

June 6, 2018

The Honorable Judge Ed Emmett
Office of Harris County Judge
1001 Preston, Suite 911
Houston, Texas 77002
Delivered by e-mail to: judge.emmett@cjo.hctx.net

Re: Harris County Hurricane Harvey CDBG-DR Action Plan

Dear Judge Emmett,

We, the HOME (Houston Organizing Movement for Equity) Coalition, are pleased to have the opportunity to provide input into Harris County's Action Plan for the first allocation of CDBG-DR Hurricane Harvey funding. Like you, we are committed to an equitable recovery that accounts for the long history of racist policies and practices that have left, in particular, low-income Black and Brown neighborhoods underserved. The attached comments reflect the HOME Coalition's commitment to equity and are consistent with issues and concerns brought up in conversations and community meetings with city officials over the eight months since Hurricane Harvey.

Our coalition members bring a wealth of experience working on fair housing for renters and homeowners, sustainable jobs, environmental justice, and disaster recovery. Many of us worked with city, state and federal agencies in the wake of Hurricane Ike and other past disasters. But more importantly, we are community-based organizations that have been out knocking on doors, repairing homes, and organizing town hall meetings with families affected by Harvey.

Thank you for considering our recommendations and we look forward to discussing these issues with you and your administration.

Sincerely,

Workers Defense Project

Texas Organizing Project

Texas Gulf Coast Area Labor Federation

Texas Appleseed

Texas Environmental Justice Advocacy Services

Service Employees International Union

Plumbers Local Union 68

Texas Building and Construction Trades Council

Houston Gulf Coast Building and Construction Trades Council

Laborers International Union of North America, LIUNA Local 350 and the Southwest Laborers District Council

International Brotherhood of Electrical Workers, Local 716

International Union of Painters and Allied Trades, District Council 88

West Street Recovery

FIEL Houston

Faith in Texas

Air Alliance

Sierra Club Houston

Coalition of Community Organizations

S.A.F.E. Diversity Communities

Living Hope Wheelchair Association

Action CDC

CC:

Commissioner Rodney Ellis, Harris County Precinct 1

Commissioner Jack Morman, Harris County Precinct 2

Commissioner Steve Radack, Harris County Precinct 3

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Introduction: What residents expect and deserve in the County's Action Plan

We believe the county's action plan has the potential to strategically advance equity. It is not enough to rebuild and replace what Hurricane Harvey destroyed. We are honor-bound to use this opportunity to create the Houston region that we deserve - a resilient one where all families can thrive.

Harris County should commit to uphold five basic rights for Texas disaster survivors in the recovery process as standards for equity. These five rights should be set forth in the Action Plan and guide all its elements.

1. *The Right to Choose.*

- Disaster survivors must have the right to choose where they will live.
- Homeowners and renters must have the right to relocate to where they feel it is best for their families to live—where it is safe, accessible and affordable and where there are opportunities for their children and themselves. Where there is not affordable housing available, the hurricane money should be used to create that option.
- Survivors, whether renters or buyers, must be informed of all housing opportunities and options available to them and be provided full and updated information on previous flooding of properties and the likelihood of future flood.
- Survivors with disabilities must have accessible housing opportunities and not be directed or forced into more restrictive housing or institutions.
- The recovery process must provide for the housing needs of survivors who were homeless at the time disaster struck and those made homeless by the disaster.

2. *The Right to Stay.*

- Disaster survivors must have the right to stay or return home to neighborhoods that have adequate storm protection and other essential public infrastructure that provides protection from future disasters.
- Tenants of subsidized housing must have a right to stay in subsidized housing that is safe and accessible in an inclusive neighborhood that meets the needs of their families.
- Tenants of damaged subsidized housing should be presented the option of a Housing Choice Voucher with assistance in finding an apartment in a neighborhood or community that, in their judgment, meets the needs of their families.

3. *The Right to Equitable Treatment.*

- Survivors must be assisted equitably and fairly by government in the recovery process.
- Through this recovery, every neighborhood—regardless of the race, ethnicity, economic status, past criminal record or disability of its residents—must be provided quality, equitable levels of flood protection and equitable access to essential public infrastructure.

- Equitable treatment means developing a fair standard to provide assistance based on need. The City must prioritize historically disinvested neighborhoods where lack of infrastructure equity has exacerbated damage and harmed the ability of residents to recover.
- Ensure that communities that have been impacted by long-term industrial pollution are given equitable treatment, including in some cases, buy-outs and equitable relocation, as outlined in this document.

4. *The Right to Have a Say.*

- Everyone in our democracy, regardless of wealth, ethnicity, tenure or the primary language they speak, has the right to participate in decisions that affect their lives.
- Being able to have a say in how one's home and neighborhood are rebuilt is essential for disaster survivors who have everything at stake.
- Survivors must play an integral role in designing and implementing disaster recovery plans and programs. Their needs, interests, and perspectives, must be central to all local, state and federal response efforts.
- Survivors must be permitted to help design the recovery, understand what is in store for them in the process, know where they are at all points in the process, and be empowered to speak out and be listened to, in the language that they can understand and communicate in.

5. *The Right to Opportunity.*

- Disaster survivors must be given access to and priority in employment opportunities stemming from the recovery and rebuilding process, especially in projects in their own neighborhoods.
- The City of Houston must ensure family-sustaining wages, safe working conditions, and job training for all Houstonians employed under disaster recovery funding programs and projects.
- The City of Houston must ensure that workers are protected against barriers to opportunity growth such as wage theft and worker misclassification.
- Residents have the right to live in safe quality built and repaired homes and rental units built by trained workers following all applicable safety standards.
- Workers have the right to be covered by worker's compensation insurance and to work on safe job sites following all OSHA safety guidelines, especially for the safe removal of hazardous materials that could harm both workers and residents.

RECOMMENDATIONS

GENERAL

Build intentional and ongoing community involvement into the Action Plan. Harris County should create a community advisory committee to help maintain transparency, accountability, and real-time feedback as the city's programs are implemented. Work with HOME and community-based organizations to continue input sessions and have specific plans for accountability so that the community will know what is happening with the recovery.

Open channels of communication for disaster survivors seeking assistance from the city. A temporary independent hotline-based organization should be funded separate from FEMA, the GLO, or 211 where survivors can report issues with contractors or with county programs more broadly. This organization should have at least two full-time employees and language capacity that reflects our region's common languages (either through an on-demand translation service or high-proficiency staff).

Prioritize low-income families. All funds should be designated for low income households at 80% AMI and below. The brackets of LMI should follow the traditional 0-30%, 31-60%, 61-80% divisions and serve those categories proportionally based on families who were harmed in the storm.

FEMA Data Alone is insufficient to assess need and survivor characteristics. While FEMA data is one appropriate source for establishing the characteristics and needs of disaster survivors it cannot form the sole basis for critical program decisions such as Low and Moderate Income (LMI) household need or impact of the hurricane in neighborhoods that are segregated by race or national origin. Reliance on only FEMA data to determine LMI need is a flawed methodology because of limitations in the FEMA assessment process that significantly underestimate LMI need.

Utilize sound methodology to determine loss and unmet needs. FEMA data should not be the only determinant of loss for LMI populations as it already severely undercounts them. The HOME Coalition is concerned that the current methodology adopted by the state to define unmet need is flawed and leaves out especially low income households and renters who are struggling to recover. Specifically, the GLO plan says, regardless of income, that a homeowner only be considered to have an "unmet" need if FEMA valued their loss at \$8,000 or more, or if a renter, a valued loss of \$2,000.

We suggest that the city should adopt an alternative methodology that has been developed by Texas Housers, which sets unmet need thresholds that are based on the average FEMA loss estimates for different income groups. In addition, this methodology shows the serious undercount of renters harmed in the storm. Renters need much more housing investment than shown by the FEMA numbers.

Any home repair PREPS work that has not produced quality repairs must not be counted as a duplication of benefits when families are considered for CDBG-DR monies.

Include impacted undocumented Houston families. Harris County’s Action Plan should consider its impact on undocumented disaster survivors who have been excluded from FEMA assistance and many other private and public assistance programs. Undocumented families should have the same access as other Houston residents to all programs. Neither applications nor staff should ask for personal identification that is not absolutely necessary.

Ensure accessibility to city programs. The Action Plan should include specific steps the city will take to assist Houstonians with applications including navigators for housing and jobs, assistance and resources in multiple languages, accommodations for persons with disabilities, and proactive outreach strategies in vulnerable communities.

Invest in future-looking planning and community response. Develop and publish updated evacuation plans and routes. Set up well-maintained stockpiles of disaster recovery supplies (cots, non-perishables, etc) in community centers and other institutions in neighborhoods throughout the city, and especially in neighborhoods most prone to flooding.

HOUSING

Calculate residential buyout assistance based on comparable relocation costs. Flawed buyout calculations based on pre-storm value should (like FEMA’s) not be replicated as they have been shown to produce gross racial disparities.¹ A post-Katrina lawsuit brought forward by the Greater New Orleans Fair Housing Action Center demonstrated that households with similar homes and similar needs received wildly varying amounts of compensation based on neighborhood. Neighborhoods where Black families lived had lower property values than predominantly White neighborhoods because of a history of discrimination and disinvestment, as is true in Houston.

No family should have to take on additional debt to relocate to a comparable home in a neighborhood. If you own a three bedroom home free and clear, the relocation funds you receive should be enough to house you in a three bedroom home free and clear in a location with no threat to flooding. Establish a minimum buyout per household of no less than \$200,000 (including any accompanying “housing incentive”). Failing to fully fund relocation costs will also exclude the lowest income families from buyout programs, abandoning them in high-risk neighborhoods.

Coordinate with surrounding jurisdictions so that families are not getting different options based on whether they ended up in a CDBG-DR vs. bond-funded/FEMA buyout program.

¹ Miller, Alexandra and Andreanecia Morris. “equitable Funds for equitable Need: Learning from New Orleans and the Loss of Affordable Housing after Katrina” Cite: The Architecture and Design Review of Houston. Winter 2017/ 2018 Issue.
<http://offcite.org/equitable-funds-for-equal-need-learning-from-new-orleans-and-the-loss-of-affordable-housing-after-katrina/>

Prioritize safe and affordable rental housing. We recommend that Harris County make explicit in its draft Action Plan clear rental affordability targets for each sub-recipient for the Affordable Rental Program. These targets should respond proportionally to the unmet needs identified utilizing an accurate needs assessment methodology.

We recommend that the county create an outreach plan for making affordable rental housing funded with CDBG-DR primarily available to LMI disaster victims who were renters before the disaster.

Mandate as part of the plan that all landlords must disclose flooding history and risk to potential tenants.

Provide other forms of assistance to homeowners based on need. We recommend Harris County re-allocate Economic Development and/or Local Infrastructure Program funding to create a program that assists disaster survivors in overcoming title, property tax, and other issues that are a barrier to accessing the benefits of disaster recovery programs, particularly for homeowners who want to move out of high-risk areas. Failing to do this will have a disproportionate impact on LMI families and families of color, who are more likely own heirs' property.

Set aside funding to assist homeowners in elevating homes if that helps families stay in their neighborhoods. The Houston area's remarkable growth has caused rapid gentrification and the need for expanded highway infrastructure. This has led to both exponential price hikes in historically minority communities and crude re-configuring of similar neighborhoods to accommodate lane expansions.

Make single-family homes and multi-family units greener and affordable. In balance with affordability considerations, any major repairs, rebuilds or new construction of either single-family homes or multi-family units should be designed, built and enforced to modern plumbing, building code, and building energy codes. Where appropriate above-code green codes and standards should also be considered to assure lower energy and water bills, and make homes and apartments more sustainable, improving quality of life.

Improve Infrastructure to protect neighborhoods in harm's way. Not all Harris County neighborhoods are equitably protected from flooding. This is partially the result of watershed and floodplains, but it is also because of the persistent and calculated lack of investment in storm infrastructure in communities of color. Open drainage ditches are one example of under-investment in the storm infrastructure of black, brown, and AAPI communities. Eighty-eight percent of all open drainage ditches in Houston are located in majority-minority neighborhoods and 43% of those ditches have been deemed inadequate for even modest flooding events, let alone an inundation like Harvey.

Focus especially on drainage, with funding for regularly clearing ditches and drains. The City and the County must prioritize flood control measures in historically underserved black, brown, and AAPI neighborhoods. Funding for infrastructure projects must be allocated based on the number of housing

units flooded, and not on the value of those units, which compounds the problems in low income neighborhoods.

JOB CREATION

Create a Disaster Recovery Workforce Development Program. Hurricane Harvey's destruction compounded devastation for low and moderate income families and disinvested neighborhoods were already experiencing making it more difficult to move forward after the storm. The Department of Labor stated that the Houston area lost nearly 25,000 jobs in the wake of Harvey.² As the city rebuilds, local residents impacted by the storm should be given priority for jobs created due to the rebuilding process. A workforce development program should prioritize and target residents that are:

- At or below 80% area median income.
- In need of a second chance.
- Veterans
- Women and minorities
- Persons with disabilities

The program should actively advertise in areas easily accessible to these groups, in community centers, and in local faith spaces, as well as in Workforce Solutions centers. Additionally, the program should provide services to these individuals to prepare for the job such as resume support and interview preparation.

Create a Community Workforce Hiring Program. With any disaster rebuilding effort comes substantial need for new construction and renovations. Such efforts should be done with properly trained workers. Prior to Harvey, "82% of Houston's construction workers lacked any kind of formal craft training and many workers lacked even the most basic of safety equipment: one in four workers reported their employers did not provide hard hats or gloves."³ These numbers have become even more staggering post-Harvey. Approximately 85% of day laborers working on Harvey projects or in hurricane affected areas did not receive any training prior to starting work, and 85% had not been informed of risks relating to mold or contaminated waters.⁴

The county should work with the city create a community workforce training program that would partner with local pre-apprenticeship programs that will offer direct entry into so a DOL-registered apprenticeship or DOL-certified third party accredited bi-lingual craft training program. The community workforce training agreement should also require disaster related apprentices be placed on Better Builder certified projects to ensure fair wages, workers compensation coverage, and independent compliance monitoring.

²<https://www.houstonchronicle.com/business/article/Texas-loses-7-300-jobs-in-Harvey-aftermath-12294962.php>

³

<http://www.workersdefense.org/wp-content/uploads/2017/05/Build-a-Better-South-Full-Report-Digital.pdf>

⁴ https://greatcities.uic.edu/wp-content/uploads/2017/11/After-the-Storm_Theodore_2017.pdf

Develop Disaster Recovery Contractor Policy. Currently, in order to gain a Public Works contract for most public projects in our community, a contractor must submit the lowest responsible bid.⁵ Since awarding authorities must award projects to the lowest bidder, those who gain public works contracts initiate a race to the bottom, and often do so by making cuts to valuable aspects that lead to the construction of a good safe jobs and quality constructed structures. Policy makers should create a disaster recovery procurement process that requires construction contractors to:

- Be subject to a process for disqualification from the bid if they have committed multiple wage theft or OSHA violations in the previous five years;
- Where legally permissible, meet the higher of either the prevailing wage or a living wage floor of \$15 per hour;
- Ensure all apprentices or trainees participate in a bona fide USDOL approved and registered apprenticeship or DOL-certified third party accredited bilingual craft training program;
- Provide evidence of compliance with equitable Opportunity Employer requirements;
- Provide evidence of all specified insurance coverages;
- Provide evidence of hiring veteran and second chance applicants, as well as those from high unemployment or low income areas.

Increase Theft of Service Enforcement. Even before Hurricane Harvey, wage theft was an issue in our regional construction industry. One report states that 38% of Houston-area construction workers were misclassified as independent contractors⁶, making them prime targets of wage theft. After Harvey, wage theft was exacerbated significantly. “In just the first four weeks of the disaster recovery, more than one-quarter (26%) of day laborers had been victims of wage theft and the total amount of unpaid wages across the workforce in that short period of time exceeded \$20,000.”⁷

Texas Penal Code Section §31.04, criminalizes Theft of Service; the intent to avoid payment for services rendered. In 2011, the Texas Legislature passed SB 1024, the Wage Theft Law, to clarify that the failure of an employer to pay an employee for work performed may be investigated and prosecuted as Theft of Service under the Texas Penal Code. The Harris County District Attorney should:

- Convene a meeting with the Houston Police Department and the Harris County Sheriff’s Office to establish a streamlined and accessible system for workers to make Theft of Service reports county-wide;
- The Houston Police Department and Harris County Sheriff’s Office should designate a point of contact in their offices for community organizations who assist workers in making such complaints, and establish a regular meeting between its office and our organizations to follow up on enforcement efforts;
- Provide training to Assistant District Attorneys about wage theft, the 2011 amendments to the Theft of Service Statute, and the proper protocols to follow when investigating and prosecuting such cases;

⁵ <http://purchasing.houstontx.gov/guide.html>

⁶ <http://www.workersdefense.org/wp-content/uploads/2017/05/Build-a-Better-South-Full-Report-Digital.pdf>

⁷ https://greatcities.uic.edu/wp-content/uploads/2017/11/After-the-Storm_Theodore_2017.pdf

- Collaborate with community and labor organizations in theft of service enforcement efforts, and support community education efforts to advise Harris County workers and employers that local law enforcement will take theft of service reports seriously.

ENVIRONMENTAL JUSTICE

Many of the organizations in the HOME coalition are also part of CEER - the Coalition for Environment, Equity and Resilience - reflecting a deep, area-wide focus on environmental justice issues and how integral environmental justice is to housing, infrastructure, and economic justice. HOME is, with permission, relaying and endorsing these basic environmental principles from CEER, that should be included in Harris County's Action Plan:

Focus on Our Air: Minimize the negative health consequences from air pollution events by promoting compliance with clean air laws and limiting hazardous facilities from being built in neighborhoods and near schools. Strengthen emergency preparedness plans for hazardous facilities. Require facilities to make investments limiting harmful exposure events, informing residents about safety hazards, and examine an industry funding mechanism for pollution control.

Focus on Our Land: Ensure the protection of sustainable landscapes. Prioritize collaborative stream restoration efforts that improve air and water quality. Fund additional land acquisition to strengthen conservation such as those outlined in the Texas Coastal Resiliency Master Plan, including on the Katy Prairie, along our bayous, along Lake Houston shores, and our barrier islands. Incorporate low-impact and sustainable development (i.e. ecology-based solutions) while reworking development codes, where the city has the power to do this.

Focus on Our Water: Prevent contaminants from entering our waterways. Require all wastewater treatment facilities and toxic waste sites to account for flood waters and storm surge, and maintain any spills or releases within their own facilities. Require that local industrial facilities and chemical storage tanks "armor" themselves to prevent chemicals from contaminating our watersheds. Address drinking water concerns both for source water and flooded pipes by prioritizing an outside, independent audit on drinking water safety.

Focus on Resource Recovery and Recycling: Improve and expand the regional emergency debris removal plan. Increase recycling opportunities to maximize diversion of all recoverable and harmful materials from landfills to minimize impact of temporary debris removal sites on communities. Begin a public education program regarding the importance of curbside separation of waste after a disaster and consider alternatives to waste recovery.

Embrace Resiliency: Commit to a region-wide climate action plan. Ensure that future public investments reflect the environmental, social, and economic risks associated with a coastal landscape, an industrial ship channel and a growing population in a city rich with bayous and streams.

