ECONOMIC DEVELOPMENT GRANT AGREEMENT
BY AND BETWEEN THE
DOWNTOWN REDEVELOPMENT AUTHORITY
AND
(owner/developer)

THE STATE OF TEXAS §

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF HARRIS §

THIS AGREEMENT (the "Agreement") is made by and between **REINVESTMENT ZONE NUMBER THREE, CITY OF HOUSTON, TEXAS** (the "Zone"), a tax increment reinvestment zone created by the City of Houston, Texas (the "City") pursuant to Chapter 311 of the Texas Tax Code, as amended, acting by and through its governing body, the Board of Directors (the "Zone Board") and **DOWNTOWN REDEVELOPMENT AUTHORITY**, a public non-profit local government corporation created pursuant to Chapter 431, Texas Transportation Code (the "Authority"), acting by and through its governing body, the Board of Directors (the "Authority Board") and _____(owner/developer)_____,(the "Owner") a private corporation (or LLC, LLP, etc.), chartered in the state of _____. The Zone, Authority, and the Owner are sometimes referred to in this Agreement collectively as "Parties" and individually as "Party."

WITNESSETH:

WHEREAS, the Zone and the Authority are authorized to enter into an agreement by Chapter 311 of the Texas Tax Code for the administration of a program to promote state or local economic development and to stimulate business and commercial activity in the Zone;

WHEREAS, in its administration of the Program as provided for herein the Authority desires to advance the public purposes of developing and diversifying the economy of the Zone, eliminating unemployment or underemployment in the state and developing or expanding transportation or commerce in the Zone;

WHEREAS, the Authority has received a properly executed application from the Owner **(Exhibit 1)** to participate in the Program, and upon review of the application the Authority has determined that the _____(name of project)_____, located on (plat description) **(plat attached as Exhibit 2)** meets the Design Guidelines **(Exhibit 3)** and therefore is a Qualifying Project advancing the public purposes of developing and diversifying the economy of the Zone, eliminating unemployment or underemployment in the Zone and developing or expanding transportation or commerce in the Zone.

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants, agreements and benefits to the Parties herein named, it is agreed as follows:

I.
DEFINITIONS

"Agreement" shall mean this Agreement and all attachments hereto between the Authority, the Zone and the Owner.

"Appraisal District" shall mean the Harris County Appraisal District.

“Assessment Increment” shall mean the amount of Houston Downtown Management District (“District”) assessment collected each year based on the Captured Appraised Value of a Qualifying Project and paid to the Authority.

“Authority Board" is defined in the recitals hereto.

“Authority Authorization” shall mean the date upon which the Authority Board approves and authorizes this Agreement, as evidenced by the delivery of the completed form shown in **Exhibit 4**.

“Base Year Value” shall mean the total appraised value of the Qualified Project taxable by the City and located in the Target Area, as of January 1, 2012.

“Captured Appraised Value” shall mean, with respect to the Project Increment, the total appraised value of a Qualifying Project in the Target Area as of January 1 each year during the term of an Economic Development Agreement between the Authority and the Owner of a Qualifying Project, less the Base Year Value; and, with respect to the District Assessment Increment, the total value assessed by the District of a Qualifying Project in the Target Area as of January 1 in each year,

beginning with the year in which the District adds to or supplements its appraisal roll with additional value, during the term of an Economic Development Agreement between the Authority and the Owner of a Qualifying Project, less the Base Year Value.

“Chief Development Officer” or “CDO” shall mean the person in the Mayor’s Office designated as Chief Developer Officer of the City, or such other person that the Mayor may designate to undertake the responsibilities of the City under this Agreement.

"City" shall mean the City of Houston, Texas.

"City Council" shall mean the governing body of the City of Houston.

“Design Guidelines” mean the guidelines approved by the Authority, with which a project must comply to be a Qualifying Project.

"Owner" is defined in recitals hereto.

“Program” shall mean the TIRZ #3 Downtown Living Program approved by the Authority and administered by the Authority.

“Program Tax Increments” shall mean seventy-five percent (75%) of the Tax Increment on a Qualifying Project, minus any amount needed to pay principal and interest on any existing or hereafter issued Authority bonds or notes and amount due under any existing Authority Obligations.

“Program Assessment Increments” shall mean seventy-five percent (75%) of the Assessment Increment on a Qualifying Project

“Project Completion Date” shall mean the date a Qualifying Project receives a Certificate of Occupancy from the City for the Project.

“Qualifying Project” or “Project” shall mean a project that meets the criteria of Section 3 of the Guidelines, as determined by the Authority.

“Target Area” or “Area” shall mean an area generally within the bounds of the Zone, as more particularly shown on the map attached hereto and incorporated herein as **Exhibit 5**.

"Tax Increment" shall mean the amount of property taxes collected each year by the City on the Captured Appraised Value of a Qualifying Project and paid to the Authority.

II.

AMOUNT OF GRANT AND CONDITIONS

The amount of the Grant is equal to the combined Program Tax Increments and Program Assessment Increments for the Qualifying Project of the Owner, computed annually for a period of up to15 years, and up to a maximum reimbursement to the Owner of $15,000 per unit.
Availability of the Program Assessment Increments beyond tax year 2014 is conditioned on the District's adoption of future Service & Improvement Plans and Assessment Plans.

This Grant and all reimbursements funded pursuant to this Agreement are subject to Owner substantially satisfying all of the terms, conditions, and requirements set forth in Section II. A. and B. in the sole good faith judgment of the Authority. If any term, condition, or requirement is not substantially met, in the sole good faith judgment of Authority, Owner will forfeit that portion of the grant amount that corresponds to the amount of damage that reasonably relates to the particular failure to satisfy the particular term, condition or requirement in Section II. A and B.

A. Authority shall reimburse Owner provided the following terms, conditions and requirements are met:

1. Project operates as a multifamily residential mixed use development of Class A standard condition.

2. The Guidelines are continually to be substantially met for the term of the Agreement.

B. Additional terms, conditions and requirements of the grant include:

1. Authority reserves the right to terminate this Agreement and cancel the grant if:

a. The Owner has not submitted construction plans for the Qualifying Project for permitting to the Public Works & Engineering Department of the City within 365 days of date of District authorization **(Exhibit 6)**; or

b. The Qualifying Project has not received a Certificate of Occupancy from the City within 1,095 days of Authority Authorization.

2. As a condition of the grant Owner will submit a copy of the final plans and specifications for the Qualifying Project prior to commencement of construction. **(Exhibit 6)**

III.

REIMBURSEMENT AND PROJECT REPORTING

Owner will provide notice to Authority of the specific date when construction on the Project has commenced **(Exhibit 7).** Owner will also provide notice to Authority of the Project Completion Date **(Exhibit 8).** Following end of the first tax year following the Project Completion Date and then annually, Owner is responsible for submitting notice to the Authority of City property taxes and District assessment paid for that tax year **(Exhibit 9).** The notice must include a certification that the Project continues to meet the terms and condition as set forth in Section II. Notice should be submitted to:

Director
Downtown Redevelopment Authority
909 Fannin, Suite 1650
Houston, TX 77010

IV.

TERM OF AGREEMENT

This Agreement shall become effective on the date of Authority Authorization and shall terminate on the earlier of the date on which 15 years of reimbursements to the Owner have been paid or the maximum reimbursement amount to the Owner of $15,000 per unit has been paid.

V.

INDEMNIFICATION BY OWNER

OWNER SHALL INDEMNIFY AND HOLD HARMLESS THE ZONE, AUTHORITY, THE HOUSTON DOWNTOWN MANAGEMENT DISTRICT, THE CITY OF HOUSTON, AND CENTRAL HOUSTON, INC. AND EACH OF THEIR RESPECTIVE BOARDS, DIRECTORS, PARTNERS, OFFICERS, CONSULTANTS, EMPLOYEES AND AGENTS (COLLECTIVELY, THE "INDEMNITEES"), FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION, SETTLEMENTS, LIABILITIES, COSTS, EXPENSES, FINES, AND JUDGMENTS (INCLUDING, WITHOUT LIMITATION, REASONABLE AND

NECESSARY COURT COSTS, EXPERTS' FEES AND ATTORNEYS' FEES) (COLLECTIVELY, "LOSSES"), WHETHER ARISING IN EQUITY, AT COMMON LAW, OR BY STATUTE, INCLUDING WITHOUT LIMITATION THE TEXAS DECEPTIVE TRADE PRACTICES ACT (AS AMENDED) OR SIMILAR STATUTE OF OTHER JURISDICTIONS, OR UNDER THE LAW OF CONTRACTS, TORTS (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE AND STRICT LIABILITY WITHOUT REGARD TO FAULT) OR PROPERTY, OF EVERY KIND OR CHARACTER (INCLUDING, WITHOUT LIMITATION, CLAIMS FOR PROPERTY DAMAGE, PERSONAL INJURY (INCLUDING WITHOUT LIMITATION EMOTIONAL DISTRESS, AND ECONOMIC LOSS), ARISING IN FAVOR OF OR BROUGHT BY ANY OF OWNER, ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUPPLIERS OR REPRESENTATIVES, OR BY ANY GOVERNMENTAL AGENCY OR ANY OTHER THIRD PARTY, BASED UPON, IN CONNECTION WITH, RELATING TO OR ARISING OUT OF THE OWNER'S BUSINESS OR PROPOSED BUSINESS, OWNER TO COMPLY WITH THE AGREEMENT EVIDENCING THE GRANT, SHOULD THE GRANT BE AWARDED (THE "AGREEMENT"), OR OWNER'S ACTIONS OR INACTIONS UNDER THE AGREEMENT OR THIS APPLICATION, INCLUDING WITHOUT LIMITATION ANY FAILURE BY OWNER TO PAY TAXES OR FAILURE TO COMPLY WITH ANY APPLICABLE LAW, EXCEPT TO THE EXTENT ANY SUCH LOSSES ARE DUE TO ANY INDEMNITEES' SOLE NEGLIGENCE OR OTHER FAULT, BREACH OF CONTRACT OR WARRANTY, VIOLATION OF STATUTE, OR STRICT LIABILITY WITHOUT REGARD TO FAULT.

THE FOREGOING INDEMNIFICATION OBLIGATION SHALL APPLY REGARDLESS OF THE AMOUNT OF INSURANCE COVERAGE HELD BY OWNER INCLUDING WITHOUT LIMITATION ANY SUCH COVERAGE UNDER ANY WORKER'S COMPENSATION ACT, DISABILITY ACT, OR OTHER ACT OR LAW WHICH WOULD LIMIT THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR OWNER AND SHALL NOT BE LIMITED BY ANY INSURANCE CARRIED OR PROVIDED BY OWNER IN ACCORDANCE WITH THIS AGREEMENT.

OWNER'S CONTRACTUAL OBLIGATIONS OF INDEMNIFICATION SHALL EXTEND TO AND COVER CLAIMS, DEMANDS AND CAUSES OF ACTION ALLEGING CONCURRENT ACTS OF NEGLIGENCE, FAULT OR OTHER ACT OR OMISSION BY OR ON THE PART OF DISTRICT, THE CITY, CENTRAL HOUSTON, INC. AND/OR ANY OF THEIR OFFICERS, DIRECTORS, AGENTS, SERVANTS, REPRESENTATIVES, AND EMPLOYEES PROVIDED THAT IN THE EVENT THAT BOTH OWNER AND AUTHORITY, DISTRICT, THE CITY, AND/OR CENTRAL HOUSTON, INC. ARE ADJUDICATED AT FAULT WITH RESPECT TO DAMAGE OR INJURY SUSTAINED BY A CLAIMANT, OWNER SHALL INDEMNIFY AUTHORITY, DISTRICT, THE CITY, AND/OR CENTRAL HOUSTON, INC. ONLY FOR THAT PORTION OF THE DAMAGE OR INJURY ADJUDICATED TO HAVE BEEN CAUSED BY OWNER ACCORDINGLY, THE AUTHORITY, DISTRICT, THE CITY, AND/OR CENTRAL HOUSTON, INC. SHALL BEAR ALL COSTS AND DAMAGES FOR WHICH EACH OR ANY IF FOUND LEGALLY LIABLE. OWNER SHALL NOT INDEMNIFY THE ZONE, AUTHORITY, DISTRICT, THE CITY, OR CENTRAL HOUSTON, INC. FOR SOLE NEGLIGENCE.

VI.

GRANTEE RELEASE

OWNER SHALL AND DOES HEREBY WAIVE ALL CAUSES OF ACTION IT HAS FOR, AND RELEASES AND FOREVER DISCHARGES THE INDEMNITIES FROM, LOSSES FOR INJURIES (INCLUDING DEATH) TO ANY PERSON OR DAMAGE TO OR DESTRUCTION OF ANY PROPERTY SUSTAINED OR ALLEGED TO HAVE BEEN SUSTAINED IN CONNECTION WITH OR ARISING OUT OF OR INCIDENTAL TO THE PROJECT OR AGREEMENT.

VII.

INSURANCE REQUIREMENTS

Owner shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, in duplicate form, before beginning its performance under the Agreement. **(To be attached as Exhibit 10)**

All policies required under the Agreement except Worker's Compensation must name Zone, Authority, District, the City and Central Houston, Inc. ("CHI") as an additional insured. All policies of insurance must provide waiver of subrogation in favor of Zone, Authority, District, the City and CHI. All liability policies must be issued by a Company with a Certificate of Authority from the State Department of Insurance to conduct insurance business in Texas or a rating of at least B+ and a financial size of Class VI or better according to the current year's Best's Key Rating Guide, Property-Casualty United States. _____ shall maintain the following insurance coverage in the following amounts:

1. Commercial General Liability insurance including Contractual Liability insurance: $2,000,000 per occurrence; $4,000,000 aggregate
2. Employer's liability limits
   (a) Accident $500,000
   (b) Disease $500,000

All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against Zone, Authority, District, the City and CHI and that it shall give not less than 15 days written notice to Zone, Authority, District and CHI before they may be canceled, materially changed, or non renewed. Within the 15 day period, Owner shall provide other suitable policies in lieu of those about to be canceled, materially changed, or not renewed so as to maintain in effect the required coverage. If Owner does not comply with this requirement, Authority, at its own sole discretion, may refuse to release funds pursuant to the Agreement until Owner does comply with this requirement and Owner agrees that such refusal shall not constitute a default pursuant to the Agreement.

As to Zone, Authority, District, the City and CHI all insurance requirements shall remain in force until 10 days after all grant funds have been released to Owner.

VIII.

TITLE TO DOCUMENTS AND WORKS

All finished or unfinished documents and material prepared by Owner with funds provided by this Agreement shall be available for inspection by Authority.

AUTHORITY SHALL HAVE THE RIGHT TO REPRODUCE AND PUBLISH DESIGNS, PLANS AND IMAGES PRODUCED AS A PART OF THIS PROJECT, SO LONG AS SUCH REPRODUCTION AND/OR PUBLICATION IS FOR THE INTERNAL USE OF HDMD ONLY, AND FOR NO OTHER PURPOSE WITHOUT THE EXPRESS, WRITTEN CONSENT OF OWNER.

IX.

CHANGES AND MODIFICATIONS TO THIS AGREEMENT

Any party to this Agreement may request changes or modifications to this Agreement. Changes and modifications that are mutually agreed upon among the parties shall be incorporated into a written amendment that specifically references this Agreement and shall be effective only after signature and delivery by all parties to this Agreement.

X.

TERMINATION AND REMEDIES FOR THE BREACH OF THIS AGREEMENT

Authority may terminate this Agreement upon an event of default which continues beyond the applicable notice or cure period, as further defined in this Article, by Owner. Upon the occurrence of any event of default by Owner, Authority shall have the right to terminate any or all of its duties and obligations under this Agreement as of the 30th day following the receipt by Owner of written notice describing such default and intended termination, provided: (i) such termination shall be ineffective if within the 30-day notice period, Owner cures the default; (ii) that if such performance requires work to be done, actions to be taken or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied within such 30-day period but can be done, taken or remedied within a 90-day period, no default shall be deemed to have occurred or to exist if, and so long as, Owner shall commence (or shall cause to be commenced) such work, action or other remedy within such 30-day notice period and shall diligently prosecute (or shall cause to be diligently prosecuted) the same to completion within the 90-day cure period; or (iii) such termination may be stayed, at the sole option of Authority, pending cure of the default. If Authority elects to stay the termination of this Agreement, the stay shall not, under any circumstances, constitute any acceptance or waiver by Authority nor shall it waive any right of future termination.

Owner shall be considered in default of this Agreement if it refuses or fails to comply with or perform any provision of this Agreement; makes any false representation or statement upon which Authority has relied to its material detriment; becomes either insolvent or the subject of a petition in bankruptcy, whether voluntary or (if not stayed or dismissed within 60 days of filing) involuntary, or becomes subject to any other proceeding under any bankruptcy, insolvency, or receivership law (which is not stayed or dismissed within 60 days of filing) or makes a general assignment for the benefit of creditors, and Owner shall immediately notify Authority in writing of any such event.

In the event that Authority terminates the Agreement due to misappropriation of funds or fiscal mismanagement, Owner shall return to Authority those funds which are found to have been

misappropriated or fiscally mismanaged, that are funds distributed under this Agreement, which at the time of termination are in the possession of Owner.

In addition to all other statutory and common law remedies, Authority's remedies for the breach of this Agreement by Owner shall include, but are not limited to, forfeiture by Owner of any undistributed funds, the exclusion of the organization from receiving future Authority funding and Authority's taking ownership of any discrete improvements created by the Project.

XI.

APPLICABLE LAWS AND REGULATIONS

In performing its obligations under this Agreement, Owner at all times shall observe and comply with all applicable federal, state and local laws, ordinances, orders, and regulations. The federal, state and local laws, ordinances, and regulations which affect or are applicable to those engaged or employed in the performance of the Project or the equipment used in the performance of the Project or which in any way affect the conduct of the Project, shall be at all times in effect, and no pleas of misunderstanding will be considered on account of ignorance thereof. Owner shall likewise impose the same obligations contained in this section upon all of its contractors.

XII.

AMERICANS WITH DISABILITIES ACT

Owner in carrying out this Project, must make a good faith effort to ensure it is in full compliance with the Americans With Disabilities Act of 1991, in addition to existing federal, state, and city non-discrimination laws.

XIII.

EQUAL EMPLOYMENT OPPORTUNITY

The Owner agrees to comply fully with the provisions of the City's current Equal Employment Opportunity Ordinance, as they may be amended from time to time **(Exhibit 11).**

XIV.

RESERVATIONS OF RIGHTS

Neither payment by Authority nor performance by Owner shall be construed as a waiver of either party's rights under this Agreement. Failure to require full and timely performance of any provision at any time shall not waive or reduce a party's right to insist thereafter upon complete and timely performance of any provision in this Agreement.

XV.

SEVERABILITY

Should any portions of this Agreement be held to be invalid or wholly or partially unenforceable, such holding shall not invalidate or void the remainder of this Agreement. The portions held to be invalid or unenforceable shall be revised and reduced in scope so as to be valid and enforceable, or, if this is not possible, then the portions shall be deemed to have been wholly excluded with the same force and effect as if it had never been included herein.

XVI.

ARBITRATION

The parties, pursuant to the national policy favoring arbitration announced by Congress in the Federal Arbitration Act, 9 U.S.C. 2, hereby agree to resolve by arbitration any and all disputes or controversies arising out of this Agreement or the performance of the Project or the actions or inactions of the parties concerning the performance of the Project, including any disputes or controversies that may be based upon or arise out of disputes that either party may have with third parties, such as, disputes between Owner and its contractors. The parties further agree that, except to the extent specifically provided otherwise in this article, the arbitration shall be in accordance with the applicable rules of the American Arbitration Association then applying. The arbitration shall be held in Houston, Texas. Prior to testifying, whether directly in the presence of the arbitrators or through depositions, each witness will be

sworn to tell the truth, subject to the perjury laws of the State of Texas. The arbitration will be conducted as a case would be presented to a trial court without a jury, that it, the arbitrators in their discretion may hear any type of evidence, including hearsay evidence, recognizing that deficiencies in the technical admissibility of the evidence (such as, documents are not properly authenticated or the testimony is hearsay) are to be taken into account in the weight to be afforded such evidence. In reaching their decision, the arbitrators shall apply the legal principles to which the parties have agreed herein, their common sense, the provisions of the Federal Arbitration Act, the provisions of the applicable rules of the American Arbitration Association then applying, and such other principles of law generally prevailing in commerce throughout the United States which are consistent with the provisions of this Agreement, particularly those general principles of law relating to the rights and obligations of contractors. The cost of the arbitration of disputes as provided in this Article shall be borne equally by both parties and the parties shall bear their own respective attorney's fees and costs incurred in arbitration. A party may apply to the United States District Court for the Southern District of Texas, Houston Division, to enforce any portion of this arbitration agreement (as provided in 8 U.S.C. 3) or to enter judgment upon the award (as provided in 8 U.S. C. 9). Each party agrees that this arbitration agreement and the decision and the award of the arbitrators shall be treated as an absolute and final bar to any suit instituted in any federal, state or local court relating to such dispute or controversy.

It is agreed that during the time of the arbitration process, the parties shall meet and endeavor, subject to the principles and conditions stated in this Article and subject to the provisions of the Federal Arbitration Act, to formulate a written agreement governing as many of the other aspects of the arbitration proceeding as can be resolved or agreed upon. In particular, the parties shall endeavor to reach agreement as to the specific legal principles that the arbitrators shall apply to resolve the dispute and to stipulate to as many of the facts as possible. The parties shall also endeavor to frame as narrowly as possible the issues in the dispute or controversy which are to be submitted to the arbitrators for resolution. It is the intent of the parties that the narrowly framed issues shall be submitted in such a fashion that the arbitrators can answer the issues affirmatively or negatively or fill in blanks (such as with a monetary amount) without assigning reasons for the decision or award.

XVII.

CAPTIONS

The captions at the beginning of the Articles of this Agreement are guides and labels to assist in locating and reading such Articles, and, therefore, will be given no effect in construing this Agreement and shall not be restrictive of the subject matter of any article, section, paragraph or part of this Agreement.

XIII.

SUCCESSORS AND ASSIGNS

This Agreement shall bind and benefit the respective parties and their legal successors, but shall not be assignable, in whole or in part, by Owner without first obtaining the written consent of Authority. Nothing herein shall be construed as creating any personal liability on the part of any officer or director of Authority or Zone, or the District or Central Houston, Inc.. Notwithstanding anything contained herein to the contrary, without the consent of Authority, Owner may assign this Agreement to any construction lender ("Construction Lender") providing a construction loan to Owner to pay the costs of constructing the Project, and Construction Lender shall be entitled to succeed to Owner's rights and obligations under this Agreement, if Construction Lender obtains title to the land described on **Exhibit 2** ("Land") then owned by Owner by foreclosure or deed in lieu of foreclosure. Construction Lender may assign any rights so acquired to a purchaser of the Land then owned by Owner from Construction Lender following any such foreclosure or deed in lieu of foreclosure (a "Subsequent Owner"); provided, however, that such assignment by Construction Lender to a Subsequent Owner shall be subject to the Authority's consent, which consent shall not be unreasonably withheld or delayed. As a condition to the exercise by Construction Lender or any Subsequent Owner of Owner's rights under this Agreement, Construction Lender or Subsequent Owner, as applicable, must satisfy all of Owner's obligations under this Agreement (past, present and future) which are conditions to the exercise of any such rights.

XIX.

GOVERNING LAW

This Agreement shall be construed, performed and enforced in accordance with the laws of the State of Texas without regard to otherwise applicable choice-of-law rules or principles. Each of Owner and

Authority hereby submits to the jurisdiction of the state and federal courts in the State of Texas and to venue in such courts sitting in Harris County, Texas, and Owner hereby designates the Secretary of State for the State of Texas as an authorized agent to accept service of any and all process on behalf of Owner in the State of Texas and in connection with this Agreement. Notwithstanding the foregoing sentence, the parties agree that service of process for Owner shall first be attempted by serving its registered agent of record, and secondly by serving Owner as its duly authorized corporate representative. This Agreement is to be at least partially performed in Harris County, Texas.

XX.

CONTACT PERSONS

Written communication among Authority, Zone and Owner will occur through the following individuals:

(Owner)
Name of Contacts:

Address:
Phone:
Alternate Phone:

Downtown Redevelopment Authority or Zone:

Name of Contacts:	Ms. TataLease Derby
Address:	909 Fannin, Suite 1650
	Houston, TX 77010
Phone:	713-752-0827
Fax:	713-650-1484

XXI.

RIGHTS OF LENDERS AND INTERESTED PARTIES

Notice. The Authority is aware that financing for acquisition, development and/or construction of the Project may be provided, in whole or in part, from time to time, by one or more third parties, including, without limitation, lenders and equity partners of the Project (collectively, "Interested Parties"). In the

event of default by Owner, the Authority shall provide a copy of the notice of such event of default at the same time notice is provided to the Owner, to any Interested Parties previously identified in writing to the Authority.

Estoppel. No more than once annually, the Authority shall, at any time upon reasonable request by the Owner, provide to any Interested Party a reasonable form of estoppel certificate or other document evidencing that this Agreement is in full force and effect, that no event of default by the Owner exists hereunder (or, if appropriate, specifying the nature and duration of any existing event of default), the status of completion of the Project, the payment of the Grant and/or any other obligations set forth in this Agreement.

XXII.

AMENDMENT OR MODIFICATIONS

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment, or modification only by the mutual written consent of the parties hereto.

IN TESTIMONY OF WHICH this instrument has been executed on behalf of the Zone, Authority and the Owner in duplicate originals which shall be considered of equal force and effect.

DATED this _____ day of _____, 20__.

DOWNTOWN REDEVELOPMENT AUTHORITY

_____
Chairman Date

ATTEST:

_____
Secretary Date

REINVESTMENT ZONE NO. 3, CITY OF HOUSTON, TEXAS

_____

Chairman Date

ATTEST:

_____
Secretary Date

APPROVED:

_____
Chief Development Officer Date

(OWNER):

_____
Title Date

LIST OF EXHIBITS:

Exhibit 1: TIRZ #3 Downtown Living Program Grant Application

Exhibit 2: Plat of Project site

Exhibit 3: Design Guidelines

Exhibit 4: Copy of Authority Board Authorization

Exhibit 5: Map of Program Target Area

Exhibit 6: Copy of the construction plans, permits and specifications for the Project, as required in Article II.B.2.

Exhibit 7: Notification of construction start date, as required in Article III.

Exhibit 8: Notification of opening date of Project, as required in Article III.

Exhibit 9: Annual notice of taxes and assessment paid

Exhibit 10: Certificates of insurance, as required in Article VIII.

Exhibit 11: City Equal Employment Opportunity Requirements

EXHIBIT 1

TIRZ #3 DOWNTOWN LIVING PROGRAM GRANT APPLICATION

EXHIBIT 2

PLAT OF PROJECT SITE

EXHIBIT 3

DESIGN GUIDELINES

TIRZ #3 Downtown Living Chapter 380 Program

Downtown Redevelopment Authority
& Downtown Management District

Exhibit A:
Design Guidelines

A. INTENT

The purpose of the following guidelines is to promote a robust, walkable neighborhood in the TIRZ #3 boundaries in Downtown Houston. Many new buildings in Downtown already comply with these guidelines. However, individual developments are often not coordinated with one another, resulting in a discontinuous pedestrian environment. In providing these guidelines, the goal is to ensure that property owners' efforts to provide a pleasant, walkable environment surrounding their buildings will coalesce into a continuous neighborhood.

Substantial public investment has improved most of the streetscape in the target area. It is the intent of these guidelines to maintain or further enhance this past investment.

B. STREET CLASSIFICATION

For the purposes of these guidelines, the streets within the program boundaries have been classified into the following types:

Main Street: Comparable to an A Street. However, Main Street has received additional investments over time and is a major feature of Downtown. Therefore, any buildings developed along Main Street should favor Main Street as an important pedestrian corridor.

A Streets: Primary pedestrian streets

B Streets: Secondary pedestrian streets (pedestrian-oriented streets with some potential building services)

C Streets: Vehicular / service streets

(Refer to Figure 1 for map of street types and boundaries for TIRZ #3.)

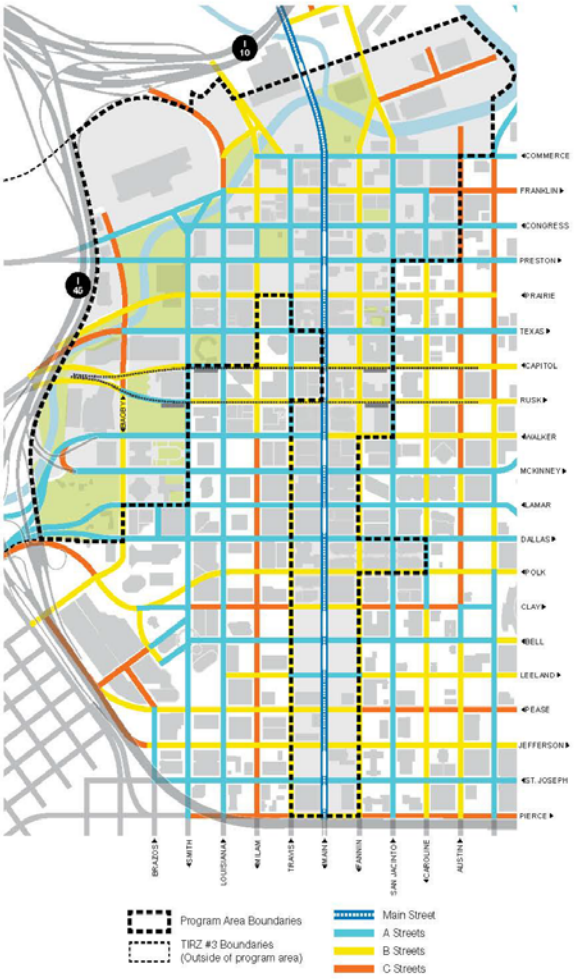


Figure 1 Street Classifications

C. SIDEWALK REQUIREMENTS

1. Scope. Existing sidewalk conditions must be maintained or improved. Any sidewalks that have been altered during the construction process must be restored to their original condition or better. Minimum requirements for sidewalks are as follows:

Minimum 13' sidewalks at A streets: 5' planting zone and 8' clear zone
Minimum 11' sidewalks at B streets: 5' planting zone and 6' clear zone
Minimum 10' sidewalks at C streets: 5' planting zone and 5' clear zone
Main Street features wider than average (approximately 17' wide) sidewalks. The existing dimensions should be maintained.

2. Description. Planting zone shall include irrigated street trees and may also include other landscape elements, street furniture, etc. (see Figure 2).

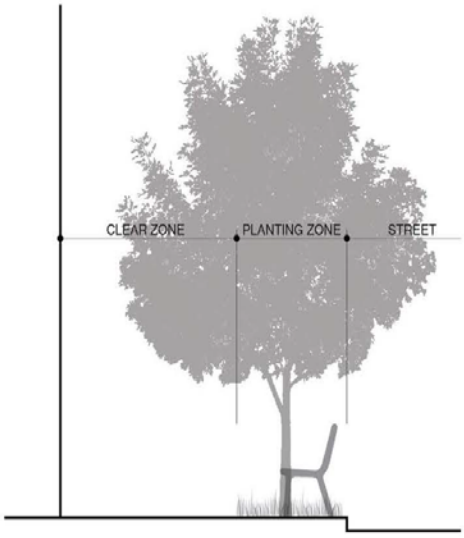


Figure 2 Sidewalk configuration.

D. BUILDING PLACEMENT

1. Building setback. Building frontage should extend to within 5' of the property line along at least 75% of the frontage at all streets.

Exception: Buildings may have an additional setback for the purposes of sidewalk café or other public uses (see Figure 3). Note that sidewalk cafes within the public right-of-way must be permitted through the City of Houston Department of Public Works & Engineering.

2. Building entrances. Primary building entrances should be located along A streets. If a building has Main Street frontage, public entrances should be provided along Main Street. If the building does not have frontage along an A street, the primary entrance should be located along a B street.

3. Building services. Building services such as garage entries, loading docks, solid waste collection areas, electrical and mechanical vaults, exhaust fans, etc., should be located primarily along C streets. These elements should be screened from pedestrian view to the greatest extent possible. Loading docks should be recessed into the building mass such that sidewalks remain clear of loading or service vehicles.

Building services should be avoided on A streets, especially Main Street. Some building services may be located along B streets if necessary, but they should be screened appropriately with architectural and/or landscape elements.

Figure 3 Sidewalk cafes can contribute to the street life, incorporate green space, and invite passersby into the building. Property owners may choose to provide an additional setback in order to accommodate sidewalk cafes. Photo Credit Tupelo Honey Café.

EXHIBIT 3-3

4. Curb cuts. Driveway curb cuts, including garage or parking ingress and egress, should be avoided on A streets.

Curb cuts are not permitted on Main Street.

Driveway curb cuts should be limited to 2 per block face on B streets and should be limited to maximum 24' wide. Curb cuts should be spaced apart from each other and from street intersections.

Driveway curb cuts needed for building services should be located along C streets; however, curb cuts should be limited to the greatest extent possible.

Where driveway curb cuts are provided, they should not interrupt the surface of the sidewalk if possible (see Figure 4).

All driveway curb cuts must comply with requirements set forth by the City of Houston Department of Public Works & Engineering.

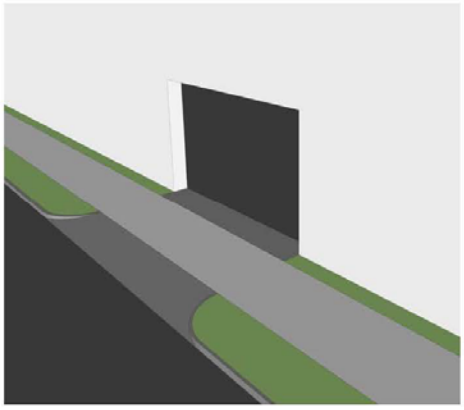


Figure 4 Continuing the sidewalk surface across the curb cut can lessen the impact of the cuts.

E. GROUND FLOOR USES

1. A Streets. Ground floors facing A streets should contain active uses. For sites adjacent to Main Street, Main Street is the priority A street for ground floor uses. While retail is the preferred ground floor use, other acceptable uses include public building spaces such as lobbies, common building amenities, fitness facilities, open office space, live/work space, day care centers, etc. (see Figure 5). Regardless of initial use, all ground floors facing A streets should be configured such that they may accommodate retail in the future.

2. B Streets. While ground floors facing B streets should also contain active uses to the greatest extent possible, they may contain other uses, such as residential and office. Uses such as building services, storage, and structured parking should be avoided to the greatest extent possible along B streets.

Figure 5 Other building uses, such as an indoor swimming pool for residents, may provide an active ground floor and enrich the pedestrian experience. Photo Credit Joe Aker.

Figure 6 Transparent windows add visual interest and a perception of safety and are inviting to passersby. Photo Credit Chronicle Books.

EXHIBIT 3-4

F. GROUND FLOOR DESIGN

1. Transparency. Glazed fenestration should be provided on at least 60% of the wall area of the ground level between 3 and 8 feet above grade on all A streets and at least 40% of the wall area on B streets (see Figure 6).

All glazing on ground-floor, street or public open space-facing facades should have a Visible Transmittance Rating of 0.6 or higher. Any exceptions should be temporary such as an applied film and must be approved by Houston Downtown Management District (Downtown District).

On A and B streets, the distance between glazed openings should not exceed 50 feet in length.

2. Materials. Ground floors should feature high-quality, durable materials. EIFS should not be used.

3. Articulation. Ground floor facades on all street types should be articulated through materials, changes in depth, etc. in a manner that responds to the pedestrian scale. This is especially important on facades where glazing is not an option.

4. Public entrances. Public entrances should be oriented to the street.

5. Lighting. Applicants are encouraged to incorporate architectural lighting that contributes to ambiance and enhances the pedestrian realm.

G. PARKING

1. Placement of parking. Ground floor parking should be avoided along building frontage at A and B streets.

2. Architectural treatment of parking. Along all streets, parking garages should be architecturally integrated within buildings. Views of cars and garage lighting should be screened with architectural and/or landscape elements. This applies to upper floors as well as lower floors (see Figures 7 and 8).

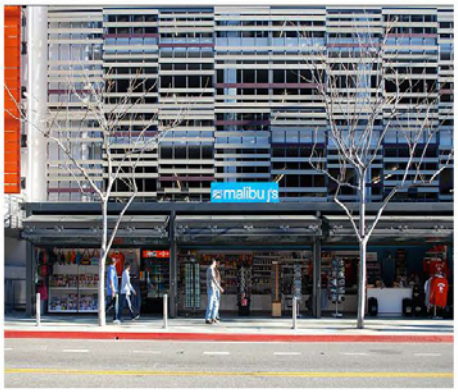


Figure 7 This garage uses architectural elements to screen cars at the upper floors while providing retail at the ground floor. Photo Credit John Edward Linden.

Figure 8 Christ Church Garage in Downtown Houston combines architectural screening, greenery, and landscape features such as a fountain and covered walkway to screen cars and create a pleasant pedestrian environment.

EXHIBIT 3-5

H. STREET TREES

1. Street tree preservation. Street trees should be preserved wherever possible. Mature trees (those having a caliper 12 inches or more) in particular should be preserved.

2. Street tree replacement. Should it be necessary for an applicant to remove any street tree, the tree(s) should be restored to the same site from which they were removed in accordance with City of Houston street tree requirements. Applicants are encouraged to restore the greatest number of caliper inches of tree as possible to the site. Contributions to the City of Houston Tree Fund should be made only after the applicants have planted the maximum number of caliper inches of trees as is feasible within the constraints of the site and in accordance with City of Houston requirements.

I. UTILITIES

The majority of TIRZ #3 is currently served by underground utilities. In those locations where it is not, building electrical service should be designed with underground electrical vaults for future access to underground utilities.

J. SUSTAINABILITY

By simply building a multi-family residential project Downtown, applicants are already addressing many tenets of sustainability (density, walkability, access to public transit, etc.).

Additionally, applicants must comply with and are encouraged to exceed City of Houston's Energy Code.

Applicants are also encouraged to incorporate other sustainable measures, especially those that reduce water use and address thermal comfort. As Downtown residential projects have limited open space within their property limits, applicants are encouraged to design roofs with a high solar reflectance index and/or vegetated roofs in order to reduce urban heat island effect (see Figure 9).

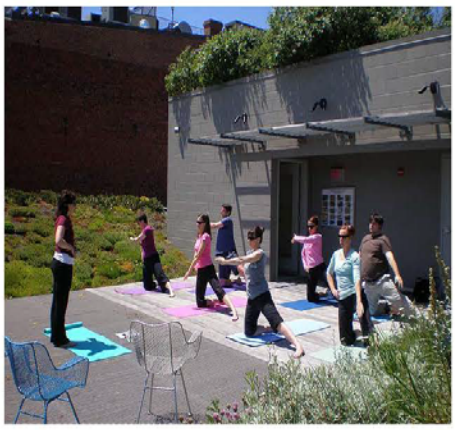


Figure 9 Green roofs are not only an amenity, improving adjacent views and/or providing occupiable space to residents, but they are also a sustainable feature that can improve building insulation and reduce rainwater run-off. Photo credit www.asla.org.

EXHIBIT 3-6

K. OTHER CONSIDERATIONS

Building designs should also take into consideration other design features that promote a pedestrian-friendly environment. These may include shade structures such as overhangs, awnings, exterior lighting, landscaping, etc. (see Figure 10).

Figure 10 The incorporation of an overhang provides shade and shelter for pedestrians and potential sidewalk cafes, and creates a more inviting pedestrian environment.

L. ALTERNATIVE EQUIVALENCE COMPLIANCE

1. Scope and purpose. To encourage creative and original design, and to accommodate projects where the particular site conditions or proposed use prevent strict compliance with the guidelines, alternative equivalence compliance allows development to occur in a manner that meets the intent of these guidelines, yet through an alternative design that does not strictly adhere to the guidelines (see Figure 11).

2. Procedure. In addition to required application materials, applicants who wish to use the alternative equivalence compliance must submit written and graphic information that demonstrates how the project meets the intentions of the above guidelines. Applicants may wish to meet with Downtown Redevelopment Authority and Downtown District staff to discuss alternative compliance concept proposals prior to submittal.

Figure 11 This residential building is an example of Alternative Equivalence Compliance. While it does not have active ground floor uses, it generally meets the intent of the guidelines and creates a pleasant experience for both the residents and pedestrians. Photo Credit *thegoodstreet.blogspot.com*.

M. CITY OF HOUSTON CODES AND ORDINANCES

Should any of the above guidelines conflict with any City of Houston code or ordinance, the City of Houston code or ordinance shall take precedence.

EXHIBIT 3-7

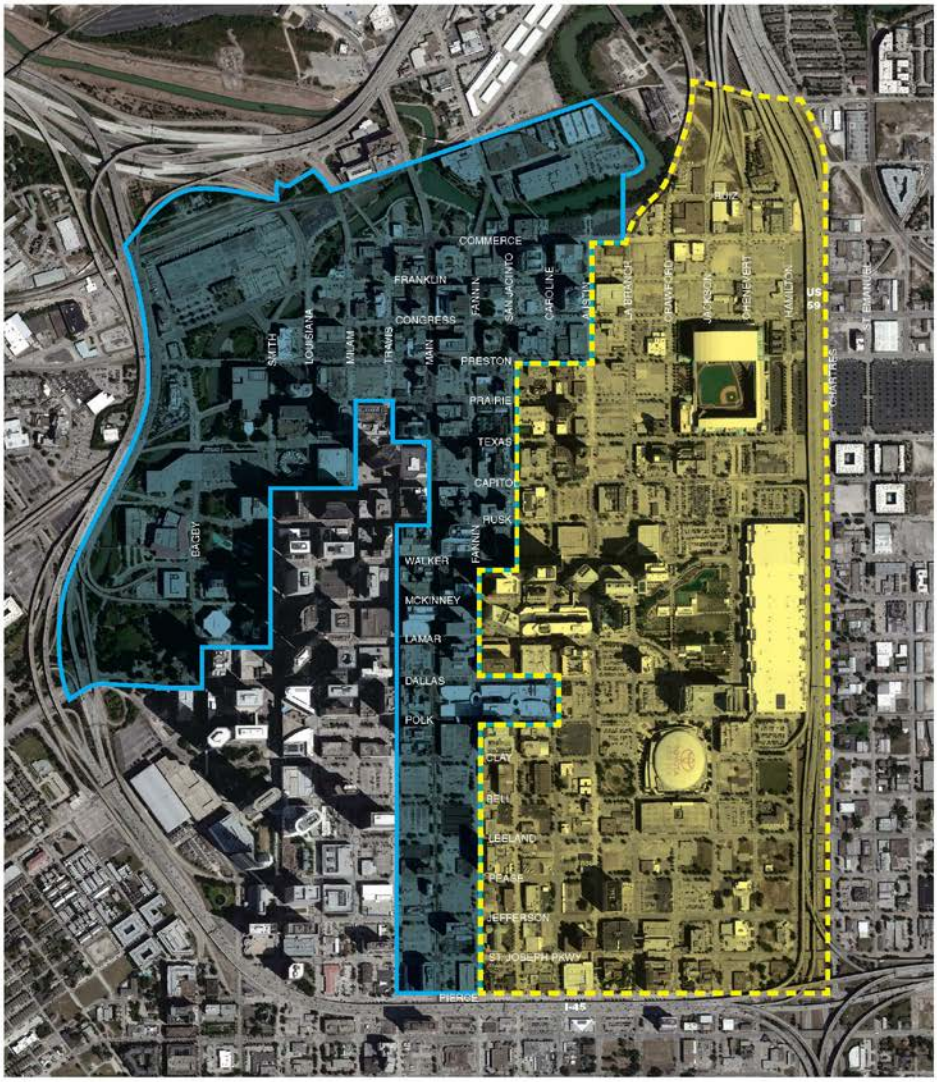
EXHIBIT 4

COPY OF AUTHORITY BOARD AUTHORIZATION

EXHIBIT 5

MAP OF PROGRAM TARGET AREA

Downtown Living Initiative & TIRZ #3 Downtown Living
Chapter 380 Program Boundaries



TIRZ #3 Downtown Living
Chapter 380 Program Boundaries
Program Contact:
TataLease Derby
Downtown Redevelopment Authority
713.752.0827
tatalease@downtowntirz.com

Downtown Living Initiative
Chapter 380 Program Boundaries
Program Contact:
Heather Hinzie
Houston Downtown Management District
713.650.3022
heather@downtowndistrict.org

October 24, 2012

EXHIBIT 6

COPY OF THE CONSTRUCTION PLANS, PERMITS AND SPECIFICATIONS FOR THE PROJECT, AS REQUIRED IN ARTICLE II.B.2

EXHIBIT 7

NOTIFICATION OF CONSTRUCTION START DATE, AS REQUIRED IN ARTICLE III

EXHIBIT 8

NOTIFICATION OF OPENING DATE OF PROJECT, AS REQUIRED IN ARTICLE III

EXHIBIT 9

ANNUAL NOTICE OF TAXES AND ASSESSMENT PAID

EXHIBIT 10

CERTIFICATES OF INSURANCE, AS REQUIRED IN ARTICLE VIII

EXHIBIT 11

CITY EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.

2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.

3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.

5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.

6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.