Application Process and Intake.</li> <li>• Removed Contractor as eligible applicant for Single Family Home Development</li> <li>• Update version chart</li> <li>• Updated definitions section</li> </ul>
<b>0.9</b>	<b>4/14/2021</b>	<ul style="list-style-type: none"> <li>• Revisions made to address the GLO's feedback:</li> <li>• Removed reference to urgent need national objective</li> <li>• Typographical corrections</li> <li>• Added homebuyer counseling as an applicant eligibility requirement</li> <li>• Added certificate of occupancy as a requirement to allow for retainage</li> <li>• Added language to address how program income will be utilized in the event it is generated</li> </ul>
<b>0.10</b>	<b>6/04/2021</b>	<ul style="list-style-type: none"> <li>• Revisions made to address GLO's feedback:</li> <li>• Clarified maximum NOFA award is per project.</li> <li>• Removed New Construction Table</li> <li>• Added clarified language on Developer Fees</li> <li>• Added language to clarify Developers' Sales Revenue</li> <li>• Removed Land Use Restriction Agreements language</li> <li>• Additional language added for AFFH review for land acquisition</li> <li>• Added Exhibit A: Homebuyer Mortgage Projection Model</li> <li>• Submitted to GLO 5/26/2021</li> <li>• Approved by GLO on 6/4/2021</li> </ul>
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## Table of Contents

Introduction.....	6
HSFD Program Administration.....	6
CDBG-DR National Objectives.....	7
Applicable Laws & Regulations.....	7
HSFD Program Overview.....	8
HSFD General Prioritizations and Target Areas.....	9
HSFD Homebuyer Eligibility Overview.....	9
HSFD Homebuyer Eligibility Requirements.....	9
Application Process.....	12
Homebuyer Assistance.....	14
HSFD Construction Overview.....	16
Developer Options.....	16
Affirmative Marketing & Outreach Plan.....	25
Needs Assessment.....	26
Procurement.....	27
Financial Management.....	28
Duplication of Benefits.....	30
Environmental.....	31
Guideline Updates/ Waivers /Public Comments.....	32
Program Income.....	33
Monitoring.....	33
Cross Cutting Federal Regulations.....	33
Complaints & Appeals.....	36
Record Keeping, Retention and File Management.....	38
Conflicts of Interest.....	40

<b>Program Closeout.....</b>	<b>41</b>
<b>Definitions .....</b>	<b>42</b>
<b>Exhibit A: Homebuyer Mortgage Projection Model .....</b>	<b>49</b>

## Introduction

Through our recovery programs, the City of Houston (City) is committed to building a resilient and equitable city after Hurricane Harvey. The Harvey Single Family Development (HSFD) Program endeavors to build safe and affordable homes across our city, in communities where people can thrive. This means investing in the construction of new homes in areas safe from future flooding; utilizing sustainable resilient designs and enhancing the delivery process. We will use stakeholders' feedback to evaluate the success of our program results and will be transparent on the progress of the recovery program. Recovery from Hurricane Harvey presents a historic opportunity to build forward Houston communities that are stronger than ever before.

## HSFD Program Administration

The focus of the HSFD Program is to fulfill the unmet housing need for Low and-Moderate Income (LMI) individual households affected by Hurricane Harvey through the development of new affordable resilient single-family homes. HSFD is designed to assist eligible Applicants whose residence were directly or indirectly impacted by Hurricane Harvey. The U.S Department of Housing and Urban Development (HUD) appropriated \$5.676 billion in Community Development Block Grant-Disaster Recovery (CDBG-DR) funding to the Texas General Land Office (GLO). The program budget allocation amount for the HSFD Program approved by the GLO to the City as a Subrecipient is \$60,000,000 of CDBG-DR funds. These funds support communities working to build back stronger and more resilient neighborhoods through the development of new affordable homes. HUD has outlined the allocations and applicable waivers and alternative requirements in the Federal Register Notice published on February 9, 2018 (83 Fed. Reg. 5844). Subsequent publications of waivers and alternative requirements can be found in the table below under Applicable Laws & Regulations.

HCDD's objective is to provide housing programs that will preserve and expand the City's housing stock while creating sanitary, safe, energy efficient housing, and a resilient community. HCDD's objective includes assisting LMI homebuyers. The City also places an emphasis on housing choices and designs that reduce maintenance and insurance costs as well as provide independent living options for which standards are defined in each respective NOFA.

The City will administer the HSFD Program in accordance with these Harvey Single Family Development Guidelines (Guidelines), City of Houston Harvey Standard Operating Procedures (SOP), the GLO requirements, and the HUD CDBG-DR regulatory requirements and guidance. The City reserves the right to adjust program priorities and re-allocate program funds and program components if in doing so would better serve the impacted communities and residents.

The City reserves sole discretion for interpreting and applying these Harvey Single Family Development Program Guidelines, except for those items where the GLO or HUD has indicated that their prior approval is required for implementation. HCDD will utilize administrative procedures to implement the program

activities and modify them to meet any changes made to such rules and regulations of the oversight entities, which may occur over time. At all times, should any conflict in these procedures exist with the applicable funding resource, the requirements of the funding source shall take precedence, other than “local preferences” that are allowable under federal regulations.

Daily administration of the HSFDP Program will be under the direct supervision of the HCDD Single Family Division’s Assistant Director or their designee(s). HCDD Intake Specialists will be responsible for accepting applications through the HCDD application intake process. Further processes, such as eligibility, Duplication of Benefits review, inspection and environmental protocols, award determination, developer assignment, construction, and completion, will be administered and implemented by the HCDD Single Family Division. The HCDD Finance Division will authorize approved payments to payees after review and validation of submitted invoice packages by the Single Family Division.

New construction of single-family homes is eligible based on a HUD waiver granted in 83 Fed. Reg. 5844, waiving the HUD restrictions at Section 105 of the HCDA, 42 U.S.C. § 5305, Subsection (a), and 24 C.F.R. § 570.207(b). The waiver permits new housing construction of single-family homes.

## CDBG-DR National Objectives

As expressed in the federal Housing and Community Development Act of 1974,<sup>1</sup> the primary objective of the Community Development Block Grant (CDBG) program is “the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income (LMI).”

CDBG-DR funding appropriated in response to the Hurricane Harvey disaster must meet the general goals of the CDBG program. All CDBG-DR funded activities through the HSFDP Program will meet the National Objective - Benefiting Low to Moderate Income Persons (LMI) less than 80% of the AMI.

## Applicable Laws & Regulations

Funding Source	Type of Rule	Source
CDBG	Regulation	<a href="#">24 CFR 570</a>
	HUD Exchange	<a href="#">HUD Exchange CDBG Entitlement</a>
	HUD Monitoring Guide	<a href="#">Administration Handbooks</a>
CDBG-DR 2017 Hurricane Harvey	HUD Exchange – CDBG-DR	<a href="#">CDBG-DR Programs</a>
	Public Law 115-31 (Section 421), enacted 5/5/2017	<a href="#">Public Law 115-31</a>

<sup>1</sup> Pub. L. 93-383, 88 Stat. 633-2 (codified as amended at 42 U.S.C. §§ 5301-5321) (the “HCDA”)

	Public Law 115-56 (Division B), 9/8/2017	<a href="#">Public Law 115-56</a>
	Public Law 115-72, 10/26/2017	<a href="#">Public Law 115-72</a>
	FRN 82 FR 61320 12/27/2017	<a href="#">82 FR 61320</a>
	FRN 83 FR 5844, 2/9/2018	<a href="#">83 FR 5844</a>
	Public Law 115-123, 2/9/2018	<a href="#">Public Law 115-123</a>
	FRN 83 FR 40314, 8/14/2018	<a href="#">83 FR 40314</a>

## HSFD Program Overview

The HSFD Program will provide affordable, newly constructed, energy efficient, single-family homes, outside of the flood-prone areas of Houston, for purchase by LMI Households whose annual income is less than 80% of the Area Median Income (AMI). The HSFD Program consists of assistance to Developers to develop new construction new Single Family Home and Homebuyer Assistance to eligible Homebuyers. The Housing and Community Development Department (HCDD) will issue a Notice of Funding Availability (NOFA) to select qualified Developers to develop new construction of Single Family Homes, manage the construction project and market the homes developed. The nonprofit and for profit Developers selected through a NOFA process will be assigned a construction project on a project-performance-basis, and the selected Developer will be fully responsible for all aspects of its assigned construction projects. All awarded Developers will be required to conduct a Affirmatively Furthering Fair Housing (AFFH) review. The maximum NOFA award is up to \$20,000,000.00 per project. The maximum Homebuyer Assistance to qualified Homebuyers is limited to \$135,000.00 per Household. Other subsidies or sources of funding will not be used for the Harvey Single-Family Development Program.

The City may use CDBG-DR funds to acquire land for the new construction of single-family homes from a variety of sources, including the Houston Land Bank and nonprofit or for-profit organizations that have land available for acquisition. The City will conduct its own AFFH review and identify High Opportunity Areas including Census Tracts will lower levels of minority concentration and low poverty rates to focus our land acquisition efforts. The City may use CDBG-DR funds to purchase vacant lots suitable for new construction, or enter into agreements with prospective developers with site control for new construction for LMI homes. The City may use CDBG-DR funds to hire Contractors to provide goods and services within normal business operations of the HSFD Program.

The HSFD Program will provide an opportunity for Hurricane Harvey-impacted residents to purchase newly constructed homes and relocate from areas within floodway, floodplain, or other flood-prone areas. Through a centralized intake process, Applicants interested in purchasing a Single Family Home are eligible to participate in the HSFD Program and any other programs offered by the City including the



Harvey Homebuyer Assistance Program (HbAP). The City will provide Homebuyers that qualify for Homebuyer Assistance with a zero-interest forgivable loan secured by the highest lien position behind the primary mortgage lender lien on the property.

If an Applicant chooses to participate in the HbAP to receive down payment assistance and purchase a home built by the HSFDP Program, to prevent duplication of benefits, the Applicant will not qualify for the HSFDP's Homebuyer Assistance.

HSFDP Program assistance for the purchase of a home is prohibited when the combined Household income is greater than 80% of the AMI; the property was in the Floodplain at the time of the disaster; and/or the property is located in the Floodway or a Special Flood Hazard Area.

The City or the Developer will retain ownership of the property until the title to the property is transferred to the Homebuyer.

## HSFDP General Prioritizations and Target Areas

Funding priorities have been established to assist (in order of descending priority):

1. LMI Homebuyers living in a Floodplain; and
2. LMI Homebuyers directly or indirectly impacted by Hurricane Harvey

## HSFDP Homebuyer Eligibility Overview

HCDD intake specialists will process all applications submitted by eligible Homebuyer/Applicants. However, during the application review process, HCDD staff will prioritize eligible Applicants that are low-to-moderate income.

This eligibility overview provides the requirements that Applicants must meet to be eligible for the HSFDP Program. All eligibility and verification methods are subject to HCDD, GLO, and HUD approval. HCDD may engage HUD-certified counselors to assist Applicants with assessing their financial situation and evaluating the Applicant(s)' options to maximize the benefits of the CDBG-DR programs offered by HCDD. The HSFDP program requirements and eligibility elements are listed below.

HCDD will verify that HSFDP Applicants are directly or indirectly impacted by Hurricane Harvey. Applicants of the program may be eligible by documented residency of the City of Houston on August 25, 2017.

## HSFDP Homebuyer Eligibility Requirements

HSFDP Homebuyers/Applicants must meet the following eligibility criteria prior to participation in the HSFDP Program.

1. Must meet the HUD CDBG National Objective: Low- and Moderate-Income (LMI)(80% of AMI).
2. Must have resided within the incorporated limits of the City of Houston at the time of Hurricane Harvey (August 25, 2017).

3. Must attend and complete an eight-hour HUD certified homeownership and counseling training(s). The Homebuyer Education Certificate of Completion must be current to qualify.
4. All Applicants and co-Applicants and household members over the age of 18 must be current on payments for child support or on an approved payment plan by Texas Office of the Attorney General.
5. Must agree to occupy the newly constructed home as their primary residence.
6. Applicants who are existing Hurricane Harvey impacted Homeowners must furnish evidence that property taxes are current, under an approved payment plan, or that there is an exemption under current laws. **This requirement is not applicable for first-time homebuyers or renters.**
7. Applicants who are existing Hurricane Harvey impacted Homeowners are required to be up to date on their mortgage payments or an approved forbearance agreement with evidence that payments are in good standing. **This requirement is not applicable for first-time homebuyers or renters.**
8. Applicants must obtain a fixed-rate mortgage loan for, at a minimum, the length of the Compliance Period (see chart below) before assistance from the HSFD Program is awarded.
9. Applicants must adhere to Duplication of Benefits (DOB) compliance related to Hurricane Harvey or be subject to forfeiture their ability to participate in other CDBG DR-17 programs

HSFD Program eligible Homebuyers/Applicants must comply with the following requirements after assistance is awarded:

1. Maintain principal residency in the assisted property throughout the length of the Compliance Period. Cash-out refinancing, home equity loans, or any loans utilizing the assisted property as collateral must be approved during the Compliance Period. A violation of this requirement will activate the loan repayment terms.
2. Must agree to the Compliance Period and lien requirements of the forgivable loan. The lien period for homes purchased will be based on the loan amount of Homebuyer Assistance provided (the "Compliance Period"):

Loan Amount	Term	Forgiveness Annual Prorated Percentage*
Less than \$20,000	No lien	0%
\$20,000 - \$40,000	5 years	20%
\$40,001 - \$80,000	10 years	10%
More than \$80,000	20 years	5%

*\* The loan is forgiven at a set percentage rate of the original loan amount for each full year the Homebuyer lives in the home. The lien will be removed after the terms of the loan are complete.*

- a. The lien on the property will be removed upon completion of the terms and conditions of all documents related to the program and completion of the Compliance Period.
- b. Forgiveness of the loan provided will be prorated over the course of the determined Compliance Period. The proration percentage will depend on the length of the period, with

100% of the loan being forgiven and the lien satisfied at the termination of the Compliance Period.

- c. Should HSFD Homebuyers sell or otherwise convey their ownership interest in the property during the Compliance Period, the remaining prorated amount of assistance will become immediately due and payable and HCDD will enforce recapture provisions through a lien. Recapture parameters will be outlined in the latest Comprehensive Financial SOP.
3. Death of HSFD participant(s)
    - a. If the HSFD Homebuyer becomes deceased during the Compliance Period, an heir may assume the remaining lien and Compliance Period. The heir must meet all eligibility requirements and will be processed for assistance in the same manner as all other HSFD Homebuyer/Applicants. After assistance is awarded, the heir will complete all required documentation and must comply with all HSFD Program requirements, including to maintain principal residency in the HSFD Program home throughout the length of the Compliance Period.
    - b. If no heirs are identified within the 6 months after HCDD receives notification of the Homebuyer's death, the City will have right of first refusal to absorb the property and utilize it for uses eligible under the terms of the CDBG-DR 2017 funds.
  4. Must maintain insurance for the property. Hazard insurance as well as Flood Insurance, and windstorm insurance (if required) will be monitored during the length of the Compliance Period. Please note, if required, Flood Insurance must be maintained on the property during the life of the property, regardless of transfer of ownership. Failure to maintain Flood Insurance may result in the denial of future federal disaster assistance should another disaster event occur.
    - a. If the property is sold, Flood Insurance requirements are transferred to the new homeowner. HSFD Homebuyers must notify the new homeowner in accordance with 42 U.S.C. § 5154a. Such notification and transfer parameters must be contained in writing in documents evidencing the transfer of ownership of the property. HSFD Homebuyers/Applicants may be subject to liability if he or she fails to provide the notice required by 42 U.S.C. § 5154a (see also 83 Fed. Reg. 5844, Section 40(b)(3)).

### **Beneficiary Household Applicant Eligibility Requirements**

The following are threshold requirements, which must be met for an Beneficiary Household Applicant to be eligible for assistance. Eligibility does not guarantee assistance since a prioritization strategy within LMI economic subgroups will be required by Federal regulation and the City, and HCDD expects that there will be more eligible Applicants than available funds.

#### **1. Income Determination**

The HUD Area Mean Income Limits (AMI) for the City of Houston will be used to establish income limits for the HSFD Program. Applicants', Co-Applicant and any members of the Household over age 18 combined Household income can be no greater than 80% of the AMI, adjusted for Household size. Income eligibility will be determined and verified in accordance with the Applicant's Adjusted Gross Income. The most current income limits, published

annually by HUD, will be used to verify the income eligibility of each Household applying for assistance. HCDD intake specialist will always use the most recent published HUD AGI income limits. HCDD intake specialist will recertify income eligibility annually while the HSFDA Applicant is enrolled to ensure compliance with the income requirement.

## 2. National Objective

Beneficiaries of the HSFDA Program must meet the HUD National Objective: LMI Households (80% of AMI) that, upon completion, will occupy the Single Family Home.

## Application Process

Individuals seeking to participate in Harvey related CDBG-DR programs administered through the City will be required to first complete a program interest survey. Once the survey is completed, Applicants will be invited by HCDD staff to complete an application to participate in the HSFDA Program.

All official program notifications will also be sent via U.S. Mail using the mailing address provided by the applicant or communication designee. If needed, additional contact attempts will also be made via phone, email, and/or text message. Applicants will be provided 30 days from the date of notification to respond to the invitation to complete a HSFDA application .

All individuals who inquire about the HSFDA Program will be provided a standard, GLO-approved application package to complete that will include detailed instructions for completing the application, eligibility criteria, steps for appeals and/or program escalations, document checklists, environmental requirements, and program contact information including location and hours of area Housing Resource Centers (HRC's).

Applications and forms will be offered in English and other languages prevailing in the region, including Spanish, Vietnamese, Chinese, Arabic, and French, in accordance with Title VI of the Civil Rights Act of 1964. Applications will also be offered in a manner consistent with fair housing and civil rights requirements, including those governing persons with disabilities (24 C.F.R. § 8.6), Limited English Proficiency (LEP), and the Americans with Disabilities Act. HCDD will make every effort to assist applicants in the application process, for example, Intake Specialists and/or Language Specialists Assistants will be assigned to the Applicants as appropriate so they may communicate with applicants in their primary language.

Since the amount of assistance is contingent upon funding availability, when funding is limited or unavailable, HCDD may create an applicant waiting list until the GLO and HUD notifies HCDD of the availability of additional funding.

Applicants and stakeholders can visit the HCDD's Disaster Recovery website (<https://recovery.houstontx.gov/>) or call HCDD's central intake telephone number at 832-393-0550 for

more information on the application process.

## **Application Intake**

HCDD will process applications on a first-come, first-serve basis, but will also prioritize funding for low and moderate-income households to ensure affirmatively furthering fair housing objectives are met. HCDD Intake Specialists will receive completed applications, including any supplemental documentation, during the intake process and HCDD will review the applications for eligibility.

Priority groups and applications will be formally announced on the website and through updated program memos or email blasts. All official program notifications will also be sent via U.S. Mail using the mailing address provided by the applicant or communication designee. If needed, additional contact attempts will also be made via phone, email, and/or text message.

Applicants will be provided an initial 30 days from the date of notification to respond to the invitation to complete a HSFD application. Another mailed notification letter will be provided to the Applicant with an additional 30 days to (totaling up to 60 days) to respond to the invitation. If there is no response to the invitation to apply after 60 days, the unresponsive Applicant application will be withdrawn from consideration to participate in the HSFD Program. To be reinstated for consideration, a withdrawn applicant must submit a formal HSFD appeal (See “Appeals” section below).

Applicants who initiate the application and intake phase within the prescribed timelines, will be allowed **60 days** to fully complete the application and submit required supplemental documentation.

An Application Document Checklist will be provided along with every application to clearly identify document types accepted for each eligibility criteria. In addition to assigning Intake Specialists to each applicant, extensive efforts will be made to assist applicants to successfully complete the Intake phase within this timeline, including actively working with area nonprofits and case managers, providing limited legal aid and translation services, offering routine community outreach events, and making area mobile and house visits. The City may consider extensions to the 60-day intake time period formally requested in writing by the Applicant on a case-by-case basis .

Other Survey and Application Intake deadlines may be determined in the future based on the date of invitation and initiation of an application and overall availability of CDBG-DR/HSFD specific funding. Prior to the loan closing date, all Applicants will be informed in writing that funding, even after eligibility determination, will not be guaranteed. New policy and critical date determinations will be provided on the website and shared through written Harvey Recovery Program notifications.

HCDD will provide case management throughout the application and construction process to assist Applicants and their families through clear and transparent communication to understand the program’s housing options, determine eligibility, navigate the construction process, execute necessary documentation, and close out the project while decreasing barriers to participate in the program.

Original records will not be accepted and will be returned by mail if received by HCDD Intake Specialists.

Additionally, all records will be developed online and signed via DocuSign (if available). The HSFD Programs’ document management standard operating procedures will provide specifics of document naming conventions, receipt, transfer, tracking, and general record retention details.

All applications will include a false claims statement similar to the following:

“Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729”.

## Homebuyer Assistance

Based on historical data from The City of Houston’s Homebuyer Programs, HCDD has determined that that LMI Homebuyers will need up to \$135,000 in Homebuyer Assistance for affordability. Each Homebuyer will receive the amount of Homebuyer Assistance needed to reduce the home price to match their Mortgage Pre-Approval/Qualification Letter. HSFD will use the Homebuyer Mortgage Projection Model to calculate the amount of Homebuyer Assistance for each Applicant. (See Exhibit A)

### Homebuyer Assistance for Affordability

Home Sales Price/Cost to Build	\$210,000
Homebuyer Mortgage Approval	\$108,222*
Homebuyer Mortgage Needed	<b>\$101,778</b>

\*Based on a family of 4 with a household income of \$45,000 (60% of AMI) living in the Houston MSA with \$500 in monthly debt.

The HSFD Program Homebuyer Assistance consists of Developer Assistance and HSFD Mortgage Assistance, not to exceed \$135,000 in combined assistance, per Household. Applicants must obtain a fixed-rate mortgage loan pre-approval letter (issued within 90 days) on the acquired primary property for at least the length of the Compliance Period before HSFD Program assistance is awarded. After the Applicant provides fixed-rate mortgage pre-approval letter and meets all other program requirements, the City will assist the Applicant in the form of Homebuyer Assistance.

Developers cannot sell homes above the HUD Housing Trust Fund (HTF) Homeownership Value Limit (HUD HTF Price) for affordable homeownership values set for Houston/Harris County. To make the LMI single-family homes affordable , the following Developer Assistance will be applied:

- **Developer Assistance** – This assistance level is provided by the Developer directly to the LMI Homebuyer. The developer will reduce the sales price of the home to guarantee affordability for a prospective LMI Homebuyer. The Developer Assistance is the net amount of the Developer Sales Price<sup>2</sup> minus the HUD HTC Price. (See Exhibit A)

**Formula:**

$$\text{Developer Sales Price} - \text{HUD HTF Price} = \text{Developer Assistance}$$

Example:

### **Developer Assistance for Affordability**

Developer Sales Price	\$250,000
HUD HTF Price (Max Sales Price)	\$238,000 <sup>3</sup>
Developer Assistance	<b>\$12,000</b>

Developers will not be awarded any additional funds to provide the Developer’s Assistance to the Homebuyers.

When LMI Homebuyers need assistance based on the amount of their mortgage loan approval and the sales price of the home. The following Homebuyer Assistance will be applied:

**HSFD Mortgage Assistance** – The Developers will not be awarded any additional funds to provide the HSFD Mortgage Assistance to the Homebuyers. The Developers will utilize CDBG-DR funds provided for development project activities, such as land acquisition, construction, soft costs, and site-specific conditions will be passed-through the City to the Developer to the Homebuyer as HSFD Mortgage Assistance. The amount of HSFD Mortgage Assistance is calculated after any Developer Assistance is accounted. When the LMI Homebuyer requires additional assistance to close the gap between the HUD Housing Trust Fund (HTF) Homeownership Value Limit (HUD HTF Price) and their mortgage approval amount, the HSFD Mortgage Assistance will be applied. (See Exhibit A)

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<sup>2</sup> The Developer Sales Price is the lesser of construction cost plus land or the Fair Market Rate of the home.

<sup>3</sup> \$238,000 is the current New Home HTF Purchase Price Limit for FY2020, the New Home HTF Purchase Price Limit is updated annually by HUD accessible from the following link: <https://www.hudexchange.info/resource/4982/housing-trust-fund-homeownership-value-limits/>

**Formula:**

HUD HTF Price – Homeowner Mortgage Approval = HSF D Mortgage Assistance

Example:

**HSFD Mortgage Assistance for Affordability**

Developer Sales Price	\$250,000
HUD HTF Price (Max Sales Price)	\$238,000
Developer Assistance	<b>\$12,000</b>
Max Mortgage Based on Value	\$229,670
Homebuyer Mortgage Approval	\$108,222
HSFD Mortgage Assistance	<b>\$121,448</b>
Total Homebuyer Assistance	<b>\$133,448</b>

**HSFD Construction Overview**

**Developer Options**

The HSF D Program’s prime objective is to create affordable new construction of Single Family Homes for LMI Homebuyers directly or indirectly impacted by Hurricane Harvey. HSF D project selection criteria and process information will be established in the HSF D Program’s NOFA. Properties for new construction will be identified from a variety of sources, including the Houston Land Bank (HLB) or the Houston Community Land Trust (HCLT), to safeguard long-term affordability for LMI Homebuyers.

HSFD will operate with the following Developer options:

***Developer Options #1: City of Houston owns or is under contract to purchase the Land***

1. The City owns title to land, or, subject to GLO preapproval, the City is under contract to purchase land and seeks reimbursement from GLO for land acquisition costs.
2. HSF D releases a NOFA for the development of property in which the City is either (i) the owner of the property or (ii) under a contract, such as an option agreement or similar contract, to purchase the property.
3. HSF D awards best proposal to a Developer with approval from GLO. For any NOFA issued while the City was under contract to purchase property, HSF D will award best proposal only after the City has closed on the property.
4. The City will relinquish site control to the awarded Developer.
5. The City will enter into a written agreement with the awarded Developer, with the prior approval of the Houston City Council.
6. In the written agreement, the City conveys land to the awarded Developer to build a minimum of 51% affordable LMI homes.



7. Developer may charge up to a 15% development fee<sup>4</sup> based on time, risk and total development cost less the value of land and infrastructure cost provided by The City.
8. HSFD reviews HSFD Applicants eligibility and certifies LMI Homebuyers.
9. The Developer markets and sells homes to qualified, eligible LMI Homebuyers.
10. The Developer will provide the Developer's Assistance to eligible LMI Homebuyers by reducing the Market Rate sales price to the HUD Housing Trust Fund (HTF) Homeownership Value Limit (HUD HTF Price).
11. The City will provide HSFD Mortgage Assistance to eligible LMI Homebuyer to reduce the HUD HTF Price to the Homebuyers Mortgage Pre-approval level. HSFD's Homebuyer Assistance will be in the form of forgivable loans with the City.

***Developer Option #2: Developer Owns the Land***

1. The Developer has site control because the Developer is either the current owner of the land or, at the time of the NOFA, is under contract to purchase the property and is seeking CDBG-DR funds for the gap between the total project cost and the project financing (Gap Financing).
2. HSFD releases a NOFA and awards best proposal to Developer with the prior approval from GLO.
3. The City will enter into a written agreement with the awarded Developer to build a minimum of 51% affordable LMI homes, with the prior approval of the Houston City Council.
4. Developer may charge up to a 15% development fee<sup>5</sup> based on the time, risk and total development cost.
5. HSFD will provide CDBG-DR funds that represent the Gap Financing for eligible infrastructure related to the development or construction costs.
6. HSFD reviews Applicants' eligibility and certifies LMI Homebuyers.
7. The Developer markets and sells the home to qualified, eligible LMI Homebuyers.
8. The Developer will provide Developer's Assistance to eligible LMI Homebuyers by reducing the Market Sales Price to the HUD HFT Price.
9. Eligible HSFD Applicants execute the forgivable loans with the City.

**Land Acquisition by The City of Houston**

The City may use CDBG-DR funds to acquire Land for the new construction of Single-Family Homes from a variety of sources, including not limited to, from the Houston Land Bank. The City of Houston will purchase land for the development and construction of new single-family homes that abide by the following stipulations:

1. The Land must be located within Houston City limits
2. The Land must be located outside of the floodway and 100-year floodplain.

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<sup>4</sup> [Texas Administrative Code, Subchapter F, 23.61](#)

<sup>5</sup> [Texas Administrative Code, Subchapter F, 23.61](#)

3. The goal of HSFDP Program is to increase affordable housing in Houston. The program will focus on, but not limited to, building new homes in Houston's Complete Communities or High Opportunity Areas.
4. The City will conduct an appraisal and complete a Full Appraisal Report.
5. Based on the appraised value, The City will negotiate with the seller purchase price of the land to ensure it is within Fair Market Value.
6. The seller is required to certify that the land is either owner-occupied or vacant and unoccupied. The seller is required to sign a Seller's Occupancy Certification Form.
7. The City will follow requirements under 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition Policy of 1970, amended, Final Rule and Notice. The City of Houston will complete and sign the URA Assurance Form.
8. Prior to obtaining title to the Land, The City will conduct an Environmental Review in compliance with 24 CFR 58 and the National Environmental Policy Act (NEPA) at 40 CFR Parts 1500-1508, applicable.
9. The City will enter into Agreement for Option to Purchase Real Property with the seller (as required under CFR 24 CFR 58.22(d)), which will be subject prior approval from (1) GLO/ HUD (2) Obtaining Environmental Clearance Review and (3) any other approvals that is necessary to before taking title to the land.
10. The City will obtain title insurance upon closing of the land.

Prior to the purchase of the land. the City will submit the Full Appraisal Report, Survey, Executed Seller's Occupancy Certification Form, Executed URA Assurance Form, Phase 1 Environmental Review, Executed Notice of Interest, Executed Option Agreement, Title Commitment, and applicable documents to the GLO for approval. Once approved by the GLO, the City will present the Agreement for Option to Purchase Real Property to the Houston City Council for approval.

### **Affirmative Furthering Fair Housing (AFFH) Review for Land Acquisition**

All proposed land acquisition projects will undergo Affirmative Furthering Fair Housing (AFFH) Review. Such review will include assessments of a proposed project area's (1) demographics, (2) socioeconomic characteristics, (3) housing configuration and needs, (4) educational, transportation, and health care opportunities, (5) environmental hazards or concerns, and (6) all other factors material to the AFFH determination. Proposed land acquisition sites should show that projects are likely to lessen area racial, ethnic, and low-income concentrations, and/or promote affordable housing in low-poverty, nonminority areas in response to natural hazard-related impacts.

The Harvey Single-Family Development Program's paramount goal is to build and sell affordable housing to low-to-moderate income Homebuyers. In adherence with AFFH, HSFDP intends to make a good faith effort to build in High Opportunity Areas of the City of Houston. In an effort to maintain the affordability of the high land values in High Opportunity Areas for LMI Homebuyers, the City will employ strategies such as subsizing the initial lot purchase price and partner with the Houston Community Land Trust to lower the long-term property taxes through the existing agreement with the Harris County Appraisal

District (HCAD).

## Insurance and Property Management

For all projects in the HSF D Program, all Developers must procure and maintain insurance for the duration of the agreement to protect all contract assets from loss due to any cause, such as theft, fraud, and physical damage. If CDBG-DR funds are used to acquire real property or personal property, the property owner is responsible for ensuring that:

1. The property continues to be used for its intended (and approved) purpose.
2. The Developer keeps track of, and takes care of, the property; and
3. If the Developer sells or disposes of the property during the contract period, the Developer reimburses HCDD for the share of the property’s value according to the agreement.

## HSFD Construction Criteria

New single-family housing that is constructed with CDBG-DR funds must meet all applicable local codes, ordinances, and zoning ordinances at the time of project completion. A Certificate of Compliance (COC) issued as part of the chosen standard’s compliance process will be required to be submitted as proof of compliance.

HCDD will offer the following unit sizes below in the HSF D Program:

Persons in Household	Bedrooms	Bathrooms	Square Feet
1-4	3	2	1,300-1,400
5 or more	4	2	1,500-1,600

Modifications to unit size will be considered for special circumstances such as access and functional needs, familial status, property lot constraints, City ordinances and financial hardships. Issuance size exceptions may be granted by the GLO. Waivers for other individual circumstances may be granted by HCDD with pre-approval by the GLO. The Family must request a waiver in writing to HCDD and explain the need and justification. Further approval for the waiver will be requested from GLO. Approved structural types for the program include stick-built structures and modular homes.

Minimum Property Standards (MPS) for CDBG-DR-funded single-family New Construction homes are outlined in the City of Houston HCDD Minimum Construction Standards for Rehabilitation, Reconstruction and *New Construction of Single Family Housing*, as amended from time to time. The requirements and standards may exceed the requirements of HUD’s Housing Quality Standards (HQS) and are determined necessary to further meet the common definitions of “safe, decent, and sanitary” housing; “non-luxury, suitable amenities” housing; and “good quality, reasonably priced” housing, that is affordable to persons and families that are low or moderate income. The standards are also designed to assist in achieving consistency throughout the City of Houston for single-family New Construction residences funded with the Federal funds through Disaster Recovery programs.

The City, through its Standard Operating Procedures (SOP) and the written agreement with the

Developer , will outline procedures for performance requirements, operational tools and interfaces associated with the construction management and oversight function. The SOP will include construction inspection information for progress and final payment requirements and Texas Real Estate Commission (TREC) compliance.

The Developer warranty period shall commence on the date of issuance of the Certificate of Compliance (COC) for the home. The warranty periods are: 1 year (365 calendar days) for workmanship and materials; 2 years (730 calendar days) for mechanical or delivery systems, including electrical delivery systems, plumbing delivery systems, ventilation, heating and air conditioning systems; and 10 years (3,650 calendar days) for the structural warranty covering the major structural components of a Housing Unit.

Developers shall provide to the HCDD Director all necessary final certificates, licenses, consents and other approvals of the various governmental authorities having jurisdiction, including, a permanent COC, as applicable. All COC, warranties, and other final documents will be provided to the Homeowner upon completion of the work. Housing developments must meet all accessibility requirements at 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

## **Site and Development Restrictions**

### ***1. General Standards***

All Housing Units under the HSFDP Program will be required to meet Housing Quality Standards (HQS) detailed under 24 C.F.R. Part 8,29 and Fair Housing Accessibility Standards. Housing activities must also meet all local building codes or standards that may apply. All Single Family Homes should also incorporate resiliency solutions which may include elevating the first floor of the habitable area; windstorm protection; reinforced roofs; storm shutters; use of ENERGY STAR appliances and fixtures; and use of mold and mildew resistant products. All New Construction projects must also meet one of the Green Building Standards, listed below.

### ***2. Minimum Property Standards (MPS)***

All CDBG-DR assisted New Construction projects must, at a minimum, meet MPS at completion as well as all applicable local codes and ordinances, including Chapter 19 of the Code of Ordinances, City of Houston, Texas.

### ***3. Constructed or Substantial Improvements***

The City has adopted the 2012 International Residential Code (“IRC”) (with windstorm provisions) and International Building Code (IBC) (and subsequent adoptions thereafter in accordance required IRCs and IBCs) must be met where they apply. All New Construction should be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Whenever feasible, HCDD will follow best practices, such as requiring applicable Professional Certifications and Standard Work Specifications provided in the U.S. Department of Energy’s Guidelines for Home Energy Professionals.

#### **4. Green Building Standards**

New housing construction must comply with ONE of the following Green Building Standards (83 F.R. 5844):

1. ENERGY STAR® (Certified Homes).
2. EPA Indoor Air Plus (ENERGY STAR® a prerequisite).
3. Leadership in Energy and Environmental Design (“LEED®”) (New Construction, Homes, or Neighborhood Development);
4. ICC–700 National Green Building Standard (“NGBS”)

#### **5. Elevation**

The City of Houston will apply home Elevation Standards in compliance with FEMA requirements, and the City’s current, more stringent, Chapter 19 of the Code of Ordinances, City of Houston, Texas, known as the Floodplain Ordinance No. 2018-258, effective September 1, 2018, as may be amended from time to time (“Floodplain Ordinance”). The Floodplain Ordinance defines the Houston Special Flood Hazard Area (HSFHA) as comprising both the 100-year and the 500-year floodplain that are each defined in EO 11988 and 24 C.F.R. Part 55. The City’s Floodplain Management Office applies the FEMA Substantial, Non-Substantial Damage determination for buildings located within the 100-year floodplain as required by FEMA but implements the more protective HSFHA elevation standard of 500-year floodplain + two feet, or at least three feet above the highest adjacent grade where the depth is not specified. Therefore, reconstructed, and newly constructed, and substantially damaged or substantially improved residential buildings within the 100-year floodplain will be elevated to this HSFHA standard. New construction activities undertaken in the 500-year floodplain will also require elevation to this same HSFHA standard.

#### **6. Resilient Home Construction**

All CDBG-DR assisted New Construction single family projects must meet an industry recognized standard *such as* those set by the Fortified Home Gold Level for New Construction of single-family detached homes *or any other approved equivalent comprehensive resilient or disaster resistant building program (83 F.R. 5844)*. Resilient standards when incorporated will increase a home’s resilience to natural hazards, including high wind, hail, and tropical storms.

#### **7. Accessibility**

- a. Single Family Housing Units must meet the accessibility requirements at 24 C.F.R. Part 8,29 which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and the City’s Visitability Standards in City Ordinance No. 2003-1239, effective X, 2003 (Visitability). Detailed information and implementation on Visitability requirements will be detailed in the SOP.
- b. Five percent (5%) of the total dwelling units shall be made accessible for persons with mobility impairments. An additional two percent (2%) of units in such a project shall be accessible for persons with hearing and vision impairments
- c. Visitability Checklists are required for New Construction Single Family Homes for the first

floor only, even if multiple floors exist:

1. At least one 36-inch entrance door (preferably the main entrance) is on an accessible route served by a ramp or no-step entrance.
2. Each interior door is at least a standard 32-inch door, unless the door provides access only to a closet of less than 15 square feet.
3. Each hallway has a width of at least 36 inches and is level with ramped or beveled changes at each door threshold.
4. Each bathroom wall is reinforced for potential installation of grab bars.
5. Each electrical panel, light switch, or thermostat is not higher than 48 inches above the floor.
6. Each electrical plug or other receptacle is at least 15 inches above the floor.
7. If the applicable building codes do not prescribe another location for the breaker boxes, each breaker box is located not higher than 48 inches above the floor inside the building.

## **Development Project Close-out**

As required by the Texas General Land Office, when a project is completed, the information listed below must be submitted to HCDD to allow for retainage (the last 10 percent of project costs) to be reimbursed.

The items include:

1. A Final Draw for Retainage (identical in form to the others and includes the final inspection report from the third-party inspector indicating that the project is complete);
2. A Final Wage Compliance Report;
3. A Certificate of Occupancy for the project (for new construction);
4. A Lien Release from the general contractor to show that all subcontractors have been paid; and
5. Any additional documentation as required.

## **Developers Selection Process**

The City, with approval from the GLO, will administer a Developer selection process for this portion of the HSFDP Program. The Developer will be selected by Notice of Funding Opportunity (NOFA) process. The City will entrust the qualified Developer with funds and/or land to complete each project. Developers must have site control (ownership or lease in some cases) and must plan, obtain permits, and manage the project from start to finish, assuming part of the risk of the project. The NOFA solicitation will clearly establish the process and acceptance period, threshold criteria (including applicable building codes), selection criteria, and the award process.

## **Eligible Nonprofit/For Profit Developers**

1. Developers and development team (subcontractors) 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 any other public agency or private lender.

2. Developers and development team members will have a proven track record of successful development of similar size and scope of single-family developments. The Developers must have financial and organizational capacity to complete the project.
3. All awarded Developers will be evaluated through Affirmatively Furthering Fair Housing (AFFH) review
4. Individuals, Nonprofit or For Profit developer owners, principals, development/borrowers or general contractors may not be “debarred” as cited on federal and state debarment lists in accordance with 24 C.F.R. 570.609, as well as other applicable laws.
5. Developers must not discriminate based on ethnicity, race, color, creed, religion, gender, national origin, age, disability, marital status, sexual orientation, gender identity, or Veteran’s discharge status.

## Scoring Criteria

Applications and proposals submitted under a related NOFA will be reviewed and scored internally by a panel of HCDD personnel based on the information provided. HCDD may provide a cure period for missing and/or incomplete applications but failure to submit an application in a timely manner will be disallowed. NOFA Scoring criteria may include but not limited to the following:

- Housing Types
- Organizational Expertise
- Location Information
- Project Information
- Project timeline
- Neighborhood, development, and site amenities
- Financial Analysis
- Housing designed with resilient features.

Awardees are selected by an internal panel composed of HCDD staff and/or other City of Houston Departments. The Scoring Criteria described above is tabulated and examined by the panel. While the scores do inform the selection, the raw scores do not guarantee selection. Awards are ultimately up to the discretion of the selection panel. All awarded applications will be evaluated to confirm compliance with environmental and Affirmatively Furthering Fair Housing (AFFH) requirements.

## Development Prioritization/Bonus Points

The Harvey Single-Family Development (HSFD) program will prioritize development projects in High Opportunity Areas by awarding additional points to Developer Applicants who propose building in area with low poverty rates and racial/ethnic concentration. HSFD will add bonus points to the NOFA scoring criteria to promote building in desegregated, low poverty areas. According to the [City of Houston’s](#)

[American Community Survey \(ACS\) 5-Year Narrative Profile](#) twenty percent (20%) of Houstonians are living in poverty. Houston is one of the most racially diverse cities in the Nation. No racial/ethnic group constitutes a majority. The 2019 ACS profile reports thirty-eight percent (38%) Hispanic, thirty-five percent (35.1%) Anglo, sixteen percent (16.8%) African American, seven percent (7.8%) and two percent (2%) Other. Therefore, the City will prioritize developments in areas with poverty rates below forty percent (40%) and racial/ethnic concentration below sixty percent (60%).

HSFD will implement an Opportunity Index scoring criteria in the NOFA process. Developer Applicants will be eligible for additional points to promote single family development in high opportunity areas. The Opportunity Index is modeled after the Texas Department of Housing and Community Affairs 2021 Qualified Allocation Plan.

## **Application Underwriting**

After selection of the NOFA application or proposal, awardees will be underwritten to review the following:

1. **Experience and Financial Capacity** - Developer must have a documented capacity to construct or develop single family housing that benefits low-income Homebuyers. Developer are expected to have sufficient liquidity to cover any funding shortfalls or delays that may occur during construction property.
2. **Development Financial Analysis** - The underlying debt and operating expenses of the property will be reviewed to determine if the project is feasible during the compliance period and demonstrates income adequate to cover operating expenses and applicable construction period. Sources and uses of funds will be reviewed to determine the adequacy of the funding to complete the project.
3. **Site Control** – With the exception of Deal #1, Developers will be either the current owner of the property or at the time of NOFA application is under a binding contract to purchase the property.
4. **Third Party Reports** - Developers will be required to submit third party reports at the time of application or during underwriting to include a Survey, Phase I Environmental report, Appraisal and Market Study.
5. **Project Readiness** - Developer may receive conditional awards subject to securing other project sources with final awards issued upon appropriation. Developer will be required to demonstrate an ability to close on the City and all other financing sources buy providing a timeline of the closing process. Applications that demonstrate a readiness to close within 6 months of notice of a final award and City Council approval will be prioritized.



## Affirmative Marketing & Outreach Plan

The City, through HCDD, is committed to affirmatively furthering fair housing through established affirmative marketing policies that are designed to improve community planning to overcome impediments to fair housing. Affirmative marketing efforts for the disaster funding will include the following:

- HUD's [Affirmative Fair Housing Marketing Plan \(AFHMP\)](#) for Single Family regulations are required. All Single Family Nonprofit or For Profit Developer applicants seeking participation in the HSFDP Program with five or more units must complete AFHMP Single-Family form as specified in 24 C.F.R. 200.625, and in accordance with the requirements in 24 C.F.R. 200.620 (see Appendix I). The purpose of this AFHMP is to help Applicants offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability. The AFHMP helps single-family Developers to effectively market the availability of housing opportunities to individuals of both minority and non-minority groups that are least likely to apply for occupancy. Affirmative fair housing marketing and planning is required of all New Construction, substantial rehabilitation, and existing project marketing and advertising activities.
- It will ensure that homes financed through the HSFDP Program are affirmatively marketed to the public at large and to specific groups underrepresented in the neighborhood of the property.
- This plan will ensure that outreach and communication efforts reach prospective from all racial, ethnic, national origin, religious, familial status, disabled, "special needs," and gender groups. For each project or program, notification to these populations will include:
  - Fully informed of vacant units available for sale
  - Encouragement to apply for purchase
  - The opportunity to buy the unit of their choice
- The Affirmative Marketing & Outreach Plan will give detailed information on how the City plans for effective outreach to all groups of homeowners, landlords, and renters mentioned above.
- The goal is to ensure that outreach and communication efforts reach eligible survivors from all as well as how the application and enrollment process for programs will be suitable for persons with limited English proficiency, persons with disabilities and those with special needs. For each program offered by the City, notification to these populations will include information on vacant homes available for sale; information on how to apply for home purchase; opportunities to buy the home of their choice.

Particular emphasis will be focused on successful outreach to LMI areas whose communities were most impacted by Hurricane Harvey's flooding. Outreach efforts will include door-to-door canvassing and special outreach efforts to hard-to-reach populations (e.g., seniors and persons with severe disabilities

who either do not have information about the resources or are unable to independently apply for resources).

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

- Advertise with the local media outlets, including newspapers and broadcast media, which provide unique access for persons who are considered members of a protected class under the Fair Housing Act.
- Include flyers in utility bills advertising the City of Houston's Hurricane Harvey CDBG-DR funded recovery programs.
- Reach out to public or non-profit organizations and hold/attend community meetings.
- Other forms of outreach tailored to reaching the eligible population may be used, including door-to-door outreach, if necessary, particularly on the weekends.
- Measures will be taken by the City to make the CDBG-DR Disaster Recovery Program accessible to persons who are members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), providing American Sign Language (ASL) translation when requested, and providing special assistance for those who are hearing or visually impaired when requested.
- Applications and forms will be offered in English and other languages, including Spanish, Vietnamese, Chinese, Arabic and French, prevailing in the region in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 C.F.R. 8.6), Limited English Proficiency (LEP) and other fair housing and civil rights requirements, such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such Applicants in providing reasonable accommodations.
- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained, and made available to the public upon request.

The City of Houston shall use the fair housing logo in HSFDP Program advertising, post fair housing posters and related information, and, in general, inform the public of its rights under fair housing regulations and laws. HCDD will regularly evaluate outreach activities and applications received will be necessary to determine if outreach is successful and applications that are being received accurately reflect the socioeconomic and other forms of demographic diversity. Evaluation will be an ongoing process. HCDD has discretion in the modification and/or addition of requirements to the Affirmative Marketing and Outreach Plan.

## Needs Assessment

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

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

The entire City of Houston is located in an area HUD identified as "most impacted and distressed" as it relates to the damage from Hurricane Harvey. The City of Houston's Local Action Plan and Local Housing Needs Assessment are the basis for the development and prioritization of recovery activities in Houston using CDBG-DR funds. The City has consulted with affected residents and stakeholders, such as the Houston Housing Authority to assess needs. As additional data becomes available and as additional community and stakeholder engagements take place, the unmet needs and activities to address community needs through CDBG-DR funds may be updated.

## Procurement

The City will maintain adequate documentation to show that selection processes were carried out in an open, fair, uniform, and thorough manner and to ensure that federal (2 C.F.R. § 200.318–200.326), state, and City requirements are met. Retained records will include the following information, but not limited to, the following:

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

During the procurement process, solicitations should clearly identify any requirements included in the bid/purchase that are not included in the CDBG-DR Subrecipient agreement between the GLO and the City ("CDBG-DR Contract").

Goods and services must be procured using the federal procurement and contract requirements outlined in 2 C.F.R. § 200.318 – 200.326. These procurement requirements must be followed in order for costs to be deemed eligible for reimbursement of CDBG-DR funds provided by HUD. The City is required to follow state and local procurement law and policies, as well as the additional requirements stated in 2 C.F.R. Part 200, as applicable.

Composite pricing will be utilized for New Construction. This pricing will be developed utilizing the NOFA process and average costing and shall be verified as reasonable and customary by utilizing an industry standard independent pricing product. This becomes the scope of work and will be priced in conjunction with a line-item price list that will be produced out of the original NOFA with appropriate reasonable and customary verification.

Additionally, the City's Strategic Procurement Division may review draft solicitations or responses prior to award for compliance with applicable City, state and federal rules and regulations. The City should clearly identify during the procurement process any items included in the bid/purchase that are not included in the CDBG-DR Contract.

Regardless of the type of procurement used (e.g., Request for Proposals, Request for Qualifications, Invitation for Bids, Small Purchase, etc.), an executed contract between the selected bidder and the City must document the period of performance, the work to be completed, the agreed price or not to exceed amount, and the Developer's required compliance with all applicable federal, state, and local requirements. If there is a conflict between federal, state, and local laws and regulations regarding procurement, the more stringent law or regulation will apply.

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

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

## Financial Management

The City of Houston, as a CDBG-DR Subrecipient, is required to follow the financial administration requirements outlined in 24 C.F.R. Part 570, 2 C.F.R. Part 200, and applicable Federal Registers. These standards help ensure that the financial systems put in place by the City:

1. Provide adequate, current, and complete disclosure of the financial results (regular financial reporting) of all financially assisted activities, in accordance with the financial reporting requirements of the grant.
2. Document that funds have been used only for authorized purposes. (CDBG-DR-funded activities must be eligible costs and must meet a National Objective in accordance with 24 C.F.R. Part 570.

3. Maintain accounting records showing the sources and uses of funds and displaying funds authorized, obligated and unobligated balances, assets, liabilities, outlays or expenditures and income.
4. Establish effective internal controls over all cash, real and personal property, and other assets acquired with program funds.
5. Track actual program cost against program budget in a manner that relates to program productivity and accomplishments.
6. Use Uniform Administrative Requirements outlined in [2 C.F.R. Part 200](#) principles to determine whether program costs are reasonable, allowable, and can be allocated, either directly or indirectly.
7. Maintain source documentation for accounting records.
8. Implement procedures for cash management that permit the timely disbursement to Applicants, Developers and Vendors for complete and accurate monitoring and reporting; Comply with [2 C.F.R. Part 200 Subpart F](#).
9. Conduct single or program specific audits in accordance with the applicable federal requirements. Developers, Vendors and Contractors with executed contracts with the City will be required to comply with audit requirements as applicable.

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

### **The City of Houston**

- i. Finance Department – The Strategic Procurement Division (SPD) is housed within the City of Houston's Finance Department and is responsible for procuring goods and services for CDBG-DR funded activities.
- ii. The City Controller –The Office of the City Controller certifies the availability of funds prior to City Council approval of City commitments, processes and monitors disbursements, invests the City's funds, conducts internal audits of the City's departments and federal grant programs, operates and maintains its financial management system, conducts the sale of public improvement and revenue bonds and produces a comprehensive annual report of City finances - Comprehensive Annual Financial Report (CAFR). The Controller will be responsible for providing a variety of approvals for release of CDBG-DR funds as payment to Vendors, Contractors and beneficiaries.
- iii. Housing and Community Development Department (HCDD) – HCDD is the grant manager for the City's Hurricane Harvey CDBG-DR allocation and is responsible for administering all programs outlined in the City's Local Action Plan.
  - a. Disaster Recovery and Single-Family Divisions: Both Divisions are responsible for CDBG-DR program development and oversight, as well as community outreach.
  - b. Finance Division: This Division is responsible for processing CDBG-DR grant funding through the Systems Applications and Products (SAP), performing draws in HUD's Integrated Disbursement Information System (IDIS) and Disaster Recovery Grant Reporting (DRGR) System, the GLO's Texas Integrated Grant Reporting (TIGR) system, and reconciling

budgets and expenditures. The Finance Division is also responsible for processing payment requests in SAP and federal reimbursement requests to the GLO to be realized in the City's budget

- c. Planning and Grants Management Division: This Division is responsible for the City's CDBG-DR Local Action Plan, Local Needs Assessment, program applications, other rated planning documents, substantial amendments, project/activity budget set-up and completion in IDIS and DRGR and related reporting to HUD and the GLO.

## Key Funding Objective

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

## Duplication of Benefits

Many federal and state agencies may be involved in responding to Presidentially declared major disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (the "Stafford Act"). The Stafford Act includes provisions prohibiting a Duplication of Benefits ("DOB"). These provisions prohibit the use of federal disaster funds to provide disaster recovery assistance when insurance providers or other federal or state agencies have already funded all or a portion of the activity. Certain Public Laws appropriating CDBG-DR funds and applicable regulations may also include restrictions on DOB or a prohibition on the use of CDBG-DR funds to meet a match, share, or contribution requirement for any other federal program.

HCDD will ensure compliance with the Stafford Act through collection, analysis, and verification of third-party benefits received by Applicants for purposes of repairs, and/or other duplicate services offered through the HSFD Program. Each application will be reviewed to determine and if any funds were received for the same purpose or if previous funding awarded to the Applicant was appropriately used on the home. The Applicant must have an unmet need to move forward in the HSFD Program. The City must determine the Applicant's unmet needs first and then calculate the Applicant's DOB amount. Applicants must provide documentation of any insurance, Federal Emergency Management Agency (FEMA), Small Business Administration ("SBA") funding or any other type of funding received. Additionally, the City will verify that the submitted documentation is accurate and current at the time of the award, to the extent possible (e.g., validate against FEMA data). The City will also determine if insurance was required under the terms of the Applicant's mortgage or required as a condition of prior federal assistance received, as part of the application review. Private insurance companies will be notified and asked to verify/confirm values received by the insured.

Any sources of funds previously received for the same recovery will be deducted from the award calculation based on the DOB calculation. Any amount that is determined to be an allowable activity will not be included in the reduction of the final award. An allowable activity includes activities that are excludable from the DOB calculation per the Stafford Act or a HUD waiver or guidance.

Through a Subrogation Agreement, the Applicant shall assign to the City any future funds received for the same purpose as those awarded or provided for with CDBG-DR funds. The Applicant is obligated to certify that he or she understands this requirement as outlined in detail within the subrogation terms included in the Applicant's contract with the City.

To comply with DOB requirements, the City of Houston will design SOPs to ensure that any amounts determined to be a DOB are deducted from the final assistance award amount for each Applicant across the eligible activities of all programs.

## Environmental

In accordance with the HUD regulations for implementing the National Environmental Policy Act at 24 C.F.R. Part 58, HCDD must perform and complete Environmental Reviews of proposed programs, projects, and activities that will utilize Hurricane Harvey CDBG-DR funds. These funds will be administered by GLO, which will review all levels of Environmental Review documentation submitted before issuing environmental clearance for each proposed action to utilize funds. GLO will maintain an Environmental Review Record (ERR) of approved documentation as a compilation of each level of Environmental Review performed under the City's CDBG- DR funded programs. HCDD maintains an ERR of all submitted and GLO-approved compliance documentation. HCDD also maintains a record of site-specific documentation that demonstrates environmental compliance of GLO-approved construction activities.

HCDD's ERR will compile all levels of Environmental Review documentation required under 24 C.F.R. § Part 58. This includes HUD required forms and checklists submitted and approved by GLO for activities determined exempt according to 24 C.F.R. § 58.34 or those that are Categorically Excluded Activities Not Subject to the Section 58.35 Statutes (24 C.F.R. § 58.35(b)). These contain documentation of compliance with the statutes and regulations listed at 24 C.F.R. § 58.6 (e.g. Floodplain Disaster Protection Act of 1973, Coastal Barriers Resources Act, as amended by the Coastal Barrier Improvement Act of 1990, and Airport Runway Clear). The ERR will also contain GLO-approved site-specific environmental assessments of proposed actions per 24 C.F.R. § 58.40.

Where considered appropriate, one or more of the City's CDBG-DR funded programs will be subject to a tiered Environmental Review process in accordance with 24 C.F.R. § 58.15. The tiered approach allows for a Tier I level broad environmental analysis (Tier I Broad Review) of proposed policy and action(s) in the early stage of strategic development when site-specific analysis is not yet feasible, yet those actions are known to be geographically and/or functionally aggregated. The Tier I Broad Environmental Review thus identifies environmental compliance factors that can be analyzed and resolved with policies and decisions at this stage, to streamline or narrow the focus of the Tier II site-specific environmental assessment of potential environmental impacts once construction sites are known and appropriate Mitigation measures can be specified. Therefore, HCDD's ERR will also maintain the GLO-approved versions of all Tier I Broad Reviews and Tier II site-specific environmental assessments performed.

While not currently anticipated, certain proposed actions undertaken by the City with CDBG-DR funds may be determined to have a potentially significant impact on the human environment and therefore require an Environmental Impact Statement in accordance with 24 C.F.R. § 58.37. In the event such an effort become necessary, all required documentation developed during the process would also become part of HCDD's ERR.

## Guideline Updates/ Waivers /Public Comments

HCDD will publish all Program Guidelines on the City's disaster recovery website ([www.recovery.houstontx.gov](http://www.recovery.houstontx.gov)). All guidelines will initially be published for a 30-day public comment period. Any subsequent changes to the Guidelines after approval by the GLO will be posted for a minimum of seven days for public comment and the latest versions available on the City's website.

These Guidelines have been submitted to the City Council of the City of Houston, Texas, pursuant to and shall be governed by City of Houston Ordinance No. 2005-1395, as amended by Ordinance No. 2018-121, including its provisions regarding amendments, modifications and corrections to these Guidelines and the Program to which they relate, provided that such amendments, modifications and corrections shall also be subject to and must be done in compliance with the requirements set forth herein.

As the CDBG-DR program matures, it is possible there will be requests for waivers and alternative requirements to these Guidelines. These requested changes and waivers must be consolidated, reviewed, and approved by the GLO and/or HUD, as applicable.

To request a waiver, HCDD must submit a written request on HCDD letterhead that includes the following:

1. The Guideline for which the waiver applies
2. The requirement to be waived or altered
3. Alternative requirement or language
4. Detailed statement of how the request is necessary to address unmet recovery needs.

### General Program Waiver Request

A General Program Waiver Request includes a requested change to the Guidelines for administrative, eligibility, National Objective, expenditure deadline, or Overall Benefit requirements, for which approval from the GLO is needed within thirty (30) days. The request must demonstrate that the funds will be used for an eligible CDBG-DR-eligible activity and meet a national objective.

Waivers of this category must be published for seven (7) days and public comment received and addressed before implementation.



## Program Income

The Harvey Single-Family Development Program does not intend to generate any program income. In the event Program Income is generated, as defined at 24 C.F.R. § 570.500 (a), earned as a result of HSFD-program-funded activities will be subject to the rules outlined in 83 Fed. Reg. 5844. Program Income received before closeout of the HSFD-grant is subject to the GLO and HUD requirements and must be used in accordance with the City's Harvey Local Action Plan. To the maximum extent feasible HUD requires that program income shall be used or distributed before additional withdrawals from the U.S. Treasury are made.

## Monitoring

HCDD's Compliance and Monitoring Plan (Plan) will outline principles of governance and standards and management, supporting the HSFD Program. The Plan is mandated to establish a coherent governance structure, management standards and content requirements for policies and processes to manage compliance risk factors of the Program.

The Plan will outline the activities required by the City and the records required to document these activities. In addition to monitoring, this includes activities required to correct any issues raised as part of the monitoring process and documentation of activities required to remedy these issues. The Plan will also aim to do so in a way that balances HCDD's need to examine a sufficient sample of all Program applications processed by Developers against the constraint of limited resources within the City for this purpose.

HCDD will formulate its own monitoring plan, which will encompass all compliance-related issues that are specified in the Guidelines and Standard Operating Procedures (SOP); and HCDD will establish detailed tools and checklists to fulfill the Program requirements regarding:

1. Case Management/Intake Phase
2. Planning
3. Pre-Construction
4. Construction
5. Close-out

## Cross Cutting Federal Regulations

The HSFD Program will be designed and implemented in compliance with cross-cutting federal regulations when applicable, including:

### **Americans with Disabilities Act (ADA)**

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state, and local government services, public

accommodations, commercial facilities, and transportation. It also mandates the establishment of telecommunications device for the deaf (TDD)/telephone relay services. The City of Houston Housing and Community Development Department (HCDD) takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by HCDD, and that any services are delivered in the most integrated manner possible. HCDD's mandate to conform to the requirements of ADA flows down to every stakeholder, including, Vendors, Contractors and Developers.

### **Davis-Bacon Labor Standards (as applicable)**

The Davis-Bacon Act and Related Acts (DBRA) applies to Developers, Contractors and subcontractors carrying out certain federally funded or assisted construction contracts in excess of \$2,000 and requires, the payment of the prevailing wages (including fringe benefits) for corresponding work on similar projects in the area. In some cases, City of Houston Prevailing Wage Law is in effect. In the event of a difference in the prevailing wage rate between the rates of the funding entity (e.g. the federal government) and the City, the higher prevailing wage rate must be adhered to and made applicable. For certain federally assisted prime construction contracts of more than \$100,000 subject to the DBRA, Contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Additionally, HCDD must follow the reporting requirements per HUD and the U.S. Department of Labor regulations. This requirement also extends to HCDD's Developers.

### **Equal Employment Opportunity**

Executive Order 11246, Equal Employment Opportunity, as amended, prohibits federal Contractors and federally-assisted construction Developers, Contractors and Subcontractors who do over \$10,000 in government business in one year from discriminating in employment decisions based on race, color, religion, sex, sexual orientation, gender identity, or national origin. The Executive Order also requires government Contractors or Developers to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. This regulation is adhered to within HCDD programs.

### **Fair Housing**

The Fair Housing Act requires all grantees and/or Developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status. HCDD enforces the Fair Housing Act by ensuring that all grantees, and/or Developers meet the applicable Fair Housing and Affirmative Marketing requirements, provide a marketing plan, and report on compliance in accordance with the Fair Housing Act and the associated forms on HCDD's website, where applicable. The Affirmative Marketing Plan must comply with applicable Fair Housing Laws and demonstrate how the Applicant will affirmatively further fair housing throughout applicable HCDD disaster recovery

programs.

### **Fair Labor Standards Act of 1938, as Amended**

The Fair Labor Standards Act of 1938, as amended (FLSA), establishes the basic minimum wage standards work and requires the payment of overtime, for certain employees, at the rate of at least one and one-half times the basic hourly rate of pay for hours worked after 40 hours of work in a workweek. These labor standards are applicable to the entire construction contract, regardless if CDBG-DR funds finance only a portion of the project.

### **Limited English Proficiency**

Federal Executive Order 131661 requires HCDD and all satellite offices, programs, Contractors, Subcontractors, and/or Developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. HCDD ensures fair access through the implementation of a Language Assistance Plan (LAP), which includes non-English-based outreach, translation services of vital documents, free language assistance services, and staff training. Refer to the “Language Assistance Plan” Provision of Language Assistance Services for additional guidance and protocols.

### **Minority- and/or Woman-Owned Business Enterprises**

The Federal Executive Order 12432 guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned Business Enterprises (MBEs). 2 C.F.R. § 200.321 requires the non-federal entity to take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible and for the non-federal entity to require its prime Contractor, if Subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of 2 C.F.R. § 200.321(b).

### **Section 3**

**Housing and Urban Development Act of 1968, Section 3:** Requires program administrators ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their Developers/Contractors/Subcontractors with the Section 3 requirements, as outlined in 24 C.F.R. 135.32. Section 3-eligible residents are low- and very low- income persons who live in the metropolitan area or non-metropolitan county where a HUD-assisted project for housing or community development is located and people who live or reside in public or government assisted housing. Compliance with Section 3 is required by 24 C.F.R. Part 135 and the executed agreement between Developers and the GLO.

### **Residential Anti-Displacement**

All Developers and Subrecipients must follow HCDD’s Residential Anti-Displacement Policy.

## Uniform Relocation Act and Real Property Acquisition (URA)

The Program staff will comply with URA and real property Acquisition as CDBG-DR federal funds, administered by HCDD and disbursed to Developers, Subrecipients and direct Contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 C.F.R. Part 24 (implementing the Uniform Relocation Act or “URA”), 24 C.F.R. Part 42 (implementing section 104(d) (42 U.S.C. § 5304(d)) of the Housing and Community Development Act (42 U.S.C. § 5304(d)) (“Section 104(d)”), and in the Tenant Assistance, Relocation and Real Property Acquisition Handbook (HUD Handbook 1378). The March 5, 2013 Federal Register Notice (FR-5696-N-01) waived the one-for-one replacement requirements at Section 104(d)(2)(A)(i)-(ii) and (d)(3) and 24 C.F.R. § 42.375. All Developers must follow HCDD’s Residential Anti-Displacement Policy.

Developers must provide the following benefits to Households or businesses that they displace:

- Relocation advisory services;
- A minimum of 90-day notice to vacate;
- Reimbursement for moving expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing.

HCDD programs subject to the URA and Section 104(d) include the CDBG-DR programs. HCDD policies and procedures, Notice of Funding Availability (NOFA), Applicant certifications and/or written agreements for funds subject to the URA and Section 104(d) shall refer to federal and state rules, as appropriate.

## Complaints & Appeals

### Complaints

The City of Houston Housing and Community Development Department (HCDD) welcomes feedback and complaints from any member of the public. Complaints are accepted in writing or over the telephone. Complaints will be responded to in writing within fifteen (15) business days. For further information, please refer to the HCDD recovery website, <https://recovery.houstontx.gov>

### Contact Information

#### HCDD Mailing Address

Housing and Community Development Department  
2100 Travis St., 9<sup>th</sup> Floor  
Houston, TX 77002  
Attn: Planning & Grants Management  
HCDD Email Address  
[HCDDComplaintsAppeals@houstontx.gov](mailto:HCDDComplaintsAppeals@houstontx.gov)

**HCDD Business Hours**

Monday through Friday

8:00 AM to 5:00 PM

**Appeals**

HCDD's appeal process will be provided in writing to any appellant upon request or receipt of an appeal, and the same process will be clearly posted on the City's websites, including disaster recovery websites and entitlement program websites. HCDD will keep a record of each appeal that it receives and include all communications and their resolutions therein.

Applicants have the right to appeal decisions made on their program file based on the following (each a "Reason for Appeal"):

- Non-receipt of award through NOFA process
- Denied services through any of HCDD's programs
- Denial of a request for resolution for tax credits
- Program eligibility determination
- Program award calculation
- Procedural error where the application was not processed by program staff in accordance with the program guidelines
- Affirmatively Furthering Fair Housing

Appeals must be made in writing, and may either be in letter form, through HCDD's website, or on HCDD's Appeal Request Form (available on HCDD's website or at the HCDD office). Written appeals will be accepted either by mail or in-person at the HCDD office. To be considered complete, an appeal must contain the following information:

- Name
- Property address
- Mailing address (if different from Property Address)
- Phone number
- Application number (if applicable)
- Email address
- Reason for Appeal

Appeals must be made within thirty (30) days from the date of the notice of the determination on the Applicant's file that generated the appeal. Upon receipt of an appeal, HCDD will respond in writing to the appellant of the program area's decision regarding the appeal and provide the basis thereof within thirty (30) days.

**Appeals Review Committee**

Should the initial appeal process with the program area not achieve a resolution amenable to the

appellant, the appellant has the right to escalate the appeal, in writing, to the Appeals Review Committee (ARC). The appellant may only escalate the appeal after the completion of the initial program area process.

The ARC will process the escalated appeal within thirty (30) days, as practicable. The ARC will transmit its decision to the appellant in writing.

### **Texas General Land Office**

Should the appellant not be satisfied with the outcome determined by the ARC, they have the option to dispute the decision by sending an appeal in writing to the GLO. The appellant has thirty (30) days to submit an appeal directly to the GLO following receipt of the ARC's decision regarding their appeal.

If no word on a pending appeal is received by HCDD within a reasonable time by the GLO, HCDD will designate the appeal decision made by the Appeals Review Committee as the final decision and consider the matter closed.

### **Contact Information:**

#### **HCDD Mailing Address**

Housing and Community Development Department  
2100 Travis St., 9<sup>th</sup> Floor  
Houston, TX 77002  
Attn: Planning & Grants Management  
HCDD Email Address  
[HCDDComplaintsAppeals@houstontx.gov](mailto:HCDDComplaintsAppeals@houstontx.gov)

#### **HCDD Business Hours**

Monday through Friday  
8:00 AM to 5:00 PM

#### **GLO Mailing Address**

Texas General Land Office  
PO Box 12873  
Austin, TX 78711-2873  
ATTN: GLO-CDR  
GLO Email Address  
[cdr@recovery.texas.gov](mailto:cdr@recovery.texas.gov)  
GLO Telephone  
(844) 893-8937  
(512) 475-5000

## **Record Keeping, Retention and File Management**

In accordance with HUD regulations, the GLO as the grantee and the City as the Subrecipient follow the

records retention requirements stated in 2 C.F.R. Part 200, Subpart D, which includes financial records, supporting documents, statistical records and all other pertinent records. HCDD has established recordkeeping and retention requirements for the Developer and Contractor agreements in accordance with the guidelines stated in 24 C.F.R. § 570.503(b)(2).

Record retention is a requirement of the program. Records are maintained to document compliance with program requirements and federal, state, and local regulations and to facilitate a review or audit by HUD. The HCDD Records Management Program seeks to ensure that:

- HCDD complies with all requirements concerning records and records management practices under federal and state regulations;
- HCDD has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements, and community expectations; and
- These records are managed efficiently and can be easily accessed and used for as long as they are required.

CDBG-DR program records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2.

## **Reporting**

As a recipient of CDBG-DR funds, the City, working with the GLO, will establish reporting requirements in accordance with 24 C.F.R. § 570.503(b)(2). HCDD has established its own reporting requirements in accordance with the provisions as found in 2 C.F.R. Part 200, Subpart D, as applicable:

- At execution of agreements;
- Monthly;
- Quarterly;
- Annually; and
- As required.

## **Access to Records (State of Texas – City)**

24 C.F.R. § 570.490, Recordkeeping requirements and 2 C.F.R. Part 200, Subpart D, Record retention and access:

- 1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.
- 2) The State of Texas (State) shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.”

The availability of records is subject to the exceptions to public disclosure set forth in the Texas Public Information Act, Chapter 552 of the Texas Government Code, (“TPIA”). TPIA requests must be made in writing to the City’s Public Information Officer and will be processed in accordance with the procedures set forth therein.

### **Audit Requirements**

In accordance with 2 C.F.R. Part 200, Subpart F, non-federal entities that expend \$750,000 or more during their fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions therein. HCDD is responsible for conducting reviews of these single or program-specific audit reports and for coordinating the issuance of management decisions for audit findings relating to HCDD-provided federal funds.

### **Fraud, Waste and Abuse**

The City will assess all program systems, processes and Standard Operating Procedures from an anti-fraud, waste, and abuse perspective. The City will provide anti-fraud training to program staff. Anyone with information regarding known or suspected misappropriation of funds or resources is encouraged to report the information to the City by sending a written report via U.S. mail to the following address: City of Houston, Housing and Community Development Department, 2100 Travis Street, 9th floor, Houston TX 77002.

### **Conflicts of Interest**

The program requires compliance with all applicable conflict of interest provisions, including but not limited to 24 C.F.R. § 570.489(h), 24 C.F.R. § 570.611, and 2 C.F.R. Part 200.

The program requires all program staff to disclose any relationship with an Applicant, Developer, Vendor or Contractor. Program staff, sub-grantees, program administrators, Developers, Vendors and Contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude to financially or otherwise benefit themselves, the Applicant, Developer, Vendor or the Contractor. For example, a customer representative may not perform work on the application of Family. For purposes of this regulation, “Family” is defined to include spouse, parents, mother-in-law, father-in-law, grandparents, siblings, brother-in-law, sister-in-law, and children of an official covered under the CDBG conflict of interest regulations at 24 C.F.R. § 570.489(h).

HCDD may consider granting an exception to the conflict of interest provisions per 24 C.F.R. § 570.489(h)(4) if HCDD has determined that the Developer, Vendor or Contractor has adequately and publicly addressed all the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974, as amended and the Developer has complied with the requirements listed in 24 C.F.R. § 570.489(h)(4)(i) and (ii). HCDD considers the factors set forth in 24 C.F.R. § 570.489(h)(5), such as whether the exception provides a significant cost benefit or essential degree of expertise; whether the opportunity was provided for under open competitive bidding or negotiation; whether the person affected is an LMI



person, whether the affected person has withdrawn from his or her functions or responsibilities; whether the interest or benefit was present before the affected person was in a position to benefit from the conflict of interest; or whether undue hardship results from failure to grant the exception.

### **Confidentiality/Privacy**

The Program is committed to protecting the privacy of all individual stakeholders, including the public and those individuals working on the program. The program's policies describe how information is to be handled and protected. The purpose of this privacy policy is to establish when and under what conditions certain information relating to individuals may be disclosed.

The data collected from Applicants for the Program may contain personal information on individuals that is covered by applicable federal and state laws, regulations, and rules. Effective September 1, 2019, the Texas Public Information Act makes confidential the personal identifying information of any person who applies for federal or state disaster funding. These laws provide for confidentiality and restrict the disclosure of confidential and personal information. Unauthorized disclosure of such personal information may result in personal liability with civil and criminal penalties. The information collected may only be used for limited official purposes:

- Program staff may use personal information throughout the award process to ensure compliance with program requirements, reduce errors, and mitigate fraud and abuse.
- Independent auditors, when hired by the City to perform a financial or programmatic audit of the program, may use personal information in determining program compliance with all applicable HUD and federal regulations, including the Stafford Act, CDBG-DR requirements and State and local law.
- HCDD may disclose personal information on an Applicant to those with official Power of Attorney for the Applicant or for whom the Applicant has provided written consent to do so.

Organizations assisting HCDD in executing the CDBG-DR Program must comply with all federal and state law enforcement and auditing requests, including, but it not limited to requests from HUD, FEMA, FBI, Office of the Comptroller, the HUD Office of the Inspector General, and the GLO.

### **Program Closeout**

HCDD assigned program staff will coordinate all required file documentation with Homeowners and Developers necessary for verification of completion of construction to program requirements. File documentation will be reviewed for approval of completion, closeout, and proper record keeping requirements. In accordance with HCDD approved SOP, the HCDD-assigned project staff will ensure compliance with program construction requirements.

## Definitions

**Acquisition:** The process of purchasing or obtaining Real Property at post-disaster fair market value (FMV) of the land and structures that allows City to acquire real property for any public purpose, as set forth in 24 C.F.R. § 570.201(a).

**Adjusted Gross Income (AGI):** AGI is an individual's total gross income minus specific deductions as shown on the federal tax return.

**Affirmatively Furthering Fair Housing (AFFH):** AFFH is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The HUD AFFH assessment tool and final rule can be found here: [https://www.huduser.gov/portal/affht\\_pt.html](https://www.huduser.gov/portal/affht_pt.html).

**Applicant::** Individuals who were directly or indirectly impacted by Hurricane Harvey

**Area Median Income (AMI):** Calculated annual limits based on HUD-estimated median family income with adjustments based on Family size used for demonstrating LMI beneficiaries in the programs. May also be referred to Area Median Income (AMI) in other program documents.

**Case Management:** The process of working with Applicants and their families through clear and transparent communication to understand the program's housing options, determine eligibility, navigate the construction process, execute necessary documentation, and close out the project while decreasing barriers to participate in the program.

**Certificate of Compliance:** The document issued by the City of Houston Permitting Center For New Construction/remodels when all inspections have been performed and approved.

**Complete Communities:** The City of Houston Initiative to improve neighborhoods so that all of Houston's residents and business owners can have access to quality services and amenities.

**Compliance Period:** The time period during which a program property must comply with CDBG-DR program rules and regulations, including primary residency, income, and sale or rent restrictions as applicable

**Contractor:** A Contractor has a contract with the City for the purpose of obtaining goods and services for the City's own use. The Contractor's procurement relationship with City must be compliant with 2 CFR 200.330(b) and other City of Houston procurement rules and regulations.

**Damage Assessment:** An inspection by a certified or licensed inspector (HQS, TREC, or similar license) to specifically and clearly document storm-related property damage and the cost to repair according to local code via photographic evidence and detailed narratives.

**Developer:** A Developer is a private entity with an ownership interest in the HSFD project (e.g. a for-

profit or nonprofit). The City entrusts a Developer with funds to complete the project. Developers must have site control (ownership or lease in some cases) and must plan, obtain permits, and manage the project from start to finish, assuming part of the risk of the project.

**Developer Assistance:** Homebuyer Assistance that is provided by the Developer directly to the Homebuyer to reduce the sales price of the home to maintain affordability

**Development Fee:** This is the fee a developer charges to the project for their time and risk. The Development Fee is calculated as the percentage of the total development cost (including pre-development work). If funded by CDBG, HUD requires that the fee be reasonable and customary in the market for this type of development project. Development fees should be calculated based on the estimated time, effort and risk required of the developer. In general, higher development fees are allowed if the developer is not being reimbursed by any funding source for construction financing costs and holding costs and/or has equity at risk in the project. The maximum fee that the Developer may charge is fifteen percent (15%).

**Homebuyer Assistance:** Harvey Single-Family Development pass-through subsidy directly to the homebuyer to maintain the affordability of housing, provided in the form of Developer Assistance and HSFDF Mortgage Assistance.

**Duplication of Benefits:** The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other source.

**Elevation Standards:** Standards that apply to New Construction, repair of Substantial Damage, or Substantial Improvement of structures located in an area delineated as a Flood Hazard Area or equivalent in FEMA's data source identified in 24 C.F.R. § 55.2(b)(1).

**Environmental Clearance Review:** An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. All qualified projects must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable state and federal laws.

**Fair Housing Accessibility Guidelines:** A document presents guidelines adopted by the Department of Housing and Urban Development to provide builders and developers with technical guidance on how to comply with the specific accessibility requirements of the Fair Housing Amendments Act of 1988

**Fair Market Rent (FMR):** The 40<sup>th</sup> percentile of gross rent for typical, non-standard rental units occupied by recent movers in a local housing market

**Family:** The term "family" means all persons living together in the same Housing Unit, as further defined under 24 C.F.R. § 570.3.

**Flood Hazard Area:** Areas designated by FEMA as having risk of flooding.

**Floodplain:** FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

- "100-year floodplain" - the geographical area defined by FEMA as having a one percent chance of being inundated by a flooding event in any given year.
- "500-year floodplain" - the geographic area defined by FEMA as having a 0.2 percent change of being inundated by a flooding event in any given year.

**Flood Insurance:** The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). To be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

**Floodway:** FEMA designated channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**For-Profit Entity:** A private entity that aims to earn a profit through its operations

**Full Appraisal Report:** A written report that estimates the current fair market value of the target site

**Gap Financing:** Bridge or interim financing needed to complete the HSFDP project

**General Land Office (GLO):** The Texas General Land Office, the lead agency for managing the State's Community Development Block Grant – Disaster Recovery grants.

**Grant Agreement:** A funding agreement detailing eligible program costs and project-specific award agreements between HUD and GLO, including regulatory provisions, certifications, and requirements.

**Green Building Standards:** All rehabilitation (meets the definition of Substantial Improvement), reconstruction, or New Construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR® (Certified Homes or Multifamily High-Rise), (2) EPA Indoor Air Plus (Energy Star a prerequisite), (3) LEED® (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), or (4) ICC-700 National Green Building Standard.

**High Opportunity Areas:** An area that offers its residents a high level of economic and social opportunity and mobility. High Opportunity Areas generally have five (5) characteristics: high income and low poverty, strong economic growth, high-achieving schools, well-developed public transit and access to quality health care.

**Homebuyer:** Person(s) eligible to purchase a home developed under the HSFD Program.

**Home/Housing Unit:** (used interchangeably) a house, apartment, group of rooms, or single room occupied or intended for occupancy as separate living quarters.

**Household:** All persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the LMI National Objective is based on the LMI of the household.

**Housing and Community Development Act of 1974 (HCD Act):** as amended by the Supplemental Appropriations Act of 1984: Established the program of Community Development Block Grants to finance the Acquisition and rehabilitation of real property and which defined the recipients and uses of such grants, with the primary goal of benefitting LMI persons.

**Housing and Urban Development Act of 1968, Section 3:** Requires program administrators ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their Developers/Contractors/subcontractors with the Section 3 requirements, as outlined in 24 C.F.R. § 135.32.

**Housing Quality Standards (HQS):** Establish certain minimum standards for buildings constructed under HUD housing programs. This includes new single-family homes and multifamily housing as outlined in 24 C.F.R. § 982.401.

**Houston Community Land Trust (HCLT):** An existing 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. Home purchases through the land trust are subject to a 99 year ground lease agreement.

**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.

**HSFD Mortgage Assistance:** Homebuyer Assistance that is provided by the City to the Developer then passed through to the Homebuyer in order to reduce the price the sales price of the home to maintain affordability

**HUD HTF Housing Trust Fund Homeownership Value Limits (HUD HTC Price):** According to Section 215(b)(1), Interim Rule 24 CFR 93.305(a) of the National Affordable Housing Act (NAHA), HUD requires that the initial purchase price of homeownership assisted units not to exceed 95% of the area median purchase price for the area for newly constructed single-family housing.

**Land:** Real estate or property, minus buildings and equipment. Land ownership includes the surface, soil and any natural resources that exist within the boundaries of the property

**Local Housing Needs Assessment:** City of Houston Hurricane Harvey impact study that reviewed the damage to housing in Houston caused by Hurricane Harvey. The study assessed the needs of impacted residents through analyses of residential, socio-economic, and locational factors, and describes the intended uses of the CDBG-DR funds. This needs assessment will help direct funds to recovery programs and serve as the basis for planning and outreach for housing activities using CDBG-DR funds

**Low/Mod Income (LMI):** Activities which benefit persons of income that does not exceed 80 percent of the Area Median Income:

- Very low: Household's annual income is up to 30 percent of AMI, as determined by HUD, adjusted for family size;
- Low: Household's annual income is between 31 percent and 50 percent of AMI, as determined by HUD, adjusted for family size; and
- Moderate: Household's annual income is between 51 percent and 80 percent of AMI, as determined by HUD, adjusted for family size.

**Market Rate Home:** Any home within the development project that is intended to be available for sale at the prevailing market value for the area to comparable real estate transactions. CDBG funds will not be used to pay for the construction of the market rate homes.

**Mitigation:** Improvements made to reduce the possibility of property damage, personal and commercial hardship, as well as long lasting monetary burdens. For example, creating a flood mitigation program such as an Acquisition of at-risk flood-prone property/housing, and elevation of housing in high-risk floodplains are two visible and effective mitigation projects that can be taken to make residents and communities safer in the face of natural disasters.

**Minimum Property Standards (MPS):** Means the Minimum Property Standards (MPS) established in HUD Handbook 4910.1, as amended or superseded. MPS, as read in the context of these guidelines, encompasses Housing Quality Standards established by HUD to provide "decent, safe and sanitary" housing.

**Modular Housing:** A home built in sections in a factory to meet state, local, or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site.

**National Objectives:** to qualify for CDBG-DR funding, activities must meet one of the three national objectives set forth in section 104(b)(3) of 24 CFR Part 570 of the HCD Act: benefit LMI persons, or aid in the prevention or elimination of Slum and Blight.

**Needs Assessment:** A needs assessment is a critical component in the allocation of funding across and within National Objectives for CDBG-DR funds. A given needs assessment will recommend the proportions of funding that should be set aside to benefit each LMI and non-LMI economic group. The needs assessment will determine the activities to be offered, and the demographics to receive concentrated attention.

**New Construction:** A replacement home that substantially exceeds the original footprint on the existing lot (if permitted) or the construction of a new home in a new location.

**Nonprofit Organization:** A private entity organized for purposes other than generating profit and in which no part of the organization's income is distributed to its members, directors or officers. Governed by IRS code 501(c)(3)

**Overall Benefit:** The City must certify that, in the aggregate, not less than 70 percent of the CDBG-DR funds received by the City will be used for activities that benefit LMI Households.

**Opportunity Index:** The Opportunity Index is an annual report that provides valuation points for scoring developments as a high opportunity area. Each development is eligible for a maximum of seven (7) index points.

**Program Income:** Program income is the gross income received by the grantee and its subrecipients directly generated from the use of CDBG-DR funds. Program Income is generated from the sale of market-rate Real Property built with CDBG-DR funds

**Real Property:** The land and improvements to the land. Everything permanently attached to the land and all of the interests, benefits, and rights inherent in the ownership of real estate.

**Recapture:** The recapture option is a mechanism to recapture all or a portion of the direct assistance if the Applicant decides to sell the program property within the Compliance Period at whatever price the market will bear.

**Right of First of Refusal (ROFR):** A preemptive right to purchase specific real property at some future time upon certain defined terms and conditions.

**Seller's Occupancy Certification Form:** A form provided by the seller of the property that confirms that the property is vacant and unoccupied at the time of purchase

**Single Family Home:** A single-unit family residence detached or attached to other housing structures.

**Site-Specific Costs:** Development costs addressing land development and infrastructure, environmental (elevation, environmental, lead, asbestos, mold, resiliency, accessibility and local neighborhood requirements) and land acquisition.

**Subrecipient:** Cities, counties, Indian tribes, local governmental agencies (including COGs), private non-profits (including faith-based organizations), or a for-profit entity authorized under 24 C.F.R. § 570.201(o).

**Subrogation Agreement:** An agreement executed by the Applicant or beneficiary agreeing to repay any duplicative assistance if the beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the

structure before the damage occurred (44 C.F.R. § 59.1).

**Texas Integrated Grant Reporting (TIGR):** TIGR is the GLO system of record for all CDBG-DR grant management and reporting.

**URA Assurance Form:** A form signed by The City certifying that the HSFD program is in compliance with 49 CFR Part, 24 Uniform Relocation Assistance and Real Property Acquisition Policy of 1970.

**Visitability:** A very basic level of accessibility that enables people with physical limitations to easily visit homes. Three architectural conditions usually distinguish a visitable home: (1) one entrance with no steps, (2) doorways clear opening 32 inches, and (3) at least one half-bath on the main floor.

**Vendor:** Vendors procured by the City or Contractors to provide supplies, equipment, or services necessary to implement the Program and to serve Homebuyer assistance needs.



## Exhibit A: Homebuyer Mortgage Projection Model

### Homebuyer Mortgage Projection with Homebuyer Assistance

Developer Sales Price	\$250,000
HUD HTF Maximum Sales Price	\$238,000
Total Cash Needed	<b>\$12,000</b>
Allowable Loan-to-Value Ratio	96.50%
Max Mortgage based on value	<b>\$229,670</b>
Annual Income	\$45,000
Monthly Income	\$3,750
Existing Debt (Monthly)	\$500
Max. Front End (Housing) Ratio	30%
Max. Back End (Total Debt) Ratio	40%
Max. Housing Payment (without other debt)	\$1,125
Max. Total Debt Payment (inc. housing)	\$1,500
Actual Housing Pmt Ability	\$1,000
Property Taxes (Annual)	\$4,800
Insurance (Annual)	\$1,000
Association Fees (Annual)	
Mortgage Insurance Rate (% of loan amount)	0.850%
Mortgage Insurance (Annual)	\$0
Subtotal of Monthly TI escrows	\$483.33
Available for Principle & Interest	\$516.67
Interest Rate	4.000%
Loan Term (Years)	30
Projected Homebuyer Mortgage Approval	\$108,222
HSDM Mortgage Assistance Needed	<b>\$121,448</b>
Actual Mortgage	<b>\$108,222</b>
Total Homebuyer Assistance (Subsidy) Provided	<b>\$133,448</b>