

BID DOCUMENTS
FOR
FORTUNA SUBDIVISION

Prepared for:
Habitat for Humanity of San Antonio, Inc.
311 Probandt
San Antonio, Texas 78204
T(210) 223-5203 F(210) 223-5536

Prepared by:
Pape-Dawson Engineers, Inc.
2000 NW Loop 410
San Antonio, Texas 78213-2251
T(210) 375-9000

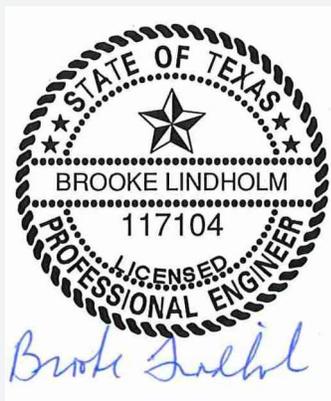
TABLE OF CONTENTS

	Page Number
■ Invitation to Bid	7
■ Instructions to Bidders	9
■ Bid Form	17
■ Schedule 1: Contractor’s Qualification Questionnaire	22
■ Schedule 2: Bid Proposal Schedules	28
■ 2-B: Addendums	30
■ Schedule 3: Contact Information	31
■ Schedule 4: Hold Harmless Agreement	32
■ Schedule 5: Bid Security	35
■ Schedule 6: Felony Conviction Notification	36
■ Schedule 7: Out of State Certification	38
■ Schedule 8: 8A - Certification of Compliance with Regulations & Requirements	41
8B – Certification Regarding Debarment, Suspension & Other Responsibility Matters	78
8C – Certification Regarding Lobbying for Contracts, Grants, Loans and Cooperative Agreements	81
■ Schedule 9: Insurance Certificate	83
■ Schedule 10: 10-A Section 3 Business Concern Certification	85
10-B Section 3 Worker Self Certification	88
10-C Hiring Poster	92
■ Schedule 11: WH347 or Compliant Payroll Report	93
■ Schedule 12: SBEDA Good Faith Effort Plan	94
■ Standard Form of Agreement (for Review Prior to Bidding)	98
■ General Conditions of Agreement (for Review Prior to Bidding)	100
■ Attachment A: A-1 Federal Labor Standards Provisions	127
A-2 City Wage & Hour Labor Standard Ordinance	133
■ Attachment B: Federal Wage Determination Heavy and Highway General Decision: TX20250007 01/03/2025	146
■ Attachment C: Section 3 Requirements	152

■ Attachment D: City of San Antonio Program Policies for HUD-Funded Affordable Housing Activities	159
■ Attachment E: Change Order Form	250
■ Attachment F: Infrastructure Construction Plans	Plan Set

Specifications for
FORTUNA
SUBDIVISION

Specifications for
**FORTUNA
SUBDIVISION**



2/20/26

TABLE OF CONTENTS

PROCUREMENT AND CONTRACTING REQUIREMENTS

1.01 DIVISION 00 -- PROCUREMENT AND CONTRACTING REQUIREMENTS

- A. 00 01 10 - Table of Contents
- B. 00 11 16.10 - Invitation to Bid
- C. 00 11 16.20 - Bid Basis
- D. 00 21 13 - Instructions to Bidders
- E. 00 41 00 - Bid Form

END OF SECTION

INVITATION TO BID**PART 1 GENERAL****1.01 PROJECT IDENTIFICATION**

- A. Project Name: Fortuna Subdivision, located at 0.5 miles West of the NW 36th St and Fortuna St intersection.
- B. Project Number: 13255-01.
- C. The Owner, hereinafter referred to as Habitat for Humanity of San Antonio, Inc..
- D. Michael Taylor.
 - 1. Corporate Name: Habitat for Humanity of San Antonio, Inc..
 - 2. 311 Probandt.
 - 3. San Antonio, TX 78204.
 - 4. (210) 223-5203.
 - 5. michaelt@habitatsa.org.

1.02 BID OPENING

- A. Bid Place
 - 1. Sealed bids will be received in the office of the Engineer:
Project Name: Fortuna Subdivision
ATTENTION: Raul Garcia, P.E.
c/o Pape-Dawson Engineers
2000 NW Loop 410
San Antonio, TX 78213
(210) 375-9000
- B. Bid Due Date: March 30, 2026 at 3 PM local time.
- C. Bids will be opened in virtual meeting immediately after the bid due date. The meeting login information will be sent prior to the opening date to those who have requested bid documents.

1.03 REJECTION

- A. The Owner reserves the right to reject any and all Bids, and to waive any irregularities or information.
- B. All contractors/subcontractors which are debarred, suspended, or otherwise excluded from or ineligible for participation in City, Bexar County or federal assistance programs may not undertake any activity in part or in full under this projec

1.04 DELIVERY OF PROPOSALS

- A. It is the Bidder's responsibility to deliver the proposal at the proper time to the proper place. The mere fact that a proposal was dispatched will not be considered. The Bidder must have the proposal delivered as specified in 1.02.

1.05 TIME OF COMPLETION

- A. Each Bidder shall indicate on his bid the number of calendar days he will require to complete the entire work under the Contract with all possible diligence within the time limit as stipulated in the bid proposal. The Owner considers it imperative that the work be completed at the earliest possible date and consideration will be given to the proposed completion date in determining the Bidders to whom the Contract will be awarded.

END OF SECTION

BID BASIS**PART 1 GENERAL****1.01 PRICING DOCUMENTS**

- A. The pricing documents are not final drawings and specifications. These documents, together with the Contractor's knowledge of and anticipation of the final requirements, will be the basis for all pricing. It is the Owner's intention to have the Engineer develop final construction documents with the Contractor's review and assistance. The Engineer, however, will make the final decisions during the development of the final documents.
- B. The final documents to be developed will be a further refinement and clarification of the existing documents; however, any material or labor required to provide a complete and operable project that is not indicated in these initial documents should be included in this price submittal.
Change Orders increasing the Contract amount will be issued only in the event the scope is changed.
- C. The Contractor undertakes and accepts that the contract documents are meant to include or imply all items required for the proper execution of the work. Any items mentioned in the specifications are not shown in the drawings, or the reverse, shall be provided as if shown or mentioned in both.

END OF SECTION

INSTRUCTIONS TO BIDDERS**SUMMARY****1.01 THE INSTRUCTIONS IN THIS DOCUMENT AMEND OR SUPPLEMENT THE INSTRUCTIONS TO BIDDERS AND OTHER PROVISIONS OF THE BIDDING AND CONTRACT DOCUMENTS.****1.02 DOCUMENT INCLUDES**

- A. Invitation
 - 1. Bid Submission
 - 2. Intent
 - 3. Work Identified in Contract Documents
 - 4. Contract Time
- B. Bid Documents and Contract Documents
 - 1. Definitions
 - 2. Contract Documents Identification
 - 3. Availability
 - 4. Examination
 - 5. Inquiries/Addenda
 - 6. Product/Assembly/System Substitutions
- C. Site Assessment
 - 1. Site Examination
 - 2. Prebid Conference
- D. Qualifications
 - 1. Qualifications
 - 2. Subcontractors/Suppliers/Others
- E. Bid Submission
 - 1. Bid Depository
 - 2. Submission Procedure
 - 3. Bid Ineligibility
- F. Bid Enclosures/Requirements
 - 1. Security Deposit
 - 2. Consent of Surety
 - 3. Performance Assurance
 - 4. Insurance
 - 5. Bid Form Requirements
 - 6. Fees for Changes in the Work
 - 7. Bid Form Signature
 - 8. Additional Bid Information
 - 9. Selection and Award of Alternates
- G. Offer Acceptance/Rejection
 - 1. Duration of Offer
 - 2. Acceptance of Offer

INVITATION**2.01 BID SUBMISSION**

- A. Bids signed and under seal, executed, and dated will be received at the office of the Engineer at 2000 NW Loop 410, San Antonio, TX 78213 before 3:00 p.m. local standard time on 03-30-2026.
- B. Offers submitted after the above time will be returned to the bidder unopened.
- C. Submit required Supplements To Bid Forms within 24 hours after closing time for receiving bids.

- D. Amendments to the submitted offer will be permitted if received in writing prior to bid closing and if endorsed by the same party or parties who signed and sealed the offer.

2.02 INTENT

- A. The intent of this Bid request is to obtain an offer to perform work to complete street, drain, water and sewer construction located at Fortuna Subdivision for a Stipulated Sum contract, in accordance with Contract Documents.

2.03 WORK IDENTIFIED IN THE CONTRACT DOCUMENTS

- A. Work of this proposed Contract comprises building construction, including general construction Work.
- B. Project Location:
0.5 miles West of the NW 36th St and Fortuna St intersection
San Antonio, Texas 78237

2.04 CONTRACT TIME

- A. Identify Contract Time in the Bid Form. The completion date in the Agreement shall be the Contract Time added to the commencement date.
- B. Owner requires that under the work of this contract be completed as quickly as possible and consideration will be given to time of completion when reviewing the submitted bids.

BID DOCUMENTS AND CONTRACT DOCUMENTS

3.01 DEFINITIONS

- A. Bid Documents: Contract Documents supplemented with Invitation To Bid, Instructions to Bidders, Information Available to Bidders, Bid Form Supplements To Bid Forms and Appendices identified.
- B. Bid, Offer, or Bidding: Act of submitting an offer under seal.
- C. Bid Amount: Monetary sum identified by the Bidder in the Bid Form.

3.02 CONTRACT DOCUMENTS IDENTIFICATION

- A. Contract Documents are identified as Owner's Project Number 13255-01, as prepared by Engineer, and with contents as identified in the Project Manual.

3.03 AVAILABILITY

- A. Complete sets of Bidding Documents shall be used in preparing bids.
- B. Neither the Owner nor the Engineer assumes any responsibility of errors or misinterpretations resulting from the use of incomplete set of Bidding Documents.
- C. Bid Documents may be obtained at the office of Engineer.
- D. One set of Bid Documents can be obtained by bidders free of charge . Additional copies may be purchased by paying the cost of reproduction.
- E. Subcontractors requiring Drawings and Project Manuals must obtain them from General Contractors or purchase sets by paying the reproduction cost, which will not be refunded.
- F. Bid Documents are made available only for the purpose of obtaining offers for this project. Their use does not grant a license for other purposes.

3.04 EXAMINATION

- A. Bidders shall carefully examine the Bidding Documents and the Construction Site to familiarize themselves with existing local conditions under which the work is to be performed.
- B. Bidders shall carefully examine the Bidding Documents to verify that they agree with the Table of Contents in the Project Manual, the Index of Drawings Sheet on the Drawings, and the Cover Page of all Addenda. Bidders shall be responsible for obtaining any pages or sheets which may have been inadvertently left out during the printing process.

- C. All Bidders and Sub-bidders acknowledge and agree that any information that they may have obtained from Owner or its Engineer relating to site conditions (including surface, sub-surfaces and existing structures, if any), availability of materials or labor, applicable statutes, ordinances, or regulations, and any other information not specifically provided for otherwise in the proposed Contract Documents, including Drawings and Specifications, shall be for general information purposes only, and Owner does not warrant or represent the accuracy or completeness thereof. All Bidders and Sub-bidders agree that they shall and, by submission of a bid, do warrant and represent that they have made their own independent investigation of such matters, have reached their own conclusion with respect thereto, and have relied completely on their own such investigations in connection with the preparation of their bid.
- D. Upon receipt of Bid Documents verify that documents are complete. Notify Engineer should the documents be incomplete.
- E. Immediately notify Engineer upon finding discrepancies or omissions in the Bid Documents.

3.05 INQUIRIES/ADDENDA

- A. Bidders shall promptly notify the Engineer of any ambiguity, inconsistency or error which they may discover upon examination of the Bidding Documents or of the site and local conditions. Conflict in documents not brought to the attention of the Engineer during bidding shall be deemed to be provided at no additional cost.
- B. Submit all questions regarding clarification or interpretation of Bidding Documents to the office of the Engineer, Pape-Dawson Consulting Engineers, LLC, 2000 NW Loop 410, San Antonio, Texas 78213, Attn: Raul Garcia, P.E., (rgarcia@pape-dawson.com), (210) 375-9000.
- C. Submit all questions in writing. In the interest of time, requests may be made by telephone, but they must be confirmed in writing the same day. Replies to questions will be issued to all General Contractors in the form of an Addendum.
- D. Addenda may be issued during the bidding period. All Addenda become part of Contract Documents. Include resultant costs in the Bid Amount.
- E. Verbal answers are not binding on any party.

3.06 PRODUCT/ASSEMBLY/SYSTEM SUBSTITUTIONS

- A. Where the Bid Documents stipulate a particular product, substitutions will be considered up to 5 days before receipt of bids.
- B. Substitute products will be considered if submitted as an attachment to the Bid Form. Approval to submit substitutions prior to submission of bids is not required.
- C. When a request to substitute a product is made, Engineer may approve the substitutions and will issue an Addendum to known bidders.
- D. In submission of substitutions to products specified, bidders shall include in their bid all changes required in the work and changes to Contract Time and Contract Sum to accommodate such substitutions. A later claim by the bidder for an addition to the Contract Time or Contract Sum because of changes in work necessitated by use of substitutions shall not be considered.
- E. The submission shall provide sufficient information to determine acceptability of such products.
- F. Provide complete information on required revisions to other work to accommodate each proposed substitution.
- G. Provide products as specified unless substitutions are submitted in the manner and accepted.

SITE ASSESSMENT**4.01 SITE EXAMINATION**

- A. Examine the project site before submitting a bid.
- B. The bidder is required to contact Engineer at the following address and phone number in order to arrange a date and time to visit the project site: _____.
- C. Extra payments will not be authorized for work that could have been foreseen by careful examination of the Site. Submission of a Bid shall constitute acceptance, by the Bidder, of existing Site conditions as a part of the requirements for this work.
- D. The Contractor shall have access to the premises during the bidding period for the purposes of acquainting himself of the conditions.
- E. The Contractor shall not enter or have access to the site in order to perform the work without first having given timely notice to the Owner so that the necessary arrangements may be made to enter or have access.

4.02 PREBID CONFERENCE

- A. A bidders conference has been scheduled for 10:00 a.m. on the 10th day of March. Contact Raul Garcia, P.E. at rgarcia@pape-dawson.com or (210) 375-9000 for a meeting link.
- B. All general contract bidders and suppliers are invited.
- C. Representatives of Engineer will be in attendance.
- D. Information relevant to the Bid Documents will be recorded in an Addendum, issued to Bid Document recipients.

QUALIFICATIONS**5.01 BASIS OF BIDS**

- A. Bids shall be on a lump sum price basis and shall include all costs for this Project as described and shown by the Contract Documents. Basis for Bidding shall include brands, materials, processes, products, persons or organizations, etc., indicated in the Contract Documents.
- B. Bids shall include all Unit Price costs as indicated by the Contract Documents and Bid Form. The bid price submitted by the Contractor shall be a lump sum price. Unit prices are requested for the purposes of establishing costs for additional work and to evaluate the bids. The Contractor shall guarantee himself of the accuracy of the quantities shown in the bid form. Any quantities shown are estimates only and indicate only the magnitude of the project and a basis for bid comparison. Any discrepancies in quantity or work necessary to fulfill the intent of the plans shall be included, whether a bid item is included or not. Any work required for which a bid item is not shown shall be considered subsidiary to other work items.
- C. Contractor is to perform an independent quantity take-off prior to submitting the bid, to verify that any quantities given in the bid proposal are within five percent (5%) of the actual quantities required to complete the construction represented by the plans and specifications. If any quantity is found to be in error of more than five percent (5%), the Contractor shall notify the Engineer five days prior to the bid due date.
- D. Bids shall include all Alternate costs as indicated by the Contract Documents and Bid Form.
- E. Trench Excavation Protection: Specific reference is hereby made to requirements for trench excavation protection with respect to the work to be performed under the Contract Documents. Each bidder is advised that certain requirements with respect to trench excavation protection must be satisfied prior to award of the Agreement.
- F. Prevailing Wage Rates: As set forth in the Contract Documents, each bidder is advised that, if awarded the Agreement, the bidder must comply with the requirements of V.T.C.A., Government Code §2258.001 et.seq., with respect to the work to be performed under the Contract Documents, and in this regard shall pay to and cause all of its subcontractors to pay not less than the general prevailing rate of per diem wages and the prevailing rate for legal holidays and overtime work, as ascertained by the Owner.

- G. Davis-Bacon and Related Acts and Federal Labor Standards: The contractor shall comply with all requirements of Davis-Bacon and Related Acts and Federal Labor Standards as required by Community Development Block Grants (24 CFR Part 570) and Urban Development Action Grants (24 CFR Part 576, Subpart G). Contractors and subcontractors are required to use appropriate Davis-Bacon wages/classification according to General Wage Determination TX20260007 published 01/02/2026 and submit weekly certified payroll reports to Owner and receive and submit payroll reports from subcontractors. The Contractor shall post a copy of the wage decision and DOL poster, Notice to Employees on the job site. The Contractor shall maintain the payroll and other basic records for at least 3 years after project completion.
- H. Notices: The Contractor shall comply with and give notice required by laws, ordinances rules, regulations and lawful orders of public authorities bearing on performance of the Contract Work.
- I. Site Access & Observations: The Contractor shall provide Owner with access to the Project Site and the Contract Work in preparation and progress at any time. The Contractor shall allow Owner to conduct job site inspections, employee interviews and review Contractor payrolls and other basic records as required by the Davis-Bacon and Related Acts.
- J. Clean Work Site: The Contractor shall keep the Project Site and the surrounding area free from the accumulation of waste materials or rubbish caused by the operation performed under this agreement. At the completion of the Contract Work, the Contractor shall remove from and about the Project Site (1) any waste materials or rubbish caused by the operation performed under this Agreement; (2) the Contractor's tools, construction equipment, and machinery; and (3) any surplus materials originally furnished by the Contractor.
- K. Excavation & Spoils: Excavation for concrete approaches, concrete driveways, and concrete sidewalks are subsidiary to work ("No Extra Pay Item", NSPI), unless otherwise noted. Excavated material that is suitable fill shall be deposited in future units in accordance with Engineer's directions. All spoil and other unsuitable material from this work shall be removed from the site by the Contractor at their expense in accordance with local, state, and federal regulations.
- L. Field Engineering
1. No stakes will be set for mass grading. In lieu of stakes the Engineer will provide the contractor with proposed contours in a .dwg file and .dtm file of the surface. With this file, the Contractor will be expected to perform rough grading of all roadways and overall site (single family residential portion). Once final cuts and fills are completed, Contractor will need to provide final field shots for verification. All cut and fills are to be within a one inch (1") tolerance.
 2. Contractor will be required to set all conduits (irrigation or CPS crossing) and initial water services. Coordinates for each will be provided. Staking/control information will be provided as assistance to Contractor.
 3. The Project Engineer will provide the following services, one time only, for the project. All additional services will be paid for by the Contractor.
 - a. Clearing laths to be set at centerline PC's, PT's, cul-de-sacs, and at 100-ft stations for alignment only (no levels).
 - b. Stake centerline of sewer main at one hundred foot (100') intervals and manhole locations, with offsets as requested by Contractor.
 - c. Stakes to be set at PC's and PT's, curb returns, cul-de-sacs and 50-foot stations on one side only, opposite the waterline, along the right-of-way to indicate alignment and grade for top of curb elevations. This is to be staked at a maximum of two (2) times, first for rough cut of streets and second for street construction.
 - d. Stake centerline of drains, with offsets as requested by Contractor.
 - e. Stake property corners for locations of final water meter boxes and fire hydrants.
 - f. Set pins on lot corners and offset hubs for CPS.
 - g. Stake driveway locations.
 - h. Set final lot pins.

- M. CPS: All CPS work is to be done as a whole and not broken up into phases. CPS will setup the preconstruction meeting after the water and sewer has been constructed. CPS could take up to 60 days for their construction. This time will be factored into the total job timeline.
- N. Project Schedule: The Contractor is required to provide a project schedule to be approved by the Engineer prior to the date for the issuance of a Notice to Proceed. The Project Schedule shall include all major project milestones including, for example but not limited to, project certain dates to ensure that CPS will have adequate time to complete their component within the overall schedule.
- O. Adequate Supervision: The Contractor is required to have a qualified Superintendent at the project construction site to verify the work at least once a day when the Contractor has any crew or subcontractor working at the site. The qualified Superintendent must be present on site for every City and/or SAWS inspection.

5.02 ALTERNATES

- A. The Owner may, at his option, elect to proceed with any or all Alternates as set forth in the Bidding Requirements.
- B. Amount shown on Bid Form for each Alternate shall include profit, insurance, contingencies and other costs incidental to performance under such Alternative.
- C. Amount shown on Bid Form for Each Alternate shall include the making of all changes and the installation of all materials and equipment necessary to the accomplishment of the Alternate requirements.
- D. Refer to the respective Section for complete Specifications of each Alternate.
- E. If an Alternate is accepted, it shall be included as part of the Contract Document.

5.03 VOLUNTARY ALTERNATES

- A. The Contractor shall submit a list of voluntary cost-saving alternates for consideration. The list shall be submitted along with the bid.
 - 1. Amount shown in Bid for each Alternate shall include profit, insurance contingencies and other costs incidental to performance under such Alternative.
 - 2. Amount shown in Bid for each Alternate shall include the making of all changes and the installation of all materials and equipment necessary to the accomplishment of the Alternate requirements.

5.04 UNIT PRICES

- A. Authorized work, done in addition to that indicated by the Contract Documents, will be paid for as an extra according to the Unit Price Schedule. Costs of authorized omissions of work from that indicated by the Contract Documents will be deducted from the Contract amount according to the Unit Price Schedule.
- B. Amounts shown on the Unit Price Schedule shall be total compensation; labor, materials, fees, taxes, profit, overhead and insurance and other expenses to be added or deducted from the Contract amount.
- C. Unit Price Schedule form is included with the Bid Form and shall be a part of the Agreement.

BID SUBMISSION

6.01 SUBMISSION PROCEDURE

- A. Bidders shall be solely responsible for the delivery of their bids in the manner and time prescribed.
- B. Electronic Document Submissions:
 - 1. Use Owner's designated web-based project software to manage submittal of bid.
 - 2. Submit executed offer on Bid Forms provided, signed and sealed, clearly identified with bidder's name and project name.
 - 3. Submit required security deposit using electronic payment method acceptable to Owner.

- C. Physical Document Submissions:
 - 1. Submit one copy of executed offer, signed and sealed, on Bid Forms provided. Use an opaque envelope, including required security, clearly identified with bidder's name, project name, and Owner's name on the outside.
 - 2. Double Envelope: Insert closed and sealed Bid Form envelope, requested security deposit, and qualification forms in a large opaque envelope and label envelope as noted above.
- D. Improperly completed information or irregularities in security deposit may be cause to reject and declare the bid invalid or informal.
- E. An abstract summary of submitted bids will be made available to all bidders following bid opening.

6.02 BID INELIGIBILITY

- A. Bids that are unsigned, improperly signed or sealed, conditional, illegible, obscure, contain arithmetical errors, erasures, alterations, or irregularities of any kind, may at the discretion of the Owner, be declared unacceptable.
- B. Bid Forms, Appendices, and enclosures that are improperly prepared may, at the discretion of Owner, be declared unacceptable.
- C. Failure to provide security deposit, bonding or insurance requirements may, at the discretion of Owner, be waived.
- D. Bids are by invitation only from selected bidders. Bids from unsolicited bidders may be returned.

BID ENCLOSURES/REQUIREMENTS

7.01 SECURITY DEPOSIT

- A. Bids shall be accompanied by a security deposit as follows:
 - 1. Bid Bond of a sum no less than 5 percent of the Bid Amount in the form of a certified check or bank check or a bid bond issued by a surety acceptable to Owner.
- B. Endorse the Bid Bond in the name of the Owner as obligee, signed and sealed by the principal (Contractor) and surety.
- C. The security deposit will be returned after delivery to the Owner of the required Performance and Payment Bond(s) by the accepted bidder.
- D. Include the cost of bid security in the Bid Amount.
- E. After a bid has been accepted, all securities will be returned to the respective bidders and other requested enclosures.
- F. If no contract is awarded, all security deposits will be returned.

7.02 PERFORMANCE ASSURANCE

- A. Owner shall have the right to require Contractor to furnish a performance and payment bond in the full amount of the contract price on a form and by a surety approved by Owner. Bidders shall state the premium cost for the bond and name of surety in the blank spaces provided in the proposal form. If Owner requires such bond, the premium cost given in proposal will be paid by Owner. If Owner required a and a surety approved by Owner is unwilling to execute such a bond with Contractor as principal, Owner may, at its selection, reject the proposal or terminate the contract.

7.03 BID FORM REQUIREMENTS

- A. Complete all requested information in the Bid Form and Appendices.

7.04 FEES FOR CHANGES IN THE WORK

- A. Include in the Bid Form, the overhead and profit fees on own Work and Work by subcontractors, applicable for Changes in the Work, whether additions to or deductions from the Work on which the Bid Amount is based.

- B. Include in the Bid Form, the fees proposed for subcontract work for changes (both additions and deductions) in the Work. Contractor shall apply fees as noted, to the subcontractor's gross (net plus fee) costs on additional work.

7.05 SELECTION AND AWARD OF ALTERNATES

- A. Indicate variation of bid price for Alternates listed on the Bid Form. Unless otherwise indicated, indicate Alternates as a difference in bid price by adding to or deducting from the base bid price.
- B. Bids will be evaluated on the total of the base bid price and all of the Alternates. After determination of the successful bidder, consideration will be given to which Alternates will be included in the Work.

OFFER ACCEPTANCE/REJECTION

8.01 DURATION OF OFFER

- A. Bids shall remain open to acceptance and shall be irrevocable for a period of sixty (60) days after the bid closing date.

8.02 ACCEPTANCE OF OFFER

- A. Owner reserves the right to reject any or all bids submitted, to enter into negotiations with any bidder hereunder; to alter the Contract by agreement in writing with the successful bidder; or to take such other steps as may insure its complete freedom of action in selecting the successful bidder, all without any obligation or liability whatsoever to any bidder hereunder.
- B. After acceptance by Owner, Owner will issue to the successful bidder, a written Notice To Proceed.

END OF SECTION

BID FORM

THE PROJECT AND THE PARTIES

1.01 TO:

- A. Owner
 Habitat for Humanity of San Antonio, Inc.
 c/o Pape-Dawson Engineers
 Attn: Raul Garcia, P.E. (rgarcia@pape-dawson.com)

1.02 FOR:

- A. Project: Fortuna Subdivision
- B. Owner's Project Number: 13255-01
 0.5 miles West of the NW 36th St and Fortuna St intersection
 San Antonio, Texas 78237

1.03 DATE: _____ (BIDDER TO ENTER DATE)

1.04 SUBMITTED BY: (BIDDER TO ENTER NAME AND ADDRESS)

- A. Bidder's Full Name _____
 - 1. Address _____
 - 2. City, State, Zip _____
 - 3. The Undersigned proposes to furnish all labor, services, materials, tools and necessary equipment for the construction of various improvements and to perform the work required at the locations set out by the Plans and Specifications, in strict accordance with the Contract Documents.
 - 4. In submitting this Bid, it is understood that this Bid may not be altered or withdrawn for a minimum of 90 calendar days, and that the Owner has reserved the right to reject any and all Bids.
 - 5. The Undersigned certifies that this Bid is made in good faith, without collusion or connection with any other person, persons, partnership, company, firm, association, or corporation offering Bids on this work, for the following sum or prices to wit:

1.05 DECLARATIONS

- A. The undersigned hereby declares that he has visited the site and has carefully examined the Drawings, Specifications, Contract Documents and Bidding Documents related to the work covered by his Bid.
- B. The undersigned hereby declares that he has prior experience on construction projects of the same or similar type, nature and class as the Work for the Project.
- C. To the fullest extent permitted by applicable law, the Bidder waives any claim it has or may have against the Owner, Developer, or the Engineer, and their respective trustees, officers, shareholders, directors, partners, agents, contractors, consultants and employees arising out of or in connection with the administration, evaluation, or recommendation of any bids; waiver of any requirements under the Bid Documents or the Contract Documents; acceptance

1.06 OFFER

- A. Having examined the Place of The Work and all matters referred to in the Instructions to Bidders and the Bid Documents prepared for the above mentioned project, we, the undersigned, hereby offer to enter into a Contract to perform the Work for the Sum of:
- B. _____ dollars
 (\$ _____), in lawful money of the United States of America.
- C. We have included the required security Bid Bond as required by the Instruction to Bidders.
- D. We have included the required performance assurance bonds in the Bid Amount as required by the Instructions to Bidders.

- E. All applicable federal taxes are included and State of TX taxes are included in the Bid Sum.
- F. All Cash and Contingency Allowances described in Section 01 21 00 - Allowances are included in the Bid Sum.

1.07 ACCEPTANCE

- A. This offer shall be open to acceptance and is irrevocable for 75 days from the bid closing date.
- B. If this bid is accepted by Owner within the time period stated above, we will:
 - 1. Execute the Agreement within seven days of receipt of Notice of Award.
 - 2. Furnish the required bonds within seven days of receipt of Notice of Award.
 - 3. Commence work within seven days after written Notice to Proceed of this bid.
- C. If this bid is accepted within the time stated, and we fail to commence the Work or we fail to provide the required Bond(s), the security deposit shall be forfeited as damages to Owner by reason of our failure, limited in amount to the lesser of the face value of the security deposit or the difference between this bid and the bid upon which a Contract is signed.
- D. In the event our bid is not accepted within the time stated above, the required security deposit shall be returned to the undersigned, in accordance with the provisions of the Instructions to Bidders; unless a mutually satisfactory arrangement is made for its retention and validity for an extended period of time.

1.08 CONTRACT TIME

- A. If this Bid is accepted, we will:
- B. Complete the Work in _____ calendar weeks from Notice to Proceed or acceptance of this bid. Failure to complete the work on or before the completion date will cause Owner to sustain damages, accordingly, for each calendar day that the Work or any portion thereof remains uncompleted after expiration of the contract time for completion of the Work, the applicable amount per day as detailed in Section 4.40 of the General conditions of Agreement, will be deducted from sums otherwise due or become due to the Bidder, not as a penalty, but as liquidated damages for the Bidder's default in timely completing the Work. (Bidder to enter number of weeks.)
- C. Complete the Work by the ____ day of _____.

1.09 CONTRACTORS PERSONNEL

- A. The Bidder agrees to employ the following qualified individuals for the entire duration of the Work at the positions indicated, and agrees not to remove them from the Work nor replace them with others except as otherwise allowed in the Contract documents or approved in writing by Owner. The Bidder agrees that the Project Manager and/or Project Superintendent will daily inspect the work performed to ensure it has been constructed in accordance with the plans and all contract requirements. The Bidder further agrees a qualified Project Superintendent will attend every City and/or SAWS inspection:
 - 1. Qualified Project Manager: _____
 - 2. Qualified Project Superintendent: _____

1.10 UNIT PRICES

- A. Unit Prices for specific portions of the Work are listed in SECTION 004101 - Bid Tab
- B. if the Contractor finds any discrepancy in excess of five percent (5%) of the stated bid quantity, the Contractor must submit a request for information and clarification for Engineer's review with discrepancy prior to submitting Contractor's final bid. Any discrepancy or shortage discovered by the Contractor after a bid has been accepted and contract awarded shall be considered incidental to the project and no additional compensation will be allowed.
- C. ITEM DESCRIPTION - UNIT QUANTITY - UNIT PRICE - ITEM VALUE
- D. _____ - _____ - _____ - \$
- E. _____ - _____ - _____ - \$

F. _____ - _____ - _____ - \$

G. _____ - _____ - _____ - \$

1.11 CHANGES TO THE WORK

A. Payment is based on the unit price method up to the maximum lump sum contract amount (the "Contract Price" and the Contractor agrees that it will make no claim (or seek damages) for anticipated profits or otherwise, on account of any differences which may be found between (x) the quantities for the work actually done and the qualities of material actually furnished and (y) the estimated quantities thereof contemplated and contained in the Bid Form; provided, however, that in case the actual quantity of any major item should become as much as 10% more, or 10% less, than the estimated or contemplated quantity for such items, then either the Owner or Contractor, upon demand, shall be entitled to a revised consideration upon the portion of the work above or below 10% of the estimated quantity. Any addition or reduction calculated will be computed on the basis of the Bid Proposal Schedule quantiti

1.12 ADDENDA

A. The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.

- 1. Addendum # _____ Dated _____.
- 2. Addendum # _____ Dated _____.

1.13 BID FORM SUPPLEMENTS

A. The following information is included with Bid submission:

- 1. Subcontractors: _____, _____, _____.
- 2. Unit Prices: _____, _____, _____.
- 3. Alternates: _____, _____, _____.

1.14 BID FORM SIGNATURE(S)

- A. The Corporate Seal of
- B. _____
- C. (Bidder - print the full name of your firm)
- D. was hereunto affixed in the presence of:
- E. _____
- F. (Authorized signing officer, Title)
- G. _____
- H. (Authorized signing officer, Title)

END OF SECTION

BID FORM

NOTE: QUANTITIES ARE PROVIDED FOR REFERENCE ONLY. CONTRACTOR RESPONSIBLE FOR QUANTITY CONFIRMATION.					
ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
GENERAL ONSITE IMPROVEMENTS				SUBTOTAL:	\$ -
1.	Mobilization	LS	1.00		\$ -
2.	Site Preparation & Clearing	AC	4.65		\$ -
3.	Demolish Existing Structures				
4.	a. Sidewalk	SY	26.00		\$ -
5.	b. Driveway	SY	11.00		\$ -
6.	c. Curb	LF	60.00		\$ -
7.	Excavation (Lots)	CY	210.00		\$ -
8.	Embankment (Lots)	CY	6,603.00		\$ -
9.	Import Haul In	CY	7,934.00		\$ -
10.	Conduit Bundle (3 ~6" & 2~4")	LF	17.00		\$ -
11.	Lateral Markers at all Sewer Laterals	EA	28.00		\$ -
12.	TPDES Erosion Control (Includes SWPPP and Water Quality Control)	LS	1.00		\$ -
ONSITE STREET IMPROVEMENTS				SUBTOTAL:	\$ -
13.	Excavation (Streets)	CY	307.00		\$ -
14.	Embankment (Streets)	CY	2,401.00		\$ -
15.	Tie to Existing - Fortuna Rd	LS	1.00		\$ -
16.	Local Type "A"				
17.	a. 2" Type "D" HMAC	SY	3,146.00		\$ -
18.	b. 10" Crushed Limestone Base	SY	3,146.00		\$ -
19.	c. 8" Lime Stabilized Subgrade	SY	3,146.00		\$ -
20.	ADA Wheelchair Ramps	EA	4		\$ -
21.	7" Standard Curb	LF	1,665.00		\$ -
22.	4' Sidewalk	SY	94.00		\$ -
23.	Driveways	SY	1,622.00		\$ -
24.	Mailbox Pad	CY	0.67		\$ -
25.	Signage & Striping	LS	1.00		\$ -
26.	Cut and Replace Asphalt for Utility Tie In	LS	1.00		\$ -
ONSITE STORM DRAINAGE IMPROVEMENTS				SUBTOTAL:	\$ -
27.	Reinforced Concrete Class 'A'				
28.	a. Sidewalk Box	CY	1.75		\$ -
29.	b. Headwall	CY	4.40		\$ -
30.	30" RCP	LF	72.50		\$ -
31.	6" Concrete Rip Rap	SY	942.00		\$ -
32.	9"-12" Rock Rubble	SY	14.00		\$ -
33.	Pipe Railing	LF	12.00		\$ -
34.	Trench Excavation Safety Protection	LF	72.50		\$ -
35.	Drain Excavation	CY	716.00		\$ -
36.	Drain Embankment	CY	163.00		\$ -
37.	Channel Revegetation (Hydromulch)	SY	370.00		\$ -
38.	4" Topsoil	SY	370.00		\$ -
ONSITE POTABLE WATER IMPROVEMENTS				SUBTOTAL:	\$ -
39.	8" PVC Pipe (C900 Class 235 DR 18)	LF	694.00		\$ -
40.	2" HPDE Pipe (DR 9)	LF	356.00		\$ -
41.	8" Gate Valve, MJ w/ 6" Valve Box	EA	4.00		\$ -
42.	Ductile Iron Fittings	TON	0.18		\$ -
43.	3/4" Single Service (Short)	EA	17.00		\$ -
44.	3/4" Single Service (Long)	EA	11.00		\$ -
45.	Meter Box	EA	28.00		\$ -
46.	Standard Fire Hydrant Assembly	EA	1.00		\$ -
47.	2" Blowoff Assembly (Temp)	EA	1.00		\$ -
48.	2" Blowoff Assembly (Perm)	EA	1.00		\$ -
49.	Joint Restraints	LS	1.00		\$ -
50.	Hydrostatic Testing	EA	1.00		\$ -
51.	Tie to Existing Water Main	EA	1.00		\$ -
52.	Trench Excavation Safety Protection	LF	1,050.00		\$ -
53.	Traffic Control for Utility Tie-In	LS	1.00		\$ -

ONSITE SANITARY SEWER IMPROVEMENTS				SUBTOTAL:	\$ -
54.	8" Sanitary Sewer Pipe (6'-8')	LF	72.00	\$	-
55.	8" Sanitary Sewer Pipe (8'-10')	LF	504.00	\$	-
56.	8" Sanitary Sewer Pipe (10'-12')	LF	219.00	\$	-
57.	6" Sanitary Sewer Lateral	LF	998.00	\$	-
58.	Standard Manhole	EA	3.00	\$	-
59.	Doghouse Manhole	EA	1.00	\$	-
60.	Manhole Ring Encasement	EA	4.00	\$	-
61.	Manhole Extra Depth	VF	15.00	\$	-
62.	8"x6" Wye	EA	28.00	\$	-
63.	Tie to Existing Sewer Main	EA	1.00	\$	-
64.	Camera Testing	LF	795.00	\$	-
65.	Trench Excavation Safety Protection	LF	795.00	\$	-
TESTING REQUIREMENTS				SUBTOTAL:	\$ -
66.	Sanitary Sewer Trench Compaction Testing	LS	1.00	\$	-
67.	Street Density Testing	LS	1.00	\$	-
68.	Storm Drain Trench Compaction Testing	LS	1.00	\$	-
69.	Waterline Trench Compaction Testing	LS	1.00	\$	-
70.	Concrete Compressive Strength Testing	LS	1.00	\$	-
71.	Lot Density Testing	LS	1.00	\$	-
GRAND TOTAL				\$	-
Notes:					
QUANTITIES ARE PROVIDED FOR REFERENCE ONLY. CONTRACTOR RESPONSIBLE FOR QUANTITY CONFIRMATION.					

SCHEDULE 1:

CONTRACTOR QUALIFICATIONS QUESTIONNAIRE

CONTRACTOR’S QUALIFICATION QUESTIONNAIRE

NOTE: Information supplied in response to this questionnaire is subject to verification. Inaccurate or incomplete answers may be grounds for disqualification from award of this bid. Please attach additional pages, if necessary.

Submitted by (Business Name): _____

Principal Office Location: _____

1. List your 9-digit Dun & Bradstreet # (DUNS #): _____
 You must have DUNS number to work on any project that is funded in part by government funds. The DUNS number must be assigned to the name of the business submitting this bid.
2. How many years has your organization been in business under your present business name?

3. How many years experience in similar construction work has your organization had?
 A). As a General Contractor: _____ B). As a Sub-Contractor: _____
4. Has your organization provided similar construction/infrastructure services for project(s) located within the City of San Antonio city limits? _____ Please list those projects in the table for #21.
5. How many other San Antonio area jobs will your company be working on the same time as this job? _____
6. Is your organization certified as a small business and / or minority/women/disadvantaged business enterprise? _____
 If yes, **you must attach a copy of your certificate as required in Schedule 11.**
7. Does your organization have the capability to submit weekly Davis-Bacon Certified Payrolls and Labor Compliance data on a weekly basis? _____
8. Has your organization provided construction services in the City of San Antonio in which you complied with Davis-Bacon and Related Acts? _____ Please list the name(s) and year of the most recent project:

Attach as Schedule 9 a copy of one week’s certified payroll **with personal employee information such as names and social security numbers blacked out.** You may submit as an alternative a copy of completed forms WH-347 and WH-348 (also with personal information such as names and social security numbers blacked out).

9. Has your organization complied with HUD’s Section 3 Program to provide employment, job training, and contract opportunities to low and very low income persons in the neighborhoods where you worked? _____ If Yes, Please list the name(s) and year of the most recent Section 3 project:

10. Does your business qualify as a Section 3 Business Concern? _____ (Yes or No)
 If yes, **you must attach a copy of your Section 3 Business Concern Certification in Schedule 10.**

Preference for Section 3 Business Concerns

Bid selection preference will be given to Section 3 certified bidders in accordance with Section 3 of the Housing and Urban Development Act of 1968 and the City of San Antonio Neighborhood and Housing and Services Department Section 3 Program and Policy.

Preference is calculated based on the following formula.

Award goes to lowest responsive bidder unless runner-up is a Section 3 Business Concern and runner-up's bid is not more than 'X' higher than the total bid price of the lowest responsive bid.

Section 3 Business Concern must provide completed Certification Form with back-up documentation as applicable. Proof of registration under the prior program is no longer valid.

When lowest responsive bid is:	'X' = lesser of:
At least \$500,000, but less than \$1 million	5% of that bid, or \$40,000
At least \$1 million, but less than \$2 million	4% of that bid, or \$60,000
At least \$2 million, but less than \$4 million	3% of that bid, or \$80,000

11. Will 25% or more of the total number of labor hours worked by all workers on the project be done by Section 3 workers? _____ (Yes or No). Will 5% or more of the total number of labor hours worked by all workers on the project be done by Targeted Section 3 workers? _____ (Yes or No).

Contractor must meet Section 3 benchmarks for Section 3 workers and targeted Section 3 workers or demonstrate qualitative efforts to provide low and very low-income persons with employment and training opportunities. For more information on Section 3 requirements, contact William Taylor at the City of San Antonio at 210-207-5477.

12. Have you ever had a contract terminated (as prime contractor or sub-contractor, under existing company name or another company name) due to failure to comply with contractual specifications? _____
 If so, where and why? _____

13. Has any officer or partner of your organization ever failed to complete a construction contract handled in his own name? _____

If so, state name of individual, name of owner, and reason thereof: _____

14. What equipment do you own that is available for the proposed work and where located?
 You may attach a list, and put it immediately after this questionnaire in your bid packet.

If you do not own the needed equipment, how will you get the work done?

15. What Bank or Banks have you arranged to do business with during the course of the Contract should it be awarded to you? _____

16. Do you have the financial capacity to pay your employees and subcontractors **before** receiving each monthly draw for the duration of this project? _____ (Yes or No)

If no, please explain: _____

18. Please list the names and telephone of the subcontractors (if any) to be used and indicate a) If subcontractor is certified as a small business and / or minority/women/disadvantaged business enterprise; and b) if subcontractor has complied with Davis-Bacon and Related Acts and Federal Labor Standards and c) HUD Section 3 Program on previous projects:

Subcontractor Name	Phone	SBMWDBE? (Y or N)	Prior Davis-Bacon Comply (Y or N)	Prior HUD Sec 3 Comply? (Y or N)
--------------------	-------	----------------------	--------------------------------------	-------------------------------------

19. References: Provide the names, addresses, and telephone numbers of a minimum of three (3) firms or public entities for which the Contractor is currently furnishing, or has furnished, similar infrastructure work in the City of San Antonio.

1. Company Name: _____
 City, State: _____
 Contact Person: _____
 Telephone Number: _____

2. Company Name: _____
 Address: _____
 Contact Person: _____
 Telephone Number: _____

3. Company Name: _____
 Address: _____
 Contact Person: _____
 Telephone Number: _____

20. Complete the attached Job History table with similar infrastructure contracts in the City of San Antonio, Bexar County, TX that your organization completed.

I HEREBY CERTIFY that the above answers and attached Job History table are true and correct.

SIGNED:

Print Name:

Print Title:

Dated: _____

SCHEDULE 2:

BID PROPOSAL SCHEDULE

FOR

FORTUNA SUBDIVISION
SAN ANTONIO, TEXAS

MARCH, 2026

Construction Company: _____
Bidder Name: _____
Signature: _____
Title: _____

FORTUNA SUBDIVISION

COMBINED TOTALS

STREET IMPROVEMENTS

DRAINAGE IMPROVEMENTS

SANITARY SEWER IMPROVEMENTS

WATER IMPROVEMENTS

CONDUIT CROSSING IMPROVEMENTS

PAYMENT & PERFORMANCE BOND

WARRANTY BOND

SUBTOTAL (BEFORE DISCOUNTS)

LESS ANY DISCOUNTS PROVIDED

GRAND TOTAL

Construction Company: _____

Bidders Signature: _____

Printed Name: _____

Title: _____

SCHEDULE 2-B:

ADDENDUMS IF APPLICABLE FOLLOWING THIS PAGE

SCHEDULE 3:

CONTACT INFORMATION

Engineer: Pape Dawson Engineers, Inc.

- Raul Garcia, P.E.
 - O: 210-375-9000
 - Email: rgarcia@pape-dawson.com

Owner: Habitat for Humanity of San Antonio

- Michael Taylor, President & CEO
 - O: 210-223-5203
 - Email: michaelT@habitatsa.org
- Vicky Akers, CFO
 - O: 210-223-5203
 - Email: vickyA@habitatsa.org
- Dominic Silva, AVP Land Development
 - O: 210-388-1927
 - Email: dominicS@habitatsa.org

SCHEDULE 4:

HOLD HARMLESS AGREEMENT

HOLD HARMLESS AGREEMENT

The **CONTRACTOR** shall **FULLY INDEMNIFY, DEFEND and HOLD HARMLESS** Habitat for Humanity of San Antonio, Inc., ("**HABITAT**"), Pape-Dawson Engineers, Inc. ("**ENGINEER**"), the City of San Antonio ("**CITY**"), and Bexar County ("**COUNTY**"), and all of their trustees, officers, agents, elected officials, directors, volunteers, employees, and representatives individually and collectively from and against all suits, actions, or claims of any character brought for or on account of any injuries or damages, including death, received or sustained by any person or property on account of, arising out of, or in connection with, any negligent act or omission of **CONTRACTOR** or any agent, employee, subcontractor or supplier of **CONTRACTOR** in the execution or performance of the **AGREEMENT** for Fortuna Subdivision.

The **CONTRACTOR** shall also defend, indemnify and hold harmless, **HABITAT, ENGINEER, CITY, and COUNTY**, and all of their trustees, officers, agents and employees, from and against claims by any subcontractor, supplier, laborer, material man or mechanic for payment for work materials provided on behalf of the **CONTRACTOR** in the performance of the **AGREEMENT** and all such claimants shall look solely to **CONTRACTOR** and not **HABITAT, ENGINEER, CITY and/or COUNTY** for satisfaction of such claims.

The CONTRACTOR covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, HABITAT, ENGINEER, CITY, and/or COUNTY, and all of their trustees, officers, agents, elected officials, directors, volunteers, employees, and representatives individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon HABITAT, ENGINEER, CITY, and/or COUNTY, directly or indirectly arising out of, resulting from or related to CONTRACTOR's activities under this AGREEMENT, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, consultant, contractor or subcontractor of CONTRACTOR, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this AGREEMENT, all without, however, waiving any governmental immunity available to the City or County under Texas law and without waiving any defenses of the parties under Texas law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF HABITAT, ENGINEER, CITY, COUNTY, ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF HABITAT, ENGINEER, CITY, AND COUNTY UNDER THIS AGREEMENT. The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONTRACTOR shall promptly advise HABITAT in writing within three (3) days of any claim or demand against HABITAT, ENGINEER, CITY, and/or COUNTY or CONTRACTOR known to CONTRACTOR related to or arising out of CONTRACTOR's activities under this AGREEMENT and shall see to the investigation and defense of such

claim or demand at CONTRACTOR's cost. HABITAT, ENGINEER, CITY, OR COUNTY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONTRACTOR of any of its obligations under this paragraph.

It is the EXPRESS INTENT of the parties to this AGREEMENT, that the INDEMNITY provided for in this HOLD HARMLESS AGREEMENT, is an INDEMNITY extended by CONTRACTOR to INDEMNIFY, PROTECT, and HOLD HARMLESS HABITAT, ENGINEER, CITY and COUNTY from the consequences of HABITAT, ENGINEER, CITY and/or COUNTY's OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this AGREEMENT SHALL APPLY only when the NEGLIGENT ACT of HABITAT, ENGINEER, CITY and COUNTY is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage. CONTRACTOR further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF HABITAT, ENGINEER, CITY and/or COUNTY AND IN THE NAME OF HABITAT, ENGINEER, CITY and/or COUNTY, any claim or litigation brought against HABITAT, ENGINEER, CITY, and/or COUNTY and its elected officials, employees, officers, directors, volunteers, and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

It is expressly understood and agreed that CONTRACTOR is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions and that HABITAT, ENGINEER, CITY, and/or COUNTY shall in no way be responsible therefore.

This Hold Harmless AGREEMENT shall be binding upon the undersigned, and its successors, legal representatives, heirs and assigns.

DATED this _____ day of _____, 2026.

CONTRACTOR:

By: _____

Name: _____

Title: _____

STATE OF TEXAS §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the day of ____ day of _____ 2026, by _____, as _____ of _____, a Texas _____, on behalf of said _____.

Notary Public, State of Texas

SCHEDULE 5:

INSERT BID SECURITY AFTER THIS PAGE

SCHEDULE 6:

FELONY CONVICTION NOTICE

FELONY CONVICTION NOTIFICATION

Any person or business entity that enters into a contract with Habitat for Humanity of San Antonio, Inc. (Habitat) must give advance notice to Habitat if the person or operator or any principal officer of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.

Habitat may terminate a contract with a person or business entity if Habitat determines that the person or business entity failed to give notice as required by this Schedule 6 or misrepresented the conduct resulting in the conviction. Habitat must compensate the person or business entity for services performed before the termination of the contract.

THIS NOTICE IS NOT REQUIRED OF A PUBLICLY-HELD CORPORATION

I, the undersigned agent for the firm named below, certify that I have reviewed the requirements concerning notification of felony convictions and the certification furnished below is true and correct to the best of my knowledge based upon reasonable inquiry.

CONTRACTOR’S NAME: _____

NAME OF AUTHORIZED COMPANY OFFICIAL (Please Print): _____

DATE: _____, 2026

Select the most appropriate choice (A, B, or C) by initialing in the space provided:

A. _____ My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

B. _____ My firm is **NOT** owned **AND/OR** operated by anyone who has been convicted of a felony.

C. _____ My firm **IS** owned and/or operated by a person or persons who has/have been convicted of a Felony. (Provide all information for each felon using the format below. Attach additional pages if necessary.)

Name of Felon: _____

Position: _____

Details of Conviction: _____

Signature of Company Official:

Complete and return with proposal

SCHEDULE 7:

OUT OF STATE CERTIFICATION

OUT OF STATE CERTIFICATION

As defined by Texas House Bill 602, a “nonresident contractor” means a contractor whose principal place of business is not in Texas, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

Company Name (Please Print)

I certify that my company is a “**Resident Contractor**”.
If you are a Texas “Resident Contractor” you can stop here and sign the certification below.

OR

I certify that my company qualifies as a “**Nonresident Contractor**” (NOTE: You must furnish the following information). *If you are a “Nonresident Contractor” please complete the following:*

Indicate the following information for your “**Resident State**”: (The state your principal place of business is located in)

Company Name

Address

City

State / Zip Code

Does your “resident state” require contractors whose principal place of business is in Texas to, under proposed contractors whose resident state is the same as yours, by a prescribed amount or percentage to receive a comparable contract? (“Resident State” means that state in which the principal place of business is located.)

Yes or No

What prescribed amount or percentage? \$ _____ or _____ %

Certification: I certify that the information provided above is correct.

Signature of Authorized Representative

Date

Name (Please Print)

Title

FORTUNA SUBDIVISION

SCHEDULE 8:

8A) CERTIFICATION OF COMPLIANCE WITH REGULATIONS AND REQUIREMENTS

8B) CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

8C) CERTIFICATION REGARDING LOBBYING FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

**CERTIFICATION OF COMPLIANCE WITH FEDERAL, STATE,
COUNTY AND CITY LAWS, REGULATIONS & REQUIREMENTS**

I. POLITICAL AND SECTARIAN ACTIVITY

1.1 Political Activity. None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, either directly or indirectly, for any political activity including, but not limited to, an activity to further the election or defeat of any candidate for public office or for any activity undertaken to influence the passage, defeat or final content of local, state or federal legislation.

1.2 Sectarian Activity. None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operation, maintenance or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

II. DEBARMENT, SUSPENSION, AND PROPOSED DEBARMENT

2.1 Certification Regarding Debarment, Suspension, and Proposed Debarment. CONTRACTOR certifies, and HABITAT relies thereon in execution of this AGREEMENT, that

- (A) No federally appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (B) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.
- (C) The CONTRACTOR and its principals (as such term is defined in 24 C.F.R. 24.105(p), "Principals", for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division or business segment, and similar positions)):
 - (i) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction (as such term is defined in 24 CFR 24.110) by any Federal department or agency.

- (ii) have not, within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property.
 - (iii) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in (ii) of this certification; and
 - (iv) have not, within a three-year period preceding this application/proposal, had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (D) CONTRACTOR shall provide immediate written notice to HABITAT, if, at any time during the term of the Agreement, including any renewals hereof, CONTRACTOR learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.
- (E) CONTRACTOR acknowledges, understands, and agrees to comply with 24 CFR 92 Section 92.350 and 24 CFR 570 Section 570.604, Use of debarred, suspended or ineligible contractors or subcontractors.
- (F) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. § 92.350, *Use of debarred, suspended or ineligible contractors or sub-contractors*, which states that HOME funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or subcontractor during any period of debarment, suspension, or placement of ineligibility status. CONTRACTOR shall check all contractors, subcontractors, and lower-tier contractors against the excluded parties list maintained on the Federal System for Award Management.
- (G) CONTRACTOR acknowledges, understands, and agrees to comply to with 24 CFR 92 Section 92.350, Use of debarred, suspended or ineligible contractors or sub-recipients and 24 CFR 92 Section 92.508 (a)(7)(viii), Records demonstrating compliance with debarment and suspension requirements.
- (H) CONTRACTOR's certification is a material representation of fact upon which HABITAT has relied in entering into this Agreement. Should HABITAT determine, at any time during this Agreement, including any renewals hereof, that this certification is false, or should it become false due to changed circumstances, HABITAT may terminate this Agreement in accordance with the General Conditions of Agreement executed by the parties.

III. HUD 24 C.F.R. PART 75 SECTION 3

3.1 The work to be performed under this AGREEMENT is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992 (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing.

3.2 CONTRACTOR understands and agrees to comply with the following federal regulations as promulgated in the Section 3 clause of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u ("*Section 3*"), and if requested by HABITAT, CITY OR COUNTY, shall provide HABITAT, CITY OR COUNTY with information to verify the Section 3 Business Concern Certification attached hereto and incorporated herein for all purposes as Schedule 10.

- (A) CONTRACTOR agrees to comply with HUD's regulations in 24 C.F.R. Part 75, which implement Section 3. As evidenced by CONTRACTOR's execution of this AGREEMENT, CONTRACTOR certifies that CONTRACTOR is under no contractual or other impediment that would prevent it from complying with the Part 75 regulations.
- (B) CONTRACTOR agrees to send to each labor organization or representative of workers with which CONTRACTOR has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the CONTRACTOR's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (C) On and after the Effective Date of this AGREEMENT, CONTRACTOR agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 75. CONTRACTOR will not subcontract with any subcontractor where the CONTRACTOR has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 75.
- (D) CONTRACTOR will certify that any vacant employment positions, including training positions, that are filled (a) after the contractor is selected but before the contract is executed, and (b) with persons other than those to whom the regulations of 24 C.F.R. Part 75 require employment opportunities to be directed, were not filled to circumvent the CONTRACTOR's obligations under 24 C.F.R. Part 75.
- (E) CONTRACTOR acknowledges, understands, and agrees to comply to with 24 CFR 75 documentation and record keeping actions undertaken to meet the requirements of 24 CFR Part 75 which implements Section 3 of the Housing Development Act of 1968, as amended.

3.3 Non-compliance with HUD's regulations in 24 C.F.R. Part 75 may result in sanctions, termination of this AGREEMENT for default, and debarment or suspension from further HUD-assisted contracts.

3.4 With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (24 U.S.C.

§ 450e) also applies to the work to be performed under this AGREEMENT. Section 7(b) requires that to the greatest extent feasible (a) preference and opportunities for training and employment shall be given to Indians, and (b) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. CONTRACTOR agrees to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

IV. DAVIS BACON AND RELATED ACTS

4.1 The CONTRACTOR acknowledges, understands, and agrees to comply to with 24 CFR 92 Section 92.354, Labor standards – Federal Labor Standards AND 24 CFR Section 570.602 as required by Community Development Block Grants (24 C.F.R. Part 570) and Urban Development Action Grants (24 CFR Part 576, Subpart (G)) which includes:

- (A) Davis–Bacon and Related Acts (Title 40 U.S.C. 3141-3148) – Ensures that mechanics and laborers employed in construction work under federally assisted contracts are paid wages and fringe benefits equal to those which prevail in the locality where the work is performed. This act also provides for the withholding of funds to ensure compliance and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs. All construction undertaken with assistance made available to CONTRACTOR by HABITAT under this AGREEMENT shall comply with the Federal Labor Standard Provisions/ Davis-Bacon Act set forth in Form HUD 4010, Federal Labor Standards Provisions, which is at the following url:
portal.hud.gov/hudportal/documents/huddoc?id=4010.pdf.
- (B) CONTRACTOR acknowledges, understands, and agrees to comply with the Contract Work Hours and Safety Standards Act (CWHSSA) (Title 40 U.S.C. 3701) – which provides that mechanics and laborers employed on federally assisted construction jobs are paid time and one-half for work in excess of 40 hours per week, and provides for the payment of liquidated damages where violations occur. This act also addresses safe and healthy working conditions.
- (C) For this Project, CONTRACTORS and subcontractors are required to use appropriate Davis-Bacon wages/classifications according to **Heavy and Highway General Wage Decision TX20260007 Published 01/02/2026** and submit weekly certified payroll reports to HABITAT and receive and submit payroll reports from subcontractors. The CONTRACTOR shall post a copy of the wage decision and DOL poster, *Notice to Employees* on the job site.
- (D) The CONTRACTOR shall maintain the payroll and other basic records for at least 3 years after project completion.
- (E) CONTRACTOR shall submit weekly certified payroll reports to HABITAT. The CONTRACTOR shall require and receive weekly payroll reports from subcontractors and then submit the subcontractor payroll reports to HABITAT.

- (F) The CONTRACTOR shall provide HABITAT with access to the Project Site and the Contract Work in preparation and progress at any time. The CONTRACTOR shall allow HABITAT to conduct job site inspections, employee interviews and review CONTRACTOR payrolls and other basic records as required by the Davis-Bacon and Related Acts.
- (G) CONTRACTOR understands and acknowledges that the Provisions of Chapter 2258, Texas Government Code, and City Ordinance 2008-11-20-1045, are expressly made a part of this Agreement.
- (H) CONTRACTOR ensures that this Section 4.1, to include clauses (A) through (H), and the related wage decision shall be included in its entirety in any sub-contract agreement entered into by CONTRACTOR, CONTRACTOR's contractor and/or subcontractor employed on the Project.
- (I) CONTRACTOR shall forward any questions regarding these prevailing wage provisions to HABITAT.
- (J) CONTRACTOR shall comply with Chapter 2258 of the Texas Government Code and CITY Ordinance 2008-11-20-1045, Wage and Hour Labor Standard Provisions, as set forth below.
- (K) CONTRACTOR shall provide HABITAT, CITY and COUNTY with sufficient documentation to verify that the provisions of Chapter 2258 of the Texas Government Code, and CITY Ordinance 2008-11-20-1045 are met. CONTRACTOR understands and acknowledges that HABITAT and/or CITY, and/or COUNTY may request periodic reports or support to ensure adherence to prevailing wage rates provisions.
- (L) If, as a result of HABITAT's and/or CITY's and/or COUNTY's review, HABITAT or CITY or COUNTY finds any violations, CONTRACTOR shall forfeit as a penalty to HABITAT and CITY and COUNTY sixty dollars (\$60.00) for each laborer, workman, or mechanic employed, for each calendar day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said Agreement, by the CONTRACTOR or any subcontractor.
- (M) CONTRACTOR understands and agrees that the establishment of prevailing wage rates pursuant to Chapter 2258, Texas Government Code and City Ordinance 2008-11-20-1045 shall not be construed to relieve CONTRACTOR, or any subcontractor, from his obligation under any Federal or State Law regarding the wages to be paid to or hours worked by laborers, workmen or mechanics insofar as applicable to the work to be performed hereunder.
- (N) CONTRACTOR ensures that the listed wage decision shall be included in its entirety in any subcontract agreement entered into by CONTRACTOR, and/or subcontractor employed on the Project.

V. BOOKS AND RECORDS

5.1 CONTRACTOR agrees to maintain records that will provide accurate, current, separate, and complete disclosure of the status of any funds received pursuant to this AGREEMENT.

5.2 CONTRACTOR further agrees:

- (A) That maintenance of said records shall be in compliance with all terms, provisions and requirements of this AGREEMENT and with all applicable federal and state regulations establishing standards for financial management; and
- (B) That CONTRACTOR's record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure.
- (C) For a period of five (5) years after the Project Completion date, CONTRACTOR agrees to retain all books, records, documents, reports, and written accounting policies and procedures pertaining to the operation of programs and expenditures of funds under this AGREEMENT.
- (D) At any reasonable time, HABITAT, CITY, COUNTY, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to the Contract Work for the purposes of making audit, examination, excerpts, copies, and/or transcriptions for five years after final payment of the CONTRACTOR and all pending matters are closed. Records shall include, but shall not be limited to, accounting records, payroll, personnel and employment records, contracts and subcontracts, all permits, and licenses in connection with the Project.
- (E) Nothing in this Article shall be construed to relieve CONTRACTOR of responsibility for retaining accurate and current records in accordance with all Legal Requirements and which clearly reflect the level and benefit of services provided under this AGREEMENT.
- (F) CONTRACTOR agrees to include the substance of this Article in all of its sub-contracts.
- (G) CONTRACTOR acknowledges, understands, and agrees to comply with record keeping requirements codified in 24 C.F.R. § 92.508, including, but not limited to:
 - (i) If AGREEMENT includes requirements relating to program beneficiaries, then 24 C.F.R. § 92.508(a)(7)(i)(A), which requires the collection of data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME funds;
 - (ii) 24 C.F.R. § 92.508(a)(7)(i)(B), Documentation of actions undertaken to meet the requirements of 24 C.F.R. Part 75, which implements Section 3;
 - (iii) 24 C.F.R. § 92.508(a)(7)(v), Records demonstrating compliance with the labor requirements;

- (iv) If AGREEMENT includes marketing activities, then 24 C.F.R. § 92.508(a)(7)(ii)(A), Records demonstrating compliance with the affirmative marketing procedures and requirements;
- (v) If AGREEMENT includes environmental work, then 24 C.F.R. § 92.508(a)(7)(iii), Records demonstrating compliance with the environmental review requirements;
- (vi) 24 C.F.R. § 92.508(a)(7)(viii), Records demonstrating compliance with debarment and suspension requirements;
- (vii) If AGREEMENT includes demolition or rehabilitation or existing structures, then 24 C.F.R. § 92.508(a)(7)(vi), Records demonstrating compliance with the lead-based paint requirements; and
- (viii) 24 C.F.R. § 92.508(a)(7)(vii), Records supporting exceptions to the conflict of interest prohibition.

VI. NO CONFLICT OF INTEREST

6.1 CONTRACTOR acknowledges, understands, and agrees to comply to with 24 CFR 92 Section 92.356 and 24 CFR 570 Section 570.604, Conflict of Interest, and 24 CFR 92.508 (a)(7)(vii), Records supporting exceptions to the conflict of interest prohibition.

6.2 No persons who is an employee, agent, consultant, officer, or official of CONTRACTOR or their immediate family has participated or exercised any functions or responsibilities or participated in any decision-making process or gained any inside information with regard to the awarding of funds to HABITAT from any governmental organization or HABITAT's review, selection, and award of any contract related to any activities under this AGREEMENT. Immediate family include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

VII. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA)

7.1 CONTRACTOR shall comply with the requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise) by using its best efforts to encourage the use of minority and women's business enterprises in connection with Contract Work. CONTRACTOR agrees to comply with the provisions of 2 C.F.R. § 200.321, *Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms*, by taking all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible, with such affirmative steps to include:

- A) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

- B) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
- C) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
- D) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;
- E) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- F) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in clauses (i) through (v) of this Section 12.1(W).

7.2 **SBEDA Program.** The CITY has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2016-05-19-0367 and as amended, also referred to as “SBEDA” or “the SBEDA Program”), which is posted on the City’s Economic Development Department (EDD) website page and is also available in hard copy format upon request to the CITY. The SBEDA Ordinance Compliance Provisions contained in this section of the Agreement are governed by the terms of the SBEDA Ordinance, as well as by the terms of the SBEDA Ordinance Policy & Procedure Manual established by the CITY pursuant to this Ordinance, and any subsequent amendments to this referenced SBEDA Ordinance and SBEDA Policy & Procedure Manual that are effective as of the date of the execution of this Agreement. Unless defined in a contrary manner herein, terms used in this section of the Agreement shall be subject to the same expanded definitions and meanings as given those terms in the SBEDA Ordinance and as further interpreted in the SBEDA Policy & Procedure Manual.

7.3 **Definitions.** For purposes of this Article the following definitions apply:

Affirmative Procurement Initiatives (API) – Refers to various S/M/WBE Program tools and Solicitation Incentives that are used to encourage greater prime and subcontract participation by S/M/WBE firms, including bonding assistance, evaluation preferences, subcontracting goals and joint venture incentives. (For full descriptions of these and other S/M/WBE Program tools, see Section III.D of Attachment A to the SBEDA Ordinance). To be eligible for the benefits of race- and gender-conscious APIs as provided in the SBEDA Ordinance, M/WBE firms must also satisfy the size standards for being a Small Business Enterprise or SBE as defined herein.

Annual Aspirational Goal – a non-mandatory annual aspirational percentage goal for overall M/WBE Prime and subcontract participation in City of San Antonio contracts is established each year for Construction, Architectural & Engineering, Professional Services, Other Services, and Goods & Supplies contract Industry Categories. This Annual Aspirational Goal is to be set (and thereafter adjusted) by the Goal Setting Committee (GSC) based upon the M/WBE availability by industry in accordance with the City’s 2015

Disparity Study findings, along with relative M/WBE availability data to be collected by the City through its CVR system, and the utilization of M/WBEs. Any adjusted Annual Aspirational Goals for a given industry should not exceed the Expected Availability for award dollar weights as found in the 2015 Disparity Study. Annual Aspirational Goals are not to be routinely applied to individual contracts, but are intended to serve as a benchmark against which to measure the overall effectiveness of the S/M/WBE Program on an annual basis, and to gauge the need for future adjustments to the mix and to the aggressiveness of remedies being applied under the Program. Percentage Goals for S/M/WBE participation may be established by the GSC on a contract-by-contract basis based upon similar data and analysis for the particular goods and services being purchased in a given contract.

Award – the final selection of a Respondent for a specified Prime Contract or subcontract dollar amount. Contract awards are made by the City to Prime Contractors or vendors and by Prime Contractors or vendors to Subcontractor or sub-vendors, usually pursuant to a solicitation process. (Contract awards are to be distinguished from contract payments in that they only reflect the anticipated dollar amounts instead of actual dollar amounts that are paid to a contractor under an awarded contract).

Best Value Contracting – a purchasing solicitation process through which the Originating Department may evaluate factors other than price. Evaluation criteria for selection may include a Respondent’s previous experience and quality of product or services procured, and other factors identified in the applicable statute.

Centralized Vendor Registration System (CVR) – a mandatory electronic system of hardware and software programs by which the City recommends all prospective respondents and subcontractors that are ready, willing and able to sell goods or services to the City to register. All businesses awarded a City contract shall be required to register in the CVR. The CVR system assigns a unique identifier to each registrant that is then required for the purpose of submitting solicitation responses and invoices, and for receiving payments from the City. The CVR-assigned identifiers are also used by the Goal Setting Committee for measuring relative availability and tracking utilization of SBE and M/WBE firms by Industry or commodity codes, and for establishing Annual Aspirational Goals and Contract-by-Contract Subcontracting Goals.

Certification – the process by which the Small Business Office (SBO) staff determines a firm to be a bona-fide small, minority-, women-owned, or emerging small business enterprise. Emerging Small Business Enterprises (ESBEs) are automatically eligible for Certification as SBEs. Any firm may apply for multiple Certifications that cover each and every status category (e.g., SBE, ESBE, MBE, or WBE) for which it is able to satisfy eligibility standards. The SBO staff may contract these services to a regional Certification agency or other entity. For purposes of Certification, the City may accept any firm that is certified by local government entities and other organizations identified herein that have adopted Certification standards and procedures similar to those followed by the SBO, provided the prospective firm satisfies the eligibility requirements set forth in this Ordinance in Section III.E.6.

City – refers to the City of San Antonio, TX.

Commercially Useful Function – an S/M/WBE firm performs a Commercially Useful Function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the S/M/WBE firm must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an S/M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/M/WBE firm is to be paid under the contract is commensurate with the work it is actually performing and the S/M/WBE credit claimed for its performance of the work, and other relevant factors. Specifically, an S/M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of meaningful and useful S/M/WBE participation, when in similar transactions in which S/M/WBE firms do not participate, there is no such role performed.

Control – the authority of a person or business owner to sign responses to solicitations and contracts, make price negotiation decisions, sell or liquidate the business and have the primary authority to direct the day-to-day management and operation of a business enterprise without interference from others.

Economic Inclusion – efforts to promote and maximize commercial transactions within, between and among all segments of the business population, regardless of race or gender, within the Relevant Marketplace.

Emerging SBE (ESBE) – a certified SBE corporation, partnership, sole proprietorship or other legal entity for the purpose of making a profit, which is independently owned and operated by Individuals legally residing in, or that are citizens of, the United States or its territories whose annual revenues and number of employees are no greater than 25% of the small business size standards for its industry as established by the U.S. Small Business Administration, and meets the Significant Business Presence requirements as defined herein.

Emerging M/WBE – a certified M/WBE firm whose annual revenues and number of employees are no greater than 25% of the small business size standards for its industry as established by the U.S. Small Business Administration, and meets the Significant Business Presence requirements as defined herein.

Evaluation Preference – an API that may be applied by the Goal Setting Committee to Construction, Architectural & Engineering, Professional Services, Other Services, and Goods and Supplies contracts that are to be awarded on a basis that includes factors other than lowest price, and wherein responses that are submitted to the City by S/M/WBE firms may be awarded additional Points in the evaluation process in the scoring and ranking of their proposals against those submitted by other prime Respondents.

Formal Solicitation – an invitation for bids, request for proposals, request for qualifications or other solicitation document issued by a City department for a contract that

requires City Council approval, in accordance with the procurement rules adopted by the City Manager or designee through a memorandum issued by the City Manager or designee, an Administrative Directive or a procurement manual issued under the authority of the City Manager or designee, and/or pursuant to statutory requirements.

Goal Setting Committee (GSC) – a committee, or series of committees, appointed and chaired by the City Manager or designee from the Executive Team that includes, at a minimum, the EDD Director or designee, and the Director of Finance or Director of Transportation and Capital Improvements (TCI) or their designees, the Director or designee of the Originating Department (if the Originating Department is neither Finance nor TCI,) all without duplication of designees and two citizens appointed by City Council who are eligible to vote during the goal setting committee on contracts valued at \$3,000,000 and above. The City Manager or designee may also appoint two ex-officio members of the Small Business Advocacy Committee to serve on any GSC purely in an advisory and non-voting capacity. The GSC establishes S/M/WBE Program Goals for the City of San Antonio (e.g., Annual Aspirational Goals, Contract-by-Contract Subcontracting Goals, and determining which M/WBE segments are eligible for Segmented Subcontracting Goals annually) based upon Industry Categories, vendor availability, project-specific characteristics, and M/WBE utilization. The GSC also makes determinations about which Affirmative Procurement Initiatives (APIs) are to be applied to specific contracts based upon various criteria.

Good Faith Efforts – documentation of the Respondent’s intent to comply with S/M/WBE Program Goals and procedures including, but not limited to, the following: (1) documentation as stated in the solicitation reflecting the Respondent’s commitment to comply with SBE or M/WBE Program Goals as established by the GSC for a particular contract; or (2) documentation of efforts made toward achieving the SBE or M/WBE Program Goals (e.g., solicitations of bids/proposals/qualification statements from all qualified SBE or M/WBE firms listed in the Small Business Office’s directory of certified SBE or M/WBE firms; correspondence from qualified SBE or M/WBE firms documenting their unavailability to perform SBE or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for SBE or M/WBE firms; documentation of a Prime Contractor’s posting of a bond covering the work of SBE or M/WBE Subcontractors; documentation of efforts to assist SBE or M/WBE firms with obtaining financing, bonding or insurance required by the Respondent; and documentation of consultations with trade associations and contractors that represent the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE Subcontractors.)

HUBZone Firm – a business that has been certified by U.S. Small Business Administration for participation in the federal HUBZone Program, as established under the 1997 Small Business Reauthorization Act. To qualify as a HUBZone firm, a small business must meet the following criteria: (1) it must be owned and Controlled by U.S. citizens; (2) at least 35 percent of its employees must reside in a HUBZone; and (3) its Principal Place of Business must be located in a HUBZone within the San Antonio Metropolitan Statistical Area. [See 13 C.F.R. 126.200 (1999).]

Independently Owned and Operated – ownership of an SBE firm must be direct, independent and by Individuals only. Ownership of an M/WBE firm may be by Individuals and/or by other businesses provided the ownership interests in the M/WBE firm can satisfy the M/WBE eligibility requirements for ownership and Control as specified herein in Section III.E.6. The M/WBE firm must also be Independently Owned and Operated in the sense that it cannot be the subsidiary of another firm that does not itself (and in combination with the certified M/WBE firm) satisfy the eligibility requirements for M/WBE Certification.

Individual – an adult person that is of legal majority age.

Industry Categories – procurement groupings for the City of San Antonio inclusive of Construction, Architectural & Engineering, Professional Services, Other Services, and Goods & Supplies (i.e., manufacturing, wholesale and retail distribution of commodities). This term may sometimes be referred to as “business categories.”

Joint Venture Incentives – an API that provides inducements for non-SBE and non-M/WBE firms to collaborate with SBE or M/WBE partners in responses to solicitations and performing a Prime Contract to supply goods to, or to perform non-Construction services on behalf of, the City. Joint ventures are manifested by written agreements between two or more Independently Owned and Controlled business firms to form a third business entity solely for purposes of undertaking distinct roles and responsibilities in the completion of a given contract. Under this business arrangement, each joint venture partner shares in the management of the joint venture and also shares in the profits or losses of the joint venture enterprise commensurately with its contribution to the venture. Incentives under this API may include Evaluation Preferences that are tied to the percentage of SBE or M/WBE participation in the joint venture, expedited issuance of building permits and extra contract option years in certain Other Services and Goods & Supplies contracts.

Minority/Women Business Enterprise (M/WBE) – firm that is certified as either a Minority Business Enterprise or as a Women Business Enterprise, and which is at least fifty-one percent (51%) owned, managed and Controlled by one or more Minority Group Members and/or women, and that is ready, willing and able to sell goods or services that are purchased by the City of San Antonio.

M/WBE Directory – a listing of M/WBEs that have been certified for participation in the City’s M/WBE Program APIs.

M/WBE Subcontracting Program – an API in which Prime Contractors or vendors are required to make Good Faith Efforts to subcontract a specified percentage of the value of prime contract dollars to certified M/WBE firms. Such subcontracting goals may be set and applied by the GSC on a contract-by-contract basis to those types of contracts that provide subcontract opportunities for performing Commercially Useful Functions wherein:

- (1) There have been ongoing disparities in the utilization of available M/WBE Subcontractors; or
- (2) Race-Neutral efforts have failed to eliminate persistent and significant disparities

in the award of prime contracts to M/WBEs in a particular Industry Category or industry segment (e.g., Construction contracts, Professional Services contracts, and Architectural and Engineering contracts), and subcontract opportunities are limited outside of City contracts.

When specified by the GSC, the M/WBE Subcontracting Program may also be required to reflect Good Faith Efforts that a Prime Contractor or vendor has taken (or commits to taking in the case of solicitations that do not include a detailed scope of work or those in which price cannot be considered a factor in evaluation), toward attainment of subcontracting goals for M/WBE firms.

M/WBE Evaluation Preference – an API that the City may apply to requests for proposals or qualifications (RFPs or RFQs) on City Construction, Architectural & Engineering, Professional Services, Other Services, and Goods & Supplies contracts that are issued pursuant to a Best Value Contracting method or other methods of procurement wherein criteria other than lowest price are factored into the selection process. M/WBEs that submit responses for these kinds of solicitations are awarded additional Points in the scoring of their responses when evaluating and ranking their responses against those submitted by non-minority firms. Where specified in contract specifications as approved by the Goal Setting Committee, the M/WBE Evaluation Preference may be limited to Emerging M/WBE firms.

Minority Business Enterprise (MBE) – any legal entity, except a joint venture, that is organized to engage in for-profit transactions, which is certified as being at least fifty-one percent (51%) owned, managed and Controlled by one or more Minority Group Members, and that is ready, willing and able to sell goods or services that are purchased by the City. To qualify as an MBE, the enterprise shall meet the Significant Business Presence requirement as defined herein. Unless otherwise stated, the term “MBE” as used in the SBEDA Ordinance is not inclusive of women-owned business enterprises (WBEs).

Minority Group Members – African-Americans, Hispanic Americans, Asian Americans and Native Americans legally residing in, or that are citizens of, the United States or its territories, as defined below:

African-Americans: Persons with origins in any of the black racial groups of Africa.

Hispanic-Americans: Persons of Mexican, Puerto Rican, Cuban, Spanish or Central and South American origin.

Asian-Americans: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

Native Americans: Persons having no less than 1/16th percentage origin in any of the Native American Tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

Originating Department – the City department or authorized representative of the City which issues solicitations or for which a solicitation is issued.

Payment – dollars actually paid to Prime Contractors and/or Subcontractors and vendors for City contracted goods and/or services.

Points – the quantitative assignment of value for specific evaluation criteria in the vendor selection process used in some Construction, Architectural & Engineering, Professional Services, Other Services, and Goods & Supplies contracts (e.g., up to 20 points out of a total of 100 points assigned for S/M/WBE participation as stated in response to a Request for Proposals).

Prime Contractor – the vendor or contractor to whom a purchase order or contract is issued by the City of San Antonio for purposes of providing goods or services for the City.

Race-Conscious – any business classification or API wherein the race or gender of business owners is taken into consideration (e.g., references to M/WBE programs and APIs that are listed herein under the heading of “Race-Conscious”). To be eligible for the benefits of race- and gender-conscious APIs as provided in this Ordinance, M/WBE firms must also satisfy the size standards for being a Small Business Enterprise or SBE as defined herein.

Race-Neutral – any business classification or API wherein the race or gender of business owners is not taken into consideration (e.g., references to SBE programs and APIs that are listed herein under the heading of “Race-Neutral”).

Relevant Marketplace – the geographic market area affecting the S/M/WBE Program as determined for purposes of collecting data for the 2015 Disparity Study, and for determining eligibility for participation under various programs established by the SBEDA Ordinance, is defined as the San Antonio Metropolitan Statistical Area (SAMSA), currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

Respondent – a vendor submitting a bid, statement of qualifications, or proposal in response to a solicitation issued by the City.

Responsible – a firm which is capable in all respects to fully perform the contract requirements and has the integrity and reliability which will assure good faith performance of contract specifications.

Responsive – a firm’s submittal (bid, response or proposal) conforms in all material respects to the solicitation (Invitation for Bid, Request for Qualifications, or Request for Proposal) and shall include compliance with S/M/WBE Program requirements.

San Antonio Metropolitan Statistical Area (SAMSA) – also known as the Relevant Marketplace, the geographic market area from which the City’s 2015 Disparity Study analyzed contract utilization and availability data for disparity (currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson).

Segmented M/WBE Goals – the application of multiple goals for M/WBE participation within Annual Aspirational Goals or for M/WBE Subcontracting Goals on an individual

City contract wherein an overall combined M/WBE goal is accompanied by subsets of one or more smaller goals. Such segmented goals specifically target the participation of a particular segment of business enterprises owned and Controlled by WBEs or certain Minority Group Members (e.g., African-Americans or Hispanic-Americans) based upon relative availability and significantly greater patterns of underutilization and disparity within an industry as compared to other gender and Minority Group Member categories of M/WBEs. The application of Segmented M/WBE Goals is intended to ensure that those segments of M/WBEs that have been most significantly and persistently underutilized receive a fair measure of remedial assistance.

SBE Directory – a listing of small businesses that have been certified for participation in the City’s SBE Program APIs.

Significant Business Presence – to qualify for this Program, a S/M/WBE must be headquartered or have a *significant business presence* for at least one year within the Relevant Marketplace, defined as: an established place of business in one or more of the eight counties that make up the San Antonio Metropolitan Statistical Area (SAMSA), from which 20% of its full-time, part-time and contract employees are regularly based, and from which a substantial role in the S/M/WBE's performance of a Commercially Useful Function is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence.

Small Business Enterprise (SBE) – a corporation, partnership, sole proprietorship or other legal entity for the purpose of making a profit, which is Independently Owned and Operated by Individuals legally residing in, or that are citizens of, the United States or its territories, and which meets the U.S. Small Business Administration (SBA) size standard for a small business in its particular industry(ies) and meets the Significant Business Presence requirements as defined herein.

Small Business Office (SBO) – the office within the Economic Development Department (EDD) of the City that is primarily responsible for general oversight and administration of the S/M/WBE Program.

Small Minority Women Business Enterprise Program (S/M/WBE Program) – the combination of SBE Program and M/WBE Program features contained in this Ordinance.

Solicitation Incentives – additional inducements or enhancements in the solicitation process that are designed to increase the chances for the selection of S/M/WBE firms in competition with other firms. Such inducements and enhancements may include such terms as additional contract option years, increased quantities in supply contracts, and evaluation preferences, where not prohibited by law. These solicitation incentives may be applied as appropriate to solicitations, contracts, and letter agreements for Construction, Architecture and Engineering services, Professional Services, Other Services, and Goods & Supplies contracts, including change orders and amendments.

Subcontractor – any vendor or contractor that is providing goods or services to a Prime Contractor in furtherance of the Prime Contractor’s performance under a contract or

purchase order with the City. A copy of the binding agreement between the Prime Contractor and the Subcontractor shall be submitted prior to the City's issuance of a notice to proceed.

Suspension – the temporary stoppage of an SBE or M/WBE firm's beneficial participation in the City's S/M/WBE Program for a finite period of time due to cumulative contract payments the S/M/WBE firm received during a fiscal year that exceed a certain dollar threshold as set forth in Section III.E.7, or pursuant to the Penalties and Sanctions set forth in Section III.E.13.

Subcontractor/Supplier Utilization Plan – a binding part of this contract agreement which states the CONTRACTOR's commitment for the use of Joint Venture Partners and / or Subcontractors/Suppliers in the performance of this contract agreement, and states the name, scope of work, and dollar value of work to be performed by each of CONTRACTOR's Joint Venture partners and Subcontractors/Suppliers in the course of the performance of this contract, specifying the S/M/WBE Certification category for each Joint Venture partner and Subcontractor/Supplier, as approved by the SBO Manager. Additions, deletions or modifications of the Joint Venture partner or Subcontractor/Supplier names, scopes of work, of dollar values of work to be performed requires an amendment to this agreement to be approved by the EDD Director or designee.

Women Business Enterprises (WBEs) - any legal entity, except a joint venture, that is organized to engage in for-profit transactions, that is certified for purposes of the SBEDA Ordinance as being at least fifty-one percent (51%) owned, managed and Controlled by one or more non-minority women Individuals that are lawfully residing in, or are citizens of, the United States or its territories, that is ready, willing and able to sell goods or services that are purchased by the City and that meets the Significant Business Presence requirements as defined herein. Unless otherwise stated, the term "WBE" as used in this Ordinance is not inclusive of MBEs.

7.4 SBEDA Program Compliance – General Provisions. As CONTRACTOR acknowledges that the terms of the City's SBEDA Ordinance, as amended, together with all requirements, guidelines, and procedures set forth in the City's SBEDA Policy & Procedure Manual are in furtherance of the City's efforts at economic inclusion and, moreover, that such terms are part of CONTRACTOR's scope of work as referenced in the City's formal solicitation that formed the basis for contract award and subsequent execution of this AGREEMENT, these SBEDA Ordinance requirements, guidelines and procedures are hereby incorporated by reference into this AGREEMENT, and are considered by the Parties to this AGREEMENT to be material terms. CONTRACTOR voluntarily agrees to fully comply with these SBEDA program terms as a condition for being awarded this AGREEMENT by the City. Without limitation, CONTRACTOR further agrees to the following terms as part of its contract compliance responsibilities under the SBEDA Program:

- (A) CONTRACTOR shall cooperate fully with the Small Business Office and other City departments in their data collection and monitoring efforts regarding CONTRACTOR's utilization and payment of Subcontractors, S/M/WBE firms, and HUBZone firms, as applicable, for their performance of Commercially Useful Functions on this

AGREEMENT including, but not limited to, the timely submission of completed forms and/or documentation promulgated by SBO, through the Originating Department, pursuant to the SBEDA Policy & Procedure Manual, timely entry of data into monitoring systems, and ensuring the timely compliance of its subcontractors with this term;

- (B) CONTRACTOR shall cooperate fully with any City or SBO investigation (and shall also respond truthfully and promptly to any CITY or SBO inquiry) regarding possible non-compliance with SBEDA requirements on the part of CONTRACTOR or its Subcontractors or suppliers;
- (C) CONTRACTOR shall permit the SBO, upon reasonable notice, to undertake inspections as necessary including, but not limited to, contract-related correspondence, records, documents, payroll records, daily logs, invoices, bills, cancelled checks, and work product, and to interview Subcontractors and workers to determine whether there has been a violation of the terms of this AGREEMENT;
- (D) CONTRACTOR shall notify the SBO, in writing on the Change to Utilization Plan form, through the Originating Department, of any proposed changes to CONTRACTOR's Subcontractor / Supplier Utilization Plan for this contract, with an explanation of the necessity for such proposed changes, including documentation of Good Faith Efforts made by CONTRACTOR to replace the Subcontractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Subcontractor / Supplier Utilization Plan including, but not limited to, proposed self-performance of work by CONTRACTOR of work previously designated for performance by Subcontractor or supplier, substitutions of new Subcontractors, terminations of previously designated Subcontractors, or reductions in the scope of work and value of work awarded to Subcontractors or suppliers, shall be subject to advanced written approval by the Originating Department and the SBO.
- (E) CONTRACTOR shall immediately notify the Originating Department and SBO of any transfer or assignment of its contract with the City, as well as any transfer or change in its ownership or business structure.
- (F) CONTRACTOR shall retain all records of its Subcontractor payments for this AGREEMENT for a minimum of four years or as required by state law, following the conclusion of this AGREEMENT or, in the event of litigation concerning this AGREEMENT, for a minimum of four years or as required by state law following the final determination of litigation, whichever is later.
- (G) In instances wherein the SBO determines that a Commercially Useful Function is not actually being performed by the applicable S/M/WBE or HUBZone firms listed in a CONTRACTOR's Subcontractor / Supplier Utilization Plan, the CONTRACTOR shall not be given credit for the participation of its S/M/WBE or HUBZone Subcontractor(s) or joint venture partner(s) toward attainment of S/M/WBE or HUBZone firm utilization goals, and the CONTRACTOR and its listed S/M/WBE firms or HUBZone firms may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

- (H) City recommends all Subcontractors to be registered in the CVR.
- (I) CONTRACTOR shall submit the Subcontractor/Supplier Utilization Plan to HABITAT for approval not less than thirty (30) before construction is scheduled to begin. CONTRACTOR shall not start construction until the HABITAT has approved the Subcontractor/Supplier Utilization Plan.

7.5 This Section Intentionally Omitted

7.6 Commercial Nondiscrimination Policy Compliance. As a condition of entering into this AGREEMENT, CONTRACTOR represents and warrants that it has complied with throughout the course of this solicitation and contract award process, and will continue to comply with, the City's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance. As part of such compliance, CONTRACTOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or, on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for Subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the City's Relevant Marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this AGREEMENT and may result in termination of this AGREEMENT, disqualification of the company from participating in City contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. CONTRACTOR's certification of its compliance with this Commercial Nondiscrimination Policy as submitted to the City pursuant to the solicitation for this contract is hereby incorporated into the material terms of this AGREEMENT. CONTRACTOR shall incorporate this clause into each of its Subcontractor and supplier agreements entered into pursuant to City contracts.

7.7 Prompt Payment. Upon execution of this contract by CONTRACTOR, CONTRACTOR shall be required to submit to City accurate progress payment information with each invoice regarding each of its Subcontractors, including HUBZone Subcontractors, to ensure that the CONTRACTOR's reported subcontract participation is accurate. CONTRACTOR shall pay its Subcontractors in compliance with Chapter 2251, Texas Government Code (the "Prompt Payment Act") within ten days of receipt of payment from City. In the event of CONTRACTOR's noncompliance with these prompt payment provisions, no final retainage on the Prime Contract shall be released to CONTRACTOR, and no new City contracts shall be issued to CONTRACTOR until the City's audit of previous subcontract payments is complete and payments are verified to be in accordance with the specifications of the contract.

7.8 Violations, Sanctions and Penalties. In addition to the above terms, CONTRACTOR acknowledges and agrees that it is a violation of the SBEDA Ordinance and a material breach of this AGREEMENT to:

- (A) Fraudulently obtain, retain, or attempt to obtain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE, HUBZone firm, Emerging M/WBE, or ESBE for purposes of benefitting from the SBEDA Ordinance;
- (B) Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of the SBEDA Ordinance;
- (C) Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an S/M/WBE or HUBZone firm;
- (D) Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the SBEDA Ordinance; and
- (E) Make false statements to any entity that any other entity is, or is not, certified as an S/M/WBE for purposes of the SBEDA Ordinance.

7.9 Any person who violates the provisions of this section shall be subject to the provisions of Section III. E. 13. of the SBEDA Ordinance and any other penalties, sanctions and remedies available under law including, but not limited to:

- (A) Suspension of contract;
- (B) Withholding of funds;
- (C) Rescission of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance;
- (D) Refusal to accept a response or proposal; and
- (E) Disqualification of CONTRACTOR or other business firm from eligibility for providing goods or services to the City for a period not to exceed two years (upon City Council approval).

VIII. OTHER FEDERAL, STATE, AND/OR LOCAL LAWS, RULES, AND REGULATIONS

8.1 CONTRACTOR understands that certain other compliance requirements mandated by applicable laws or regulations are summarized as follows:

- (A) CONTRACTOR acknowledges, understands, and agrees to comply to with 24 CFR 92 Section 92.251, *Property Standards*, and with all codes of CITY, including, but not limited to, City Ordinance 95641 Regarding Specific Design Features and Chapter 6, Article XII

– *Universal Design and Construction Requirements* if construction of housing units is included in this AGREEMENT.

- (B) CONTRACTOR acknowledges, understands, and agrees to comply to with 24 CFR 92.508 (a)(7)(v), records demonstrating compliance with labor requirements.
- (C) CONTRACTOR acknowledges, understands, and agrees to comply to with [Title VII of the Civil Rights Act of 1964](#) (Title VII), which prohibits employment discrimination based on race, color, religion, sex, or national origin.
- (D) CONTRACTOR acknowledges, understands, and agrees to comply to with the [Equal Pay Act of 1963 \(EPA\)](#), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination.
- (E) Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English (“**limited English proficient persons**” or “**LEP**”) may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter. In accordance with Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, CONTRACTOR agrees to take reasonable steps to ensure meaningful access to activities for LEP persons. Any of the following actions could constitute “**reasonable steps**”, depending on the circumstances: acquiring translators to translate vital documents, advertisements, or notices, acquiring interpreters for face to face interviews with LEP persons, placing advertisements and notices in newspapers that serve LEP persons, partnering with other organizations that serve LEP populations to provide interpretation, translation, or dissemination of information regarding the project, hiring bilingual employees or volunteers for outreach and intake activities, contracting with a telephone line interpreter service, etc.
- (F) CONTRACTOR acknowledges, understands, and agrees to comply with the [Age Discrimination in Employment Act of 1967 \(ADEA\)](#), which protects individuals who are forty (40) years of age or older.
- (G) CONTRACTOR acknowledges, understands, and agrees to comply to with [Title I and Title V of the Americans with Disabilities Act of 1990](#), as amended, which prohibit employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments.
- (H) CONTRACTOR hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R. Chapter 60, which is paid for in whole or in part with funds obtained from the federal government or borrowed on the credit of the federal government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

“During the performance of this contract, the contractor agrees as follows:

- (1.) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2.) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3.) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4.) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5.) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6.) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7.) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be

canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- (8.) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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 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 subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.”
- (I) The CONTRACTOR shall comply with Executive Order 11246, entitled “Equal Employment Opportunity”, as amended by Executive Order 11375, and as supplemented in the Department of Labor regulations (41 CFR, Part 60) and with 24 CFR 570 Section 570.607, Equal Opportunity for Employees and Section 3 as provided therein.
- (J) CONTRACTOR acknowledges, understands, and agrees to comply with 24 CFR 570 Section 570.613, Eligibility restrictions for certain resident aliens
- (K) The CONTRACTOR acknowledges, understands and agrees to comply with the drug-free workplace requirements of 2 CFR Part 2429.
- (L) *Intentionally deleted.*
- (M) CONTRACTOR covenants that it, or its agents, employees or anyone under its control, will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin, handicap or familial status, in employment practices or in the use of or admission to the Property, which said discrimination CONTRACTOR acknowledges is prohibited.
- (N) CONTRACTOR shall ensure that all professional and contractual services in connection with Project implementation shall be procured in accordance with 24 CFR 570, Parts 84 and 85, The Common Rule, Procurement, and Competitive Standards.
- (O) CONTRACTOR shall comply with all applicable local, state and federal equal employment opportunity and affirmative action rules, regulations and laws.

- (P) CONTRACTOR, and any subcontractor, in the execution of this Project, will comply with the Non-Discrimination Policy of the CITY contained in Chapter 2, Article X of the City Code and further, shall not discriminate in employment practices or in the use of or admission to the premises at, in or on which the Project is to be performed, against any person because of race, color, religion or creed, national origin, familial status, sex, sexual orientation, gender or gender identity, veteran status, age, disability, or any other class protected by law or ordinance.
- (Q) CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. §§ 7401-7671q, and the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387, as amended. CONTRACTOR agrees to report each violation to HABITAT, CITY and COUNTY and understands that HABITAT, CITY and COUNTY will, in turn, report each violation as required to the federal agency providing funds for this AGREEMENT and the appropriate EPA Regional Office. CONTRACTOR agrees to include these requirements in each contract to this AGREEMENT exceeding One Hundred and Fifty Thousand and 00/100 Dollars (\$150,000.00).
- (R) CONTRACTOR and its contractors shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.
- (S) CONTRACTOR agrees to sign and submit an anti-lobbying certification, and require any subcontractors that apply or bid for an award exceeding One Hundred Thousand and 00/100 Dollars (\$100,000.00) to file the same certification, as required by Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352.
- (T) CONTRACTOR must at all times remain in compliance with the requirements set forth in CITY's Affordable Housing Policy, which is available for viewing and download at the following url: www.sanantonio.gov/GMA/Resources.aspx.
- (U) CONTRACTOR shall comply with all applicable local, state and federal equal employment opportunity and affirmative action rules, regulations and laws. If requested by HABITAT, CITY, or COUNTY, CONTRACTOR shall furnish to the requesting party any and all related information and reports related to compliance, and shall permit access to any and all of its books, records and accounts related to compliance of the equal employment opportunity and affirmative action rules and regulations. In the event of non-compliance by CONTRACTOR (or CONTRACTOR's sub-contractors) with local, state and federal equal employment opportunity and affirmative action rules, regulations and laws, this AGREEMENT may be canceled, terminated, or suspended in whole or in part, and CONTRACTOR may be barred from further contracts with HABITAT, CITY, and COUNTY.
- (V) CONTRACTOR acknowledges, understands and agrees to comply with 24 C.F.R. § 92.257, *Equal treatment of program participants and program beneficiaries*.

- (W) CONTRACTOR agrees and acknowledges adhering to the Small Business Economic Development Advocacy Non-discrimination and Affirmative Action (SBEDA) policy that has been adopted by HABITAT and CITY and in compliance with Schedule 11.
- (X) CONTRACTOR acknowledges, understands, and agrees to comply with 24 CFR 92 Section 92.505(B), “Uniform administrative requirements and cost principles” and 2 CFR Part 200 “OMB Uniform Guidance: Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards.”
- (Y) CONTRACTOR acknowledges, understands, and agrees to comply with [2 C.F.R. Part 200 Procurement Standards](#), *Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards* and shall submit evidence that all federal procurement regulations have been followed, as applicable, throughout Project implementation.

8.2 CONTRACTOR also represents and warrants:

- a) CONTRACTOR complies with all applicable local, state and federal equal employment opportunity and affirmative action rules, regulations and laws. CONTRACTOR agrees to comply with all applicable provisions and reporting requirements of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, and supplemented by Department of Labor regulations (29 CFR part 5). If CONTRACTOR or its subcontractors fail to comply with local, state and federal equal employment opportunity and affirmative action rules, regulations and laws, CONTRACTOR may be barred from further contracts with HABITAT.
 - 1. For housing and community development projects exceeding \$200,000 with layered Federal funding (e.g., HOME Investment Partnerships), CONTRACTOR complies with Section 3 of the Housing and Urban Development Act of 1968 to the greatest extent feasible.
- b) The following in accordance with Texas laws:
 - 1. In accordance with Texas Government Code § 2271, CONTRACTOR does not boycott Israel, and will not boycott Israel during the term of the agreement;
 - 2. In accordance with Texas Government Code § 2252, CONTRACTOR is not entered on the list prepared pursuant to Section 2252.152 of the Texas Government Code;
 - 3. In accordance with Texas Government Code § 2274, CONTRACTOR does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and will not discriminate during the term of the agreement against a firearm entity or firearm trade association; and
 - 4. In accordance with Texas Government Code § 2274, CONTRACTOR does not boycott energy companies and will not boycott energy companies during the term of the agreement.
 - 5. In accordance with Texas Government Code § 2252, CONTRACTOR does not engage in business with Iran, Sudan, or Foreign Terrorist Organization

Prohibited.

Federal grant requirements

- c) CONTRACTOR complies with the legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Treasury's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Treasury's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Treasury's implementing regulations at 31 CFR part 23.
- d) CONTRACTOR is not a party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. CONTRACTOR will furnish the certification attached hereto or an explanation of why it cannot provide said certification. The certification or explanation will be considered in connection with HABITAT's determination whether to continue with this Agreement. SUBCONTRACTOR shall provide immediate written notice to HABITAT if at any time SUBCONTRACTOR learns that the certification was erroneous when submitted or has become erroneous by reason of changed circumstances. SUBCONTRACTOR further agrees by executing this Agreement that it will include the certification provision titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusive-Subcontracts," as set out in Addendum A, without modification, and this language under this Section 8.02(d), in all its subcontracts.
- e) EXCLUDED PARTIES. By signing this Agreement, CONTRACTOR further certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of Treasury, Office of Foreign Assets Control.
- f) None of the funds provided under this Agreement shall be used to pay any person or organization for influencing or attempting to influence an officer or employee of any department, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award governed by the Byrd Anti-Lobbying Amendment (31 U.S.C. §1352) as the CONTRACTOR and each of its tiers have

certified by their execution of the “Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements” attached hereto as Addendum B and incorporated herein for all relevant purposes. CONTRACTOR will furnish the certification attached hereto as Addendum B titled “Certification Regarding Lobbying For Contracts, Grants, Loans, And Cooperative Agreements,” without modification, and will include the certification provision, in all its subcontracts.

- g) CONTRACTOR agrees to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170. CONTRACTOR will report the total compensation and names of its top five executives to HABITAT if:
 - 1. More than 80 percent of annual gross revenues are from federal funds, and those revenues are greater than \$25,000.000; and
 - 2. The compensation is not already available through reporting to the U.S. Securities and Exchange Commission.
- h) Pursuant to 2 CFR §200.216, CONTRACTOR and its contractors will not use funds under this Agreement for equipment, services, or systems that use the following covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system in accordance with Section 889 of Public Law 115-232 (National Defense Authorization Act 2019):
 - 1. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - 2. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - 3. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - 4. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- i) CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671 q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- j) Intentionally Left Blank
- k) CONTRACTOR agrees to comply with Violence Against Women Act (VAWA) requirements set forth in 24 CFR Part 5, Subpart L, as supplemented by this section.

RECIPIENT shall comply with 24 CFR § 92.359 for the duration of the affordability period.

8.3 In the event of non-compliance by CONTRACTOR (or CONTRACTOR's sub-contractors) with any local, state and federal rules, regulations and laws, this AGREEMENT may be canceled, terminated, or suspended by HABITAT, in whole or in part, and CONTRACTOR may be barred from further contracts with HABITAT and/or CITY and/or COUNTY.

IX. CITY COMPLIANCE REQUIREMENTS

9.1 Compliance with Applicable Laws. CONTRACTOR understands that Grant Funds provided to it pursuant to this Agreement are funds which have been made available to CITY by the federal government under Title I of the Housing and Community Development Act of 1974, as amended (the "*Act*"), and in accordance with CITY's HUD-approved Grant Application and with other specific assurances made and executed by CITY. CONTRACTOR, therefore, assures and certifies that it will comply with the requirements of the Act and with all regulations promulgated thereunder as codified as 24 C.F.R. Part 570, as well as with all applicable regulations of Americans with Disabilities Act (the "*ADA*"). CONTRACTOR understands, however, that the Act or the ADA in no way is meant to constitute a complete compilation of all duties imposed upon the CONTRACTOR by law or administrative ruling, or to narrow the standards which CONTRACTOR must follow. Accordingly, CONTRACTOR understands that if the regulations and issuances promulgated pursuant to the Act or the ADA are amended or revised, it shall comply with them. Without limiting the foregoing, CONTRACTOR agrees to comply with all applicable Legal Requirements including, but not limited to, the following:

- (A) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.601 – Public Law 88-352 and Public Law 90-284; *affirmatively furthering fair housing*; Executive Order 11063.
- (B) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.602 – *Section 109* of the Housing and Community Development Act of 1974, as amended.
- (C) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.603, *Labor standards – Federal Labor Standards*, which include:
 - (i) Davis–Bacon and Related Act (40 U.S.C. §§ 3141 - 3148) which ensures that mechanics and laborers employed in construction work under federally assisted contracts are paid wages and fringe benefits equal to those which prevail in the locality where the work is performed. This act also provides for the withholding of funds to ensure compliance and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs.
 - (ii) Copeland Act (Anti-Kickback) (40 U.S.C. § 3145) which governs the deductions from paychecks which are allowable and makes it a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which he/she is entitled, and requires all contractors to submit weekly payrolls and statements of compliance.

- (iii) Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 et seq.) which provides that mechanics and laborers employed on federally assisted construction jobs are paid time and one-half for work in excess of 40 hours per week, and provides for the payment of liquidated damages where violations occur. This act also addresses safe and healthy working conditions.
 - (iv) CONTRACTOR ensures that this Section 9.1, to include sub-paragraphs (C)(i) through (iv), and the related wage decision shall be included in its entirety in any sub-contract agreement entered into by CONTRACTOR, CONTRACTOR's and subcontractors employed on the Project.
 - (v) CONTRACTOR shall ensure that all construction undertaken with assistance made available to CONTRACTOR by CITY under this AGREEMENT shall comply with the Federal Labor Standard Provisions/ Davis-Bacon Act.
 - (vi) CONTRACTOR shall request the applicable wage decision of the general prevailing rate of per diem wages in this locality for each craft or type of workman needed to perform this CONTRACT prior to the bidding of the PROJECT.
- (D) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.604, *Environmental Standards*.
- (E) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.605, *National Flood Insurance Program*.
- (F) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.606, *Displacement, Relocation, Acquisition, and Replacement of Housing*.
- (G) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.607, *Equal Opportunity for Employees and Section 3*, and:
- (i) CONTRACTOR must at all times remain in compliance with the requirements set out in Section 3. CONTRACTOR further understands that said requirements in Section 3 are summaries, and are intended only as such and in no way are meant to constitute a complete compilation of all duties imposed upon CONTRACTOR by law or administrative ruling, or to narrow the standards which CONTRACTOR must follow; and
 - (ii) CONTRACTOR must assure that all contractors and subcontractors receiving funds in connection with this Project are familiar with, and shall comply with, any and all applicable rules and regulations as contained in Section 3 and that CONTRACTOR shall include Section 3 as part of every contract awarded in connection with this Project.

- (H) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.608, *Lead-based paint*.
- (I) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.609, *Use of debarred, suspended or ineligible contractors or subrecipients*.
- (J) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.610, *Uniform administrative requirements and cost principles*, and:
- (i) CONTRACTOR shall conduct audits annually and shall comply with the applicable provisions of the *UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS* 2 C.F.R. Part 200 including the single-audit required, if at all, by Subpart F if more than \$750,000.00 in federal funds are expended. If CONTRACTOR expends less than the threshold for a single-audit, then CONTRACTOR shall complete and submit an unaudited financial statement(s) by no later than the earlier of: (A) nine (9) months immediately after the end of CONTRACTOR's fiscal year; or (B) nine (9) months after the expiration or early termination of this Agreement. Said financial statement shall include a balance sheet and income statement prepared by a bookkeeper and a cover letter signed by CONTRACTOR attesting to the correctness of said financial statement. All financial statement(s) must include a schedule of receipts and disbursements by budgeted cost category for each project funded by or through CITY.
- (K) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.611, *Conflict of interest*.
- (L) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.612, *Executive Order 12372*, concerning the planning or reconstruction of water or sewer facilities.
- (M) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.613, *Eligibility Restrictions for Certain Resident Aliens*.
- (N) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.614, *Architectural Barriers Act and the Americans with Disabilities Act*, and:
- (i) CONTRACTOR acknowledges, understands, and agrees that it shall comply with Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151-4157) which requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 C.F.R. §40.2 shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 C.F.R. part 40 for

residential structures).

- (O) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. §570.615, Housing Counseling.
- (P) CONTRACTOR shall comply with the "HUD Form 4010: Federal Labor Standard Provisions."
- (Q) CONTRACTOR acknowledges, understands, and agrees to comply to with Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex, or national origin.
- (R) CONTRACTOR acknowledges, understands, and agrees to comply to with the Equal Pay Act of 1963 (EPA), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination.
- (S) CONTRACTOR acknowledges, understands, and agrees to comply to with the Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older.
- (T) CONTRACTOR acknowledges, understands, and agrees to comply with Title I and Title V of the Americans with Disabilities Act of 1990, as amended (ADA), which prohibit employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments.
- (U) CONTRACTOR shall collect, maintain and provide to CITY, data indicating the racial/ethnic character of each business entity receiving a contract or subcontract of \$25,000 or more paid, or to be paid, with CDBG funds, data indicating which of those entities are women's business enterprises as defined in Executive Order 12138, the amount of the contract or subcontract via reporting form "HUD-2516" as attached hereto and incorporated herein as part of Exhibit "D". Completed forms "HUD-2516" shall be provided to CITY prior to initiation of any construction or demolition work to be performed. CONTRACTOR shall collect, maintain and provide to CITY, documentation of recipient's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services.
- (V) CONTRACTOR understands and agrees to comply with the following federal regulations as promulgated in the Section 3 clause of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 170lu ("**Section 3**") , including the implementing regulations set forth in 24 C.F.R. Part 75, the Section 3 Final Rule, HUD CPD Notice 21-09 and relevant portion related to Section 3.
- (W) CONTRACTOR shall comply with Chapter 2258 of the Texas Government Code, and CITY Ordinance 2008-11-20-1045, Wage and Hour Labor Standard Provisions, as set forth below:

- (i) CONTRACTOR shall request the applicable wage decision of the general prevailing rate of per diem wages in this locality for each craft or type of workman needed to perform this Agreement prior to the bidding of the Project. Such wage decision shall be obtained from CITY's Labor Compliance Office for inclusion by CONTRACTOR or its contractor in the construction solicitation.
 - (ii) CONTRACTOR shall provide the CITY with sufficient documentation to verify that the provisions of Chapter 2258 of the Texas Government Code, and City Ordinance 2008-11-20-1045 are met. CONTRACTOR understands and acknowledges that CITY may request, and CONTRACTOR agrees to provide periodic reports or support to ensure adherence to prevailing wage rates provisions.
 - (iii) If, as a result of CITY's review, CITY finds any violations, CONTRACTOR shall forfeit as a penalty to CITY sixty dollars (\$60.00) for each laborer, workman, or mechanic employed, for each calendar day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said Agreement, by the contractor or any sub-contractor.
 - (iv) CONTRACTOR understands and agrees that the establishment of prevailing wage rates pursuant to City Ordinance 2008-11-20-1045 shall not be construed to relieve CONTRACTOR and CONTRACTOR's subcontractor from their obligation under any federal or state law regarding the wages to be paid to or hours worked by laborers, workmen or mechanics insofar as applicable to the work to be performed hereunder.
- (X) CONTRACTOR acknowledges, understands, and agrees to comply to with 24 C.F.R. § 570.502, *Applicability of uniform administrative requirements, which makes 2 C.F.R. Part 200, except as modified by said section, applicable to a subrecipient for projects assisted by Grant Funds.*
- (Y) CONTRACTOR acknowledges, understands, and agrees to complete an *Affirmative Fair Housing Marketing Plan (AFHMP) – Single Family Housing*, Form HUD-935.2B (“**AFHMP**”), attached hereto as Exhibit “D”. CONTRACTOR shall forward the original completed form to CITY within thirty (30) business days after execution of this Agreement and shall maintain compliance with said plan throughout the Affordability Period as necessary; and shall modify the conditions and/or practices defined in the AFHMP as required by the CITY.
- (Z) CONTRACTOR acknowledges, understands and agrees to comply with the requirements of the Build America, Buy America (“BABA”) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to CONTRACTOR's project. Pursuant to HUD's Notice, “Public Interest Phased Implementation Wavier for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance” (88 FR

17001), as funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

- (AA) Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English (“*limited English proficient persons*” or “*LEP*”) may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter. In accordance with Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, CONTRACTOR agrees to take reasonable steps to ensure meaningful access to activities for LEP persons. Any of the following actions could constitute “*reasonable steps*”, depending on the circumstances: acquiring translators to translate vital documents, advertisements, or notices, acquiring interpreters for face to face interviews with LEP persons, placing advertisements and notices in newspapers that serve LEP persons, partnering with other organizations that serve LEP populations to provide interpretation, translation, or dissemination of information regarding the project, hiring bilingual employees or volunteers for outreach and intake activities, contracting with a telephone line interpreter service, etc.
- (BB) *Intentionally deleted.*
- (CC) SUB-GRANTEE acknowledges, understands, and agrees to comply with 24 CFR § 5.109, *Equal Participation of Faith-Based Organizations in HUD Programs and Activities*.
- (DD) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. Part 8, as applicable, which implements Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; Titles II and III of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12189, implemented at 28 C.F.R. Parts 35 and 36, as applicable; and 24 C.F.R. § 100.205, as applicable, which implements the Fair Housing Act, 42 U.S.C. §§ 3601-3619.
- (EE) CONTRACTOR agrees to comply with the provisions of 2 C.F.R. § 200.321, *Contracting with small businesses, minority businesses, women’s business enterprises, veteran-owned businesses, and labor surplus area firms*, by taking all necessary affirmative steps to assure that small businesses, minority businesses, women’s business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor’s list) are considered when possible; such consideration means:
 - (i) These business types are included on solicitation lists;
 - (ii) These business types are solicited whenever they are deemed as eligible potential sources;
 - (iii) Dividing procurement transactions into separate procurements to permit maximum participation by these business types;

- (iv) Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types;
 - (v) Utilizing organizations such as Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - (vi) Requiring a CONTRACTOR under a Federal award to apply this section to the subcontractor.
- (FF) CONTRACTOR hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R. Chapter 60, which is paid for in whole or in part with funds obtained from the federal government or borrowed on the credit of the federal government pursuant to a grant, contract, Grant insurance, or guarantee, or undertaken pursuant to any federal program involving such grant, contract, Grant, insurance, or guarantee, the following equal opportunity clause:

“During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee’s essential job functions discloses the compensation of such other

employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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 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 subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

- (GG) CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. §§ 7401-7671q, and the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387, as amended. CONTRACTOR agrees to report each violation to CITY and understands that CITY will, in turn, report each violation as required to the federal agency providing funds for this Agreement and the appropriate EPA Regional Office. CONTRACTOR agrees to include these requirements in each contract to this Agreement exceeding One Hundred and Fifty Thousand and No/100 Dollars (\$150,000.00) financed in whole or in part with federal funds.
- (HH) CONTRACTOR and its contractors shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.
- (II) CONTRACTOR agrees to sign and submit an anti-lobbying certification, and require any contractors that apply or bid for an award exceeding One Hundred Thousand and No/100 Dollars (\$100,000.00) to file the same certification, as required by Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352.
- (JJ) CONTRACTOR must at all times remain in compliance with all applicable Legal Requirements affecting CONTRACTOR's operations or this Project.
- (KK) CONTRACTOR shall ensure compliance with EPA Asbestos regulations found at 40 C.F.R. Part 61 (NESHAP) as well as State of Texas and local regulations for asbestos abatement prior to and during demolition components of the rehabilitation of the Project, if any.
- (LL) CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. § 100.205, *design construction requirements* (Section 504).
- (MM) CONTRACTOR acknowledges, understands, and agrees to comply with the applicable provisions set forth in CITY codes, ordinances, or other issued guidance as may be applicable to the project, including, but not limited to, CITY's Unified Development Code, Universal Design and Construction Requirements, and Residential Construction Management Policy.
- (i) *Intentionally deleted.*
- (NN) To the extent applicable, CONTRACTOR acknowledges, understands, and agrees to comply with 24 C.F.R. § 570.503(b)(7) and that upon expiration or termination of this AGREEMENT, CONTRACTOR shall, at the time of said expiration or termination, transfer to CITY any CDBG funds on hand and any accounts receivable attributable to the use of CDBG funds. No such funds or receivables are anticipated for this Project at this time.

- (OO) CONTRACTOR acknowledges, understands, and agrees to, at all times, remain in compliance with the requirements set forth in CITY's Program Policies for HUD-Funded Affordable Housing Activities, which may be obtained from CITY.
- (PP) CONTRACTOR acknowledges, understands, and agrees to comply with City of San Antonio Ordinance No. 2023-08-31-0585, *Heat Illness Prevention Requirements*, as applicable.
- (QQ) If this Agreement results in any copyrightable material or inventions that were produced using funds provided hereunder by CITY, CITY and/or HUD reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use such material or inventions for governmental purposes only.
- (RR) If applicable, CONTRACTOR agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

9.2 Legal Requirements Listed Not Exhaustive. CONTRACTOR understands that Legal Requirements in Section 9.1 are summaries, and as such are in no way are meant to constitute a complete compilation of all duties imposed upon CONTRACTOR by law or administrative ruling, or to narrow the standards which CONTRACTOR must follow. CONTRACTOR must at all times remain in compliance with the requirements set out in Section 9.1 above, and shall observe and comply with all other applicable Legal Requirements. CONTRACTOR shall observe and comply with all CITY, state and federal laws, regulations, ordinances and code affecting CONTRACTOR's operations pursuant to this AGREEMENT.

X. COMMITMENT TO COMPLIANCE

10.1 CONTRACTOR must at all times remain in compliance with the requirements set out in this Certification. CONTRACTOR further understands that said requirements in this Certification are summaries and are intended only as such and in no way are meant to constitute a complete compilation of all duties imposed upon CONTRACTOR by law or administrative ruling, or to narrow the standards which CONTRACTOR must follow.

10.2 CONTRACTOR assures that all contractors and subcontractors receiving funds in connection with this Project are familiar with, and shall comply with, any and all applicable rules and regulations as contained in this Certification and that CONTRACTOR shall include all of these requirements as part of every contract or subcontract awarded in connection with this Project.

AS CERTIFICATION HEREOF OF COMPLIANCE WITH FEDERAL, STATE, COUNTY, AND CITY LAWS, REGULATIONS, AND REQUIREMENTS, the CONTRACTOR executes this Certification and Agreement on the **27th day of April, 2026:**

CONTRACTOR:

By: _____

Printed Name: _____

Title: _____

ADDENDUM "A"

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS**

The undersigned certifies, to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in section (b) of this certification;
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default; and
- (e) Will submit to Bexar County information about each proceeding that occurs during this Agreement Term or during the recordkeeping period that:
 - (1) Is in connection with this award;
 - (2) Reached its final disposition during the most recent five year period; and
 - (3) Is one of the following:
 - i. A criminal proceeding that resulted in a conviction, as defined below;
 - ii. A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - iii. An administrative proceeding, as defined below, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damage in excess of \$100,000; or
 - iv. Any other criminal, civil, or administrative proceeding if:
 - 1. It could have led to an outcome described in this section (e) paragraph (3) items (i) – (iii) of this award term and condition;

2. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 3. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.
- (4) For purposes of section (e) of this certification the following definitions apply:
- i. An “administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
 - ii. A “conviction”, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

Where the undersigned Subrecipient is unable to certify to any of the statements in this certification, such Subrecipient shall attach an explanation of why it cannot provide said certification to this Agreement.

The undersigned Subrecipient further agrees and certifies that it will include the below clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Subcontracts/Lower Tier Covered Transaction,” without modification, in all subcontracts and in all solicitations for subcontracts:

“CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – SUBCONTRACTS/ LOWER TIER COVERED TRANSACTIONS

(1) The prospective lower tier participant/subcontractor certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant/subcontractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

LOWER TIER PARTICIPANT/SUBCONTRACTOR:

[Signature]
Printed Name: _____
Title: _____
Date: _____

This certification is a material representation of fact upon which reliance is placed when Bexar County awards the grant. If it is later determined that Subrecipient knowingly rendered an erroneous certification, in addition to any other remedies available to the Federal Government, Bexar County may terminate this Agreement for cause or default.

SUBRECIPIENT: Habitat for Humanity of San Antonio

By: _____
Name: _____
Title: _____
Date: _____

ADDENDUM "B"**CERTIFICATION REGARDING LOBBYING FOR
CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is material representation of fact on which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

STATEMENT FOR LOAN GUARANTEES AND LOAN INSURANCE

The undersigned states, to the best of its knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SUBRECIPIENT: Habitat for Humanity of San Antonio

By: _____

Name: _____

Title: _____

Date: _____

SCHEDULE 9:

INSERT INSURANCE CERTIFICATE EVIDENCING REQUIRED
COVERAGE FOLLOWING THIS PAGE

SCHEDULE 10:

10A) SECTION 3 BUSINESS CONCERN CERTIFICATION

10B) SECTION 3 WORKER CERTIFICATION

10C) INSERT HIRING POSTER



Section 3 Business Concern Certification for Contracting

Instructions: Enter the following information and select the criteria that applies to certify your business' Section 3 Business Concern status.

Business Information

Name of Business

Address of Business

Name of Business Owner

Phone Number of Business Owner

Email Address of Business Owner

Preferred Contact Information

Same as above

Name of Preferred Contact

Phone Number of Preferred Contact

Type of Business (select from the following options):

Corporation

Partnership

Sole Proprietorship

Joint Venture

Email: communitydevelopment@sanantonio.gov



Select from ONE of the following three options below that applies:

At least 51 percent of the business is owned and controlled by low- or very low-income persons (refer to income guidelines on page 3).

At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

Over 75 percent of the labor hours performed for the business over the prior three-month period is performed by Section 3 workers (Refer to definition on page 4).

Business Concern Affirmation

I affirm that the above statements (on page one of this form) are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to _____ [insert name of recipient/grantee] may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Print Name:

Signature:

Date:

FOR ADMINISTRATIVE USE ONLY

Is the business a Section 3 business concern based upon certification?

Yes No

EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS

*Certification expires within six months of the date of signature.

Email: communitydevelopment@sanantonio.gov



Eligibility Guidelines

The worker's income must be at or below the amount provided below for an individual (household of 1) regardless of actual household size. Income is used for the *previous* or annualized calendar year.

2025 Individual Income Limits

Household Size	Extremely Low-Income (30 percent of Median)	Very Low-Income (50 percent of Median)	Low-Income (80 percent of Median)
1	\$18,600 or less	\$18,601 - \$31,000	\$31,001 - \$49,600

See <https://www.huduser.gov/portal/datasets/il.html> for most recent income limits.

Section 3 Worker Definition:

- A low- or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- Employed by a Section 3 business concern; or
- A YouthBuild participant

Targeted Section 3 Worker Definition:

- Employed by a Section 3 business concern; or
- Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - ❖ A resident of public housing; or
 - ❖ A resident of other public housing projects or Section 8-assisted housing; or
 - ❖ A YouthBuild participant



Section 3 Worker Certification

The purpose of HUD's Section 3 program is to provide employment, training and contracting opportunities to low-income individuals. Your response is voluntary and may encourage City contractors to hire you if you are a certified Section 3 Worker.

Eligibility for Section 3 Worker or Targeted Section 3 Worker Status

Your Name:

Instructions: Enter/select the appropriate information to confirm your Section 3 worker or Targeted Section 3 Worker status.

1. Are you a resident of public housing or a Housing Choice Voucher Holder (Section 8)?

Yes No

2. Are you a resident of the City of San Antonio?

Yes No

3. In the field below, select the amount of individual income you believe you earn on an annual basis.

Less than \$10,000	\$30,001 - \$40,000	\$50,001 - \$60,000
\$10,001 - \$20,000	\$40,001 - \$46,450	\$60,001 and up
\$20,001 - \$30,000	\$46,451 - \$50,000	

4. Select from ONE of the following options below that completes the following sentence.

I am a Section 3 Worker because:

I earned less than \$46,450 annually in 2022.

I am a YouthBuild participant.

I work for a certified Section 3 Business.

I live in Public Housing or have a Housing Choice Voucher

Employee Affirmation

I affirm that the above statements (on front side of this form) are true, complete, and correct to the best of my knowledge and belief. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Employee Address:

Print Name:

Date Hired (if applicable):

Signature: _____

Date:

You have the option of providing an email address and phone number so the City of San Antonio's Section 3 Coordinator can forward your information to potential employers and contact you with possible job opportunities. Please enter your contact information on page three of this form if you are interested in being contacted.

Leave this section blank:

FOR ADMINISTRATIVE USE ONLY			
Is the employee a Section 3 worker based upon their self-certification?	Yes	No	
Is the employee a Targeted Section 3 worker based upon their self-certification?	Yes	No	
Was this an applicant who was hired as a result of the Section 3 project?	Yes	No	
If Yes, what is the name of the company?			
What was the date of hire?			
EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.			

Please enter your name, email address and phone number(s) below if you would like the City of San Antonio's Section 3 Coordinator to forward your contact information to potential employers *and* contact you with possible job opportunities.

Name: _____

Email Address: _____

Phone Number(s): _____



Eligibility Guidelines

The worker's income must be at or below the amount provided below for an individual (household of 1) regardless of actual household size.

Individual Income Limits

Household Size	Extremely Low Income (30% of Median)	Very Low Income (50% of Median)	Low Income (80% of Median)
1	\$20,300 or less	\$20,300 - \$33,580	\$33,580 - \$54,150

See <https://www.huduser.gov/portal/datasets/il.html> for most recent income limits.

Section 3 Worker Definition:

- A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- Employed by a Section 3 business concern; or
- A YouthBuild participant.

Targeted Section 3 Worker Definition (for public housing)

- Employed by a Section 3 business concern or
- Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - A resident of public housing; or
 - A resident of other public housing projects or Section 8-assisted housing; or
 - A YouthBuild participant.

Targeted Section 3 Worker Definition (for housing and community development)

- Employed by a Section 3 business concern or
- Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - ❖ Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5
 - ❖ A YouthBuild participant.

SCHEDULE 10-C:

INSERT HIRING POSTER

SCHEDULE 11:

WH347 OR SAMPLE OF COMPLIANT PAYROLL REPORT

INSERT DAVIS-BACON COMPLIANCE SAMPLE OF A COMPLETED
PAYROLL REPORT FOLLOWING THIS PAGE

(Black out names and social security numbers if listed on Report)

SCHEDULE 12:

SBEDA GOOD FAITH EFFORT PLAN

GOOD FAITH EFFORT PLAN

NAME OF PROJECT: FORTUNA SUBDIVISION
for HABITAT FOR HUMANITY OF SAN ANTONIO

CONTRACTOR INFORMATION:

Name of Contractor: _____

Address: _____ Telephone: _____

City: _____ State: _____ Zip Code: _____

E-mail Address: _____@_____

Is your firm certified? ___ Yes ___ No (If yes, please attach Certificate with certification #.)

1. List all subcontractors/suppliers that will be used for this contract.
 (Indicate all MBEs-WBEs-AABEs-SBEs. Use additional sheets as needed.)

NAME AND ADDRESS OF SUBCONTRACTOR'S/SUPPLIER'S COMPANY	CONTRACT AMOUNT	% LEVEL OF PARTICIPATION (% of all amount subbed out)	MBE-WBE-AABE- SBE CERTIFICATION NUMBER

Only companies certified as an MBE, WBE, AABE or SBE by an official certifying organization can be applied toward the contracting goals. All MBE-WBE-AABE-SBE subcontractors or suppliers must submit a copy of their certification certificate through the Prime Contractor. Proof of certification must be attached to this form. If a business is not certified, please call the Small Business Program Office at (210) 207-3922 for information and details on how subcontractors and suppliers may obtain certification.

It is understood and agreed that, if awarded a contract by Habitat for Humanity of San Antonio, the Contractor will not make additions, deletions, or substitutions to this certified list without consent of the Habitat (through the submittal of a Revised Good Faith Effort Plan).

NOTE: If MBE-WBE-AABE-SBE aspirational goals were met (40% of work subcontracted to certified subs), skip to #9.

2. If MBE-WBE-AABE-SBE contracting goals were not achieved in a percentage that equals or exceeds Habitat's goals, please give explanation.

3. List all MBE-WBE-AABE-SBE Listings or Directories utilized to solicit participation.

4. List all contractor associations and other associations solicited for MBE-WBE-AABE-SBE referrals.

5. Discuss all efforts aimed at utilizing MBE-WBE-AABE-SBE's.

6. Indicate advertisement mediums used for soliciting bids from MBE-WBE-AABE-SBE's.

7. List all MBE-WBE-AABE-SBE bids received but rejected. (Use additional sheets as needed.)

COMPANY NAME	MBE-WBE-AABE-SBE CERTIFICATION #	REASON FOR REJECTION

8. Name and phone number of person appointed to coordinate and administer the Good Faith Efforts of your company on this project.

9. This Good Faith Effort Plan may be subject to the Bexar County's OR City's approval.

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED THE CONTRACT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

SIGNATURE OF AUTHORIZED OFFICIAL

TITLE OF OFFICIAL

DATE

PHONE

FOR CITY USE

Plan Reviewed By: _____

Recommendation: Approval _____ Denial _____

Action Taken: Approved _____ Denied _____

CITY'S AUTHORIZED SIGNOR

-- AND/OR --

FOR COUNTY USE

Plan Reviewed By: _____

Recommendation: Approval _____ Denial _____

Action Taken: Approved _____ Denied _____

COUNTY'S AUTHORIZED SIGNOR

STANDARD FORM OF AGREEMENT

STATE OF TEXAS

COUNTY OF BEXAR

THIS AGREEMENT made and entered into this _____ day of _____, 2026, by and between **Habitat for Humanity of San Antonio, Inc. (“HABITAT”)**, and _____ (**“CONTRACTOR”**).

The Contract Documents consist of this Standard Form of Agreement, General Conditions of Agreement, Notice of Request for Competitive Bids and Instructions to Bidders, Bid Form with Schedules 1 through 11 and Attachments A through F, Performance and Payment Bonds, special Bonds (when required), Project Drawings, Specifications and Addenda issued prior to the execution of this Standard Form of Agreement, and other documents listed herein; together form the Contract, and are as fully a part of the Contract as if attached to this Standard Form of Agreement or repeated herein. The Contract Documents represent the entire and integrated agreement between parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. Signing this Standard Form of Agreement shall be considered as signing all Contract Documents identified. After execution of the original Contract Documents, the Contract may thereafter be amended or modified only by a written modification executed by the parties.

For and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by HABITAT, CONTRACTOR hereby agrees to commence and complete the construction of certain improvements described as follows:

Construction of STREET, SIDEWALK, DRIVES, DRAINAGE, WATER, SANITARY SEWER (INCLUDING STUB UPS FOR LATERAL LOCATIONS), and OTHER INFRASTRUCTURE IMPROVEMENTS for the FORTUNA SUBDIVISION, per the Project Drawings and Specifications prepared by Pape-Dawson Engineers, Inc. (“ENGINEER”) and all Extra Work in connection therewith, under the terms as stated in the General Conditions of Agreement, and Contract Documents, at its own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendents, labor, insurance, and all permits required by any Governmental Authorities and other accessories and services necessary to complete the said construction, in accordance with the conditions and prices stated in the Bid Form attached hereto and in accordance with the Contract Documents, and in accordance with the Project Drawings and other drawings and printed or written explanatory matter thereof, and the Specifications and addenda therefore, as prepared by the ENGINEER, each of which has been identified by the CONTRACTOR and the ENGINEER, and together evidence and constitute the entire contract.

The CONTRACTOR hereby agrees to complete the project within _____ calendar days, including 50 calendar days for dry utilities, commencing the Work on or before Friday, May 1, 2026 and to have all Work Substantially Completed on or before _____.

Substantially Complete means that the Work has been completed and accepted by HABITAT and the Governmental Authorities as evidenced by Field Acceptance Letters or Certifications of Final Acceptance from the Governmental Authorities and the ENGINEER has made no uncured written objections to any of the Work.

HABITAT agrees to pay the CONTRACTOR in current funds the amount of \$ _____ subject to the General Conditions of Agreement and other Agreement documents.

IN WITNESS WHEREOF, the parties to these presents have executed this Standard Form of Agreement in the year and day first above written.

HABITAT:

Habitat for Humanity of San Antonio, Inc.

By: _____
Michael Taylor, President & CEO

CONTRACTOR:

STANDARD FORM FOR BIDDING REVIEW

By: FOR BIDDING REVIEW
Name, Title

GENERAL CONDITIONS OF AGREEMENT

I. DEFINITIONS

1.01 HABITAT, CONTRACTOR, ENGINEER and DEVELOPER. HABITAT, the CONTRACTOR, ENGINEER and the DEVELOPER are referred to throughout the Contract Documents as if singular in number and masculine gender. OWNER or DEVELOPER means Habitat for Humanity of San Antonio, Inc. or its duly authorized representative. HABITAT means Habitat for Humanity of San Antonio, Inc. or its duly authorized representative as set forth in the Standard Form of Agreement. CONTRACTOR means _____ or its duly authorized representative as set forth in the Standard Form of Agreement. ENGINEER means Pape-Dawson Engineers, Inc. or its duly authorized representative as set forth in the Standard Form of Agreement.

1.02 CONTRACT DOCUMENTS. The Contract Documents means and includes the Standard Form of Agreement, General Conditions of Agreement, Invitation to Bid and Instructions to Bidders, Bid Form with Schedules 1 through 11 and Attachments A through F, Performance and Payment Bonds, special Bonds (when required), Project Drawings and Specifications and Addenda issued prior to the execution of this Agreement, and other documents listed therein. Project Drawings and Specifications are equivalent in authority and priority. Should they disagree in themselves, or with each other, prices shall be based on the better quality and greater quantity of work indicated. In the event of the above mentioned disagreements, the resolution shall be determined solely by HABITAT.

1.03 SUBCONTRACTOR. Subcontractor means and includes only those having a direct contract with the CONTRACTOR and includes one who furnished material specially fabricated according to the Project Drawings and Specifications, but does not include one who merely furnishes material not so specially fabricated.

1.04 WRITTEN NOTICE. Any notice required by or permitted under this Agreement must be in writing. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, electronic mail (email), or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

1.05 WORK. Work means the provision of and payment for all materials, supplies, machinery, equipment, tools, superintendents, labor, services, permits, taxes, insurance, and all water, light, power, fuel transportation and other facilities and services necessary for the proper execution and completion of the work required by the Contract Documents.

1.06 WARRANTY. Warranty means that materials and equipment furnished under the Agreement will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be performed in a good and workmanlike matter except to the extent that the Contract Documents expressly specify a higher degree of finish or workmanship, that the Work will be free from defects not inherent in the quality required or permitted by the

Contract Documents for a period of one (1) year from the date of Substantial Completion (as hereinafter defined) and that the Work will conform with the requirements of the Contract Documents. The Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The CONTRACTOR'S warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the CONTRACTOR or any of its Subcontractors, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage. The CONTRACTOR'S express warranty herein shall be in addition to, and not in lieu of, any other remedies HABITAT may have under this AGREEMENT, at law, or in equity for defective Work. In addition to the one (1) year Warranty, the CONTRACTOR, at CONTRACTOR'S expense, will provide a Warranty Bond issued to the City of San Antonio in a bond form acceptable to the City of San Antonio covering the Work.

1.07 EXTRA WORK. Extra Work means and includes all of the Work that may be required by the DEVELOPER or HABITAT to be done by the CONTRACTOR to accomplish any change, alteration or addition to the Work shown upon the Project Drawings and Specifications, and not covered by the Bid Form, except as provided under Changes and Alterations, herein.

1.08 WORKING DAY. A Working Day means any day, *not* including Saturdays, Sundays or any generally-recognized legal holidays, in which weather or other conditions not under the control of the CONTRACTOR will permit construction of the principal units of the Work for a period of not less than seven (7) hours between 7:00 a.m. and 6:00 p.m.

1.09 CALENDAR DAY. Calendar Day means any day of the week or month, no days being excepted.

1.10 SUBSTANTIALLY COMPLETED OR SUBSTANTIAL COMPLETION. Substantially Completed or Substantial Completion means that the Work has been completed and accepted by HABITAT and the Governmental Authorities as evidenced by Field Acceptance Letters or Certifications of Final Acceptance from the Governmental Authorities, and the ENGINEER has made no uncured written objections to any of the Work.

1.11 PREVAILING WAGE RATES. Wage Rates required to be paid as provided in V.T.C.A. Government Code 2258.001 et seq., with respect to the Work, as detailed on Attachment B attached hereto.

1.12 CONTRACT PRICE. Contract Price means the prices set forth in the Schedule 2, Bid Proposal Schedule up to the total amount listed in the Bid Proposal Schedule as increased or decreased by duly authorized change orders as provided herein.

1.13 PROJECT DRAWINGS AND SPECIFICATIONS. Project Drawings and Specifications means the drawings and specifications and plans prepared by the ENGINEER for the Project.

1.14 BID FORM. Bid Form means the Bid Form and all Schedules 1 through 11 regarding the Project previously submitted by the CONTRACTOR in its sealed bid which was received by HABITAT.

1.15 CONTRACT AND/OR AGREEMENT. Contract and/or Agreement means the

Contract by and between HABITAT and the CONTRACTOR regarding the performance of the Work including all Contract Documents.

1.16 GOVERNMENTAL AUTHORITIES. Governmental Authorities means the City of San Antonio, San Antonio Water System (SAWS), City Public Service (CPS Energy), Texas Commission on Environmental Quality, Bexar County, or other authorities having jurisdiction over the Project as the case may be.

1.17 CITY. City means the City of San Antonio and its agents and employees.

1.18 COUNTY. County means Bexar County and its agents and employees.

II. RESPONSIBILITIES OF THE ENGINEER AND THE CONTRACTOR

2.01 HABITAT-ENGINEER RELATIONSHIP. The ENGINEER will be HABITAT'S representative during construction. The ENGINEER will advise and consult with HABITAT, and HABITAT's instruction to the CONTRACTOR shall be issued through the ENGINEER.

2.02 PROFESSIONAL INSPECTION BY the ENGINEER. The ENGINEER shall make periodic visits to the Project site to familiarize itself generally with the progress and quality of the executed Work and to determine if such Work generally meets the essential performance and design features and the technical and functional engineering requirements of the Contract Documents; provided and except, however, that the ENGINEER shall not be responsible for making exhaustive, comprehensive or continuous on-site inspections to check the quality or quantity of the Work or be in any way responsible, directly or indirectly, for the construction means, methods, techniques, sequences, procedures, programs, safety precautions or lack of same incident thereto or in connection therewith. Notwithstanding any other provision of this Agreement or any other Contract Documents, the ENGINEER shall not be in any way responsible or liable for any acts, errors, omissions or negligence of the CONTRACTOR, any subcontractor or any of the CONTRACTOR's or subcontractor's agents, servants or employees or any other person, firm or corporation performing or attempting to perform any of the Work.

2.03 PAYMENTS FOR WORK. The ENGINEER shall review the CONTRACTOR'S applications for payment and supporting data, determine the amount owed to the CONTRACTOR and shall approve in writing payment to the CONTRACTOR of such amounts; each such approval of payment to the CONTRACTOR constitutes a representation to HABITAT of the ENGINEER's professional judgment that the Work has progressed to the point indicated and that, to the best of its knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents, but such approval of an application for payment to the CONTRACTOR shall not be deemed as a representation by the ENGINEER that the ENGINEER has made any examination to determine how or for what purpose the CONTRACTOR has used the moneys paid on account of the Contract Price.

2.04 INITIAL DETERMINATIONS. The ENGINEER initially shall determine all claims, disputes and other matters in question between the CONTRACTOR and HABITAT relating to the execution or progress of the Work or the interpretation of the Contract Documents and ENGINEER decision shall be rendered in writing within a reasonable time.

2.05 OBJECTIONS. In the event the ENGINEER renders any decision which, in the

opinion of either party hereto, is not in accordance with the meaning and intent of this AGREEMENT, either party may file with the ENGINEER within thirty (30) days its written objection to the decision, and by such action may reserve the right to submit the question so raised to mediation as hereinafter provided.

2.06 LINES AND GRADES. Unless otherwise specified, all lines and grades shall be furnished by the ENGINEER or its representative in accordance with Project Drawings and Specifications. Whenever necessary, the Work shall be suspended to permit performance of this engineering work, but such suspension will be as brief as practicable and the CONTRACTOR shall be allowed no extra compensation. The CONTRACTOR shall give the ENGINEER ample notice of the time and place where lines and grades will be needed. All stakes, marks, etc. shall be carefully preserved by the CONTRACTOR, and in case of destruction or removal of any stakes, marks, etc., such stakes, marks, etc., shall be replaced at the CONTRACTOR'S expense.

The exactness of grades, elevations, dimensions, or locations given on any Project Drawings and Specifications issued by the ENGINEER, or the work installed by other contractors, is not guaranteed by HABITAT or the ENGINEER. The CONTRACTOR shall, therefore, satisfy itself as to the accuracy of all grades, elevations, dimensions, and locations. In all cases of interconnection of the Work with existing or other work, it shall verify at the Project site all dimensions relating to such existing or other work. Any errors due to the CONTRACTOR'S failure to so verify all such grades, elevations, dimensions, or locations shall be promptly rectified by the CONTRACTOR without any additional cost to HABITAT.

Notwithstanding the delivery of a survey or other documents by HABITAT, the CONTRACTOR shall use reasonable efforts to perform all work in such a manner so as to avoid damaging any utility lines, cables, pipes, or pipelines on the property. The CONTRACTOR shall be responsible for, and shall repair at the CONTRACTOR'S own expense, any damage done to lines, cables, pipes, and pipelines.

2.07 CONTRACTOR'S DUTY AND SUPERINTENDENCE. The CONTRACTOR shall supervise and direct the Work, using the CONTRACTOR'S best skill and attention to the faithful prosecution and completion of this AGREEMENT and shall keep on the Work, during its progress, a competent superintendent and any necessary assistants. The superintendent shall represent the CONTRACTOR and all directions given to it shall be as binding as if given to the CONTRACTOR. The CONTRACTOR shall not replace the Superintendent prior to final completion of the Work unless (1) the Superintendent shall cease to be employed by the CONTRACTOR or its subsidiaries or affiliated companies, or (2) HABITAT agrees to such replacement.

The CONTRACTOR is solely responsible for all damage or loss to their own equipment and/or property.

The CONTRACTOR is and at all times shall remain an independent contractor, and shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under this AGREEMENT, with full power and authority to select the means, method and manner of performing such Work, HABITAT being interested only in the result obtained and conformity of such completed improvements to the Project Drawings and Specifications and Agreement.

Likewise, the CONTRACTOR shall be responsible to HABITAT for acts and omissions of the CONTRACTOR'S employees, Subcontractors and their agents and employees and other

persons performing portions of the Work under a contract with the CONTRACTOR, and solely responsible for the safety of it, its employees and other persons, as well as for the protection of the safety of the improvements being erected and the property of itself or any other person, as a result of its operation hereunder. Engineering construction drawings and specifications as well as any additional information concerning the Work to be performed passing from or through the ENGINEER shall not be interpreted as requiring or allowing the CONTRACTOR to deviate from the Project Drawings and Specifications, the intent of such drawings and any other such instructions being to define with particularity the agreement of the parties as to the Work the CONTRACTOR is to perform. The CONTRACTOR shall be fully and completely liable, at its own expense, for design, construction, installation and use, or non-use, of all items and methods incident to performance of the AGREEMENT, and for all loss, damages or injury incident thereto, either to person or property, including, without limitation, the adequacy of all temporary supports, shoring, bracing, scaffolding, machinery or equipment, safety precautions or devices, and similar items or devices used by it during construction.

The CONTRACTOR will carefully study and compare the Contract Documents with each other and with information furnished by HABITAT pursuant hereto, and will promptly report to the ENGINEER errors, inconsistencies or omissions discovered. The CONTRACTOR will take field measurements and verify field conditions and will carefully compare them and other information known to the CONTRACTOR with the Contract Documents before beginning the Work, and will promptly report to the Developer errors, inconsistencies or omissions discovered. The CONTRACTOR will perform the Work in accordance with the Contract Documents.

The CONTRACTOR shall bear responsibility for design and execution of acceptable trenching and shoring procedures, in accordance with Texas Government Code, Section 2166.303 and Texas Health and Safety Code, Subchapter C, Sections 756.021, et seq. HABITAT will pay for the trench backfill test but this does not alleviate the obligations of the CONTRACTOR to independently verify the information.

The CONTRACTOR shall review Subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the CONTRACTOR'S duties shall not relieve any Subcontractor(s) or any other person or entity (e.g. a supplier) including any person or entity with whom the CONTRACTOR does not have a contractual relationship, of their responsibility or liability relative to compliance with all applicable federal, state and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this section are not intended to impose upon the CONTRACTOR any additional obligations that the CONTRACTOR would not have under any applicable state or federal laws including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

The CONTRACTOR shall obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System (NPDES) regulations administered by the Environmental Protection Agency (EPA) and local authorities, if applicable, that require completion of documentation and/or acquisition of a "Land Disturbing Activities Permit" for the Project. The CONTRACTOR'S obligations under this section do not require it to perform engineering services during the pre-construction phase to prepare proper drainage for the Project site. However, any drainage alterations made by the CONTRACTOR during the construction process which require the issuance of a permit shall be at the CONTRACTOR'S sole cost.

Any review of the Work in process, or any visit or observation during construction, or any clarification of the Project Drawings and Specifications, by the ENGINEER, or any agent, employee or representative of either of them, whether through personal observation on the Project site or by means of approval of shop drawings for temporary construction or construction processes, or by other means or methods, is agreed by the CONTRACTOR, to be for the purpose of observing the extent and nature of the Work completed or being performed, as measured against the Project Drawings and Specifications constituting the contract, or for the purpose of enabling the CONTRACTOR to more fully understand the Project Drawings and Specifications so that the Work that is completed will conform thereto, and shall in no way relieve the CONTRACTOR from full and complete responsibility for the proper performance of the Work on the Project, including but without limitation the propriety of means and methods of the CONTRACTOR in performing the Work, and the adequacy of any designs, plans or other facilities for accomplishing such performance. Deviation by the CONTRACTOR from the Project Drawings and Specifications that may have been in evidence during any such visitation or observation by the ENGINEER, or any of its representatives whether called to the CONTRACTOR'S attention or not, shall in no way relieve the CONTRACTOR from its responsibility to complete all Work in accordance with the Project Drawings and Specifications.

2.08 CONTRACTOR'S UNDERSTANDING. It is understood and agreed that the CONTRACTOR has, by careful examination, satisfied itself as to the nature and location of the Work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the Work, the general and local condition, and all other matters which can in any way affect the Work under this AGREEMENT. No verbal agreement or conversation with any officer, agent or employee of HABITAT before or after the execution of this AGREEMENT, shall affect or modify any of the terms or obligations herein contained.

2.09 CHARACTER OF WORKMEN. The CONTRACTOR agrees to employ only orderly and competent men and women, skillful in the performance of the type of work required under this AGREEMENT, to do the Work, and agrees that whenever HABITAT shall inform it in writing that any person or people on the Work are, in its opinion incompetent, unfaithful or disorderly, such person or people shall be discharged from the Work and shall not again be employed on the Work without HABITAT written consent.

2.10 CONTRACTOR'S BUILDINGS. The building of structures for housing men, or the erection of tents or other forms of protection, will be permitted only at such places as the DEVELOPER shall direct, and the sanitary conditions of the ground in or about such structures shall all times be maintained in a manner satisfactory to HABITAT.

2.11 SANITATION. Necessary sanitary conveniences for the use of laborers at the work site, properly secluded from public observation, shall be constructed and maintained by the CONTRACTOR in such manner and at such points as shall be approved by HABITAT, and their use shall be strictly enforced.

2.12 SHOP DRAWINGS. The CONTRACTOR shall submit to the ENGINEER, with such promptness as to cause no delay in its own work or in that of any other contractor, four checked copies, unless otherwise specified, of all shop and/or setting drawings and schedules required for the Work of the various trades, and ENGINEER shall pass upon them with reasonable promptness, making desired corrections. The CONTRACTOR shall make any corrections required

by the ENGINEER, file with it two corrected copies and furnish such other copies as may be needed. The ENGINEER'S approval of such drawings or schedules shall not relieve the CONTRACTOR from responsibility for deviations from the Project Drawings and Specifications, unless the CONTRACTOR has in writing called the ENGINEER'S attention to such deviations at the time of submission, nor shall it relieve the CONTRACTOR from responsibility for errors of any sort in shop drawings or schedules. It shall be the CONTRACTOR'S responsibility to fully and completely review all shop drawings to ascertain their effect on its ability to perform the Work in accordance with the Project Drawings and Specifications and within the contract time.

Such review by the ENGINEER shall be for the sole purpose of determining the sufficiency of said drawings or schedules to result in finished improvements in conformity with the Project Drawings and Specifications, and shall not relieve the CONTRACTOR of its duty as an independent contractor as previously set forth, it being expressly understood and agreed that the ENGINEER does not assume any duty to pass upon the propriety or adequacy of such drawings or schedules, or any means or methods reflected thereby, in relation to the safety of either person or property during the CONTRACTOR'S performance hereunder.

2.13 PRELIMINARY APPROVAL. The ENGINEER shall not have the power to waive the obligations of this AGREEMENT for the furnishing by the CONTRACTOR of good material, and of its performing good Work as herein described, and in full accordance with the Project Drawings and Specifications. No failure or omission of the ENGINEER to discover, object to or condemn any Work or material that is defective shall release the CONTRACTOR from the obligations to fully and properly perform the AGREEMENT, including without limitation, the obligation to at once tear out, remove and properly replace the same at any time prior to final acceptance upon the discovery of Work or material that is defective or not in accordance with the Project Drawings and Specifications or is not accepted by the City or utility companies; provided, however, that the ENGINEER shall, upon request of the CONTRACTOR, inspect and accept or reflect any material furnished, and in event the material has been once accepted by the ENGINEER, such acceptance shall be binding on HABITAT, unless it can be clearly shown that such material furnished does not meet the specifications for the Work.

Any Work that is questioned may be ordered taken up or removed for re-examination, by the ENGINEER, prior to final acceptance, and if found not in accordance with the specifications for the Work, all expense of removing, re-examination and replacement shall be borne by the CONTRACTOR, otherwise the expense thus incurred shall be allowed as Extra Work, and shall be paid for by HABITAT; provided that, where inspection or approval is specifically required by the specifications prior to performance of certain work, should the CONTRACTOR proceed with such Work without requesting prior inspection or approval it shall bear all expense of taking up, removing, and replacing the Work if so directed by the ENGINEER.

2.14 DEFECTS AND THEIR REMEDIES. If the Work or any part thereof, or any material brought on the site of the Work for use in the Work or selected for the same, shall be deemed by the ENGINEER as unsuitable or not in conformity with the Project Drawings and Specifications, the CONTRACTOR shall, after receipt of written notice thereof from the ENGINEER, forthwith remove such material and rebuild or otherwise remedy such work so that it shall be in full accordance with this AGREEMENT. If the CONTRACTOR fails to correct work the ENGINEER so deems unsuitable or not in conformity with the Project Drawings and Specifications, or persistently fails to carry out the Work in accordance with this AGREEMENT, HABITAT may order the CONTRACTOR to stop the Work, or any portion of it, until the CONTRACTOR has eliminated the cause for such order and cured its material effects; provided,

however, that HABITAT shall have no duty to exercise such right for the benefit of the CONTRACTOR or anyone else.

2.15 CHANGES AND ALTERATIONS. The CONTRACTOR further agrees that HABITAT may make such changes and alterations as HABITAT may see fit, in the line, grade, form, dimensions, plans or materials for the Work herein contemplated, or any part thereof, either before or after the beginning of the construction, without affecting the validity of this AGREEMENT or the accompanying Performance and Payment Bonds.

If such changes or alterations diminish the quantity of the Work to be done, they shall not constitute the basis for a claim for damages, or anticipated profits on the Work that may be dispensed with, except as provided for unit price items under Section 5 "Measurement and Payment." In case HABITAT shall make changes or alterations as shall make useless any Work already done or material already furnished or used in the Work, then HABITAT shall recompense the CONTRACTOR for any material or labor so used, and for any actual loss occasioned by such change, due to actual expenses incurred in preparation for the Work as originally planned.

2.16 PAYMENT OF WORK. The CONTRACTOR shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendents, labor, services, insurance, all permits required by any Governmental Authorities and all water, light, power, fuel, transportation and other facilities and services necessary for the proper execution and completion of the Work required by the Contract Documents. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of a good quality. The CONTRACTOR shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Materials or Work described in words which have a well-known technical or trade meaning shall be held to refer to such recognized standards.

2.17. COMPLIANCE WITH ALL REGULATIONS AND REQUIREMENTS. The CONTRACTOR shall comply with all regulations and requirements as detailed in Schedules 8, 10, and 11, and Attachments A, B, C, and D.

2.17.1 FURTHER COMPLIANCE. The CONTRACTOR shall comply with and give notice required by laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on performance of the Contract Work and shall comply with all requirements, including but not limited thereto.

2.17.2 COMPLIANCE WITH CITY OF SAN ANTONIO AND BEXAR COUNTY HOME FUNDING REQUIREMENTS. The CONTRACTOR shall comply with all requirements of the City of San Antonio Office of Grants Monitoring and Administration CDBG and HOME Housing Program Policies (Attachment F) and the Bexar County Department of Economic and Community Development's HOME program policies.

2.17.3 INCLUSION OF REQUIREMENTS IN SUBCONTRACTS. The CONTRACTOR shall include these requirements, schedules, and attachments in any and all subcontracts.

III. GENERAL OBLIGATIONS AND RESPONSIBILITIES

3.01 KEEPING OF THE PROJECT DRAWINGS AND SPECIFICATIONS ACCESSIBLE. HABITAT shall furnish the CONTRACTOR with an adequate and reasonable number of copies of the Project Drawings and Specifications, and the CONTRACTOR shall keep one copy of the same constantly accessible on the Project site, with the latest revisions noted thereon.

3.02 OWNERSHIP OF THE PROJECT DRAWINGS AND SPECIFICATIONS. All drawings and copies thereof furnished by HABITAT shall not be reused on other work, and with the exception of the signed contract sets, are to be returned to it on request, at the completion of the Work.

3.03 ADEQUACY OF DESIGN. HABITAT and CONTRACTOR agree that the Contract Documents may not be free from errors, inconsistencies, or omissions, and further agree that HABITAT makes no warranty as to the completeness or accuracy of the Contract Documents, either express or implied. Execution of this AGREEMENT by the CONTRACTOR is a representation that the CONTRACTOR has thoroughly reviewed and become familiar with the Contract Documents and that the CONTRACTOR is not aware of any errors, inconsistencies or omissions in the Contract Documents which would delay the CONTRACTOR in the performance of the Work. The CONTRACTOR shall not be entitled to any damages or increase in the Contract Price due to delays, acceleration of or disruptions to the Work.

3.04 RIGHT OF ENTRY. HABITAT reserves the right to enter the Project site or location on which the Work herein contracted for are to be constructed or installed, by such agent or agents as it may elect, for the purpose of inspecting the Work, or for the purpose of constructing or installing such collateral Work as HABITAT may desire.

3.05 COLLATERAL CONTRACTS. HABITAT reserves the right to perform construction or related operations related to the Work with HABITAT'S own forces, to award separate contracts in connection with other portions of the Work or other construction or operations on the Project site. If the CONTRACTOR claims that delay or additional cost is involved because of such operations by HABITAT, the CONTRACTOR shall make a claim as provided herein.

3.06 DISCREPANCIES AND OMISSIONS. It is further agreed that it is the intent of this AGREEMENT that all Work must be done and all material must be furnished in accordance with the generally accepted practice, and in the event of any discrepancies between the separate Contract Documents, the priority of interpretation defined under Contract Documents shall govern. In the event that there is still any doubt as to the meaning and intent of any portion of the Agreement or drawings, the ENGINEER shall define which is intended to apply to the Work.

3.07 EQUIPMENT, MATERIALS AND CONSTRUCTION PLANT. The CONTRACTOR shall be responsible for the care, preservation, conservation, and protection of all material, supplies, machinery, equipment, tools, apparatus, accessories, facilities, all means of construction, and any and all parts of the Work, until the entire Work is completed and accepted. The CONTRACTOR is solely responsible for all damage or loss to their own equipment and/or property at all times.

3.08 PROTECTION AGAINST ACCIDENT TO EMPLOYEES AND THE PUBLIC. The CONTRACTOR shall at all times exercise reasonable precautions for the safety of employees

and others on or near the Work and shall comply with all applicable provisions of Federal, State and Municipal safety laws and building and construction codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the Manual of Accident Prevention in Construction of the Associated General Contractors of America except where incompatible with Federal, State, or Municipal laws or regulations. The CONTRACTOR shall provide such machinery guards, safe walkways, ladders, bridges, gangplanks, and other safety devices as shall be required. The safety precautions actually taken and their adequacy shall be the sole responsibility of the CONTRACTOR, acting at its discretion as an independent contractor.

3.09 PERFORMANCE AND PAYMENT BONDS. The CONTRACTOR is required, as a condition precedent to the execution of this AGREEMENT, to execute a PERFORMANCE BOND (AIA Form No. A312: December 1984 Edition), in an amount equal to ONE HUNDRED PERCENT (100%) of the total combined accepted bid(s).

The CONTRACTOR is required, as a condition precedent to the execution of the AGREEMENT, to execute a PAYMENT BOND in the form required by TEXAS STATUTES, in the amount equal to ONE HUNDRED PERCENT (100%) of the total bid as security for payment of all persons performing labor and furnishing materials in connection with this AGREEMENT. (Bonding Company is to furnish such forms).

The Payment and Performance Bond shall meet requirements of Chapter 2253 of the Texas Governmental Code. All bonds shall be issued by a surety company licensed, listed and authorized to issue bonds in the State of Texas by the Texas Department of Insurance. The surety company may be required by HABITAT to have a rating of not less than "B" in the latest edition of Best's Insurance Reports, Property-Casualty. The surety company shall provide, if requested, information on bonding capacity, other projects under coverage and shall provide proof to establish adequate financial capacity for this Project.

Should the bond amount be in excess of ten percent (10%) of the surety company's capital and surplus, the surety company issuing the bond shall certify that the surety company has acquired reinsurance, in a form and amount acceptable to HABITAT, to reinsure the portion of the risk that exceeds ten percent (10%) of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in Texas and that amount reinsured by an reinsurer does not exceed ten percent (10%) of the reinsurer's capital and surplus.

The Sureties shall promptly file a signed copy of this AGREEMENT, Performance, and Payment Bonds with HABITAT in full compliance with Chapter 2253 of the Texas Governmental Code.

All bonds will be reviewed by the ENGINEER for compliance with the Contract Documents prior to execution of this AGREEMENT. In the event that the ENGINEER has any questions concerning the sufficiency of the bonds, the bonds will be referred to HABITAT or HABITAT'S representative for review and decision.

All bonds shall be originals. The CONTRACTOR shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the Power-of-Attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

Upon the request in writing of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under this AGREEMENT, the CONTRACTOR

shall promptly furnish a copy of the bonds or shall permit a copy to be made.

Bonds shall be signed by an agent resident in the State of Texas and the date of the bond shall be the date of execution of this AGREEMENT. If at any time during the continuance of this AGREEMENT, the surety of the CONTRACTOR'S bonds becomes insufficient, HABITAT shall have the right to require additional and sufficient sureties which the CONTRACTOR shall furnish to the satisfaction of HABITAT within ten (10) business days after notice to do so. In default thereof, the CONTRACTOR may be suspended, and all payment or money due to the CONTRACTOR withheld.

3.10 LOSSES FROM NATURAL CAUSES. Unless otherwise specified, all loss or damage to the CONTRACTOR arising out of the nature of the Work to be done, or from the action of the elements, from any unforeseen circumstance in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the same, or from unusual obstruction or difficulties which may be encountered in the prosecution of the Work, shall be sustained and borne by the CONTRACTOR at its own costs and expense.

3.11 PROTECTION OF ADJOINING PROPERTY. The CONTRACTOR shall take proper means to protect the adjacent or adjoining property or properties in any way encountered, which might be injured or seriously affected by any process of construction to be undertaken under this AGREEMENT, from any damage or injury by reason of said process of construction; and it shall be liable for any and all claims for such damage on account of its failure to fully protect all adjoining property. The CONTRACTOR agrees to indemnify, save and hold harmless HABITAT and DEVELOPER against any claim or claims for damages due to any injury to any adjacent or adjoining property, arising or growing out of the performance of the AGREEMENT; but any such indemnity shall not apply to any claim of any kind arising out of the existence or character of the Work.

3.12 PROTECTION AGAINST CLAIMS OF SUBCONTRACTORS, LABORERS, MATERIALMEN AND FURNISHING OF MACHINERY, EQUIPMENT AND SUPPLIES. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD HABITAT AND DEVELOPER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTEREST OR ENCUMBRANCES FILED BY THE CONTRACTOR, SUBCONTRACTORS, OR ANYONE CLAIMING BY, THROUGH OR UNDER THE CONTRACTOR OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY HABITAT TO THE CONTRACTOR.** When so desired by HABITAT, the CONTRACTOR shall furnish satisfactory evidence that all obligations of the nature herein above designated have been paid, discharged or waived.

3.13 PROTECTION AGAINST ROYALTIES OR PATENTED INVENTION. The CONTRACTOR shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with the patentee or HABITAT. The CONTRACTOR shall defend all suits or claims for infringement of any patent or copyright rights and shall indemnify and save HABITAT and ENGINEER harmless from any loss on account thereof, except that HABITAT shall defend all such suits and claims and shall be responsible for all such loss when a particular design, device, material or process or the product of a particular manufacturer is specified or required by HABITAT; provided, however, if choice of alternate design, device, material or process is allowed to the CONTRACTOR then the CONTRACTOR shall indemnify and save HABITAT harmless of any

loss on account thereof. If the material or process specified or required by HABITAT is an infringement, the CONTRACTOR shall be responsible for such loss unless it promptly gives such information to HABITAT.

3.14 LAWS AND ORDINANCES. The CONTRACTOR shall at all times observe and comply with all Federal, State, and local laws, ordinances and regulations, which in any manner affect the AGREEMENT or the Work, and shall indemnify and save harmless HABITAT and DEVELOPER against any claim arising from the violation of any such laws, ordinances, and regulations whether by the CONTRACTOR or its employees. If the CONTRACTOR observes that the Project Drawings and Specifications are at variance therewith it shall promptly notify the ENGINEER in writing, and any necessary changes shall be adjusted as provided in the AGREEMENT for changes in the Work. If the CONTRACTOR performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the ENGINEER, it shall bear all costs arising therefrom. In case HABITAT is a body politic and corporate, the law from which it derives its powers, insofar as the same regulates the objects for which, or the manner in which, or the conditions under which HABITAT may enter into contract, shall be controlling, and shall be considered as part of this AGREEMENT, to the same effect as though embodied herein.

3.15 ASSIGNMENT AND SUBLETTING. The CONTRACTOR further agrees that it will retain personal control and will give its personal attention to the fulfillment of this AGREEMENT and that he will not assign by Power of Attorney, or otherwise, or sublet this Agreement without the written consent of HABITAT, and that no part or feature of the Work will be sublet to anyone objectionable to HABITAT. Subcontracts must include all provisions in this AGREEMENT and its attachments. The CONTRACTOR further agrees that the subletting of any portion or feature of the Work, or materials required in the performance of this AGREEMENT, shall not relieve the CONTRACTOR from its full obligations to HABITAT as proved by the AGREEMENT.

3.16 INDEMNIFICATION. **THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS HABITAT, THE DEVELOPER, THE ENGINEER, THE CITY OF SAN ANTONIO, AND THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL DAMAGES, CLAIMS, LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE WORK, PROVIDED THAT ANY SUCH DAMAGES, CLAIM, LOSS, DEMAND, SUIT, JUDGMENT, COST OR EXPENSE;**

(1) IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF) INCLUDING THE LOSS OF USE RESULTING THEREFROM; AND,

(2) IS CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT OR OMISSION OF THE CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANYONE OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT IT IS CAUSED IN PART BY A PARTY INDEMNIFIED HEREUNDER; BUT

(3) IS NOT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF HABITAT OR THE DEVELOPER; PROVIDED, THAT THE PARTIES INTEND THE CONTRACTOR'S INDEMNITY TO EXTEND TO THINGS CAUSED BY THE ORDINARY NEGLIGENCE OF HABITAT OR THE DEVELOPER.

THE OBLIGATION OF THE CONTRACTOR UNDER THIS SECTION SHALL NOT EXTEND TO THE LIABILITY OF THE DEVELOPER, ITS AGENTS OR EMPLOYEES ARISING OUT OF THE PREPARATION OR APPROVAL OF MAPS, DRAWINGS, REPORTS, SURVEYS, CHANGE ORDERS, DESIGNS OR SPECIFICATIONS OR THE GIVING OF OR THE FAILURE TO GIVE DIRECTION OR INSTRUCTIONS BY THE DEVELOPER, ITS AGENTS OR EMPLOYEES, PROVIDED SUCH GIVING OR FAILURE TO GIVE IS THE PRIMARY CAUSE OF THE INJURY OR DAMAGE.

Indemnification hereunder shall include, without limiting the generality of the foregoing, liability which could arise to HABITAT, the DEVELOPER, the City of San Antonio, Bexar County and their agents, consultants, and representatives, or the ENGINEER pursuant to State statutes for the safety of workmen and in addition, all Federal statutes and rules existing thereunder for protection, occupational safety and health to workmen. It being agreed that the primary obligation of the CONTRACTOR is to comply with said statutes in performance of the Work by the CONTRACTOR and that the obligations of HABITAT, the DEVELOPER, their agents, consultants, and representatives under said statutes are secondary to that of the CONTRACTOR. The CONTRACTOR is required, as a condition precedent to the execution of the AGREEMENT to execute an additional indemnification agreement which is attached hereto as Schedule 4.

3.16.1 INDEMNIFICATION FOR BEXAR COUNTY. CONTRACTOR AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS HABITAT AND COUNTY AND ITS ELECTED OFFICIALS, EMPLOYEES, REPRESENTATIVES, AND AGENTS (INDIVIDUALLY AND COLLECTIVELY AN "INDEMNIFIED PARTY") FROM AND AGAINST ANY AND ALL COSTS, LIABILITY, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, INCLUDING REASONABLE ATTORNEY FEES AND DEFENSE COSTS, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH, AND PROPERTY DAMAGE MADE UPON THE INDEMNIFIED PARTY ARISING OUT OF, RESULTING FROM, OR RELATED TO THE ACTS, ERRORS OR OMISSIONS OF CONTRACTOR, INCLUDING ITS EMPLOYEES, OFFICERS, AGENTS AND CONTRACTORS WHILE IN THE PERFORMANCE OF THIS AGREEMENT. HABITAT AND COUNTY WILL HAVE THE RIGHT, AT ITS OPTION AND ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING CONTRACTOR OF ANY OF ITS OBLIGATIONS UNDER THIS SECTION. CONTRACTOR WILL PROMPTLY ADVISE THE INDEMNIFIED PARTY IN WRITING OF ANY CLAIM OR DEMAND AGAINST CONTRACTOR OR THE INDEMNIFIED PARTY WHICH RELATES TO OR ARISES OUT OF CONTRACTOR'S ACTIVITIES UNDER THIS AGREEMENT. NOTHING IN THIS SECTION WILL BE INTERPRETED TO CONSTITUTE A WAIVER OF ANY GOVERNMENTAL IMMUNITY AVAILABLE UNDER TEXAS LAW OR ANY AVAILABLE DEFENSES UNDER TEXAS LAW. THE PROVISIONS OF THIS ARTICLE ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT

INTENDED TO AND DO NOT CREATE OR GRANT ANY RIGHTS, CONTRACTUALLY OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

3.16.2 IN ANY CONTRACT REQUIRING HABITAT AND THE COUNTY TO BE NAMED AS AN INDEMNITY, CONTRACTOR WILL ALSO BE NAMED AS AN INDEMNITEE.

3.17 INSURANCE. The CONTRACTOR at its own expense shall, and shall require its Subcontractors to, purchase, maintain and keep in force such insurance as will protect it from claims set forth below which may arise out of or result from the CONTRACTOR'S operations under the AGREEMENT, whether such operations be by itself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, including, without limitation, the following:

TYPE	AMOUNTS
1. Worker's Compensation 2. Employer's Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability, to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury b. Contractual Liability e. Independent Contractors f. Damage to property rented by you g. Explosion, Collapse, Underground Property Hazard Liability	For Bodily and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage. f. \$300,000.00 (if applicable)
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence.
5. Builder's Risk	All Risk Policy written on an occurrence basis for 100% replacement cost during construction phase of any new or existing structure.
6. Environmental Insurance – Contractor's Pollution Liability (Claims-made coverage)	\$1,000,000 per occurrence; \$2,000,000 general aggregate for claims associated with hazardous materials, to include spills and mitigation.
7. Professional Liability (Claims-made Coverage)	\$1,000,000 per claim damages by reason or any act, malpractice, error, or omission in the professional service. Coverage to be maintained and in effect for no less than two years subsequent to the completion of the service.

Worker's Compensation Insurance Additional Requirements

Worker's Compensation Insurance providing statutory benefits imposed by applicable state or federal law such that (a) HABITAT will have no liability to the CONTRACTOR'S or any Subcontractor's employees and agents; and (b) the CONTRACTOR will satisfy, and will require its Subcontractors to satisfy, all Worker's Compensation obligation imposed by state law. Such Worker's Compensation Insurance shall provide for a waiver of subrogation. Should the CONTRACTOR or any subcontractor of the CONTRACTOR fail to provide a certificate evidencing such Worker's Compensation Insurance, HABITAT may withhold ten percent (10%) of the amount otherwise due to the CONTRACTOR hereunder to protect HABITAT against potential claims by workers.

Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a Project. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

The CONTRACTOR shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code Section 401.011(44) for all employees of the CONTRACTOR providing services on the Project for the duration of the Project.

The CONTRACTOR must provide a certificate of coverage to HABITAT, CITY, and COUNTY prior to being awarded the contract.

If the coverage period shown on the CONTRACTOR'S current certificate of coverage ends during the duration of the Project, the CONTRACTOR must, prior to the end of the coverage period, file a new certificate of coverage with HABITAT showing that coverage has been extended.

The CONTRACTOR shall obtain from each person providing services on a Project, and provide to HABITAT, CITY, and COUNTY:

- (a) A certificate of coverage, prior to that person beginning work on the Project, so HABITAT and the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
- (b) No later than seven (7) days after receipt by the CONTRACTOR, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

The CONTRACTOR shall retain all required certificates of coverage for the duration of the Project and for one (1) year thereafter.

The CONTRACTOR shall notify HABITAT and the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the CONTRACTOR knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

The CONTRACTOR shall post on each Project site a notice, in the text, form, and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

The CONTRACTOR shall contractually require each person with whom it contracts to provide services on a Project, to:

- (a) Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all of its employees providing services on the Project for the duration of the Project;
- (b) Provide to the CONTRACTOR, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;
- (c) Provide the CONTRACTOR, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- (d) Obtain from each other person with whom it contracts, and provide to the CONTRACTOR:
 - 1) A certificate of coverage, prior to the other person beginning work on the Project; and
 - 2) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- (e) Retain all required certificates of coverage on file for the duration of the Project and for one (1) year thereafter;
- (f) Notify HABITAT and the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew, or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
- (g) Contractually require each person with whom it contracts to perform as required by items a-f, with the certificates of coverage to be provided to the person for whom they are providing services.

By signing this Agreement or providing or causing to be provided a certificate of coverage, the CONTRACTOR is representing to HABITAT and the governmental entity that all employees of the CONTRACTOR who will provide services on the Project will be covered by Workers' Compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the CONTRACTOR to administrative penalties, criminal penalties, civil penalties, or other civil actions.

The CONTRACTOR'S failure to comply with any of these provisions is a breach of Contract by the CONTRACTOR that entitles HABITAT to declare the AGREEMENT void if the CONTRACTOR does not remedy the breach within ten (10) days after receipt of notice of breach from HABITAT or the governmental entity.

The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996. 28 TAC

110.110(i).

3.17.1 CERTIFICATE OF INSURANCE. Before commencing any of the Work, the CONTRACTOR shall file with HABITAT valid Certificates of Insurance acceptable to HABITAT and CITY and COUNTY. Such Certificates shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty (30) days prior written notice has been given to HABITAT. The CONTRACTOR shall also file with HABITAT valid Certificates of Insurance covering all Subcontractors.

3.17.2 ADDITIONALLY INSURED. The policy or policies so issued in the name of the CONTRACTOR shall also name subcontractors and HABITAT, ENGINEER, CITY and COUNTY as additional insureds, as their respective interests may appear. Such coverage shall be primary coverage.

3.17.3 NO LIMIT OR WAIVER OF RESPONSIBILITIES. Nothing contained herein shall limit or waive the CONTRACTOR'S legal or contractual responsibilities to HABITAT or others.

IV. PROSECUTION AND PROGRESS

4.01 TIME AND ORDER OF COMPLETION. It is the meaning and intent of the AGREEMENT, unless otherwise herein specifically provided, that the CONTRACTOR shall be allowed to prosecute the Work at such times and seasons, in such order of precedence, and in such manner as shall be most conducive to economy of construction: provided, however, that the order and the time of prosecution shall be such that CPS Energy may start and finish its electric and gas system installation during the work period, and the Work shall be Substantially Completed as a whole and in part, in accordance with this AGREEMENT, the Project Drawings and Specifications, and within the time of completion designated in the Contract Documents; provided, further that when HABITAT is to have other Work done, either by contract or by its own force, the ENGINEER may direct the time and manner of constructing the Work done under this AGREEMENT, so that conflict will be avoided and the construction of the various works being done for HABITAT shall be harmonized.

The CONTRACTOR shall submit, at such times as may reasonably be requested by the ENGINEER, schedules which shall show the order in which the CONTRACTOR proposes to carry on the Work, with dates at which the CONTRACTOR will start the several parts of the Work, and estimated dates of completion of the several parts.

4.02 EXTENSION OF TIME. Should the CONTRACTOR be delayed in the completion of the Work by any act of neglect of HABITAT or the ENGINEER, or of any employee of either, or by other contractors employed by HABITAT, or by changes ordered in the Work, or by strikes, lockouts, fires, or severe weather causing the closure of either 36th or 39th Street at the intersection of Fortuna Street, or unavoidable cause or causes beyond the CONTRACTOR'S control, or by any cause which HABITAT shall decide justifies the delay, then an extension of time shall be allowed for completing the Work, sufficient to compensate for the delay, with the amount of the extension to be determined by the ENGINEER; **conditioned, however, on the CONTRACTOR'S giving the ENGINEER notice in writing of the cause of such delay and requesting an extension, by no later than seven (7) calendar days**

after the inception of the delay. Adequate time for bad weather not causing the closure of either 36th or 39th Street at the intersection of Fortuna Street, including rain and mud days, is already factored into the time allowed for completing the work so no extension of time will be granted for bad weather other than for severe weather causing the closure of Highway 16 at the Watson Road intersection or the closure of Interstate 35 at the Fischer Road intersection as described above., or three (3) or more consecutive calendar days of rain at the Project site when the rain is one inch or more per day.

4.03 HINDRANCES and DELAYS. HABITAT, except as provided for in this section 4.03, shall not be liable to the CONTRACTOR for delay to the Work by the act, neglect or default of HABITAT, the DEVELOPER or the ENGINEER, or by reason of fire, act of God, riot, strike, action of workmen or others, or any cause beyond HABITAT'S control. Should HABITAT, the DEVELOPER or the ENGINEER delay the CONTRACTOR in the Work, the CONTRACTOR shall receive an extension of time for completion equal to the delay **if a written claim is made within forty-eight (48) hours**, and under no circumstances shall HABITAT be liable to pay the CONTRACTOR any compensation for such HABITAT-caused delays. This AGREEMENT does not permit the recovery of damages by the CONTRACTOR for delay, disruption or acceleration. The CONTRACTOR agrees that the CONTRACTOR shall be fully compensated for all delays solely by an extension of time.

4.04 TIME OF COMPLETION and LIQUIDATED DAMAGES. The time set forth in this AGREEMENT for the completion of the Work is an essential element of this AGREEMENT. The parties understand and agree that

- i. the CONTRACTOR'S failure to complete the Work within the AGREEMENT time will cause HABITAT to sustain damages, including, but not limited to, loss resulting from delay in recovering HABITAT'S investments in the property upon which the Project is being constructed and in the Project itself, additional interest costs and additional engineering and other fees, costs and expenses,
- ii. the damages that HABITAT will thereby sustain are difficult or impossible to predict,
- iii. FIVE HUNDRED DOLLARS (\$500.00) per Calendar Day is a reasonable estimate of the damages HABITAT will sustain if the CONTRACTOR does not complete the Work within the AGREEMENT time,
- iv. accordingly, for each calendar day that the Work or any portion thereof remains uncompleted after expiration of the AGREEMENT time for completion of the Work, FIVE HUNDRED DOLLARS (\$500.00) per Calendar Day will be deducted from sums otherwise due or to become due the CONTRACTOR, not as a penalty, but as liquidated damages for the CONTRACTOR'S default in timely completing the Work.
- v. If the CONTRACTOR fails to reach Substantial Completion by the due date listed in the Standard Form of Agreement, in addition to and separate from the liquidated damages described above, the CONTRACTOR will provide the CITY a Letter of Credit in the amount approved by the CITY for the period required by the CITY, but the amount shall not be less than 20% of the AGREEMENT amount. Said Letter of Credit will be provided in the standard Letter of Credit form required by the CITY. The purpose of the Letter of Credit is so the subdivision plat can be

recorded by the CITY within 20 days following the Substantial Completion due date specified in the Standard Form of Agreement. All costs and obligations required related to the Letter of Credit will be at the CONTRACTOR'S sole cost and expense and no additional payment or reimbursement will be made by HABITAT.

V. MEASUREMENT AND PAYMENT

5.01 QUANTITIES AND MEASUREMENTS. No extra or customary measurements of any kind will be allowed, but the actual measured and/or computed length, area or volume, number and weight only shall be considered, up to the amounts listed in the Bid Form, unless otherwise specifically provided.

5.02 ESTIMATED QUANTITIES. This AGREEMENT, including the Project Drawings and Specifications and estimate, is intended to show clearly all Work to be done and material to be furnished hereunder. Where quantities are shown for the various portions and classes of the work to be done and material to be furnished under this AGREEMENT, they are approximate and are to be used only as a basis for estimating the probable costs of the Work and for comparing the bids offered for the Work. It is understood and agreed that the actual amount of the Work to be done and material to be furnished under this AGREEMENT may differ somewhat from these estimates, and that the basis for payment under this AGREEMENT is the unit price method, up to the total amount listed in the Standard Form of Agreement. Payment shall be for the actual amount of such Work done and the material furnished up to the total amount listed in the Standard Form of Agreement.

Payment is based on the unit price method up to the maximum lump sum contract amount (the "Contract Price") and the CONTRACTOR agrees that it will make no claim (or seek damages) for anticipated profits or otherwise, on account of any differences which may be found between (x) the quantities of the Work actually done and the quantities of material actually furnished under this AGREEMENT and (y) the estimated quantities thereof contemplated and contained in the Bid Form; provided, however, that in case the actual quantity of any Major item should become as much as 10% more, or 10% less, than the estimated or contemplated quantity for such items, then either party to this AGREEMENT, upon demand, shall be entitled to a revised consideration upon the portion of the Work above or below 10% of the estimated quantity. Any addition or reduction calculated under this paragraph will be computed on the basis of the Bid Proposal Schedule quantities and unit prices.

A "Major" Item shall be construed to be any individual bid item incurred in the Bid Form that has a total cost equal to or greater than ten percent (10%) of the lump sum contract amount.

Any revised consideration is to be determined by written agreement between the parties, otherwise by the terms of this AGREEMENT as provided under "Extra" Work.

The CONTRACTOR is responsible for bidding the Project Drawings and Specifications as designed. The ENGINEER and HABITAT have made every effort to accurately describe the improvements that are in the Project Drawings and Specifications within the Bid Form; however, any quantity omissions in the Bid Form whose cumulative price is less than or equal to 10% of the total lump sum Contract Price shall be deemed to be included in the bid.

5.03 PRICE OF WORK. In consideration of the furnishing of all the necessary labor, equipment and material, and the completion of the Work by the CONTRACTOR, and on the completion of the Work and of the delivery of all material embraced in this AGREEMENT in full conformity with the Project Drawings and Specifications and stipulations herein contained, HABITAT agrees to pay the CONTRACTOR the Contract Price. The CONTRACTOR hereby agrees to receive such prices as full and complete compensation to the CONTRACTOR for furnishing all material and all labor required for the work, including reimbursement for all expense incurred by it, and for well and truly performing the same and the whole thereof in the manner provided for in this AGREEMENT.

5.04 PARTIAL PAYMENTS: On or before the 20th day of each month, the CONTRACTOR shall prepare and submit to the DEVELOPER for approval or modification an updated project schedule along with a statement showing as completely as practicable the total value of the Work done by the CONTRACTOR up to and including the prior day of the current month; said statement shall also include the value of all sound materials delivered to the site of the Work that are to be incorporated into the Work.

Upon approval of the updated project schedule, HABITAT shall then pay the CONTRACTOR on or before the 10th day of the following month the total amount of the approved statement, less ten percent (10%) of the amount thereof, which ten percent (10%) shall be retained until final payment, and also less all previous payments made and all further sums that may be retained by HABITAT pursuant to other provisions of this AGREEMENT. It is understood, however, that in case the whole work be near to completion and some unexpected and unusual delay occurs due to no fault or neglect on the part of the CONTRACTOR, HABITAT may, upon written recommendation of the ENGINEER, pay a reasonable and equitable portion of the retained percentage to the CONTRACTOR, or at HABITAT'S option, exercisable by written notice to the CONTRACTOR, the CONTRACTOR may be relieved of the obligation to fully complete the Work and thereupon, the CONTRACTOR shall receive payment of the balance due it under the AGREEMENT subject only to conditions stated under "Final " Payment.

The CONTRACTOR shall, within ten (10) days following receipt of payment from HABITAT, pay all bills for labor and materials performed and furnished by others in connection with the performance of the Work, and shall, if requested, provide HABITAT with evidence of such payment. The CONTRACTOR'S failure to make payments within such time shall constitute a material breach of this AGREEMENT. The CONTRACTOR shall include a provision in each of its subcontracts imposing the same payment obligations on its subcontractors as are applicable to the CONTRACTOR hereunder, and if HABITAT so requests, shall provide copies of such subcontractor payments to HABITAT. If the CONTRACTOR has failed to make payment promptly to the CONTRACTOR'S subcontractors or for materials or labor used in the Work for which HABITAT has made payment to the CONTRACTOR, HABITAT shall be entitled to withhold payment to the CONTRACTOR in part or in whole to the extent necessary to protect HABITAT.

5.05 USE OF COMPLETED PORTIONS. HABITAT shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding the time for completing the entire Work or such portions may not have expired, but such taking of possession and use shall not be deemed an acceptance of any Work not completed in accordance with the Contract Documents.

The CONTRACTOR shall notify the ENGINEER when, in the CONTRACTOR'S opinion, the Work is Substantially Completed and when so notifying the ENGINEER, the CONTRACTOR shall furnish to the ENGINEER in writing a detailed list of unfinished Work. The ENGINEER will review the CONTRACTOR'S list of unfinished Work and will add thereto such items as the CONTRACTOR has failed to include. The Substantial Completion of the structure or facilities shall not excuse the CONTRACTOR from the CONTRACTOR'S obligation to perform all of the Work, whether of a minor or major nature, and complete the structure or facilities in accordance with the Contract Documents.

5.06 FINAL COMPLETION AND ACCEPTANCE. Within ten (10) days after the CONTRACTOR has given the ENGINEER written notice that the Work has been completed, or Substantially Completed, the ENGINEER and HABITAT shall inspect the Work and within said time, if the Work is found to be completed or Substantially Completed in accordance with the Contract Documents, the ENGINEER shall issue to HABITAT and the CONTRACTOR its Certificate of Completion, and thereupon it shall be the duty of HABITAT within ten (10) days to issue a Certificate of Acceptance of the Work to the CONTRACTOR or to advise the CONTRACTOR in writing of the reason for non-acceptance.

5.07 FINAL PAYMENT. Upon the issuance of the Certificate of Completion, the ENGINEER shall proceed to make final measurements and prepare a final statement of the value of all work performed and materials furnished under the terms of the AGREEMENT and shall certify same to HABITAT, who shall pay to the CONTRACTOR on or after the 30th day, and before the 40th day, after the date of the Certificate of Completion, the balance due the CONTRACTOR under the terms of this AGREEMENT, provided it has fully performed its contractual obligations under the terms of this AGREEMENT. Neither the Certificate of Acceptance nor the final payment, nor any provision in the Contract Documents, shall relieve the CONTRACTOR of the obligation for fulfillment of any warranty which may be required.

5.08 PAYMENTS WITHHELD. HABITAT may, on account of subsequently discovered evidence, withhold or nullify the whole or part of any certificate to such extent as may be necessary to protect itself from loss on account of:

- (a) Defective Work not remedied.
- (b) Claims filed or reasonable evidence indicating probable filing of claims by any of the CONTRACTOR'S subcontractors or suppliers.
- (c) Failure of the CONTRACTOR to make payments properly to subcontractors or for material or labor.
- (d) Damage to another contractor.
- (e) Reasonable doubt that the Work can be completed for the unpaid balance of the Contract Price.
- (f) Reasonable indication that the Work will not be completed within the contract time.
- (g) Where there has been a failure by the CONTRACTOR to comply with Davis-Bacon and Related Acts or Labor Standards Provisions or failure to electronically submit weekly certified payrolls and/or failure to submit printed weekly certified payrolls.

When the above grounds are removed, or the CONTRACTOR escrows an amount of money which will protect HABITAT for twice the amount withheld, payment shall be made for

amounts withheld because of them.

5.09 DELAYED PAYMENT. Should HABITAT fail to make payment to the CONTRACTOR of the sum stated in any partial or final statement, when payment is due, then HABITAT shall pay to the CONTRACTOR, in addition to the sum shown as due by such statement, interest thereon at the rate of six percent (6%) per annum, unless otherwise specified, from the date due as provided under "Partial Payments" and Final Payments until fully paid, which shall fully liquidate any damages to the CONTRACTOR growing out of such delay in payment.

VI. EXTRA WORK

6.01 CHANGE ORDERS: Without invalidating this AGREEMENT, HABITAT may, at any time or from time to time, order additions, deletions or revisions to the Work; such changes will be authorized by Change Order to be prepared by the ENGINEER for execution by HABITAT and the CONTRACTOR. The Change Order shall set forth the basis for any change in the Contract Price, as hereinafter set forth for Extra Work, and any change in contract time that may result from the change. Acceptance of a Change Order by the CONTRACTOR shall constitute full accord and satisfaction for any and all claims, whether direct or indirect, including but not limited to impact, delay or acceleration damages, arising from the subject matter of the Change Order.

6.02 MINOR CHANGES. HABITAT may authorize minor changes in the Work not inconsistent with the overall intent of the Contract Documents and not involving an increase in the Contract Price. If the CONTRACTOR believes that any minor change or alteration authorized by HABITAT involves Extra Work and entitles it to an increase in the Contract Price, the CONTRACTOR shall make a written request to HABITAT for a written field order stating that the Work involved may result in an increase in the Contract Price and the amount thereof. Any request by the CONTRACTOR for a change in the Contract Price shall be made prior to beginning the Work covered by the proposed change.

6.03 EXTRA WORK. It is agreed that the basis of compensation to the CONTRACTOR for the Work either added or deleted by a Change Order or for which a claim for Extra Work is made shall be determined by one or more of the following methods.

Method (A)-By agreed unit prices if the item to be added or deleted is already itemized in the Contract Documents; or

Method (B)-By agreed lump sum if the item to be added or deleted is not specifically itemized in the Contract Documents.

No claim for Extra Work of any kind will be allowed unless ordered in writing by HABITAT. In case any orders or instructions, either oral or written, appear to the CONTRACTOR to involve Extra Work for which it should receive compensation or an adjustment in the construction time, it shall make written request to HABITAT for a written Change Order authorizing such Extra Work within 5 days after occurrence of the event giving rise to the claim, but prior to commencing on the Extra Work. Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefore, and HABITAT insists upon its performance, the CONTRACTOR shall proceed with the Work after making written request for a written order authorizing it and shall keep an accurate account of the actual field cost thereof. Provided the CONTRACTOR has sent written notice of the claim to HABITAT within 5 days after the occurrence of the event giving rise to the claim, the CONTRACTOR will thereby

preserve the right to submit the claim for payment to mediation, as herein below provided.

6.04 TIME OF FILING CLAIMS. It is further agreed by both parties hereto that all questions of dispute or adjustment presented by the CONTRACTOR shall be made in writing and filed with HABITAT within thirty (30) days after HABITAT has given any direction, order or instruction to which the CONTRACTOR desires to take exception. HABITAT shall reply within thirty (30) days to such written exceptions by the CONTRACTOR and render its final decision in writing. In case the CONTRACTOR should disagree with HABITAT'S decision, any demand for mediation must be filed with HABITAT in writing within (10) days after the date of delivery to the CONTRACTOR of HABITAT'S final decision or the CONTRACTOR'S right to contest HABITAT'S decision will be deemed waived and such decision will be final and binding on the parties. It is further agreed that final acceptance of the Work by HABITAT and the acceptance by the CONTRACTOR of the final payment shall be a bar to any claims by either party, except for warranty claims and except where noted otherwise in the Contract Documents.

6.05 MEDIATION. After the initial decision of HABITAT or thirty (30) days after the claim is submitted to HABITAT if HABITAT has not sooner rendered its decision, any claim arising out of or related to the AGREEMENT shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by any party. A request for mediation shall be in writing, and shall request that the mediation commence not less than 30 or more than 90 days following the date of the request, except upon agreement of both parties. In the event HABITAT and the CONTRACTOR are unable to agree to a date for the mediation or to the identity of the mediator or mediators within 30 days following the date of the request for mediation, all conditions precedent in this section shall be deemed to have occurred. Venue for any mediation or lawsuit arising under this AGREEMENT shall be in Bexar County, Texas.

VII. ABANDONMENT OF AGREEMENT

7.01 ABANDONMENT BY CONTRACTOR. In case the CONTRACTOR should abandon and fail or refuse to resume the Work within ten (10) days after written notification from HABITAT or if the CONTRACTOR fails to comply with the orders of HABITAT when such orders are consistent with the Contract Documents, then, and in that case; where performance and payment bonds exist, the Sureties on these bond shall be notified in writing and directed to complete the Work, and a copy of said notice shall be delivered to the CONTRACTOR.

After receiving any such notice of abandonment, the CONTRACTOR shall not remove from the Work any machinery, equipment, tools, materials or supplies then on the Project site or stored offsite, but the same, together with any materials and equipment under contract for the Work, may be held for use on the Work by HABITAT or the Surety on the performance bond, or another contractor in completion of the Work; and the CONTRACTOR shall not receive any rental or credit therefore (except when used in connection with Extra Work, where credit shall be allowed as provided for under Section 6 (Extra Work), it being understood that the use of such equipment and materials will ultimately reduce the cost to complete the Work and such savings shall be reflected in the final settlement.

Where there is no performance bond provided or in case the Surety should fail to commence compliance with the notices for completion hereinbefore provided for within ten (10) days after service of such notice, then HABITAT may provide for completion of the Work in either of the following elective manners:

7.01.1 COMPLETION OF WORK BY HABITAT. HABITAT may thereupon employ such force of men and use such machinery, equipment, tools, materials and supplies as HABITAT may deem necessary to complete the Work and charge the expense of such labor, machinery, equipment, tools, material and supplies to the CONTRACTOR, and expense so charged shall be deducted and paid by HABITAT out of such moneys as may be due, or that may thereafter at any time become due, to the CONTRACTOR under and by virtue of this AGREEMENT. In case such expense is less than the sum which would have been payable under this AGREEMENT, if the same had been completed by the CONTRACTOR, the CONTRACTOR shall receive the difference. In case such expense is greater than the sum which would have been payable under this AGREEMENT if the same had been completed by the CONTRACTOR, then the CONTRACTOR and/or its Surety shall pay the amount of such excess to HABITAT; or

7.01.2 LETTING OF CONTRACT FOR COMPLETION OF WORK. HABITAT under sealed bids, after five (5) days' notice published one or more times in a newspaper having general circulation in the county of the location of the Work, may let the contract for the completion of the Work under substantially the same terms and conditions which are provided in this AGREEMENT. In case there are any increases in the cost to HABITAT under the new contract as compared to what would have been the cost under this AGREEMENT, such increase shall be charged to the CONTRACTOR and the Surety, and they shall pay such excess to HABITAT. However, should the cost to complete any such new contract prove to be less than what would have been the cost to complete under this AGREEMENT, the CONTRACTOR and/or its Surety shall be credited therewith.

7.01.3 AFTER SUBSTANTIAL COMPLETION. When the Work shall have been Substantially Completed, the CONTRACTOR and its Surety shall be so notified and Certificates of Completion and Acceptance, as provided in section 5.06 herein above, shall be issued. A complete, itemized statement of the contract accounts, certified to by HABITAT as being correct, shall then be prepared and delivered to the CONTRACTOR and its Surety, whereupon the CONTRACTOR and/or its Surety, or HABITAT as the case may be, shall pay the balance due as reflected by said statement, within fifteen (15) days after the date of such Certificate of Completion.

In the event the statement of accounts shows that the cost to complete the Work is less than that which would have been the cost to HABITAT had the Work been completed by the CONTRACTOR under the terms of this AGREEMENT; or when the CONTRACTOR and/or its Surety shall pay the balance shown to be due by them to HABITAT, then all machinery, equipment, tools, materials or supplies left on the site of the Work shall be turned over to the CONTRACTOR and/or its Surety. To secure performance of the CONTRACTOR'S obligations under this AGREEMENT, the CONTRACTOR hereby grants HABITAT a security interest in all of the CONTRACTOR'S right, title and interest in and to all machinery, equipment, tools, materials and supplies from time to time brought to or placed on the Project site. Should the cost to complete the Work exceed the Contract Price, and the CONTRACTOR and/or its Surety fail to pay the amount due HABITAT within the time designated herein above, and there remains any machinery, equipment, tools, material or supplies on the site of the Work, an itemized list of such machinery, equipment, etc., together with notice of the time and place or any public sale, or of the time after which any private sale or other disposition thereof is to be made, shall be sent by HABITAT to the CONTRACTOR and its Surety by postage prepaid certified mail addressed to the CONTRACTOR'S and its Surety's respective addresses last known to HABITAT (and if so given, such notice shall be deemed given when mailed - notice given by any other legally effective

means shall also be effective), and such property may thereafter be sold or otherwise disposed of as provided by law and the proceeds of such sale or other disposition applied. After mailing or other giving of such notice, such property shall be held at the risk of the CONTRACTOR and its Surety, subject only to the duty of HABITAT to exercise ordinary care to protect such property. Such sale may be made at either public or private sale, as HABITAT may elect. HABITAT shall release any machinery, equipment, tools, materials, or supplies, which remain on the Project site, and belong to persons other than the CONTRACTOR or its Surety, to their proper HABITATs. The books on all operations provided herein shall be open to the CONTRACTOR and its Surety.

7.02 ABANDONMENT BY HABITAT. In case HABITAT shall fail to comply with the terms of this AGREEMENT, and should fail or refuse to comply with said terms within thirty (30) days after written notification by the CONTRACTOR, and within five (5) business days after written notice from the CONTRACTOR given on or after thirty (30) days after such first notice, stating that unless paid, the CONTRACTOR will suspend or abandon the Work, then the CONTRACTOR may suspend or wholly abandon the Work, and may remove therefrom all machinery, tools and equipment and all materials on the site of Work that have not been included in payment to the CONTRACTOR and have not been incorporated into the Work.

And thereupon, the ENGINEER shall make an estimate of the total amount earned by the CONTRACTOR, which estimate shall include the value of all Work actually completed by the CONTRACTOR (at the prices stated in the attached Bid Form where unit prices are used), the value of all partially completed work at a fair and equitable price, and the amount of all Extra Work performed at the prices agreed upon, or provided for by the terms of this AGREEMENT, and a reasonable sum to cover the cost of any provisions made by the CONTRACTOR to carry the Work to completion and which cannot be utilized.

The ENGINEER shall then make a final statement of the balance due the CONTRACTOR by deducting from the above estimate all previous payments by HABITAT and all other sums that HABITAT has the right to retain under the terms of the AGREEMENT and shall certify same to HABITAT, who shall pay to the CONTRACTOR on or before thirty (30) days after the date of the notification by the CONTRACTOR the balance shown by said final statement as due the CONTRACTOR, under the terms of the AGREEMENT.

VIII. SUSPENSION OR TERMINATION FOR CONVENIENCE

8.01 SUSPENSION BY HABITAT FOR CONVENIENCE. Without cause, HABITAT may at any time order the CONTRACTOR in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as HABITAT shall elect. In that event, the Contract Price payable to the CONTRACTOR (including the CONTRACTOR'S profit) and the contract time may be adjusted for increases in the cost and time caused by such suspension, delay or interruption upon mutual written agreement of the parties. No adjustment shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the CONTRACTOR or CPS Energy is responsible, or that an equitable adjustment is made or denied under another provision of the AGREEMENT.

8.02 TERMINATION BY HABITAT FOR CONVENIENCE. HABITAT may at any time terminate the AGREEMENT for HABITAT'S convenience and without cause. Upon receipt of

written notice of such termination from HABITAT, the CONTRACTOR shall cease operations as directed by such notice, take such actions as HABITAT shall direct, or as shall be necessary, for the protection and preservation of the Work and, except for the Work directed to be performed before the effective date of the termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no other subcontracts or purchase orders. If HABITAT so terminates the AGREEMENT for its convenience, the CONTRACTOR shall be entitled to receive payment for the Work done as of the date of termination, along with profits only on that portion of the Work completed.

IX. MISCELLANEOUS

9.1 Governing Law. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES ARE PERFORMABLE IN BEXAR COUNTY, TEXAS. THE PARTIES HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE STATE OF TEXAS AND COURTS LOCATED IN BEXAR COUNTY, TEXAS AND AGREE THAT VENUE IS PROPER THEREIN, WITH RESPECT TO ANY DISPUTE, CLAIM, CAUSE OF ACTION OR THE LIKE ARISING FROM OR OUT OF THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, OR ANY RELATED AGREEMENT, ARRANGEMENT OR UNDERSTANDING.

9.2 Assignment. CONTRACTOR shall not transfer, pledge or otherwise assign this AGREEMENT, any interest in and to same, or any claim arising there under, without first procuring the written approval of HABITAT. Any attempt at transfer, pledge or other assignment shall be void ab initio and shall confer no rights upon any third person.

9.3 Independent Contractor. CONTRACTOR is an independent contractor and is not an employee, servant, agent, partner or joint venturer of HABITAT. HABITAT is interested only in the results achieved by the services of the CONTRACTOR, and the manner of legally achieving those results is the responsibility of the CONTRACTOR. HABITAT is not responsible for deducting, and shall not deduct, from payments to CONTRACTOR, any amounts for withholding tax, FICA, insurance or other similar item relating to CONTRACTOR or CONTRACTOR's employees. Neither CONTRACTOR nor its employees shall be entitled to receive any benefits which employees of HABITAT are entitled to receive and shall not be entitled to workers' compensation, unemployment compensation, medical insurance, life insurance, paid vacations, paid holidays, pension, profit sharing, or social security on account of their work for HABITAT.

IN WITNESS WHEREOF, the parties to these presents have executed these General Conditions of Agreement on the ____ day of _____, 2026.

By: HABITAT:

Habitat for Humanity of San Antonio, Inc.
311 Probandt, San Antonio, TX 78204
Ph: (210) 223-5203 Fax: (210) 223-5536

By: _____
Michael Taylor, President & CEO

By: CONTRACTOR:

COMPANY NAME: _____

ADDRESS: _____

ADDRESS: _____

Ph: () _____ Fax: () _____

By: _____

PRINT NAME

ATTACHMENTS A:

A-1) FEDERAL LABOR STANDARDS PROVISIONS

A-2) CITY LABOR ORDINANCE 2008-11-20-1045

Federal Labor Standards Provisions

U.S. Department of Housing and Urban Development Office of Labor Relations

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

AN ORDINANCE 2008-11-20-1045

AMENDING ORDINANCE 71312 CONCERNING WAGE AND HOUR
LABOR STANDARD PROVISIONS FOR CITY OF SAN ANTONIO
CONSTRUCTION PROJECTS.

* * * * *

WHEREAS, federal and state laws require that all companies working on publicly funded construction projects must pay prevailing wage rates to its contractor and subcontractor employees, as determined by the U.S. Department of Labor; and

WHEREAS, governing procedures were established to ensure the City's compliance with various state laws through Ordinance No. 71312 approved on March 29, 1990 which provided for the Wage and Labor Standard Provision for locally funded City construction projects; and

WHEREAS, there have been changes in state law, as well as, organizational and process changes within the City that necessitate an amendment to Ordinance No. 71312; and

WHEREAS, this Ordinance amends Ordinance No. 71312 to a) reflect the changes in the Texas Government Code, Section 2258, Prevailing Wages, (superseding Article 5159a, Revised Civil Statutes), b) incorporate changes in the City's organizational structure renaming the Wage and Hour Office of the Public Works Department to the Labor Compliance Office, Capital Improvements Management Services Department, c) reflect changes in the City processes and the implementation of an electronic compliance program, and d) clarify language and eliminate ambiguities in the Ordinance, including the processes used by contractors for the restitution of underpayment of wages to workers whose contact information or current address is unknown; and

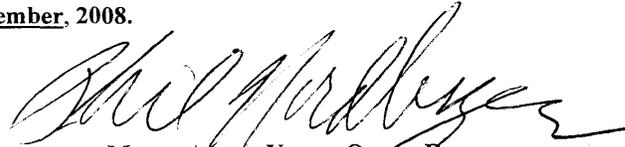
WHEREAS, approval of this Amendment will accurately reflect current laws, City organizational structure and current processes; **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Ordinance No. 71312 concerning Wage and Hour Labor Standard Provisions for City of San Antonio construction projects are hereby amended and the amended Wage and Labor Standard Provisions are attached hereto and incorporated by reference herein as Attachment I.

SECTION 2. This Ordinance shall take effect ten days after passage.

PASSED AND APPROVED this 20th day of November, 2008.


M A Y O R
PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
FLM City Attorney for

CORRECTED (7-15-2010)

WAGE AND LABOR STANDARD PROVISIONS
CITY OF SAN ANTONIO FUNDED CONSTRUCTION

Contents

1. GENERAL STATEMENT
2. LABOR COMPLIANCE OFFICE, CAPITAL IMPROVEMENTS MANAGEMENT SERVICES DEPARTMENT RESPONSIBILITIES
3. CLAIMS & DISPUTES PERTAINING TO WAGE RATES
4. BREACH OF WAGE & LABOR STANDARDS PROVISIONS
5. EMPLOYMENT OF LABORERS/MECHANICS NOT LISTED IN WAGE DETERMINATION DECISION
6. MINIMUM WAGE
7. OVERTIME COMPENSATION
8. PAYMENT OF CASH EQUIVALENT FRINGE BENEFITS
9. WORK CONDUCTED ON HOLIDAYS
10. UNDERPAYMENT OF PREVAILING WAGES OR SALARIES
11. POSTING WAGE DETERMINATION DECISION/STATEMENT AND "NOTICE TO EMPLOYEES"
12. PAYROLLS & BASIC PAYROLL RECORDS
13. LABOR DISPUTES
14. COMPLAINTS, PROCEEDINGS, OR TESTIMONY BY EMPLOYEES
15. EMPLOYEE INTERVIEWS TO ASSURE WAGE & LABOR STANDARD COMPLIANCE
16. "ANTI-KICKBACK" PROVISION
17. "FALSE OR DECEPTIVE INFORMATION" PROVISION
18. EMPLOYMENT OF APPRENTICES/TRAINEES
19. JOBSITE CONDITION
20. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED
21. PROVISIONS TO BE INCLUDED IN SUBCONTRACTS
22. CONTRACTOR'S RESPONSIBILITY

Attachment I

1

1. GENERAL STATEMENT

For all City of San Antonio funded public works construction contracts, the City of San Antonio, in accordance with Texas Government Code Section 2258, requires that not less than the general prevailing wage rates (minimum hourly base pay and minimum hourly fringe benefit contribution) for work of similar character be paid to contractor and subcontractor employees. These wage rates are derived from the most current applicable federal prevailing wage rates as published by the United States Department of Labor, Dallas, Texas and authority of Ordinance Nos. 60110 and 71312 as amended and passed by the City Council of the City of San Antonio.

Any deviation from Wage and Labor Standard Provisions compliance shall be cause for City's withholding either periodic interim or final payment to the contractor until such deviations are properly corrected.

2. LABOR COMPLIANCE OFFICE, CAPITAL IMPROVEMENTS MANAGEMENT SERVICES DEPARTMENT RESPONSIBILITIES

Labor Compliance Office, Capital Improvements Management Services Department, City of San Antonio, is primarily responsible for all Wage and Labor Standard Provisions investigation and enforcement and will monitor contractor/subcontractor practices to assure the Director of Capital Improvements Management Services Department that:

- a. Appropriate weekly compliance statements and payroll records are submitted to the City by the contractor/subcontractors and that such are reviewed for compliance with the Wage and Labor Standard Provisions.
- b. Apprentices/trainees working on the project are properly identified by the contractor/subcontractor on payroll records and documented as being included in programs currently sanctioned by appropriate federal or state regulatory agencies.
- c. Applicable Wage Determination Decisions, including any applicable modifications and related statements must be posted at the work-site by the contractor and that proper job classification and commensurate minimum hourly base and fringe wage rates are paid.
- d. Employees are periodically interviewed (at random) to assure proper work classification and wage rates.
- e. The Labor Compliance Office will investigate all allegations that no person employed by contractor/subcontractor is induced against his will, by any means, to give up any part of the compensation to which he is otherwise entitled.
- f. That any and all periodic administrative directives to the Labor Compliance Office from the Director of Capital

Improvements are being implemented. For purpose of these Wage and Labor Standard Provisions, the Director of Capital Improvements Management Services means the Director, his successor, or his designee.

3. CLAIMS & DISPUTES PERTAINING TO WAGE RATES

Claims and disputes not promptly and routinely settled by the contractor/subcontractor and employee pertaining to wage rates, or to job classifications of labor employed regarding the work covered by this contract, shall be reported by the employee in writing, within sixty (60) calendar days of employee's receipt of any allegedly incorrect classification, wage or benefit report, to the Labor Compliance Office, City of San Antonio for further investigation. Claims and disputes not reported by the employee to the City's Wage & Hour Office in writing within the sixty (60) calendar day period shall be deemed waived by the employee for the purposes of the City administering and enforcing the City's contract rights against the contractor on behalf of the employee. Waiver by the employee of this City intervention shall not constitute waiver by the City to independently pursue contractual rights it has against the contractor/subcontractor for breach of contract and other sanctions available to enforce the Wage and Labor Standard Provisions.

4. BREACH OF WAGE & LABOR STANDARD PROVISIONS

The City of San Antonio reserves the right to terminate a contract for cause if the contractor/subcontractors shall knowingly and continuously breach, without timely restitution or cure, any of these governing Wage and Labor Standard Provisions. A knowing and unremedied proven violation of these Wage and Labor Standard Provisions may also be grounds for debarment of the contractor/subcontractor from future City of San Antonio contracts for lack of responsibility, as determined by the City of San Antonio. Recurrent violations, whether remedied or not, will be considered by the Director of Capital Improvements Management Services Department when assessing the responsibility history of a potential contractor/subcontractor prior to competitive award of future Project Management Office projects. The general remedies stated in this paragraph 4. above, are not exhaustive and not cumulative for the City reserves legal and contractual rights to other specific remedies outlined herein below and in other parts of this contract and as are allowed by applicable City of San Antonio ordinances, state and federal statutes.

5. EMPLOYMENT OF LABORERS/MECHANICS NOT LISTED IN WAGE DETERMINATION DECISION

In the event that a contractor/subcontractor discovers that construction of a particular work element requires a certain employee classification and skill that is not listed in the wage determinations decision contained in the original contract documents, contractor/subcontractors will make prompt inquiry

CORRECTED (7-15-2010)

(before bidding, if possible) to the Labor Compliance Office identifying that class of laborer/mechanics not listed in the wage determination decision who are intended to be employed, or who are being employed, under the contract. Using his best judgment and information resources available to him at the time, and any similar prior decisions, the Director of Capital Improvements Management Services Department, City of San Antonio shall classify said laborers/mechanics by issuing a special local wage determination decision to the contractor/subcontractor, which shall be enforced by the Labor Compliance Office.

6. MINIMUM WAGE

All laborers/mechanics employed to construct the work governed by this contract shall be paid not less than weekly the full amount of wages due (minimum hourly base pay and minimum hourly fringe benefit contribution for all hours worked, including overtime) for the immediately preceding pay period computed at wage and fringe rates not less than those contained in the wage determination decision included in this contract. Only payroll deductions as are mandated by state or federal law and those legal deductions previously approved in writing by the employee, or as are otherwise permitted by state or federal law, may be withheld by the contractor/subcontractor.

Should the contractor/ subcontractor subscribe to fringe benefit programs for employees, such programs shall be fully approved by the City in adopting a previous U.S. Department of Labor (DOL) decision on such fringe benefit programs or by applying DOL criteria in rendering a local decision on the adequacy of the fringe benefit programs. The approved programs shall be in place at the time of City contract execution and provisions thereof disclosed to the Labor Compliance Office, City of San Antonio, for legal review prior to project commencement.

Regular contractor/subcontractor contributions made to, or costs incurred for, approved fringe benefit plans, funds or other benefit programs that cover periods of time greater than the one week payroll periods of time period (e.g. monthly or quarterly, etc.) shall be prorated by the contractor/subcontractor on weekly payroll records to reflect the equivalent value of the hourly and weekly summary of fringe benefits per employee.

7. OVERTIME COMPENSATION

No contractor/subcontractor contracting for any part of the City of San Antonio funded contract work (except for worksite related security guard services) which may require or involve the employment of laborers/mechanics shall require or permit any laborer/mechanic in any seven (7) calendar day work period in which he or she is employed on such work to work in excess of 40 hours in such work period unless said laborer/mechanic receives compensation at a rate not less than one and one-half times the basic hourly rate of pay for all hours worked in

CORRECTED (7-15-2010)

excess of 40 hours in a seven (7) calendar day work period. Fringe benefits must be paid for straight time and overtime; however, fringe benefits are not included when computing the overtime rate.

8. PAYMENT OF CASH EQUIVALENT FRINGE BENEFITS

The contractor/subcontractor is allowed to pay a minimum hourly cash equivalent of minimum hourly fringe benefits listed in the wage determination decision in lieu of the contribution of benefits to a permissible fringe benefit plan for all hours worked including overtime as described in paragraph 6 above. An employee is not allowed to receive less than the minimum hourly basic rate of pay specified in the wage determination decision.

9. WORK CONDUCTED ON HOLIDAYS

If a laborer/mechanic is employed in the normal course and scope of his or her work on the jobsite on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, and Martin Luther King, Jr. Day, or the calendar days observed as such in any given year, work performed shall be paid for at no less than one and one half (1 1/2) times the regular minimum hourly base pay regardless of the total number of the laborer/mechanic has accumulated during the pay period.

10. UNDERPAYMENT OF PREVAILING WAGES OR SALARIES

a. When a "full investigation" (as called for in and as construed under Texas Government Code Section 2258) establishes underpayment of wages by contractor/subcontractor to laborers/mechanics employed upon the work covered by a contract with the City of San Antonio, the City shall withhold an amount from the contractor, out of any payments (Interim progress and/or final) due the contractor, the City of San Antonio may also consider it necessary to secure ultimate payment by the appropriate party to such laborers/mechanics, of full wages plus possible penalty (see b. below). The amount withheld, excluding any possible penalty to be retained by City, may be disbursed at an appropriate time after "full investigation" by the City of San Antonio, for and on behalf of the contractor/subcontractor (as may be appropriate), to the respective laborers/mechanics to whom the same is due or on their behalf to fringe benefit plans, funds or programs for any type of minimum fringe benefits prescribed in the applicable wage determination decision.

b. Texas Government Code Section 2258, states that the contractor shall forfeit as a penalty to the City of San Antonio the sum of sixty dollars (\$60.00) for each calendar day, or portion thereof, for each laborer, workman, or mechanic, who is paid less than the said stipulated rate for any work done under this contract, whether by the contractor himself or by any subcontractor working under him. Pursuant to and supplemental to this statutory authority, the City of

CORRECTED (7-15-2010)

San Antonio and the contractor/subcontractor contractually acknowledge and agree that said sixty dollar (\$60.00) statutory penalty shall be construed by and between the City of San Antonio and the contractor/subcontractor as liquidated damages and will apply to any violations of paragraphs 6, 7, or 9 herein, resulting from contractor/subcontractor underpayment violations.

- c. If unpaid or underpaid workers cannot be located by the Contractor or the City after diligent efforts to accomplish same, the contractor shall report the wages as "unclaimed property" in accordance to Texas State law.

The City of San Antonio requires that the prime contractor send to the Labor Compliance Office a copy of the supporting documentation for the unclaimed property submitted to the State.

11. POSTING WAGE DETERMINATION DECISIONS/AND NOTICE TO LABORERS/MECHANICS STATEMENT

The applicable wage determination decision as described in the "General Statement" (and as specifically included in each project contract), outlining the various worker classifications and mandatory minimum wages and minimum hourly fringe benefit deductions, if any, of laborers/mechanics employed and to be employed upon the work covered by this contract, shall be displayed by the contractor/subcontractor at the site of work in a conspicuous and prominent public place readily and routinely accessible to workmen for the duration of the project. In addition, the contractor/subcontractor agrees with the contents of the following statement, and shall display same, in English and Spanish, near the display of the wage determination decision:

NOTICE TO LABORERS/MECHANICS

Both the City of San Antonio and the contractor/subcontractor agree that you must be compensated with not less than the minimum hourly base pay and minimum hourly fringe benefit contribution in accordance with the wage rates publicly posted at this jobsite and as are applicable to the classification of work you perform.

Additionally, you must be paid not less than one and one-half times your basic hourly rate of pay for any hours worked over 40 in any seven (7) calendar day work period, and for any work conducted on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day, and Martin Luther King Day or the calendar days observed as such in any given year.

Apprentice and trainee hourly wage rates and ratios apply only to apprentices and trainees recognized under approved Federal, or State, apprenticeship training program registered with the Bureau of Apprenticeship and Training, U.S. Dept. of Labor.

If you believe that your employer is not paying the posted minimum wage for the type of work you do, you must make direct inquiry to the employer and inquire in writing within sixty (60) calendar days of your receipt of any allegedly incorrect wage or benefit check or report, to the City of San Antonio Labor Compliance Office, Capital Improvements Management Services Department, P.O. Box 839966, San Antonio, Texas 78283-3966. It is mandatory that the worker promptly file written inquiry of any allegedly incorrect wage or benefit checks or reports with the City of San Antonio, Labor Compliance Office within the sixty (60) calendar day period so that they do not waive your potential right of recovery under the provisions of the City of San Antonio Project Management Office contract that governs this project.

Both the City of San Antonio and the contractor/subcontractor agree that no laborer/mechanic who files a complaint or inquiry concerning alleged underpayment of wages or benefits shall be discharged by the employer or in any other manner be discriminated against by the employer for filing such complaint or inquiry.

12. PAYROLLS & BASIC PAYROLL RECORDS

- a. The contractor and each subcontractor shall prepare payroll reports in accordance with the "General Guideline" instructions furnished by the Labor Compliance Office of the City of San Antonio. Such payroll submittals shall contain the name and address of each such employee, his correct labor classification, rate of pay, daily and weekly number of hours worked, any deductions made, and actual basic hourly and fringe benefits paid. The contractor shall submit payroll records each week, and no later than seven (7) working days following completion of the workweek being processed, to the Labor Compliance Office, City of San Antonio. These payroll records shall include certified copies of all payrolls of the contractor and of his subcontractors, it being understood that the contractor shall be responsible for the submission and general mathematical accuracy of payrolls from all his subcontractors. Each such payroll submittal shall be on forms deemed satisfactory to the City's Labor Compliance Office and shall contain a "Weekly Statement of Compliance", as called for by the contract documents. Such payrolls will be forwarded to Capital Improvements Management Services, Labor Compliance Office, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283-3966.
- b. All City of San Antonio construction contracts are subject to contract compliance tracking, and the prime contractor and any subcontractors are required to provide any stated and/or requested contract compliance-related data electronically in the Labor Compliance Electronic Certified Payrolls System. The prime contractor and all subcontractors are required to respond not later than the stated response date or due date to any instructions or

CORRECTED (7-15-2010)

request for information from the Labor Compliance Office. All prime contractors and subcontractors shall periodically review the City of San Antonio labor Compliance Electronic Certified Payrolls System to manage contact information and the contract records. The prime contractor shall ensure that all subcontractors have completed all requested forms and that all contact information is accurate and up-to-date. The City of San Antonio Labor Compliance Office may require additional information related to the contract to be provided through the San Antonio Labor Compliance Electronic Certified Payrolls System at any time before, during, or after contract award.

- c. A designated point of contact for contractor access to the San Antonio Labor Compliance Electronic Certified Payrolls System shall be provided for each prime contractor upon award of the contract.
- d. Copies of payroll submittals and basic supporting payroll records of the contractor/subcontractors accounting for all laborers/mechanics employed under the work covered by this contract shall be maintained during the course of the work and preserved for a period of three (3) years after completion of the project. The contractors/subcontractors shall maintain records which demonstrate: any contractor commitment to provide fringe benefits to employees as may be mandated by the applicable wage determination decision, that the plan or program is adjudged financially responsible by the appropriate approving authority, (i.e. U. S. Department of Labor, U.S. Department of Treasury, etc.), and that the provisions, policies, certificates, and description of benefits of the plan or program as may be periodically amended, have been clearly communicated in a timely manner and in writing, to the laborers/mechanics affected prior to their performing work on the project.
- e. The contractor/subcontractor shall make the above records available for inspection, copying, or transcribing by authorized representatives of the City of San Antonio at reasonable times and locations for purposes of monitoring compliance with this contract.
- f. All certified payrolls submitted to the Labor Compliance Office are deemed true and accurate. If upon review of the certified payrolls, wage underpayment violations are identified and noted, restitution will be calculated and penalties will be issued to the prime contractor of the project. In order to refute a wage violation, the contractor/subcontractor must provide supporting documentation to the Labor Compliance Office for review and consideration.

13. LABOR DISPUTES

The contractor/subcontractor shall immediately notify the Project Management Office or designated representative of any actual or impending contractor/subcontractor labor dispute

CORRECTED (7-15-2010)

which may affect, or is affecting, the schedule of the contractor, or any other contractor/subcontractor work. In addition, the contractor/subcontractor shall consider all appropriate measures to eliminate or minimize the effect of such labor disputes on the schedule, including but not limited to such measures as: promptly seeking injunctive relief if appropriate; seeking appropriate legal or equitable actions or remedies; taking such measures as establishing a reserved rate, as appropriate; if reasonably feasible, seeking other sources of supply or service; and any other measures that may be appropriately utilized to mitigate or eliminate the jobsite and scheduling effects of the labor dispute.

14. COMPLAINTS, PROCEEDINGS, OR TESTIMONY BY EMPLOYEES

No laborers/mechanics to whom the wage, salary, or other labor standard provisions of this contract are applicable shall be discharged in any other manner discriminated against by the contractor/subcontractors because such employee has filed any formal inquiry or complaint or instituted, or caused to be instituted, any legal or equitable proceeding or has testified, or is about to testify, in any such proceeding under or relating to the wage and labor standards applicable under this contract.

15. EMPLOYEE INTERVIEWS TO ASSURE WAGE AND LABOR STANDARD COMPLIANCE

Contractor/subcontractors shall allow expeditious jobsite entry of City of San Antonio Labor Compliance representatives displaying and presenting proper identification credentials to the jobsite superintendent or his representative. While on the jobsite, the Labor Compliance representatives shall observe all jobsite rules and regulations concerning safety, internal security and fire prevention. Contractor/subcontractors shall allow project employees to be separately and confidentially interviewed at random for a reasonable duration by the Labor Compliance representatives to facilitate compliance determinations regarding adherence by the contractor/subcontractor to these Wage and Labor Standard Provisions.

16. "ANTI-KICKBACK" PROVISION

No person employed in the construction or repair of any City of San Antonio public work shall be induced, by any means, to give up to any contractor/subcontractor or public official or employee any part of the hourly and/or fringe benefit compensation to which he is otherwise entitled.

17. "FALSE OR DECEPTIVE INFORMATION PROVISION"

Any person employed by the contractor/subcontractor in the construction or repair of any City of San Antonio public work, who is proven to have knowingly and willfully falsified, concealed or covered up by any deceptive trick, scheme, or device a material fact, or made any false, fictitious or fraudulent statement or representation, or made or used any

false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be permanently removed from the jobsite by contractor/subcontractor. The City of San Antonio reserves the right to terminate this contract for cause as a result of serious and uncured violations of this provision.

18. EMPLOYMENT OF APPRENTICES/TRAINEES

- a. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship & Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship & Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor/subcontractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in (b) below or is not registered or otherwise employed as stated above, shall be paid the wage rate for the classification of work he actually performs. The contractor/subcontractor is required to furnish to the Labor Compliance Office of the City of San Antonio, a copy of the certification, along with the payroll record that the employee is first listed on. The wage rate paid apprentices shall be not less than the specified rate in the registered program for the apprentice's level of progress expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination decision.
- b. Trainees will be permitted to work at less than the predetermined rate for the work performed when they are employed pursuant to an individually registered program which has received prior approval, evidenced by formal certification by the U. S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen shall not be greater than that permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress. Any employee listed on the payroll at a trainee wage rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the wage rate determined by the classification of work he actually performs. The contractor/subcontractor is required to furnish a copy of the trainee program certification, registration of employee-trainees, ratios and wage rates

CORRECTED (7-15-2010)

prescribed in the program, along with the payroll record that the employee is first listed on, to the Labor Compliance Office of the City of San Antonio. In the event the Employment and Training Administration withdraws approval of a training program, the contractor/subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved by the Employment and Training Administration.

- c. Paragraphs above shall not operate to exclude training programs approved by the OFCCP, United States Department of Labor and as adopted by the Associated General Contractors (AGC) of Texas, Highway, Heavy, Utilities and Industrial Branch. Guidelines for these training programs shall be the same as those established for federally funded projects. This sub-paragraph shall not apply to those portions of a project deemed to be building construction.
- d. The Ratio to Apprentice to Journeyman for this project shall be the same as the ratio permitted under the plan approved by the Employment and Training, Administration, Bureau of Apprenticeship and Training, U.S. Department of Labor, by Craft. A copy of the allowable Ratios is included with the applicable Wage Determination Decision in the specifications for this project.

When a "full investigation" (as called for in, and as construed under, Texas Government Code Section 2258) evidences a violation of the Apprentice or Trainee to Journeyman ratios effective for contractor/subcontractor employees working on this contract, the City of San Antonio, in addition to such other rights as may be afforded it under state and/or federal law and/or other sections of this contract, shall withhold from the contractor, out of any payments (interim progress and/or final) due the contractor, the liquidated damages sum of seventy-five dollars (\$75.00) for each calendar day, or portion thereof, for each certified Apprentice or Trainee employee assigned to a Journeyman that exceeds the maximum allowable Apprentice/Trainee to Journeyman ratio stipulated for any work done under this contract, whether by the contractor himself or by any subcontractor working under him.

19. JOBSITE CONDITIONS

Contractors/subcontractors shall not allow any person employed for the project to work in surroundings or under construction conditions which are unsanitary, unhealthy, hazardous, or dangerous as governed by industry standards and appropriate local, state and federal statutes, ordinances, and regulatory guidelines.

20. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED

- a. The contractor/subcontractor shall knowingly only employ persons of appropriate ages commensurate with the degree of

required skill, strength, maturity and judgment associated with the activity to be engaged in, but not less than the age of fourteen (14) years, as governed by the Texas Child Labor Law, Chapter 51 of the Texas Labor Code "Child Labor" and Texas Department of Labor and Standards rulings and interpretations associated with that statute. It is hereby noted that in some circumstances generally governed by this section, a federal statute (see: Fair Labor Standards Act, 29 USCS Section 212; Volume 6A of the Bureau of National Affairs Wage Hour Manual at Paragraph 96:1; "Child Labor Requirements in Nonagricultural Occupations" WH Publication 1330, July 1978 as may be amended), could pre-empt the Texas Statute and therefore be the controlling law on this subject. The contractor/subcontractor should seek clarification from state and federal agencies and legal counsel when hiring adolescent employees for particular job classifications.

- b. Prohibited persons not to be employed are also those persons who, at the time of employment for this contract, are serving sentence in a penal or correctional institution except that prior approval by the Director of Capital Improvements Management Services is required to employ any person participating in a supervised work release or furlough program that is sanctioned by appropriate state or federal correctional agencies.
- c. The Contractor/subcontractors shall be responsible for compliance with the provisions of the "Immigration Reform and Control Act of 1986" Public Law 99-603, and any related State enabling or implementing statutes, especially as they in combination apply to the unlawful employment of aliens and unfair immigration-related employment practices affecting this contract.

21. PROVISIONS TO BE INCLUDED IN SUBCONTRACTS

The contractor shall cause these Wage and Labor Standard Provisions, or reasonably similar contextual adaptations hereof, and any other appropriate state and federal labor provisions, to be inserted in all subcontracts relative to the work to bind subcontractors to the same Wage and Labor Standards as contained in these terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors or sub-subcontractors and to give the contractor similar, if not greater, general contractual authority over the subcontractor or subcontractors as the City of San Antonio may exercise over the contractor.

22. CONTRACTOR'S RESPONSIBILITY

The prime contractor shall be responsible for ensuring that its subcontractors comply with the Wage and Labor Standards Provisions.

ATTACHMENT B:

**FEDERAL WAGE DETERMINATION HEAVY & HIGHWAY
GENERAL DECISION**

Locator.....\$ 11.67
 Directional Drilling
 Operator.....\$ 17.24
 Excavator 50,000 lbs or
 Less.....\$ 12.88
 Excavator over 50,000 lbs...\$ 17.71
 Foundation Drill, Truck
 Mounted.....\$ 16.93
 Front End Loader, 3 CY or
 Less.....\$ 13.04
 Front End Loader, Over 3 CY.\$ 13.21
 Loader/Backhoe.....\$ 14.12
 Mechanic.....\$ 17.10
 Milling Machine.....\$ 14.18
 Motor Grader, Fine Grade...\$ 18.51
 Motor Grader, Rough.....\$ 14.63
 Pavement Marking Machine...\$ 19.17
 Reclaimer/Pulverizer.....\$ 12.88
 Roller, Asphalt.....\$ 12.78
 Roller, Other.....\$ 10.50
 Scraper.....\$ 12.27
 Spreader Box.....\$ 14.04
 Trenching Machine, Heavy...\$ 18.48

Servicer.....\$ 14.51

Steel Worker

Reinforcing.....\$ 14.00
 Structural.....\$ 19.29

TRAFFIC SIGNALIZATION:

Traffic Signal Installation

Traffic Signal/Light Pole
 Worker.....\$ 16.00

TRUCK DRIVER

Lowboy-Float.....\$ 15.66
 Off Road Hauler.....\$ 11.88
 Single Axle.....\$ 11.79
 Single or Tandem Axle Dump
 Truck.....\$ 11.68
 Tandem Axle Tractor w/Semi
 Trailer.....\$ 12.81

WELDER.....\$ 15.97

 WELDERS - Receive rate prescribed for craft performing
 operation to which welding is incidental.

=====
 Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
 for Federal Contractors applies to all contracts subject to the
 Davis-Bacon Act for which the contract is awarded (and any
 solicitation was issued) on or after January 1, 2017. If this
 contract is covered by the EO, the contractor must provide
 employees with 1 hour of paid sick leave for every 30 hours
 they work, up to 56 hours of paid sick leave each year.
 Employees must be permitted to use paid sick leave for their
 own illness, injury or other health-related needs, including
 preventive care; to assist a family member (or person who is
 like family to the employee) who is ill, injured, or has other
 health-related needs, including preventive care; or for reasons
 resulting from, or to assist a family member (or person who is

like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022. Executive Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025. The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under Executive Order 13658 is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a

weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210.

=====

END OF GENERAL DECISION

..

ATTACHMENT C:
SECTION 3 REQUIREMENTS

Signature verifying receipt of: Section 3 Requirements

Name: _____

Signature: _____



SECTION 3 REQUIREMENTS

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) that is regulated by the provisions of 24 CFR 75. Section 3 regulations ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

For housing and community development financial assistance, these requirements apply to housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD funding programs. Applicability is determined at the project level.

This document briefly describes how a subrecipient, as well as their contractors and subcontractors, will comply with HUD's Section 3 requirements. A subrecipient of federal funds from the City of San Antonio will, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 workers and Targeted Section 3 workers) and to eligible businesses (Section 3 Businesses). They will also require the same of its contractors and subcontractors.

To comply with the requirements outlined in 24 CFR Part 75.19, a subrecipient must include Section 3 language in covered contracts, subcontracts, and agreements to ensure that the Section 3 requirements of 24 CFR Part 75 are binding to subrecipients, contractors and subcontractors. **All contractors submitting bids or proposals are required to certify that they will comply with the requirements of Section 3.**

SAFE HARBOR

The City of San Antonio (and its subrecipients) will be considered to be in compliance with the Section 3 requirements and have met safe harbor, if they certify that they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary.

- Prior to the beginning of work, contractors and subcontractors will be required to certify that they will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as defined.
- After completion of a project, on the Section 3 Cumulative Report, contractors and subcontractors will be required to certify that they followed the prioritization of effort requirements.
- If the contractor and/or subcontractor does not meet the safe harbor requirements, they must provide evidence that they have made qualitative efforts to assist low and very low-income persons with employment and training opportunities.
- Must have met or exceeded Section 3 benchmarks as described herein.

BENCHMARK GOALS:

The City of San Antonio has established employment and training goals that subrecipients, contractors, and subcontractors should meet in order to comply with the Section 3 requirements outlined in 24 CFR Part 75.19.

The two safe harbor benchmark goals are:

- 1) Twenty-five percent (25%) or more of the total number of labor hours worked by all workers on a Section 3 project are from Section 3 workers;

$$\frac{\text{Section 3 Labor Hours}}{\text{Total Labor Hours}} \geq 25\%$$

AND

- 2) Five percent (5%) or more of the total number of labor hours worked by all workers on a Section 3 project are from Targeted Section 3 workers, as defined at 24 CFR Part 75.21.

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} \geq 5\%$$

It is the responsibility of the subrecipient and/or contractors to implement efforts to achieve Section 3 compliance. **Any subrecipient or contractor that does not meet the Section 3 benchmarks must demonstrate why meeting the benchmarks were not feasible.**

Records Retention – Must maintain records that contain:

- 1) total labor hours worked by all workers;
- 2) labor hours worked by Section 3 workers; and
- 3) labor hours worked by Targeted Section 3 workers.

SECTION 3 ELIGIBILITY AND CERTIFICATION

To qualify as a Section 3 worker, Targeted Section 3 worker, or a Section 3 business concern, each must self-certify that they meet the applicable criteria.

Businesses who misrepresent themselves as Section 3 business concerns and report false information to the City of San Antonio and/or HUD may have their contractual agreements terminated as default and be barred from ongoing and/or future considerations for contracting opportunities.

SECTION 3 WORKER AND TARGETED SECTION 3 WORKER CERTIFICATION

A Section 3 worker seeking certification shall submit self-certification documentation to the subrecipient, contractor or subcontractor, that the person is a Section 3 worker or Targeted Section 3 worker as defined in 24 CFR Part 75. For the purposes of Section 3 worker eligibility, the City of San Antonio will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published at <https://www.huduser.org/portal/datasets/il.html>.

1) SECTION 3 WORKER

- a. Persons seeking the Section 3 worker preference shall demonstrate that it meets one or more of the following criteria (listed by established prioritization efforts) currently or when they were hired as documented within the past five years:
 - i. A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
 - ii. Employed by a Section 3 business concern; or
 - iii. A YouthBuild participant.
- b. Records Retention – One of the following must be maintained:
 - i. A worker's self-certification that their income is below the income limit from the prior calendar year;
 - ii. A workers' self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
 - iii. Certification from a PHA, or the owner or property manager of project-based Section-8 assisted housing, or the administrator of tenant-based Section-8 assisted housing that the worker is a participant in one of their programs;
 - iv. An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
 - v. An employer's certification that the worker is employed by a Section 3 business concern.

2) TARGETED SECTION 3 WORKER

- a. Persons seeking the Targeted Section 3 worker preference shall demonstrate that it meets one or more of the following criteria:
 - i. Employed by a Section 3 business concern or
 - ii. Currently meets or when hired met at least one of the following categories (listed by established prioritization efforts) as documented within the past five years:
 1. Living within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5; or
 2. A YouthBuild participant.
- b. Records Retention – One of the following must be maintained:
 - i. An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. census;
 - ii. An employer's certification that the worker is employed by a Section 3 Business concern; or
 - iii. A worker's self-certification that the worker is a YouthBuild participant.

SECTION 3 BUSINESS CONCERN CERTIFICATION

A subrecipient should encourage contractors and subcontractors to make best efforts to award contracts and subcontracts to Section 3 business concerns.

Businesses that believe they meet the Section 3 Business requirements may self-register in the HUD Business registry at: <http://www.hud.gov/Sec3Biz>. Businesses may seek Section 3 Business Concern preference by demonstrating that it meets one or more of the following criteria (listed by established prioritization efforts):

- 1) At least 51 percent of the business is owned and controlled by low- or very low-income persons; or
- 2) At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
- 3) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

Businesses that seek Section 3 preference shall certify, or demonstrate to the City of San Antonio, a subrecipient, or contractor that they meet the definitions provided above. Businesses may demonstrate eligibility by self-registering with the HUD Business registry at: <http://www.hud.gov/Sec3Biz> or <https://www.sanantonio.gov/GMA/certified/BusinessCertification>.

Section 3 Business Concern Certification documentation should be submitted at the time of bid/proposal. Records should be retained proving contracts/subcontracts were awarded to Section 3 business concerns.

REPORTING

If the project requires the submission of certified payroll reports for Davis Bacon compliance, a subrecipient or contractor could utilize that data to aid in their reporting efforts. When the LCP Tracker cloud-based reporting system is being used for labor compliance, it is possible to generate reports for Section 3 from within LCP Tracker.

1) MONTHLY REPORTING

- a. Contractors will be required to submit monthly activity reports to the City of San Antonio by the 15th day after the close of the reporting month.

2) ANNUAL REPORTING

- a. Annually and/or at project completion, contractors must submit a final Section 3 cumulative report for the program year.
- b. Upon the completion of a project, the City of San Antonio will conduct a final review of the project's overall performance and compliance.
- c. The City of San Antonio will submit the Section 3 data via the required HUD reporting system.

Section 3 Compliance Monthly Activity Reporting

This form is required to be submitted no later than 15 days after the close of the reporting month.

Reporting Period _____

Name _____ Project Name _____

Address _____ Contract Amount _____

Contact Person _____ Phone # _____

Type of Hours	Column A	Column B	Column C	Column D	Column E
	Previous Month's Total <small>(From Column C of previous report)</small>	Previous Report's Year to Date Total <small>(From Column D of previous report)</small>	This Month	Year to Date Total <small>(Column B + Column C from this report)</small>	
Total Labor Hours					Percentage
Section 3 Worker Hours					25%
Section 3 Target Worker Hours					5%

Section 3 Workers

Check here if this is the final reporting month. Totals and percentages are final.

If current percentages are not equal to or greater than the benchmarks, please indicate efforts utilized to attract Section 3 Workers and Section 3 Targeted Workers. Check all that apply.

- Outreach efforts to generate job applicants who are Public Housing Targeted Workers
- Outreach efforts to generate job applicants who are Other Funding Targeted Workers
- Direct, on-the-job training (including apprenticeships)
- Indirect training such as arranging for, contracting for, or paying tuition for, off-site training
- Technical assistance to help Section 3 workers compete for jobs (e.g. resume assistance, coaching)
- Outreach efforts to identify and secure bids from Section 3 Business Concerns

- Technical assistance to help Section 3 business concerns understand and bid on contracts
- Division of contracts into smaller jobs to facilitate participation by Section 3 Business Concerns
- Provided or connected residents with assistance in seeking employment including drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.
- Held one or more job fairs.
- Provided or connected residents with supportive services that can provide direct services or referrals.
- Provided or connected residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation.
- Assisted resident(s) or potential Section 3 Worker(s) with finding childcare.
- Assisted resident(s) or potential Section 3 Worker(s) with applying for/or attending community college or a four-year educational institution
- Assisted resident(s) or potential Section 3 Worker(s) with applying for/or attending vocational/technical training.
- Assisted resident(s) or potential Section 3 Worker(s) with obtaining financial literacy training and/or coaching.
- Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 Business Concerns Provided or connected residents with training on computer use or online technologies.
- Other. Specify:

I certify that the above information is true, correct, and that it abides by all relevant federal policies and City of San Antonio rules and regulations governing the management of grant-funded projects. I also certify that all records related to certification of Section 3 workers, Section 3 Target Workers, and Section 3 Business Concerns are being retained for the applicable retention period. Records related to how any efforts to attract additional Section 3 workers and/or businesses will also be retained for the applicable retention period.

Signature

Date

ATTACHMENT D:

COSA AFFORDABLE HOUSING POLICIES

Signature verifying receipt of: Program Policies for HUD-Funded
Affordable Housing Activities, City of San Antonio, Neighborhood &
Housing Services Department

Name: _____

Signature: _____



CITY OF SAN ANTONIO
**NEIGHBORHOOD & HOUSING
SERVICES DEPARTMENT**

PROGRAM POLICIES FOR HUD-FUNDED AFFORDABLE HOUSING ACTIVITIES



City Council Consideration: November 18, 2021

Table of Contents

Executive Summary.....	2
Owner-Occupied Rehabilitation/Reconstruction Program & Minor Repair Program	3
Homebuyer Activities (Acquisition Only, Acquisition/Rehabilitation or New Construction)	7
Rental Housing Development Activities (New Construction or Rehabilitation)	14
Community Housing Development Organization (CHDO)	23
CHDO Operating Expense Funding	25
Tenant Based Rental Assistance (TBRA)	27
Community Development Block Grant Funding in Support of Affordable Housing Development	30
Loan Servicing Policy.....	34
Community Investment Committee	34
Appendix A: Other Federal Requirements.....	37
Appendix B: Income Limits and Part 5 Requirements	42
Appendix C: HOME Match Requirements.....	45
Appendix D: Resale/Recapture Requirements for Homebuyer Activities	46
Appendix E: Optional Relocation Assistance Policy	52
Appendix F: Lead Based Paint Requirements	53
Appendix G: Environmental Review Requirements.....	57
Appendix H: Universal Design Guidelines	60
Appendix I: Underwriting and Subsidy Layering Policy for Affordable Housing Development Activities .	61
Appendix J: Residential Construction Management Policy (RCMP)	73
Appendix K: Glossary	84

Executive Summary

The City of San Antonio (the City) receives federal funding from the U.S. Department of Housing and Urban Development (HUD) to include the Community Development Block Grant, HOME Investment Partnerships Program and Neighborhood Stabilization Program (one time award) Funding. This funding is intended to assist low to moderate income households through community development and affordable housing activities. Staff initiated a comprehensive review and update to the Program Policies for HUD-Funded Affordable Housing Activities (Program Policies). The Program Policies do not provide a funding strategy nor do they allocate funding. The Program Policies are a streamlined document that includes HUD statutory requirements and policies the City is required to define when delivering affordable housing programs.

This document supersedes the Program Policies adopted by City Council on January 18, 2018 in Ordinance No. 2018-01-18-0026 and constitutes the mandatory program policies and requirements applicable to the City's CDBG, HOME and NSP programs.

Eligibility Waiver and Appeal Process

Although these program policies provide direction and guidance for the delivery of these federal programs, at any time, the Director has the discretion to waive the policies on a case by case basis so long as such waiver does not conflict with the federal, state and local regulations. Applicants of these federally funded programs have the ability to appeal the department's eligibility determination for program assistance. Applicants must submit an appeal in writing. The Director will have 60 days to make a determination.

Federal Funding Awards are Conditional

All funds awarded by the City to an applicant or for a project are subject to all applicable federal, state and local laws, regulations, ordinances, policies, procedures and other assurances. The Director has the discretion to cancel an award of funds when the department determines that an award of funds may cause the City to be in non-compliance with any applicable legal authority including the policies contained herein and the appendices attached hereto.

After an award of funds is made by the City, the City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. An award may be cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents (e.g., program agreement, loan documents, covenants) by the City and approved as to form by the City Attorney's Office.

The City is not liable for any loss incurred as a result of a reduction, cancellation, termination or rescission of an award and is under no obligation to fund the applicant or project under such circumstances.

Owner-Occupied Rehabilitation/Reconstruction Program & Minor Repair Program

Program Overview

CDBG and HOME funds will be used for the Owner-Occupied Rehabilitation and Reconstruction Program (OORRP) to assist eligible homeowners in need of substantial rehabilitation or reconstruction of their single-family homes. CDBG funds will be used for the Minor Repair Program to assist eligible homeowners with essential home repairs to ensure that basic needs are met, which may include but are not limited to the elimination of health and safety hazards, code deficiencies, and ADA modifications.

Eligibility Requirements

The table below outlines the eligibility requirements that are applicable to each of the two programs outlined in this section.

Applicability of Eligibility Requirements	OORRP HOME	OORRP CDBG	Minor Repair CDBG
Applicant’s annual gross income must be at or below 80% of the Area Median Income.	Yes	Yes	Yes
The property must be located within the city limits of San Antonio and Applicant must have occupied the dwelling for at least six months from date of application.	Yes	Yes	Yes
Applicant must confirm ownership of property, ensure property is not for sale and is their primary residence/homestead, as indicated per Bexar County Tax Records and utility records.	Yes	Yes	Yes
The property must be a single-family detached home, condominium unit, or manufactured home. Duplexes, triplexes, quad-plexes, and structures with more than 5 units are not eligible for rehabilitation/reconstruction assistance under this program.	Yes	Yes	Yes
Applicant must not have an existing HUD-funded OORRP rehabilitation loan, excluding the City of San Antonio’s Green and Healthy Homes (SAGHH) program.	Yes	Yes	No
Applicant must not have an existing HOME down payment affordability covenant.	Yes	No	No
Real estate taxes must be current or paid in full.	Yes	Yes	No
Property insurance must be maintained on the property (with coverage adequate to insure the City’s lien position). If a property is located in a flood plain, flood insurance must also be maintained with coverage adequate to insure the City’s lien position. If the property is in a flood plain, flood insurance is required.	Yes	Yes	Yes, for \$15,000 or more in funding
Applicant must be current with the mortgage loan; the loan is no more than 30 days delinquent.	Yes	Yes	Yes
Applicant must be a U.S. Citizen or Legal Resident.	Yes	Yes	Yes

The existing mortgage for property cannot be included in a Chapter 7 or Chapter 13 bankruptcy.	Yes	Yes	No
The after-rehabilitation value of the property cannot exceed 95% of the median purchase price for the area, as published by HUD per 24 CFR Part 92.254(b)(1).	Yes	No	No

Maximum Assistance Limits

Program	Limit	
Rehabilitation	\$130,000	This amount excludes lead remediation, environmental, and administrative soft costs necessary to engage the client and property.
Reconstruction	\$145,000	
Minor Repair Program	\$25,000	

*The maximum assistance limits are based on an assessment of the Homeownership Value Limits and the current cost of construction to meet the City’s written rehabilitation standards and applicable local residential codes.

Terms of Assistance

Owner-Occupied Rehabilitation and Reconstruction Program

The Owner-Occupied Rehabilitation and Reconstruction Program assistance will be provided in the form of a deferred forgivable loan as outlined in the schedule below:

Amount of Assistance Invested	Term	Form of Assistance
Less than \$50,000.00	10 years	Deferred Forgivable Loan
\$50,000.01 and Over	15 years	
Reconstruction Only	20 years	

This loan amount will not include environmental, lead remediation, inspections, construction management and administrative soft costs necessary to engage the Applicant and property. The rehabilitation loan will be divided equally over the applicable term and forgiven on an annual basis provided that the home remains the primary residence of the Applicant and property taxes and insurance remain current during the term of the loan agreement. If a home is vacated or leased during the term of the loan, the outstanding balance is due immediately and payable in full. If the property is transferred through sale during the loan term, the balance is due immediately and payable in full.

A restrictive covenant will be recorded for the term of the loan.

CDBG Minor Repair Program

The CDBG Minor Repair Program assistance will be provided in the form of a grant not to exceed \$25,000 and forgiven as outlined in the schedule below:

Amount of Assistance Invested	Covenant Period	Form of Assistance
Less than \$5,000.00	1 year	Grant
\$5,000.01 to \$10,000.00	2 years	
\$10,000.01 to \$15,000.00	3 years	
\$15,000.01 to \$20,000.00	4 years	
\$20,000.01 to \$25,000.00	5 years	

This amount will not include environmental, lead remediation and administrative soft costs necessary to engage the Applicant and property. The rehabilitation loan will be divided equally over the applicable term and forgiven on an annual basis provided that the home remains the primary residence of the Applicant. If a home is vacated or leased during the term of the loan, the outstanding balance is due immediately and payable in full. If the property is transferred through sale during the loan term, the balance is due immediately and payable in full.

Income Limits and Part 5 Requirements

Per 24 CFR Part 92.203(b)(1), the City has elected to utilize the 24 CFR Part 5 definition for determining annual income which is commonly referred to as the “Section 8 Low-Income Limit”. To be eligible for funding, program participants must have annual (gross) incomes at or below 80% of Area Median Income (AMI), adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD). Appendix B further outlines these requirements.

Property Standards

Owner-Occupied Rehabilitation and Reconstruction Program

Properties rehabilitated through the HOME Owner-Occupied Rehabilitation and Reconstruction Program must comply with 24 CFR 92.251. All HOME-funded housing activities must meet certain minimum property standards at project completion. Appendix J outlines the minimum property standards that apply to each type of HOME activity. These property standards apply to project commitments on or after January 24, 2015.

Minor Repair Program

The Minor Repair Program will address health and safety issues.

Optional Relocation Assistance Policy

The City may provide optional relocation assistance to reimburse households who are voluntarily displaced or temporarily relocated due to participation in the OORRP. The Optional Relocation Assistance Policy is found in Appendix E.

Lead-Based Paint Requirements

All housing units must comply with the regulations found at 24 CFR Part 35. The Lead-Based Paint Requirements are found in Appendix F.

Environmental Review Requirements

Before committing funds to an activity, the City must evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Other Federal Requirements

HOME and CDBG is subject to a number of cross-cutting Federal regulations known as “Other Federal Requirements.” Appendix A includes a listing of “Other Federal Requirements” with applicability by activity type.

Sub-recipient Oversight

Sub-recipients delivering these programs can charge up to 18% in Project Delivery Costs for the OORRP and 22% for the Minor Repair Program.

Homebuyer Activities (Acquisition Only, Acquisition/Rehabilitation or New Construction)

Program Overview

The goal of this program is to acquire or develop affordable single-family housing for first-time homebuyers at or below 80% AMI, who intend to occupy the home as their principal residence.

Eligible Activities

HOME funds may be utilized to assist an affordable housing developer to acquire and rehabilitate substandard properties. The properties will then be sold to eligible homebuyers or utilized for the development of new construction single-family housing. In addition, HOME funds may be used to assist with down payment and closing cost assistance for first-time homebuyers at or below 80% AMI.

Terms of Assistance

For Affordable Housing Development

Funding will be provided to CHDOs, governmental entities, or public facility corporations at zero percent (0%) simple interest, which will be forgiven upon sale of the property to an eligible homebuyer.

For Acquisition Only (Homebuyer Incentive Program)

Up to \$30,000 for down payment and closing cost assistance will be provided to eligible homebuyers. Assistance is provided as a forgivable loan which is forgiven over a 5-year period (affordability period) with 1/5th of the loan being forgiven on the anniversary date each year.

Subsidy Limits

For homebuyer activities, the minimum HOME investment is \$1,000 per HOME assisted unit.

For Acquisition Only (Homebuyer Incentive Program), the maximum subsidy for down payment and closing cost assistance will be provided to eligible homebuyers is \$30,000.

For homeownership housing development activities, the maximum subsidy per unit will be \$75,000.

HOME Match Requirements

The HOME Program requires that the City provide match in an amount equal to no less than 25% of the total HOME funds drawn down for affordable housing development activities. HOME match is a permanent contribution to affordable housing and is not leveraging. More details on HOME Match Requirements are found in Appendix C.

Maximum Allowable Sales Price

An assessment of the market to base sales price decisions on home price data from recent sales and other information about home values in the area including differences in size, quality, condition, location, and other amenities should be conducted.

HUD HOME Value Limits for newly constructed single-family units is 95% of the median purchase price for the area based on Federal Housing Administration (FHA) single-family mortgage program data for newly constructed housing. For existing properties, the HOME Homeownership Value Limit is 95% of the median purchase price of the area based on the FHA single-family mortgage program data for existing housing.

HUD updates the HOME Value Limits annually. <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>

For new construction housing development funded by the City or for acquisition only of a new construction home, the maximum sales price per unit cannot exceed the HOME Value Limits for new construction homes.

For example, the 2021 Homeownership Value Limit for a single-family new construction unit is \$243,000. The maximum sales price is \$243,000.

For acquisition/rehabilitation housing development funded by the City or for acquisition only of an existing home, the maximum sales price per unit cannot exceed the HOME Value Limits for existing homes.

For example, the 2021 Homeownership Value Limit for a single-family existing unit is \$196,000. The maximum sales price is \$196,000

Eligible HOME Costs

The eligible HOME Costs are detailed in the table below:

<i>Construction Hard Costs</i>	<i>Construction Soft Costs</i>
<ul style="list-style-type: none"> • Acquisition of land (for a specific project) and existing structures • Site preparations or improvement, including demolition • Securing of buildings • Construction materials and labor 	<ul style="list-style-type: none"> • Financing fees • Credit reports • Title binders and insurance • Surety fees • Recordation fees, transaction taxes • Legal and accounting fees, including cost certification • Appraisals • Architectural/engineering fees, including specifications and job progress inspections • Environmental reviews • Builders’ or developers’ fees • Affirmative marketing, initial leasing and marketing costs • Staff and overhead costs incurred by the CITY that are directly related to a specific project • Operating deficit reserves (up to 18 months)
<i>Relocation Costs</i>	
<ul style="list-style-type: none"> • Payment for replacement housing, moving costs and out-of-pocket expenses • Advisory services • Staff and overhead related to relocation assistance and services 	

Homebuyer Assistance:

<i>Loan Costs</i>		<i>Reserve/ Pre-Paid Costs</i>
Administration Fee	Settlement Fee	Homeowner Insurance Premium
Processing Fee	Escrow Fee	Homeowner Insurance
Underwriting Fee	Closing Fee	Reserve/Escrow for up to 2 months
Funding Fee	Title Copy Fee	Flood Insurance Premium
Interest Rate Reduction Fee	Title Wire Fee	Flood Insurance Reserve /
Rate Lock Fee	State of Texas Guaranty Fee	Escrow for up to 2 months
Rate Lock Extension Fee	Courier / Overnight /	Loan Interest for up to 15 days
Appraisal Fee	Messenger Fee	Pest Inspection Fee
Appraisal Review Fee	E-Recording Fee	Home Inspection Fee
Appraisal Final Inspection Fee	Tax Service Fee	HOA Dues
Attorney Review Fee	HOA Transfer Fee	
Attorney	HOA Conveyance Fee	
Document Preparation Fee	HOA Capitalization Fee	<i>Government Fees</i>
Document Signing Fee	HOA SOA Reimbursement	Document Recording Fee
Document Handling Fee	HOA Initial Assessment Fee	
Credit Report Fee	Verification of Employment Fee	
Flood Certification Fee	Mortgage Credit Certificate FEE	
Land Survey Fee	HFA Tax Service Fee	
Title Endorsement Fee	HFA Funding Fee	
Lender's Title Insurance Fee		
Owner's Title Insurance Fee		

Property Standards for Acquisition Only of Existing Housing for Homeownership

Existing housing that is acquired for homeownership (e.g., down payment assistance) must be decent, safe, sanitary, and in good repair. The housing must meet all applicable State and local housing quality standards, code requirements and the housing does must not contain the specific deficiencies proscribed by HUD based on the applicable inspectable items and inspected areas in HUD-prescribed physical inspection procedures (Uniform Physical Condition Standards) pursuant to 24 CFR 5.705. The City must inspect the housing and document compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. If the housing does not meet these standards, the housing must be repaired /improved or it cannot be acquired with HOME funds. HOME funds may not be used for the required repairs. Details of these requirements are contained in the City's Residential Construction Management Policy (RCMP) found in Appendix J.

Homebuyer Agreement

For Homeownership Housing Development, the City must execute a written agreement with each homeowner that complies with the written agreement requirements of the HOME Program. The written agreement must specify the form and amount of HOME assistance the City is providing to eligible households, directly or indirectly, including a development subsidy, and must delineate any conditions that apply to the provision of HOME assistance, including the City's homebuyer program policies, as established in accordance with §92.254(f).

Lead-Based Paint Requirements

All housing units must comply with the regulations found at 24 CFR Part 35. The Lead-Based Paint Requirements are found in Appendix F.

Homebuyer Selection Requirements

Eligible homebuyers/properties must meet the following criteria:

- Homebuyers projected annual household income must not exceed 80% AMI, adjusted by household size, at the time of application (see paragraph labeled, “Income Limits and Part 5 Requirements”).
- Homebuyer must be U.S. Citizens or legal residents.
- Property to be purchased must be the homebuyer’s primary residence.
- Property to be purchased must be located in the city limits of San Antonio. Properties in the extraterritorial jurisdiction are not eligible for HOME funding.
- Homebuyers must make minimal initial cash investment of \$500 toward purchase of home.
- Home must meet the requirements outlined in the City’s Residential Construction Management Policy (RCMP)
- Homebuyer must be a first-time homebuyer according to HUD’s definition. This means, they must not have owned a home during the three year period immediately prior to application.
 - The following are exceptions to the “three year” rule: displaced homemakers (an adult, 21 years of age or older who has not worked full time in the labor force for a number of years, but has during those years worked primarily as a homemaker, who is unemployed and experiencing difficulty in obtaining employment) or single parents (an individual who is unmarried or legally separated from a spouse and who has custody of one or more minor children, or someone who is pregnant at the time of application).
- Homebuyer must meet the City’s credit standards as follows:
 - No Chapter 7 Bankruptcy must be 5 years from the date of discharge.
 - No Chapter 13 Bankruptcy must be 2 years from the date of discharge.
 - Qualifying debt to income ratios are 33% housing ratio on the front end and 45% total debt ratio on the back end including compensating factors.
- Maximum loan is up to and is subject to the first lien holder’s approval of Combined Loan to Value (CLTV).
- Predatory lending describes lending practices that take advantage of clients by charging usurious interest rates or excessive fees and penalties. Loans will not be made with an interest rate more than two percent (2%) above the prevailing market rate.
 - The origination fee will be capped up to 1% of the loan amount.
 - The discount points will be capped at up to 2 points.
 - The loan processing fee will be capped up to \$500.
 - The underwriter fee will be capped up to \$500.
 - Loan cannot have pre-payment penalties.
- Homebuyer must complete a pre-purchase homebuyer education course prior to the loan closing date. The HOME regulations at §92.254 (a)(3) require that all homebuyers who receive HOME assistance or purchase units developed with HOME funds must receive housing counseling. Under the rule, all homebuyers assisted under the HOME program must receive housing counseling that is performed by a certified housing counselor who has passed the HUD certification examination

and is employed by a HUD-approved housing counseling agency, effective August 1, 2020. Evidence of this housing counseling completion should be submitted to the City for review.

Income Limits and Part 5 Requirements

Per 24 CFR Part 92.203(b)(1), the City has elected to utilize the 24 CFR Part 5 definition for determining annual income which is commonly referred to as the “Section 8 Low-Income Limit”. To be eligible for funding, program participants must have annual (gross) incomes at or below 80% of Area Median Income (AMI), adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD). Appendix B further outlines these requirements.

Affordability Period

Beginning after project completion, the HOME-assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table. The affordability requirements listed below may be extended at the Director’s sole discretion. However, per HUD regulations, the affordability periods may not be reduced.

Amount of Funds	Required Affordability
Less than \$15,000.00	5 Years
\$15,000.01 to \$40,000.00	10 Years
\$40,000.01 and over	15 Years

Long-Term Affordability

To meet Long-Term Affordability requirements for the HOME Program, the City established the Resale/Recapture Requirements found in Appendix D for Homebuyer Activities. Resale or recapture requirements shall be included in all written agreements.

Nine-Month Sale Deadline

For homeownership housing development, affordable housing units must be sold to eligible homebuyers within nine months of the date of completion of construction or rehabilitation. Failure to do so will require the unit be rented to an eligible tenant in accordance with the HOME rental requirements at 24 CFR Part 92.252 or that the HOME funds be repaid.

CHDO Proceeds

CHDO proceeds are income to the CHDO resulting from the CHDO's investment of the City provided CHDO set-aside funds. Examples of CHDO proceeds are funds resulting from:

- The permanent financing of a CHDO project which is used to pay off a CHDO financed construction loan;
- The sale of CHDO sponsored rental housing to a second non-profit;
- The sale of CHDO developed homeownership housing;
- The principal and interest payments from a homebuyer to a loan for CHDO developed homeownership housing.

The City may, at its sole discretion, allow a CHDO to retain some or all of the CHDO proceeds it receives. The decision to allow a CHDO to retain CHDO proceeds will be made on a case-by-case basis. The funding contract between the City and the CHDO will state whether CHDO proceeds may be retained by the CHDO

or must be returned to the City. In addition, the contract will also specify that the CHDO must report on a continuous basis the amount of CHDO proceeds received and the eligible expenditure of these proceeds.

The CHDO must use any CHDO proceeds which it is authorized to retain, for HOME-eligible or other housing activities to benefit low-income families, as required by 24 CFR 92.300(a)(2). Examples of affordable housing activities which may be funded with CHDO proceeds include, but are not limited to:

- Emergency repairs
- Project operating costs and reserves
- Housing refinancing costs
- CHDO operating expenses and homebuyer counseling
- Development of additional affordable housing units

CHDO proceeds which are retained by a CHDO are not subject to the requirements of the HOME regulations, except for 24 CFR 92.300(a)(2). Thus, the Davis-Bacon Act, National Environmental Policies Act and Uniform Relocation Assistance and Real Property Acquisition Policies Act do not apply to the use of CHDO proceeds. However, because CHDO proceeds are derived from the expenditure of HOME funds, any activities which are funded with CHDO proceeds may not be contributed as match.

Examples of CHDO proceeds are funds resulting from: the permanent financing of a CHDO project which is used to pay off a CHDO financed construction loan, the sale of CHDO developed homeownership housing, and the principal and interest payments from a homebuyer's loan CHDO developed homeownership housing.

Program Income

Program income is the repayment, interest and return on the non-CHDO set-aside investments. Program income means gross income generated from the use of HOME/CDBG funds and matching contributions. When program income is generated by housing that is only partially assisted with HOME/CDBG funds or matching funds, the income shall be prorated to reflect the percentage of HOME/CDBG funds or match used. The following is a list of examples; please note that this is not an exhaustive list:

- Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME/CDBG funds or matching contributions;
- Gross income from the use or rental of real property, owned by the subrecipient, that was acquired, rehabilitated, or constructed with HOME/CDBG funds or matching contributions, less costs incidental to generation of the income;
- Payments of principal and interest on loans made using HOME/CDBG funds or matching contributions;
- Proceeds from the sale of loans made with HOME/CDBG funds or matching contributions.

Funding Application, Evaluation and Selection Process

The City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Underwriting & Subsidy Layering Standards

Before committing funds to an affordable housing development project, the City will evaluate the project in accordance with the Underwriting and Subsidy Layering Policy (USLP) found in Appendix I. To be eligible for funding, the City must determine that no more assistance is provided than is needed, and that the level of profit or return on owner's or developer's investment in a project is reasonable. HOME funding will not be awarded without an Underwriting Report.

Environmental Review Requirements

Before committing funds to an affordable housing development project, the City will evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Funding Award Loan Closing

The owner of the property to be developed will be required to provide the following items for development project's loan closing:

- Acceptable Commitment for Title Insurance Policy showing the City's interest in the total amount of the City's Deferred Payment Loan;
- Credit Reports on all Borrowers with a fifteen percent (15%) or greater ownership interest in the project;
- List of all real property assets included in the project and their value; and
- A copy of the insurance policy for fire and extended coverage for eighty percent (80%) of the value of the property with City named as co-insured.

Other Federal Requirements

HOME is subject to a number of cross-cutting Federal regulations known as "Other Federal Requirements." Appendix A includes a listing of "Other Federal Requirements" with applicability by activity type.

Rental Housing Development Activities (New Construction or Rehabilitation)

Program Overview

HOME funds may be used to develop affordable rental housing through acquisition of land, new rental housing construction, or rehabilitation of existing rental housing properties. The housing must be permanent or transitional housing. The following policies are applicable for Rental Housing Development and Rehabilitation Gap Financing activities. These activities may be implemented by the City of San Antonio or by external non-profit or for-profit partners.

Project Eligibility

To be eligible for HOME funding for rental housing development, the proposed property must be a single-family (1-4 units) or multi-family (5 or more units) rental dwelling located within the municipal boundaries of the City of San Antonio. (Note: ETJ areas are not eligible for HOME funding). Eligible activities include real property acquisition, site improvements, rehabilitation, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations.

Eligible HOME Costs

Eligible HOME Costs are detailed in the table below:

<i>Construction Hard Costs</i>	<i>Construction Soft Costs</i>
<ul style="list-style-type: none"> • Acquisition of land (for a specific project) and existing structures • Site preparations or improvement, including demolition • Securing of buildings • Construction materials and labor 	<ul style="list-style-type: none"> • Financing fees • Credit reports • Title binders and insurance • Surety fees • Recordation fees, transaction taxes • Legal and accounting fees, including cost certification • Appraisals • Architectural/engineering fees, including specifications and job progress inspections • Environmental reviews • Builders' or developers' fees • Affirmative marketing, initial leasing and marketing costs • Staff and overhead costs incurred by the CITY that are directly related to a specific project • Operating deficit reserves (up to 18 months)
<i>Relocation Costs</i>	<i>Loan Guarantee Accounts</i>
<ul style="list-style-type: none"> • Payment for replacement housing, moving costs and out-of-pocket expenses • Advisory services • Staff and overhead related to relocation assistance and services 	<ul style="list-style-type: none"> • Amount based upon 20 % of the total outstanding principal balance of guaranteed loans • A loan in default can be repaid in full

Subsidy Limits

The minimum amount of HOME funds that must be invested in a project involving rental housing is \$1,000 times the number of HOME-assisted units in the project. The maximum allowable subsidy limit per unit is listed in the Section 234-Condominium Housing basic mortgage limits, for elevator-type projects which vary according to number of bedrooms and adjusted by a High Cost Percentage (HCP). These limits shall be used for new construction and rehabilitation of rental housing. HUD's Office of Multifamily Housing updates the Section 234 Basic Mortgage Limits annually and publishes them in the Federal Register. The actual subsidy provided will be subject to cost allocation and subsidy layering analysis.

Cost Allocation

HOME funds may be used to fund one or more housing units in a multi-unit rental project. Any unit in which HOME funds are invested is a "HOME-assisted unit," and is subject to the HOME requirements. HOME funds can pay only for the costs of HOME-assisted units, and a proportional share of common area costs. HOME rules create a floor for the number of HOME-assisted units a project must have. This floor is based on the proportional share of total eligible costs to be paid with HOME funds. Details of the calculations used to determine the number of HOME-assisted units required for a given project is contained in the City's Underwriting and Subsidy Layering Policy (USLP), found in Appendix I. The City may require a higher number of HOME-assisted units in a project.

Designating HOME-Assisted Units

For properties with both HOME-assisted and non-assisted units, the City must select whether the HOME-assisted units will be "fixed" or "floating" during the underwriting process. This determination is subject to the size, features, and comparability of the units.

Eligible Property Type and Location

HOME rental projects may be one or more buildings on a single site, or multiple sites that are under common ownership, management, and financing. The project must be assisted with HOME funds under a single undertaking. The project includes all activities associated with the site or building. HOME funds may be used to assist mixed income projects but only HOME eligible tenants may occupy HOME-assisted units. Transitional as well as permanent housing including group homes and single residential occupancy is allowed.

In addition, HOME funds may be used for the initial purchase and initial placement costs of Elder Cottage Housing Opportunity (ECHO) units that meet the HOME requirements. ECHO units are small, free standing, barrier free, energy efficient, and removable units designed to be installed adjacent to existing single-family dwellings.

Property Standards

New construction and acquisition/rehabilitation, the property must meet all applicable state or local codes, rehabilitation standards and ordinances, and zoning ordinances. New Construction must meet the International Energy Conservation Code. Details of these requirements are contained in the City's Residential Construction Management Policy (RCMP) located in Appendix J. All assisted housing must meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973. All codes and standards must be met at the time of occupancy. The project must comply with Title VI of the Civil Rights Act of 1964, Executive Order 11063 and HUD regulations issued pursuant thereto so as to promote greater choice of housing opportunities.

The site and neighborhood standards apply to new construction of rental housing.

Lead-Based Paint Requirements

All housing units must comply with the regulations found at 24 CFR Part 35. The Lead-Based Paint Requirements are found in Appendix F.

Long-Term Affordability

HOME-assisted housing must meet the long-term affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The affordability requirements listed below may be extended at the City Department Director or Grants Administrator’s sole discretion. However, per HUD regulations, the affordability periods may not be reduced.

Activity	Per-Unit HOME Investment	Required Affordability Period
Rehabilitation or Acquisition of Existing Housing	Less than \$15,000.00	5 Years
	\$15,000.01 to \$40,000.00	10 Years
	Over \$40,000.01	15 Years
New Construction	Any Amount	20 Years

Rent and Income Eligibility Requirements

The HOME program has established rules in relation to acceptable rent and occupancy requirements. HUD will annually publish Fair Market Rents and calculations for rents affordable to families earning 65% and 50% AMI. These are called High HOME and Low HOME rent, respectively. The program funds rule specifies that 90% of the total households assisted through the rental program have incomes that do not exceed 60% of the area median income. For properties with five or more HOME assisted units, at least 20% of the units must have rents that meet the “Low HOME” criteria and must be occupied by households at or below 50% AMI. The CDBG program will utilize the High HOME rents and assist households at 60% AMI or below.

Rent and occupancy requirements are enforced through a covenant running with the property. In addition, utility allowances are imposed as a mechanism for reducing the maximum allowable HOME rents when some or all utilities are paid by the tenant. The utility allowances schedule must be approved by the City annually.

Income Limits and Part 5 Requirements

Per 24 CFR Part 92.203(b)(1), the City has elected to utilize the 24 CFR Part 5 definition for determining annual income which is commonly referred to as the “Section 8 Low-Income Limit”. To be eligible for funding, program participants must have annual (gross) incomes at or below 80% of Area Median Income (AMI), adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD). Appendix B further outlines these requirements.

Loan Terms

GAP Financing

The City deferred debt (deferred forgivable or surplus cash) shall only be used for and based upon the financing gap on affordable units. The City loan shall not exceed the financing gap.

Balloon Mortgages

Ballooning senior debt mortgages may require additional mitigating factors depending on overall project sources and uses of funds, projected loan-to-value, and other risk factors. Under no circumstances will the City participate in a transaction where a senior balloon term is less than 15 years.

Surplus Cash Mortgages

The City's surplus cash loans will be defined as the sum of:

(a) Project cash and cash equivalents (excluding the reserves for replacements required by the senior lender or the U.S. Secretary of Housing and Urban Development ("HUD") under the Regulatory and other HUD-required reserves); (b) short-term investments; (c) project-based Section 8 Housing Assistance payments earned but not yet received by Borrower; and (d) any amounts approved for withdrawal but not yet withdrawn from the reserve for replacements or any other reserves or escrow accounts; after deducting:

- (i) All sums due or required to be paid within the calendar month following the date as of which Surplus Cash is calculated under the terms of the senior loan documents (including without limitation principal, interest, mortgage insurance premium deposits, deposits to the reserve for replacements and other reserves as may be required by HUD, and tax and insurance escrow deposits);
- (ii) all special funds required to be segregated by the HUD Regulatory Agreement, the senior loan documents, or program obligations (as such terms is used in the HUD Regulatory Agreement), including tenant security deposits and any other amounts held in trust for tenants; and
- (iii) all other obligations the Project payable within the next thirty (30) days, unless the obligation is paid subject to available Surplus Cash or subject funds for payment of the obligation are set aside or HUD has approved deferment of payment.

Eligible Cash shall be defined as:

- Surplus cash available for partnership distribution, less
- Any outstanding:
 - Credit adjustments
 - Asset management fees
 - Operating reserve account replenishment
 - Approved limited partner loans
 - Deferred developer fees
 - Approved supplemental replacement reserve deposits

Note: Incentive management fees have been deliberately omitted from the above list. Payment of incentive management fees shall be subordinate to repayment of the City's loan(s).

Projects shall submit, on an annual basis, the City's Computation of Surplus Cash Form, with the project audit. When HUD financing and general HUD distribution policies are involved, the City will invoice the

project and allow for repayment to occur up to the end of the current calendar year. Otherwise, the surplus cash payment will be due within 45 days of the invoice postmark. Late payments will be assessed a 5% late charge. The loan will be in default if payments are more than 75 days late. The default interest rate shall be 500 basis points (5%) over the note interest rate.

Deferred/Forgivable Loans

CHDOs may qualify for a deferred/forgivable loan of up to 50% of the loan amount. Forgiveness will occur annually and only after successful completion (i.e. no findings) of the yearly compliance review completed by the City.

Single-Family Dwellings (1-4 units)

Owners of single-family dwellings are eligible for a loan of up to 50% of total development costs. The City loan is fully repayable and the interest rate varies by the type of Borrower. The interest rate for a certified CHDO or a Public Facility Corporation owner, developer, sponsor shall be one percent (1%) simple annual interest. The interest rate for all other Borrowers shall be four percent (4%). The maximum maturity for a single-family rental loan shall be no more than 240 months from the completion of construction. Repayment of single-family rental housing loan principal and interest should be in equal monthly installments.

Multi-Family Dwellings (5 or more units)

Assistance for developers of multi-family rental property can be provided in the form of a repayable loan with scheduled payments or, if the project involves housing tax credits, a surplus cash loan. The City loan is fully repayable and the interest rate varies by the type of Borrower. The Interest rate for a qualified CHDO or a Public Facility Corporation owner, developer, or sponsor shall be one percent (1%) simple annual interest. The base interest rate for all other Borrowers shall be four percent (4%). The loan term will be determined based on underwriting analysis and to comply with senior loan requirements.

Funding Loan Conditions

In the assessment by the City, at its sole discretion, the developer must be able to demonstrate managerial, technical and financial capacity to undertake the project. Borrowers must be an Eligible Mortgagor as defined by Federal regulations and the document herein.

- Single asset entities are required for non-recourse loans. Loans to multiple asset entities will have recourse.
- Guarantor (amortizing loans) or financially responsible party (deferred loans) must have acceptable performance on previous or current City loans and must not be undercapitalized for the scale of the proposed project.
- A full credit review for all loans is required for final loan approval.
- The Developer is responsible for the costs of the appraisal, environmental reviews, credit underwriting report, market study, title insurance, closing and legal fees, publication and all other costs incurred by the Borrower as a result of the Borrower applying for or securing a loan with the City.

As a condition of the City Loan, the Developer must agree:

- The property must remain a residential rental property under the existing ownership for the entire loan term. If the property is transferred by any means during the loan term, the remaining unforgivable portion plus interest will become immediately due and payable. The interest portion will be calculated based on the existing market at the time of transfer.
- For rent of these properties to be in accordance with affirmative marketing standards and the current HUD Section 8 rental income guidelines for the Period of Affordability and the federal equal housing opportunity requirements in the Fair Housing Act.
- Not to discriminate on the basis of race, religion or national origin.
- Not to discriminate against lower income prospective tenants, solely on the basis of their receipt of Section 8 Housing assistance support.
- Not to convert the property to condominiums for the duration of the loan term.
- To maintain the property and ensure it is in a safe, sanitary and decent condition, and in compliance with the Residential Construction Management Policy throughout the term of the public sector note.
- To provide evidence of having paid annual property taxes and secured fire and extended insurance coverage for the property.
- Comply with Annual Re-certification of tenant's annual income, in which the property owner must document the income of the tenant yearly by reviewing documents such as W-2's, pay stubs, etc. in order to ensure that their income meets the low-income requirements.
- The City will examine the funding sources and uses for each project and determine whether the costs are eligible and reasonable, the return to the developer is appropriate (not excessive), and the other sources of funds needed for the project are firm commitments. "Reasonableness" of development costs should be based on the following factors:
 - Costs of comparable projects in the same geographical area;
 - Qualifications of the cost estimators for the various budget line items; and
 - Comparable costs published by recognized industry cost index services
- To adhere to Lead-Based Paint Abatement policies for all properties built in 1978 and before.
- To conduct a property inspection one (1) year after the rehabilitation and every two (2) years thereafter during the period of affordability. The owner must agree to cooperate with and assist in this inspection effort, and to resolve all deficiencies cited within the designated correction period allotted.
- To pay real property taxes and maintain adequate fire and extended coverage insurance with City named as co-insured on the subject property for the full term of the loan. The City will require owner to provide documentation of tax payment and insurance coverage on an annual basis.
- The Borrower must maintain reserves for maintenance.
- No further HOME assistance may be granted during the affordability period. .

Failure to comply with any of the conditions outlined above will constitute a default of the public sector loan, requiring the balance to become immediately due and payable.

During the term of the public sector loan, if the property is sold, or ownership transferred through any means, the balance of the note, including the remaining deferred forgivable portion, is immediately due and payable in full.

For HOME projects, a determination of fixed or floating HOME units must be made during the underwriting process. Fixed units must remain the same throughout the period of affordability. Floating units may change in order to maintain conformity so that the total number of units meets the required number of bedrooms of the originally designated HOME-assisted unit(s).

The City loan will be secured by a lien on the property. The lien position will be no less than second, except upon approval of the Grants Administrator. The City will be subordinate only to a private financial institution's superior lien for a loan in a greater amount. The City may also require additional security for its loan, including, but not limited to, a first lien position on other investment property of the owner, as well as personal and/or corporate guarantees, if necessary, to secure the loan.

The terms of payment will continue throughout the entire term of the note, provided the borrower complies with each and every term and condition of the loan documents. If the borrower does not comply, or if the borrower at any time defaults under the terms of the note, the interest on the unpaid principal will thereafter:

- accrue at a rate of 500 basis points over the Note interest rate, and
- be immediately payable in addition to the remaining outstanding principal balance.

Funding Loan Closing

The property owner will be required to provide the following items for loan closing:

- For substantial rehabilitation projects, the after-rehabilitation appraisal of the property showing the appropriate value relative to the proposed loan.
- Title Insurance Policy showing the City's interest in the total amount of the City's Deferred Payment Loan.
- List of all real property assets and their value.
- Copy of the insurance policy for fire and extended coverage for 80% of the value of the property with City named as co-insured.

Closing in Balance When City Provides Construction and Bridge Financing

Except as noted below, all sources of funds must be available at closing or bridge funding must be provided to pay development costs through construction completion whenever the City is providing its funds during or prior to construction completion and stabilized occupancy. In such instances, equity (including syndication proceeds not bridged) will be held by a title company or approved escrow agent. For tax credit projects with equity pay-ins to be made during construction, the City will, at its sole discretion, determine the need to bridge these funds based on a review of the project, the pay-in schedule, the investor, general partner, developer, and general contractor.

In addition to syndication proceeds, other sources commonly required to be bridged are tax increment financing, other public sector grants and loans, interim income (existing properties), and any rebates that are included in the sources of financing.

Cost Savings

Cost savings remaining at the end of the construction or rehabilitation, may be deposited in the Replacement Reserve Account, utilized to reduce the City funding, or be put to another appropriate use approved in writing by the City.

Funding Application, Evaluation and Selection Process

The City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Underwriting & Subsidy Layering Standards

Before committing funds to an affordable housing development project, the City will evaluate the project in accordance with the Underwriting and Subsidy Layering Policy (USLP) found in Appendix I. To be eligible for funding, the City must determine that no more assistance is provided than is needed, and that the level of profit or return on owner's or developer's investment in a project is reasonable. HOME Funding will not be awarded without an Underwriting Report.

Refinancing

HOME funds may be utilized to refinance existing debt secured by multifamily housing that is being rehabilitated with HOME funds if refinancing is necessary to permit or continue affordability as described in 24 CFR §92.206(b). The City shall use its underwriting and evaluation criteria and standards, as found in its City Council adopted Program Policies for Federally Funded Affordable Housing Activities and the HOME Final Rule. At a minimum, these rules require:

- Rehabilitation to be the primary eligible activity for developments involving refinancing of existing debt;
- HOME funds may not be used to refinance affordable housing development constructed within the past 10 years;
- A minimum funding level for rehabilitation on a per unit basis;
- A review of management practices to demonstrate that disinvestments in the property have not occurred, when applicable;
- Long term needs of the property can be met;
- Financial feasibility of serving the targeted population can be demonstrated over an extended affordability period, as applicable;

- State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both;
- Specify the required period of affordability, whether it is a minimum of 15 years or longer;
- Specify whether the investment of HOME funds may be jurisdiction-wide or limited to a specific geographic area, such as a neighborhood identified in a neighborhood revitalization strategy under 24 CFR 91.215(g) or a federally designated Empowerment Zone or Enterprise Community; and
- Ensure HOME funds cannot be used to refinance multifamily loans made or insured by any federal program, including CDBG.

Environmental Review Requirements

Before committing funds to an affordable housing development project, the City will evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Other Federal Requirements

HOME is subject to a number of cross-cutting Federal regulations known as “Other Federal Requirements.” Appendix A includes a listing of “Other Federal Requirements” with applicability by activity type.

Community Housing Development Organization (CHDO)

A Community Housing Development Organization (CHDO) is a private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves. The City is required to set aside a minimum of 15% of its HOME allocation for affordable housing development activities delivered by qualified CHDOs.

Eligible CHDO Activities

In accordance with HUD regulations, undertakings eligible for CHDO set-aside funds are limited to certain activities. These eligible set-aside activities include the following when carried out by a CHDO acting as an owner, sponsor, or developer:

- Acquisition and/or rehabilitation of substandard rental housing;
- New construction of rental housing;
- Acquisition and/or rehabilitation of homebuyer properties;
- New construction of homebuyer properties; and
- Direct financial assistance to purchasers of HOME-assisted housing sponsored or developed by a CHDO with HOME funds.

Note: CHDO-eligible organizations may play the role of a "subrecipient" and may undertake all other HOME-eligible activities, but these activities do not count toward the CHDO set-aside. The organization is acting as a CHDO under the HOME Program when it has been certified as meeting the CHDO requirements and funded by the City for a specific project out of the CHDO set-aside.

Application, Evaluation and Selection Process

HOME regulations require the City to certify an organization as a CHDO each time it commits funds to a CHDO set-aside project. Outside of the context of committing funds to the organization for a specific project, there can be no general "certification" that an organization is a CHDO.

The City will issue a Request for Application (RFA) for CHDO eligible projects when CHDO set-aside funding is available. The RFA application will include a CHDO certification section. Non-profit organizations shall submit the CHDO certification package along with the application in accordance with RFA instructions. Based on that submission, the City will complete a checklist of required CHDO qualifying criteria and use that to determine the non-profit's eligibility. The City shall retain documentation of the organization's CHDO certification in City maintained project files.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

CHDO Status for Non-HOME Related Activities

The City may, at its sole discretion, provide a letter to non-profit organizations stating that they meet the general requirements of a CHDO. These may be issued upon request of the non-profit organization for taxation purposes, inclusion in TDHCA applications, or other specific instances where qualification of the non-profit as a CHDO is required for non-HOME related activities.

CHDO Proceeds

CHDO proceeds is income to the CHDO resulting from the CHDO's investment of its City-provided CHDO set-aside funds. Examples of CHDO proceeds are funds resulting from:

- the permanent financing of a CHDO project which is used to pay off a CHDO financed construction loan;
- the sale of CHDO sponsored rental housing to a second non-profit;
- the sale of CHDO developed homeownership housing;
- the principal and interest payments from a homebuyer's loan for CHDO developed homeownership housing.

The City may, at its sole discretion, allow a CHDO to retain some or all of the CHDO proceeds it receives. The decision to allow a CHDO to retain CHDO proceeds will be made on a case by case basis, and will be outlined in the written agreement with the CHDO.

The CHDO must use any CHDO proceeds which it is authorized to retain for HOME-eligible or other housing activities to benefit low-income families, as required by 24 CFR 92.300(a)(2). Examples of affordable housing activities which may be funded with CHDO proceeds include, but are not limited to:

- emergency repairs,
- project operating costs and reserves,
- housing refinancing costs,
- CHDO operating expenses and homebuyer counseling,
- Development of additional affordable housing units.

CHDO proceeds which are retained by a CHDO are not subject to the requirements of the HOME regulations, except for 24 CFR 92.300(a)(2). Thus, the Davis-Bacon Act, National Environmental Policies Act and Uniform Relocation Assistance and Real Property Acquisition Policies Act do not apply to the use of CHDO proceeds. However, because CHDO proceeds are derived from the expenditure of HOME funds, any activities which are funded with CHDO proceeds may not be contributed as match.

CHDO Operating Expense Funding

Program Overview

The City may provide general operating assistance to CHDOs that are receiving set-aside funds for an activity, or a CHDO that is expected to receive set-aside funds within 24 months of the date of the CHDO operating funding agreement. This can include the award of operating funds to a potential CHDO that does not currently meet the requirement for staff capacity but otherwise meets all other requirements for certification as a CHDO.

Project Eligibility

In order to be eligible to receive CHDO operating funds, the entity must be a non-profit organization capable of meeting CHDO certification criteria. Operating funds are awarded to a CHDO based on financial need and the expectation that the organization is utilizing, or will utilize, the City's CHDO set aside funding within 24 months of the award.

An organization is ineligible to apply for or receive CHDO operating funds if:

- The entity has received CHDO operating funds within the last 24 months and has not been awarded CHDO set aside funds within 24 months.
- The HOME award exceeds \$50,000 or 50% of the organization's total annual operating expenses for that fiscal year, whichever is greater. CHDO operating expense funds may not supplant CHDO set-aside funds for project costs.

Eligible Uses

CHDO operating expenses are expenses that are reasonable and necessary costs for the operation of the CHDO. Eligible operating expenses include:

- Salaries, wages, benefits, and other employee compensation;
- Capacity-building for the organization related to a specific future set-aside project (i.e., hire, train staff, etc.);
- Employee education, training, and travel to perform job (i.e., to attend a training on how to develop affordable housing) or carry out the functions related to the organization;
- Office rent and utilities;
- Communication costs;
- Taxes and insurance;
- Equipment, materials, and supplies.

Funding Application, Evaluation and Selection Process

The City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure

to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Other Federal Requirements

HOME is subject to a number of cross-cutting Federal regulations known as "Other Federal Requirements." Appendix A includes a listing of "Other Federal Requirements" with applicability by activity type.

Tenant Based Rental Assistance (TBRA)

Program Overview

Tenant based rental assistance (TBRA) is an allowable activity under the HOME Program. TBRA is used to help individual households acquire housing and afford housing costs by providing rental subsidies to the household with or without rental security deposits and/or utility deposits. TBRA assistance moves with the tenant. The level of TBRA subsidy varies based upon the income of the household, the particular unit the household selects, and the rent reasonableness standard.

NOTE: The City may use HOME funds for tenant-based rental assistance only if it makes the certification about inclusion of this type of assistance in its consolidated plan in accordance with 24 CFR 91.225(d)(1), 91.325(d)(1), or 91.425(a)(2)(i), and specifies local market conditions that led to the choice of this option.

Types of Assistance

TBRA may assist eligible households with the following housing costs:

- Rent
- Security deposit in conjunction with rent at the same address (A security deposit may not exceed the equivalent of two month's rent for the unit).
- Utility costs in conjunction with rent at the same address
- Utility deposit in conjunction with rent at the same address
- Utility deposits, utility payments and security deposits may only be provided to clients who are also receiving rental assistance.

TBRA payments will be made directly to an agency working on behalf of the tenants or directly to the landlord. No payments will be made directly to the tenant household.

Ineligible Program Activities

- TBRA may not be used for utility or security deposit without rental assistance
- TBRA cannot be used to assist a legal homeowner of the housing unit
- TBRA cannot be used to assist a resident owner of a cooperative or mutual housing unit unless: unit is considered rental housing under state law or tenant who rents from an owner of a cooperative or mutual housing unit
- TBRA may not be used to provide overnight or temporary shelter for homeless persons
- TBRA may not duplicate existing rental assistance programs that already reduce the tenant's rent payment to 30 percent of income (for example, if a household is already receiving assistance under the Section 8 Program, they would not qualify for HOME TBRA)
- TBRA cannot be used beyond a 24-month lease approval, although leases can be renewed, subject to the availability of funds.
- TBRA cannot be used to assist households whose income exceeds 60% of AMI at time of initial application

Applicant Eligibility and Tenant Selection

To qualify for TBRA, the applicant household must have income at or below 60% of the Area Median Income. Income eligibility must be established and documented prior to the execution of a TBRA Program contract with the tenant. The City will follow a written tenant selection policy that specifies how households will be selected for participation in its TBRA program(s). The City may design one or more TBRA programs that assist:

- Families selected from the Public Housing Authority's Section 8 Waiting List
- Eligible, in place residents of a rental project being rehabilitated under the HOME program
- Other special needs clients or preference groups identified by an agency working on behalf of the City.

In addition, the City or an agency administering a TBRA program may require tenant participation in a self-sufficiency program as a condition of rental assistance unless specifically prohibited under 24 CFR Part 92.209.

Income Limits and Part 5 Requirements

Per 24 CFR Part 92.203(b)(1), the City has elected to utilize the 24 CFR Part 5 definition for determining annual income commonly referred to as the "Section 8 Low-Income Limit." To be eligible for funding, program participants must have annual (gross) incomes at or below 60% of Area Median Income (AMI), adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD). Appendix B further outlines these requirements.

Eligible Units

Eligible applicants may rent any housing unit that meets the following criteria:

- Located in the San Antonio city limits
- Reasonable rents are charged as determined by HUD's Fair market rents, established annually
- Meets Housing Quality Standards for housing assisted under the Housing Choice Voucher Program
 - The housing unit must be inspected initially and re-inspected annually, as applicable.
- Meets occupancy standards (maximum/minimum unit size depending on household size)
- Complies with Lead-Based Paint regulations (Part 35 Subpart M)
- Units may not receive a duplicative form of rental subsidy
- Units may have been developed or rehabilitated with HOME assistance
- Are not public housing projects, or receiving project based federal assistance

Assistance Parameters

- Housing unit must meet Housing Quality Standards. Lease Requirements: The term of the lease between tenant and owner must be at least one year. The lease may not include any prohibited language as outlined in the HOME Final Rule 24 CFR Part 92.
- Payment Standard: The TBRA payment standard will be based on the Fair Market Rent, which is established and published annually by the U.S. Department of Housing and Urban Development.
- Subsidy Amounts and Tenant Contribution: The maximum assistance that can be provided is the difference between 30% of the household's adjusted monthly income and the payment standard. The minimum tenant contribution is 30% of their monthly adjusted income, or \$25.00 per month, whichever is greater.
- Income Re-Certification: The income of tenants receiving TBRA must be re-certified on an annual basis, at a minimum. City staff may require re-certification of tenant income at any time, at the

City's discretion, if it appears that a tenant's income has changed substantially during the contract term. If the tenant's income exceeds 80% of Area Median Income, TBRA must be terminated.

- Length of Assistance: Assistance may be provided for a period of up to two years
- Termination of Assistance: TBRA may be terminated if the following occurs:
 - Household's income exceeds 80% of Area Median Income
 - Household is evicted from the approved unit by owner for cause as outlined in the lease agreement between tenant and owner
 - After receipt of two official notices requesting cooperation in the re-certification process, the household is unresponsive and uncooperative.
 - In all cases above, thirty days' notice of the termination must be provided in writing to the tenant and landlord.

Sub-recipient Funding Application, Evaluation and Selection Process

For agencies seeking to administer this program on behalf of the City, the City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Environmental Review Requirements

Before committing funds to an activity, the City must evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Other Federal Requirements

HOME is subject to a number of cross-cutting Federal regulations known as "Other Federal Requirements." Appendix A includes a listing of "Other Federal Requirements" with applicability by activity type.

Community Development Block Grant Funding in Support of Affordable Housing Development

Community Development Block Grant (CDBG) funds can be used in support of affordable housing development. The following are eligible activities that fall into this category:

- Acquisition of sites on which buildings will be constructed for use or resale as housing.
- Clearance of toxic contaminants of property to be used for the new construction of housing.
- Site improvements to publicly-owned land to enable the property to be used for the new construction of housing, provided the improvements are undertaken while the property is still in public ownership.
- The cost of disposing real property, acquired with CDBG funds, which will be used for new construction of housing.
- Construction or reconstruction of utilities to provide water, sewer, and utility lines on public property in support of affordable housing. Lines and connections on private property that are usually the responsibility of the owner is ineligible, except when utilized as part of a rehabilitation project.
- Acquisition for rehabilitation, to acquire property for the purpose of being rehabilitated. The property may then be rehabilitated and used or sold for residential purposes.
- Acquisition of housing units, as long as the units are not new construction, and they are leased or sold for residential purposes.

Income Limits and Part 5 Requirements

Per 24 CFR Part 92.203(b)(1), the City has elected to utilize the 24 CFR Part 5 definition for determining annual income which is commonly referred to as the “Section 8 Low-Income Limit”. To be eligible for funding, program participants must have annual (gross) incomes at or below 80% of Area Median Income (AMI), adjusted by household size. Income limits are determined annually by the U.S. Department of Housing and Urban Development (HUD). Appendix B further outlines these requirements.

Funding Application, Evaluation and Selection Process

The City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project’s disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City’s approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney’s Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City

at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Environmental Review Requirements

Before committing funds to an activity, the City will evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Additional Requirements

For provisions not included in the CDBG section, defer to the HOME requirements listed in the preceding sections by activity type. Neighborhood Stabilization Program

Program Overview

Congress established the Neighborhood Stabilization Program (NSP) for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed homes, and to assist households whose annual incomes are up to 120% of the area median income (AMI). NSP1 was established by Section 2301(b) of the Housing and Economic Recovery Act of 2008 (Pub. L.110–289, approved July 30, 2008), also known as HERA.

Eligible Uses

NSP funding must be utilized for the following eligible uses:

- Financing Mechanisms - §2301(c)(3)(A) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate- income homebuyers;
- Purchase and Rehabilitation - §2301(c)(3)(B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;
- Land Banks - §2301(c)(3)(C) assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property;
- Demolition - §2301(c)(3)(D) demolish blighted structures; may combine with Use “B” and “E”.
- Redevelopment - §2301(c)(3)(E) redevelop demolished or vacant properties.

Programmatic Requirements

NSP funding has the following programmatic requirements:

- NSP funds should only be utilized for properties located in the approved NSP Target Areas (currently undergoing target area amendment process).
- NSP funds should be used for households whose incomes do not exceed 120% of area median income.
- Not less than 25% of these funds are to be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50% of area median income. Meeting the 50% of area median income requirement:
 - Compliance based on dollars, not number of units
 - Principal way to comply will be through rental housing:

- New construction or conversion
- Acquisition
- Rehabilitation
- NSP requires the purchase of a foreclosed-upon residential property be at a discount from the current market-appraised value of the property. Such discount shall be no less than 1% of the appraised value. All acquisitions of property under NSP require an appraisal for purposes of determining the statutory purchase discount.
- Rents for NSP subsidized units shall not exceed 30% of 120% AMI nor shall they exceed comparable unassisted rents in the area.
- The costs of purchase, rehabilitation, conversion and sale of property to be operated as rental housing are eligible NSP activities, but the expenses of actually operating the rental housing (such as maintenance, insurance, deficits in monthly operating income) and tenant-based rental subsidies are not eligible NSP activities.
- The maximum sales price for a property sold to an individual as a primary residence is limited to the lesser of total development costs (which includes the acquisition cost plus rehabilitation or redevelopment costs necessary to resell the property) and the after rehab appraised value. The aggregation of acquisition and rehabilitation or redevelopment costs generally may include, among other items, costs related to the sale of the property such as staff time spent identifying homebuyers, obtaining appraisals, etc., as well as sales and closing costs. Reasonable costs directly attributable to project implementation are allowed as activity delivery costs.

Affordability Period

All properties assisted with these funds shall meet the HOME program affordability requirements established in 24 CFR 92.252(e), and 92.254(a)(4). The affordability requirements listed below may be extended at the Director’s sole discretion. However, per HUD regulations, the affordability periods may not be reduced.

Amount of Funds	Required Affordability
Less than \$15,000	5 Years
\$15,000 to \$40,000	10 Years
Over \$40,000 or rehabilitation involving refinancing	15 Years
New Construction or Acquisition of Newly Constructed Housing	20 Years

Long-Term Affordability

To meet Long-Term Affordability requirements for the HOME Program, the City established the Resale/Recapture Requirements found in Appendix D for Homebuyer Activities. Resale or recapture requirements shall be included in all written agreements.

Funding Application, Evaluation and Selection Process

The City will conduct a comprehensive, fair and impartial evaluation of all funding applications and will appoint a selection committee to perform the evaluation. Each application will be analyzed to determine overall responsiveness and qualifications. The selection committee may select all, some, or none of the applicants for interviews. If the City elects to conduct interviews, applicants may be interviewed and re-scored. The City may also request additional information from applicants at any time prior to final

approval. The City reserves the right to select one, or more, or none of the applicants to provide services. Final approval of a selected applicant is subject to the action of the City Council.

Applicants must adhere to all City policies, procedures, and processes related to the solicitation, application completion and submittal, review, evaluation, and award recommendation processes. Failure to adhere to these requirements can result in an applicant or project's disqualification regardless of the other merits of the applicant or project.

Any award is conditioned upon the City's approval, which may be withheld in its sole discretion, of the results of the underwriting and environmental reviews of the project (which will be conducted after the award of funds). The City Attorney's Office will negotiate formal contract documents containing the final terms acceptable to the City. The award may be reduced, cancelled, terminated or rescinded by the City at any time prior to the execution of formal contract documents by the City. The City is not liable for any loss incurred as a result of cancellation, termination or rescission of the award and is under no obligation to fund the project under such circumstances.

Environmental Review Requirements

Before committing funds to an activity, the City will evaluate the project in accordance with the Environmental Review Requirements found in Appendix G.

Additional Requirements

For provisions not included in the NSP section, defer to the HOME requirements listed in the preceding sections by activity type.

Loan Servicing Policy

Program Overview

The City of San Antonio provides financial assistance to homeowners, homebuyers, nonprofit and for profit housing developers for affordable housing and community development activities. These programs are established on an activity-by- activity basis and will vary depending funding source requirements, city policies and strategies in place at the time of loan origination. In order for loan servicing to be effective it must include clear and consistent loan terms and processes to mitigate issues such as late payments, breach of loan terms and default. A key tenet in the disbursement of federal funds through loans is that revenue generated which becomes program income that can be used to provide additional assistance. In order to maximize City's investment in affordable housing and other programs that benefit the low to moderate income community, a return on investment should be a priority.

Loan Administration and Monitoring

All loans issued to individuals (single residence loans) shall be sent an annual certification form to verify continued residency. This certification will include the requirement to submit a copy of a utility bill as proof of continued residency and a copy of the most recent paid property insurance coverage policy. This will ensure that potential issues involving unauthorized transfers/sales of properties are addressed in a timely manner. In addition, on an annual basis the City researches Bexar County Tax Records for each property and all residential property tax accounts are verified to ensure taxes are current.

Multi-family rental borrowers must submit the City's Computation of Surplus Cash form with its audited financial statements during the term of loan. If the project financial results demonstrate that the project has not generated sufficient cash flows to make a payment, the borrower must provide a letter/statement attesting to such. If cash flows are sufficient then payment is required per the terms of the loan. In the event of a dispute regarding the sufficiency of surplus cash for making a loan payment, the Grants Manager or designee will decide, in their sole discretion, if the property has generated sufficient income to make a full, partial, or no payment.

Community Investment Committee

City staff oversees the day-to-day administration and monitoring of the loan portfolio; however, the City the created the Community Investment Committee (CIC) to evaluate loan portfolio issues on an on-going basis. The CIC serves as an advisory and decision making body comprised of the following five City staff members:

- A. Director Neighborhood and Housing Services Department or designee,
- B. Director of Finance or designee,
- C. City Attorney or designee,
- D. NHSD Assistant Director or designee, and the
- E. NHSD Grants Administrator or designee.

The CIC meets on an as needed basis and consider requests such as subordinations, loan modifications or options for properties where borrowers become deceased. The CIC shall have the authority to take the actions appropriate to ensure that the City's loan portfolio is managed effectively.

The authorities of staff and the CIC are outlined below:

Action	Residential Loans	Multi-Family Loans
Subordinations	<ul style="list-style-type: none"> • An assessment will be performed by City staff • The City lien position must remain unchanged • Borrower cannot receive cash as a result of the action • If no adverse impact, City Staff will approve subordination request • If adverse impact is determined, subordination request will be forwarded to CIC for consideration 	<ul style="list-style-type: none"> • The City’s underwriter perform an assessment of the project to ensure financial viability of the project during the loan and covenant periods • If no adverse impact, CIC will approve subordination request • If adverse impact is determined, subordination request will be forwarded to City Council for consideration
Modifications	<ul style="list-style-type: none"> • An assessment will be performed by City staff • The City lien position must remain unchanged • Borrower cannot receive cash as a result of the action • If no adverse impact, City Staff will approve modification request • If adverse impact is determined, modification request will be forwarded to CIC for consideration 	<ul style="list-style-type: none"> • The City’s underwriter perform an assessment of the project to ensure financial viability of the project during the loan and covenant periods • If no adverse impact, CIC will approve modification request • If adverse impact is determined, modification request will be forwarded to City Council for consideration
Deceased Borrower	<ul style="list-style-type: none"> • City Staff will assess possibility of assumption by heir(s) • If heir qualifies, City Staff will have the authority to execute legal agreements with heir • If heir does not qualify, CIC will have the authority to call the note for non-compliance 	Not Applicable
Property Tax Lawsuits	<ul style="list-style-type: none"> • City Staff will conduct a property assessment • If property is identified as a good prospect for redevelopment, City Staff present will to CIC for consideration to call the note for non-compliance and will have the authority to approve a foreclosure • If property is not a good prospect for redevelopment, City staff will continue to monitor property tax lawsuit 	<ul style="list-style-type: none"> • City Staff will conduct a property assessment • If property is identified as a good prospect for redevelopment, City Staff will present to CIC for consideration to call the note for non-compliance and will have the authority to approve a foreclosure • If property is not a good prospect for redevelopment, City staff will continue to monitor property tax lawsuit

Default	<ul style="list-style-type: none"> • Loan servicing will work with borrower to determine reason for default • Mandatory Counseling will be required of borrower(financial/budgeting) • City staff will make recommendation to cure default and will present to CIC for consideration/decision 	<ul style="list-style-type: none"> • A technical default includes, but is not limited to, when borrower does not submit financial statements, failed inspections or unit mix is non-compliant, and Computation of cash surplus is not provided • Assessment will be made by CIC to determine course of action • City Council consideration is required for any foreclosure proceedings
Forbearance	<ul style="list-style-type: none"> • An assessment will be performed by City staff when borrower falls behind on payments to determine if loan can be made current • City staff will have the authority to approve Forbearance not to exceed 6 months and will require borrowers to participate in financial counseling • A forbearance of more than 6 months will require consideration and approval from the CIC 	Not Applicable
Loan Write off	<ul style="list-style-type: none"> • These are typically loans foreclosed on by a first lienholder • City staff will assess and present to CIC for consideration all loans requiring a write off 	<ul style="list-style-type: none"> • These are typically loans foreclosed on by a first lienholder • City staff will assess and present to CIC for consideration all loans requiring a write off

Appendix A: Other Federal Requirements

I. REGULATORY CITATION AND REFERENCES

Programs which receive federal funding may be required to comply with other related statutes, regulations and executive orders. These are categorized below.

NON-DISCRIMINATION AND EQUAL ACCESS	
REQUIREMENT	REGULATORY CITATION AND REFERENCES
Fair Housing and Equal Opportunity	<p>Fair Housing Act (42 U.S.C. §§ 3601-19) <u>Implementation:</u> 24 CFR part 100 <i>et seq.</i> <u>Applicability:</u> 24 CFR §570.601(a)(2); §92.251(a)(2)(i); §5.105(a)</p> <p>Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d-1) <u>Implementation:</u> 24 CFR Part 1 <u>Applicability:</u> 24 CFR §570.601(a)(1); §92.202; §5.105(a)</p> <p>Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) <u>Implementation:</u> 24 CFR Part 146 <u>Applicability:</u> 24 CFR §5.105(a)</p> <p>Executive Order 11063 – <i>Equal opportunity in housing</i> <u>Implementation:</u> 24 CFR Part 107 <u>Applicability:</u> 24 CFR §570.601(b); §92.202; §5.105(a)</p> <p>24 CFR §5.106 – <i>Equal access in accordance with the individual’s gender identity in community planning and development programs.</i></p>
Affirmative Marketing	<p>24 CFR §92.351 – <i>Affirmative marketing; minority outreach programs</i></p>
Accessibility for Disabled Persons	<p>Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) <u>Implementation:</u> 24 CFR Part 8 <u>Applicability:</u> 24 CFR §570.602; §92.251(a)(2)(i); §5.105(a)</p> <p>Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §§12131-12165) <u>Implementation:</u> 28 CFR Parts 35 <u>Applicability:</u> 24 CFR §570.614(b); §92.251(a)(2)(i); §5.105(a)</p> <p>Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. §§12181-12189) <u>Implementation:</u> 24 CFR Part 36 <u>Applicability:</u> 24 CFR §570.614(b); §92.251(a)(2)(i)</p> <p>Architectural Barriers Act of 1968 (42 U.S.C. § 4151-4157) <u>Implementation:</u> 24 CFR Parts 40 and 41 <u>Applicability:</u> 24 CFR §570.614(a)</p>

EMPLOYMENT AND CONTRACTING	
REQUIREMENT	REGULATORY CITATION AND REFERENCES
Equal Opportunity Employment	Executive Order 11246 – <i>Equal employment opportunity</i> <u>Implementation:</u> 41 CFR Chapter 60 <u>Applicability:</u> 24 CFR §570.607, §5.105(a); 2 CFR Appendix II to Part 200 (C)
Section 3: Economic Opportunity	Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) <u>Implementation:</u> 24 CFR Part 135 <u>Applicability:</u> 24 CFR §570.607; §92.504(a)(7)(i)(B); §5.105(a)
Minority / Women Business Enterprise	Executive Order 11625 – <i>Prescribing additional arrangements for developing and coordinating a national program for minority business enterprise</i> <u>Applicability:</u> 24 CFR §570.904(d); §5.105(a) Executive Order 12432 – <i>Minority business enterprise development</i> <u>Applicability:</u> 24 CFR §570.904(d); 24 CFR §5.105(a) Executive Order 12138 – <i>Creating a National Women’s Business Enterprise Policy and prescribing arrangements for developing, coordinating and implementing a national program for women’s business enterprise.</i> <u>Applicability:</u> 24 CFR §570.904(d); §5.105(a) 2 CFR 200.321 – <i>Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms.</i>
Labor Related	Davis-Bacon Act of 1931 (40 U.S.C. 3141) <u>Implementation:</u> 29 CFR Parts 1, 3, 5, 6 and 7 <u>Applicability:</u> 24 CFR §570.200(c)(3)(i), §92.354; 2 CFR Appendix II to Part 200 (D) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701) <u>Implementation:</u> 24 CFR Part 4, 5, 6, and 8 <u>Applicability:</u> 24 CFR §570.603; §92.354(a); 2 CFR Appendix II to Part 200 (E) 24 CFR Part 70 – <i>Use of Volunteers on Projects Subject to Davis-Bacon and HUD-Determined Wage Rates</i> <u>Applicability:</u> 24 CFR §570.603; §92.354(b) Copeland “Anti-Kickback” Act (40 U.S.C. 3145; 18 U.S.C. 874) <u>Implementation:</u> 29 CFR Part 3 <u>Applicability:</u> 2 CFR Appendix II to Part 200 (D)
Conflict of Interests	<u>Applicability:</u> 24 CFR §570.611, §92.356 2 CFR §200.112, §200.318(c)(1);

Excluded Parties (e.g. debarred contractors)	<u>Applicability:</u> 24 CFR §570.609, §92.350(a), §5.105(c) 2 CFR §200.205(d), §200.213, §200.318(h), Appendix II to Part 200 (H)
ENVIRONMENTAL REQUIREMENTS	
REQUIREMENT	REGULATORY CITATION AND REFERENCES
Environmental Review	HUD CPD Notice 01-11 – Environmental Review and the HOME Investment Partnerships Program National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) <u>Implementation:</u> 24 CFR Part 58 – <i>Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities</i> 24 CFR Part 50 – <i>Protection and Enhancement of Environmental Quality</i> <u>Applicability:</u> 24 CFR §570.200(a)(4); §92.352; §92.504(c)(2)(iv)
Flood Insurance	Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) <u>Applicability:</u> 24 CFR §570.605 The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 <i>et seq</i>) <u>Applicability:</u> 24 CFR §58.6(a)(1), §50.4(a)(b)
Site and Neighborhood Standards	24 CFR §92.202 – Site and neighborhood standards 24 §983.57(e)(2) and (3) – Site selection standards, New Construction site and neighborhood standards.
Relocation	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) <u>Implementation:</u> 49 CFR Part 24 <u>Applicability:</u> 24 CFR §570.606(b), §92.353; 24 CFR Part 42
Lead	Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) <u>Implementation:</u> 24 CFR Part 35 <u>Applicability:</u> 24 CFR §570.608, §92.355 Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856) <u>Implementation:</u> 24 CFR Part 35 <u>Applicability:</u> 24 CFR §570.608, §92.355
ADMINISTRATIVE AND OTHER	
REQUIREMENT	REGULATORY CITATION AND REFERENCES
Administrative Requirements	2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards <u>Implementation:</u> 2 CFR Part 200

	<u>Applicability:</u> 24 CFR §570.610, §92.505
Domestic Violence	Violence Against Women Act (VAWA) (42 U.S.C. 13925 and 42 U.S.C. 14043e <i>et seq.</i>) <u>Implementation:</u> 24 CFR Part 5, Subpart L <u>Applicability:</u> 24 CFR §92.359; §5.2001
Faith-Based Organizations	24 CFR §5.109 – <i>Equal participation of faith-based organizations in HUD programs and activities.</i>

II. APPLICABILITY BY PROGRAM

The programs discussed in this policy and the applicable related statutes, regulations and executive orders are listed in the tables below. The applicability of the related statutes, regulations and executive orders to the CHDO Project Funding, CHDO Operating Expense Funding and the Neighborhood Stabilization Program are determined based on the type and scope of project funded under those three programs

NON-DISCRIMINATION AND EQUAL ACCESS				
Program	OORRP / Minor Repair	Homebuyer Activities	Rental Housing Activities	Tenant Based Rental Assistance
Fair Housing and Equal Opportunity	Yes	Yes	Yes	Yes
Affirmative Marketing	Yes	Yes ¹	Yes ¹	Yes
Accessibility for Disabled Persons	Yes	Yes	Yes	Yes
EMPLOYMENT AND CONTRACTING				
Program	OORRP / Minor Repair	Homebuyer Activities	Rental Housing Activities	Tenant Based Rental Assistance
Equal Opportunity Employment	Yes	Yes	Yes	Yes
Section 3: Economic Opportunity	Yes ²	Yes ²	Yes ²	No
Minority / Women Business Enterprise	Yes	Yes	Yes	Yes
Labor Related	No	Yes ³	Yes ³	No
Conflict of Interests	Yes	Yes	Yes	Yes
Excluded Parties (e.g. debarred contractors)	Yes	Yes	Yes	Yes

¹ For project containing 5 or more HOME-assisted units.

² If amount of assistance exceeds \$200,000 or the contract/subcontract exceeds \$100,000

³ If construction contract includes 12 or more HOME-assisted units

ENVIRONMENTAL REQUIREMENTS				
Program	OORRP / Minor Repair	Homebuyer Activities	Rental Housing Activities	Tenant Based Rental Assistance
Environmental Review	Yes	Yes	Yes	Yes
Flood Insurance	Yes	Yes	Yes	Yes
Site and Neighborhood Standards	No	No	Yes	No
Relocation	Yes	Yes	Yes	Yes
Lead	Yes ⁴	Yes ⁴	Yes ⁴	No

ADMINISTRATIVE AND OTHER				
Program	OORRP / Minor Repair	Homebuyer Activities	Rental Housing Activities	Tenant Based Rental Assistance
Administrative Requirements	Yes ⁵	Yes ⁵	Yes ⁵	Yes ⁵
Domestic Violence	No	No	Yes ⁶	Yes
Faith-Based Organizations	Yes	Yes	Yes	Yes

⁴ For units built before 1978

⁵ If acting as a subrecipient

⁶ The City elects to adopt compliance with the Violence Against Women's Act for all housing rental activities offered.

Appendix B: Income Limits and Part 5 Requirements

III. APPLICABILITY

Programs which are the recipient of Federal funds may be required to comply with income targeting requirements.

To be eligible for programs funded by HOME⁷ and CDBG⁸ funds, households must have an annual (gross) income calculated at or below 80% of the area median income. To be eligible for programs funded by NSP⁹ funds, households must have an annual (gross) income calculated at or below 120% of the area median income. Income limits are determined and published annually by the U.S. Department of Housing and Urban Development (HUD).¹⁰

IV. CITY'S POLICY

In accordance with 24 CFR Part 92.203(b), the City is required to use one of two definitions of "annual income." The City has elected to use the first definition, *annual income as defined at [24 CFR 5.609](#)*¹¹, otherwise known as Part 5 Income.

All calculations of household annual incomes are adjusted by household size and subject to applicable income exclusions¹².

V. CALCULATION

The City calculates annual income utilizing the *CPD Income Eligibility Calculator* provided by HUD and available online at

[CPD Income Eligibility Calculator and Income Limits - HUD Exchange](#)

All staff calculating annual income for clients of HOME, CDBG or NSP programs are required to utilize the HUD *CPD Income Eligibility Calculator* and include documentation evidencing that calculation in the client's file.

The City is required to calculate the annual income of the household by projecting the prevailing rate of income of the household at the time the City demonstrates that the household is income eligible.¹³ Annual income shall include income from all household members. Income of asset enhancement derived from the HOME-assisted project shall not be considered in calculating annual income.

⁷ 24 CFR §92.1, *Overview*

⁸ 24 CFR §570.208(a), *Criteria for national objectives.*

⁹ <https://www.hudexchange.info/programs/nsp/nsp-eligibility-requirements/>

¹⁰ <https://www.huduser.gov/portal/datasets/il.html>

¹¹ 24 CFR 92.203(b)(1)

¹² 24 CFR 5.611

¹³ 24 CFR §92.203(d)(1)

All households that receive federal assistance must be income-eligible at the time assistance is provided. Income verification must be dated no earlier than six months prior to receipt of assistance.¹⁴

VI. GUIDANCE

The *Technical Guide for Determining Income and Allowances for the HOME Program* should be utilized as resource and the standard for the following:

- Determining whose income to count
- Anticipating income
- Verifying income
- Assessing Information
- Comparing annual income to published income limits
- Timing of income certifications (subsequent income determinations)

For the initial income determination, source documents are required and must be included in the client's file.¹⁵ The City requires the applicant to provide at least three consecutive months of source documents evidencing income for the household. Applicants may be required to provide additional documentation as requested.

For subsequent income determinations during the period of affordability, the City may use any one of the following three methods:

- Examine the source documents evidencing annual income for the household¹⁶
- Obtain from the household a written statement of the amount of the household's annual income and household size, along with a certification that the information is complete and accurate. Certification must indicate that source documents will be provided upon request¹⁷
- Obtain a written statement from the administrator of a government program under which the household receives benefits and that examines the household income annually. The statement must indicate the household size or provide the current income limit for the program along with a statement that the household's income does not exceed that limit.¹⁸

VII. LINKS

CDBG Income Limits

<https://www.hudexchange.info/resource/5334/cdbg-income-limits/>

CPD Income Eligibility Calculator

<https://www.hudexchange.info/incomecalculator/>

¹⁴ *Technical Guide for Determining Income and Allowances for the HOME Program, 3rd Edition, January 2005, page 8*

¹⁵ 24 CFR §92.203(a)(1)(i), *Income determinations*

¹⁶ *Ibid.* page 8

¹⁷ *Ibid.* page 9

¹⁸ *Ibid.* page 9

HOME Income Limits	https://www.hudexchange.info/programs/home/home-income-limits/
NSP Income Limits	https://www.hudexchange.info/resource/3680/nsp-income-limits/
Technical Guide for Determining Income and Allowances for the HOME Program	https://www.hudexchange.info/resource/786/technical-guide-for-determining-income-and-allowances-for-the-home-program/

Appendix C: HOME Match Requirements

The HOME Program requires the City to provide a minimum match of 25% of the total HOME funds drawn for project costs, which is called a match liability. This must be satisfied by the end of each Federal fiscal year. The matching contribution adds to the resources available for HOME-assisted projects, and must come in the form of a permanent contribution to affordable housing. Contributions are credited on a fiscal year basis at the time the contribution is made. The project must meet a 25% HOME matching requirement of contributions made from non-federal resources and may only be in the form of one or more of the following:

- Cash contributions from nonfederal sources
- Forbearance of State/Local taxes, charges, and fees
- Donated real property
- Cost, not paid with federal resources, of on-site infrastructure that the participating jurisdiction documents are directly required for HOME-assisted projects
- Proceeds from single family affordable housing project bond financing validly issued by a State or local government, or an agency or instrumentality of a State or local government or a political subdivision of a State and repayable with revenues from the affordable housing project
- Reasonable value of donated site-preparation and construction materials, not acquired with federal resources
- Reasonable rental value of the donated use of site preparation or construction equipment
- Value of donated or voluntary labor or professional services in connection with the provision of affordable housing
- The value of sweat equity provided to a homeownership project, under an established component of a participating jurisdiction's program, up until the time of project completion
- The direct cost of supportive services provided to families residing in HOME-assisted units during the period of affordability. Examples include: case management, mental health services, assistance with the tasks of daily living, substance abuse treatment and counseling, day care, job training, and counseling
- The direct cost of homebuyer counseling services provided to families that acquire properties with HOME funds, including ongoing counseling services provided during the period of affordability

All affordable rental and homeownership housing developments funded by the HOME program are required to document the 25% match for the purposes of the HOME Program.

See Notice CPD- 97-03 for more information on HOME Program Match Guidance at:
<https://www.hudexchange.info/resources/documents/Notice-CPD-97-03-HOME-Program-Match-Guidance.pdf>

Appendix D: Resale/Recapture Requirements for Homebuyer Activities

OVERVIEW

The primary purpose of the HOME Investment Partnerships Program (HOME) is to “expand the supply of decent, safe, sanitary, and affordable housing.” When HOME funds are used for homebuyer activities, an affordability period is imposed. This requirement ensures that HOME funds are invested in activities that yield affordable housing over a long term period. The sale or transfer of ownership of the property may trigger the use of recapture or resale options available under the Code of Federal Regulations (CFR).

DEFINITIONS

Affordability Period:

This is the period of time that a property must be occupied by qualified income eligible individuals or households as a condition upon accepting HOME program funds for homebuyer activities. During this period, the property must serve as principal residence of the qualified homebuyer. The homebuyer activities may include the acquisition of the single-family property and/or the rehabilitation of an owner-occupied single-family property. The period of affordability is based on the total amount of HOME funds invested.

The affordability periods are defined in the 24 CFR 92.254 as shown in TABLE A:

TABLE A: HOMEOWNERSHIP AFFORDABILITY PERIODS	
Total HOME Program Funds Provided for Assistance per Unit	Minimum Period of Affordability in Years
Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15

Affordability periods on HOME assisted units begin when the project meets the definition of project completion at 24 CFR 92.2, including that the activity status has been changed to “Completed” in IDIS.¹

Direct Homebuyer Subsidy (DHS):

A direct subsidy consists of any financial assistance that reduces the purchase price from fair market value to an affordable price, or otherwise directly subsidized the purchase (e.g. down payment or closing cost assistance, subordinate financing, etc.)

Development Subsidy:

A development subsidy is the difference between the cost to develop the housing and the market price.

Example: The City might provide a \$50,000 construction loan to a developer. The appraised value after construction will be \$45,000 because of the neighborhood and market conditions. The \$5,000 difference, between the \$45,000 sale price and \$50,000 construction loan is not repaid to the City and represents a development subsidy provided to the developer. While the subsidy does not go directly to the homebuyer, it helps make the development of an affordable home feasible.

Recapture Option:

This is a mechanism allowed by HUD for the City to recapture all or a portion of the HOME funds provided to the homeowner in the form of a direct homebuyer subsidy. The homeowner is allowed to sell the property to any buyer at whatever market price.

Resale Option:

This is an option allowed by HUD for the City to ensure the affordability of a home by requiring the homeowner to sell or transfer ownership to another qualified low-income individual.

Net Proceeds:

The sales prices minus the loan repayment (other than HOME funds) and closing costs.

OPTIONS ADOPTED BY THE CITY OF SAN ANTONIO

The City, as the participating jurisdiction, has the authority to adopt various options for the HOME program to continue to fulfill its purpose of affordable housing successfully. The City employs both the **recapture** and **resale** options depending on the type of subsidy assistance provided. These options ensure that the City is able to recover all or a portion of the HOME investment amount provided to the homebuyer should the property cease to serve as the principal residence for the duration of the required affordability period.

RECAPTURE OPTION

The City's recapture option is applicable to all homebuyer activities that use HUD HOME funds. The HOME funds may be used as either a direct homebuyer subsidy (DHS) or combined with a development subsidy. Recapture provisions cannot be used when a project receives only a development subsidy and is sold at fair market value, because there is no direct HOME subsidy to recapture from the homebuyer. Instead, resale provisions must be used.² The entire HOME investment amount shall be reduced by the City as determined on a pro-rata basis for the amount of time the homeowner owned and occupied the property measured against the entire affordability period. This is known as a forgivable period. A portion of the HOME subsidy will be forgiven annually upon the anniversary of the closing date. For example, 1/5 (20%) of the HOME subsidy will be forgiven each year during a five year affordability period on the anniversary of the closing date. The loan period will always match the affordability period.

The City shall determine the amount of HOME investment funds to be recaptured using a **shared net proceeds basis**. The maximum recapture amount by the City will be equal to the HOME subsidy, multiplied by one minus the pro-rata basis percentage.

$$\text{HOME Subsidy} \times (1 - \text{Pro-Rata Basis \%}) = \text{Maximum Recapture Amount}$$

Ex. DHS and/or Development

Example: The following is one example of how the recapture amount is calculated.

- HOME Investment Funds Provided via Subsidy equals \$30,000
- Sale of the property conducted at the end of year six (6) in a ten (10) year affordability period.
- The owner down payment was \$10,000.
- Superior private debt was \$150,000.
- The City forgives 10% for each year of the ten (10) year affordability period.
- The owner has closing costs of \$5,000.

1. Net Proceeds Calculation	
\$175,000	Proceeds from the sale
- \$150,000	Superior private debt
- \$5,000	Owner's Closing Costs
\$ 20,000	Net proceeds to homeowner

2. Recapture Amount Calculation (Based on Subsidy)	
\$30,000 x 10% = \$3,000	Yearly forgivable amount
6 years x \$3,000 = \$18,000	Total forgivable amount at time of sale
\$30,000 - \$18,000 =	
\$12,000	Recapture amount owed to The City

3. Amount to Recapture	
\$20,000	Net proceeds to homeowner
-	
\$12,000	Recapture amount due to City
\$ 8,000	Owner retains from sale*

*In the event the net proceeds are insufficient to cover the remaining HOME subsidy, the City shall recapture the lesser of either:

- The actual balance owed on the subsidy, OR
- The remaining balance according to the affordability period

The City shall recapture any and all of the net proceeds. However, the City is never permitted to recapture more than what is available from the net proceeds of the sale.

Under this option, the amount subject to the affordability period includes:

- The amount provided directly to, or on behalf of, the homebuyer (including down payment, closing costs, and/or direct loan) PLUS
- Any HOME assistance that lowers the cost of the home below market price (i.e. the difference between the market value of the home and the actual sales price.)

RESALE OPTION

The City shall require the use of a resale option only in the event that a development subsidy is used to make the property affordable. For properties where both a development and direct homebuyer subsidy are provided, the recapture option will apply. The resale option requires the homeowner to sell the property to another low-income homebuyer. This option requires the resale price provide the original HOME-assisted owner a fair return on investment and ensure the property will remain affordable to a reasonable range of low-income homebuyers as defined below. Please note that both definitions relate only to the resale option.

- **Fair return on investment**

A fair return on investment includes the homebuyer’s investment and any capital improvements. The value of capital improvements is defined as the actual, documented costs of permanent structural improvements or restoration of the property that enhances or increases the useful life of the property such as a kitchen renovation or bathroom upgrades, . The actual costs of the capital improvements must be documented with receipts, cancelled checks, or other documents acceptable to the City. The City shall consider a fair return on investment achieved when the original homebuyers receives from the sale a percentage return on investment based on the change in the Median Sales Price for the San Antonio- New Braunfels Metropolitan Statistical Area, as published periodically by HUD with the HOME Homeownership Value Limits.

$$\left(\begin{array}{c} \text{Initial Investment} \\ + \\ \text{Value of Improvements} \end{array} \right) \times \left(\frac{\text{Current Median Sales Price}}{\text{Median Sales Price at Original Home Purchase}} \right) = \text{Fair Return}$$

The City has defined a fair return on investment according to TABLE B.

TABLE B: FAIR RETURN ON INVESTMENT		
AFFORDABILITY PERIOD		
	Max Limit	Current (as of the sale date) Affordable Home Price as set forth by HUD in the annual publication of the HOME Homeownership Value Limits.
Years 1 to 5		
Years 6 to 15		
	Max Limit	Current (as of the sale date) Affordable Home Price as set forth by HUD in the annual publication of the HOME Homeownership Value Limits.

For example, in 2012 an eligible homebuyer purchases a property that has received a HOME development subsidy and is subject to Resale Provisions. The homebuyer provides \$2,000 for a down payment and in 2014 spends \$5,000 to remodel the kitchen. In 2016, the homeowner sells the property. The 2012 median sales price for the area was \$152,000 and in 2016 the median sales price for the area is \$164,000. In this example, the fair return on investment is \$7,553.

<i>Fair Return on Investment</i>	<i>Investment + Capital Improvements</i>		<u><i>Median Sales Price - C</i></u> <i>Median Sales Price - O</i>
	(\$2,000 + \$5,000)	X	<u>\$164,000</u> \$152,000
\$7,553	\$7,000	X	107.89%

Median Sales Price – C *Current Median Sales Price*
Median Sales Price – O *Median Sales Price at Time of Original Purchase*

Affordability to a reasonable range of low-income homebuyers

This affordability is determined by two conditions:

1. That which is affordable to a family earning between 60% and 80% of the Area Median Income (AMI) and below, and
2. Who do not pay more than 30% of their gross income for Principal, Interest, Tax and Insurance (PITI).

Resale requirements shall be imposed with the use of deed restrictions, covenants running with the land, and other similar mechanisms.

The period of affordability specified in the mortgage will be the minimum period for the project as specified in TABLE B.

In addition to the homebuyer receiving a fair return on investment, the housing must be continue to affordable to LMI potential homebuyers. If the resale price of the home is not affordable to subsequent homebuyers, the City of San Antonio may be required to provide additional assistance to that homebuyer.²

Period of Affordability Under Resale Provisions

Under resale, §92.254(a)(5)(i) of the HOME rule states that the period of affordability is based on the *total* amount of HOME funds invested in the housing. In other words, the total HOME funds expended for the unit determines the applicable affordability period. Any HOME program income used to assist the project is included when determining the period of affordability under a resale provision.²

Period of Affordability Under Recapture Provisions

For HOME-assisted homebuyer units under the recapture option, the period of affordability is based upon the *direct HOME subsidy* provided to the homebuyer that enabled the homebuyer to purchase the unit. Any HOME program income used to provide direct assistance to the homebuyer is included when determining the period of affordability.²

I. APPLICABILITY

A single-family property that is purchased with HOME program funds is subject to recapture or resale options if the property is sold or ownership is transferred within the affordability period. TABLE C is a summary of the available subsidies provided by the City and the applicable affordability options:

TABLE C: APPLICABILITY	
Subsidy Type	Affordability Options
Direct Homebuyer Subsidy (DHS)	Recapture option shall apply
DHS + Development Subsidy	Recapture option shall apply
Development Subsidy	Resale option shall apply

Options must be detailed and outlined, in accordance with 24 CFR 92.254, in marketing brochures, written agreements, and all legal documents with the homebuyer. The resale or recapture option must be described, including the distribution of net proceeds and treatment of appreciation, in the written agreement between the City and the homebuyer at the time of the initial assistance. Recapture **OR** resale options may be used but the options cannot be combined (“hybrids”) within a single project.

¹ – Building HOME, Chapter 9, September 2014

² – Notice: CPD 12-003

Appendix E: Optional Relocation Assistance Policy

The City of San Antonio (the City) may provide optional relocation assistance to households who are voluntarily displaced or temporarily relocated by an activity that is not required by either the Uniform Relocation Act or section 104(d) relocation assistance. Households involuntarily displaced will be compensated in accordance with the Uniform Relocation Act or section 104(d).

Relocation payments and assistance will be carried out under the City's CDBG and HOME programs as an eligible expense from project funds. Assistance shall be subject to the availability of grant funds and U.S. Department of Housing and Urban Development (HUD) implementing regulations. This Policy will be modified to meet any change in rules and regulations of HUD which may occur over time.

Regulatory information regarding optional relocation can be found at 24 CFR 92.353(d) and 24 CFR 570.606(d) respectively.

Eligibility Criteria

1. An eligible person is the owner and occupant of a single family detached dwelling who has applied for rehabilitation or reconstruction assistance of the dwelling occupied by the applicant owner, has been determined eligible under the City's Owner Occupied Rehabilitation and Reconstruction program requirements, and has been accepted for the program; and
2. Based on the determination of the City, the homeowner is required to vacate the dwelling and remove all personal property from the dwelling during the rehabilitation or reconstruction (and/or lead based paint abatement).

Income Requirements

Eligible residential applicants may be approved to receive assistance under this policy if the gross household income is at or below 80% of the median area income.

Terms of Assistance

Reimbursement of a portion of moving expenses will be available to eligible applicants to assist with the cost of temporary housing. Assistance will be based on the number of rooms of furniture that must be moved, excluding bathrooms, closets, and hallways, The City will follow the move payment schedule adopted by the Texas Department of Transportation. If determined reasonable and necessary by the City, storage of personal property is allowed for a period not to exceed twelve months and shall not exceed \$2,000.

Recordkeeping

Complete records, files, documents and justification for any payment made pursuant to this Policy shall be maintained in accordance with 24 CFR 570.506 and 24 CFR 92.508.

Appendix F: Lead Based Paint Requirements CPD Monitoring Handbook 6509.2, Attachment 24-2, 02/2017

SUMMARY OF CPD's LEAD REQUIREMENTS FOR TARGET (MOST PRE-1978) HOUSING UNDER 24 CFR PART 35			
Subpart of Rule/ Type Program	Owner/Landlord Requirements^{1, 2, 3}	Participant Monitoring Requirements	HUD Program Monitoring Requirements⁶
A Lead Disclosure Rule	<ul style="list-style-type: none"> · Federal lead information pamphlet · Lead Warning Statement · Disclose knowledge, records and reports about LBP and its hazards to potential buyers or lessees. · Opportunity for buyer to conduct evaluation. 	If participant is the buyer or lessor, provide evidence of compliance with Lead Disclosure Rule.	OHHLHC and EPA are both responsible for ensuring compliance with Lead Disclosure Rule. OLHCHH has primary role for HUD-assisted/-owned housing.
B General Requirements and Definitions	<ul style="list-style-type: none"> · Definitions. · Exemptions.⁴ · Notice to occupants of evaluation and hazard reduction activities, if performed. · Pamphlet, if not previously provided. 		
J Rehabilitation Assistance:			
For all Properties	<ul style="list-style-type: none"> · Provision of EPA-HUD renovation pamphlet. · Paint testing of surfaces to be disturbed, or presume LBP. · Notice to occupants of evaluation for paint testing or presumption. · Lead safe work practices during rehabilitation and lead hazard reduction. · Notice to occupants of lead hazard reduction including clearance · For HOME, ongoing LBP maintenance, and response to child under age 6 with EIBLL. 	Evidence of compliance with the Lead Safe Housing Rule, and if participant is a buyer or seller, provide evidence of compliance with the Lead Disclosure Rule.	Program must ensure that Participant documents proper performance under agreement with respect to Lead Safe Housing Rule and Lead Disclosure Rule (see above).

SUMMARY OF CPD's LEAD REQUIREMENTS FOR TARGET (MOST PRE-1978) HOUSING UNDER 24 CFR PART 35			
Subpart of Rule/ Type Program	Owner/Landlord Requirements^{1, 2, 3}	Participant Monitoring Requirements	HUD Program Monitoring Requirements⁶
1. Property receiving less than or equal to \$5,000 per unit federal rehabilitation assistance	<ul style="list-style-type: none"> · Paint testing · Repair disturbed paint. · Clearance of the worksite 		
2. Property receiving more than \$5,000 and up to \$25,000 per unit	<ul style="list-style-type: none"> · Risk assessment. · Interim controls. · Clearance of the unit (and common area, if worked on) 		
3. Property receiving more than \$25,000 per unit	<ul style="list-style-type: none"> · Risk assessment. · Abatement of LBP hazards. · Clearance of the unit (and common area, worked on) 		
K Acquisition, Leasing, Support Services, or Operation	<ul style="list-style-type: none"> · Provision of pamphlet if not previously provided. · Visual assessment. · Option of paint testing and notice to occupants of evaluation. · Paint stabilization. · Notice to occupants of lead hazard reduction including clearance. · Ongoing LBP maintenance. 	Provide evidence that Owner /Landlord complies with Lead Safe Housing Rule and if participant is a buyer or seller, Lead Disclosure Rule.	Program must ensure Participant documents proper performance under agreement with respect to Lead Safe Housing Rule and Lead Disclosure Rule (see above).

SUMMARY OF CPD's LEAD REQUIREMENTS FOR TARGET (MOST PRE-1978) HOUSING UNDER 24 CFR PART 35			
Subpart of Rule/ Type Program	Owner/Landlord Requirements ^{1, 2, 3}	Participant Monitoring Requirements	HUD Program Monitoring Requirements ⁶
M Tenant-Based Rental Assistance for units to be occupied by children under 6 years of age	<ul style="list-style-type: none"> · Provision of pamphlet if not previously provided. · Visual assessment. · Paint stabilization. · Notice to occupants of lead hazard reduction including clearance. · Ongoing LBP maintenance. · Response to child under age 6 with EIBLL.⁵ 	Provide evidence that Owner/Landlord complies with Lead Safe Housing Rule and if participant is lessor, the Lead Disclosure Rule (see above).	<p>Program must ensure Participant documents proper performance under agreement with respect to Lead Safe Housing Rule and Lead Disclosure Rule (see above).</p> <p>Program must provide evidence of capacity to respond to report of child poisoning.</p>

NOTES:

- ¹ Clearance, safe work practices and occupant protection are always required after abatement, interim controls, paint stabilization, or standard treatments, except when the amount of deteriorated paint is below the de minimis levels specified in Subpart R of the rule (24 CFR 35.1350(d)).
- ² Notice to occupants must include results of evaluations (paint testing, inspection, and risk assessment) and clearance, where applicable.
- ³ Training requirements (see www.hud.gov/lead for information; see www.epa.gov/lead about certification):
 - Evaluation includes inspection, paint testing and risk assessment
 - Visual assessment: Web-based or instructor-led HUD visual assessment course or risk assessment certification.
 - Inspection: Lead-based paint (LBP) inspection certification.
 - Risk assessment, or re-evaluation: Risk assessment certification.
 - Clearance: LBP inspection or risk assessment certification, or sampling technician course.
 - Hazard control (other than small (“de minimis”) amounts of paint disturbance – see 24 CFR 35.1350(d) about this exception):
 - Repair of paint, paint stabilization, or interim control: Lead-safe work practices course.
 - Abatement: Abatement worker, supervisor and firm certification. (Applies to all amounts of abatement, even de minimis)
- ⁴ See 24 CFR 35.115 for exemptions.

- ⁵ Environmental Intervention Blood Lead Level: At least 20 micrograms of lead per deciliter of blood ($\mu\text{g}/\text{dL}$) for a single confirmed (venous blood) test of a child under age 6, or 15-19.9 $\mu\text{g}/\text{dL}$ in two confirmed tests taken at least 3 months apart of such a child.
- ⁶ Field Office monitoring areas of interest: Covered program responsibility, partnerships, information management (monitoring, data processing, tracking), reporting and responding, and resources.

Appendix G: Environmental Review Requirements

Overview

The National Environmental Policy Act of 1969 (NEPA) requires all federal agencies to adopt a systematic interdisciplinary approach to decision-making to ensure environmental values are considered. The U.S. Department of Housing and Urban Development (HUD) is one of the federal agencies that must comply with NEPA as applicable by 24 CFR Part 58. This compliance is extended downward to all recipients of HUD funding which includes the City of San Antonio also known as the Responsible Entity (RE). In this capacity, the RE is responsible for ensuring that the environmental review process is satisfied before federal funds are committed to a specific project site. The City receives HUD funding via multiple programs including the Community Development Block Grant (CDBG), HOME Investment Program (HOME), and Neighborhood Stabilization Program (NSP). Any project that the City funds with federal funds must comply with NEPA. This compliance requirement is satisfied with the completion of an environmental review.

Purpose

The primary objective of the environmental review is to identify specific environmental factors that may be encountered at a potential project site and to develop procedures that address the environmental consequences and actions that can protect, restore, and enhance the human environment (i.e. the natural, physical, social, and economic environment). All HUD funded projects and activities are required to have an Environmental Review Record (ERR) completed prior to the commitment of funds. The ERR must use the appropriate review format issued by HUD.

The environmental review was designed around the following factors:

- Make decisions based on understanding of environmental consequences before the final decision to move forward on a project is made.
- Ensure environmental information is made available to public officials and citizens before decisions are made and actions taken.
- Consider reasonable alternatives and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.
- Required by 24 CFR Part 58
- Secures the value of the public investment

Levels of Review

- **Exempt Activities, 24 CFR §58.34(a)**
These reviews do not require compliance with any other federal laws or authorities cited in §58.5 but must comply with the applicable requirements of §58.6. Examples of qualified activities include, but are not limited to: environmental and other studies; information and financial services; administrative and management activities; engineering or design costs; and technical assistance or training.
- **Categorical Exclusions Subject to §58.5, 24 CFR §58.35(a)**
These reviews are categorically excluded under NEPA, but may be subject to review under authorities cited in §58.5. Examples of qualified activities include, but are not limited to: acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and

improvements (other than buildings); special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons; and rehabilitation of buildings and improvements.

- **Categorical Exclusions Not Subject to §58.5, 24 CFR §58.35(b)**

These reviews are categorically excluded under NEPA and have been determined by HUD to not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in §58.5. Examples include, but are not limited to: tenant-based rental assistance; supportive services; operating costs; and economic development activities.

- **Environmental Assessment (EA), 24 CFR §58.36**

If the activity is not determined to fit under the first three types of environmental reviews, then it will require the preparation of an Environmental Assessment. Examples include, but are not limited to: new construction of housing, infrastructure, or facilities; and acquisition of land for the development of a housing subdivision.

- **Environmental Impact Statement (EIS), 24 CFR §58.37**

An environmental impact statement (EIS) is required when the activity is determined to have a potentially significant impact on the human environment. Examples include, but are not limited to: construction of hospitals or nursing homes containing 2,500 beds or more; demolition, conversion, or substantial rehabilitation of 2,500 housing units or more; and additional water and sewer capacity.

Procedure

The environmental review procedure can be summarized in seven steps:

1. Define the project by considering the entire scope and budget. If HUD funds are only a portion of the budget, the environmental review process is still mandated.
2. Determine the level of review required by the project's scope of work.
3. Prepare the Environmental Review Record (ERR) internally by City staff or externally via a consultant using the HUD appropriate review format issued by HUD.
4. Provide supporting evidence and all relevant documents as required by HUD such as special studies, maps, plans, photographs, testimony, interviews, other agency reviews, and written observations from site visits.
5. Upload the ERR into HUD Environmental Review Online System (HEROS), HUD's comprehensive, online environmental review tool.
6. Publish any required notices to advise the public of the proposed activity and allow public comments. This may include a Notice of Intent to Request a Release of Funds or a Finding of No Significant Impact (FONSI).
7. Preparation and submission of the Request for Release of Funds (RROF) to HUD through HEROS.
8. Approval of the Environmental Review Record.
9. Compliance with record-keeping requirements of the Environmental Review Record.

All Environmental Reviews must be prepared by a City-approved environmental consultant. Consultants must have HEROS access and must have completed HUD HEROS training.

Additional Resources

- Link to the City's Environmental Review Policy, Procedures, and Standards
<https://www.sanantonio.gov/Portals/0/Files/GMA/policies/Environmental%20Review%20Procedures%20San%20Antonio.pdf>

Appendix H: Universal Design Guidelines

Any person or entity receiving financial assistance from the City, State, or other Federal funds administered by the City for the construction of new single family homes, duplexes, or triplexes, construction of the units shall be in accordance with *Chapter 6, Buildings, of the City Code of San Antonio*, which includes *Article XII. Universal design and construction requirements*. This information is available online at:

- [Chapter 6, Buildings, of the City Code of San Antonio](https://library.municode.com/tx/san_antonio/codes/code_of_ordinances?nodeId=PTIICO_CH6_BU)
https://library.municode.com/tx/san_antonio/codes/code_of_ordinances?nodeId=PTIICO_CH6_BU
- [Article XII. Universal design and construction requirements](https://library.municode.com/tx/san_antonio/codes/code_of_ordinances?nodeId=PTIICO_CH6_BU_ARTXIIUNDECORENESIFAHODUTRBUFUADSAAN)
https://library.municode.com/tx/san_antonio/codes/code_of_ordinances?nodeId=PTIICO_CH6_BU_ARTXIIUNDECORENESIFAHODUTRBUFUADSAAN

Design Guidelines

All builders and developers of infill housing are strongly encouraged to incorporate the defining features of a neighborhood into newly constructed infill houses. Those defining features of older inner city neighborhoods may include: roof pitches, porches, materials, and window types. Developers must comply with any standards established by an existing neighborhood conservation district and/or approved neighborhood plan.

For infill projects supported with federal funds, developers will be required to demonstrate that the neighborhood association near the land to be developed has been consulted regarding design issues. Developers should obtain input and feedback from the neighborhood residents and work with them to ensure that designs are compatible with existing housing and development patterns.

Infill is defined as the use of land within a built-up area for further construction. The definition includes, but is not limited to:

- The reuse and repositioning of obsolete or underutilized buildings and sites.
- Development that occurs on previously developed land. Infill buildings are constructed on vacant or underutilized property or between existing buildings
- The insertion of additional housing units into an already approved subdivision or neighborhood. These can be provided as additional units built on the same lot, by dividing existing homes into multiple units, or by creating new residential lots by further subdivision or lot line adjustments. Units may also be built on vacant lots.

In cases where an agreement cannot be reached between the developer and local neighborhood groups federal funding may be pulled from the project.

Specific design guidelines may be developed for certain City sponsored projects. Historic and neighborhood conservation district requirements must also be met for all projects.

For rehabilitation projects, builders and developers are strongly encouraged to retain the defining features of older structures. This applies to multi-family and single-family projects.

Appendix I: Underwriting and Subsidy Layering Policy for Affordable Housing Development Activities

The underwriting and subsidy layering requirements listed in this policy are applicable to Affordable Housing Development Activities.

Underwriting involves the analysis of project assumptions and risks to determine if the public investment is reasonable and the project can be expected to meet all applicable program requirements during the period of affordability. Subsidy layering is a component of project underwriting, which involves assessing whether the proposed level of HOME and/or CDBG assistance is appropriate given the level of project investment by other financing sources. This assessment may be completed by a third party contractor who will ensure compliance with HUD requirements, along with the City's policies.

I. MARKET ASSESSMENT

Before committing funds to a project, an assessment of the current market demand in the neighborhood in which the project will be located must be submitted. The assessment must address the demand for the type and number of all housing units being developed, not just those designated as HOME or CDBG assisted.

A market assessment should include:

- Evaluate general demographic, economic, and housing conditions in the community.
- Delineate the market area by identifying the geographic area from which the majority of a project's tenants or buyers are likely to come. This may or may not coincide with census tract or neighborhood boundaries.
- Quantify the pool of eligible tenants or buyers in terms of household size, age, income, tenure (homeowner or renter), and other relevant factors. Not all residents of the market area are potential or likely tenants or buyers of any given project.
- Analyze the market competition by evaluating other housing opportunities with an emphasis on other affordable rental developments or sales opportunities in the market area, including those financed through either the HOME/CDBG program or other federal programs.
- Assess the market for the planned units and determine if there is sufficient demand to sell the HOME-assisted housing within nine months of construction completion (§92.254(a)(3)) or to rent the HOME-assisted housing within 18 months of project completion (§92.252). CDBG does not have statutory requirements for sell or rent deadlines.
- Evaluate the effective demand and the capture rate, usually expressed as a percentage (the project's units divided by the applicant pool). The capture rate is the percentage of likely eligible and interested households living nearby who will need to rent units in the proposed project in order to fully occupy it. The lower this rate, the more likely a project is to succeed.
- Estimate the absorption period. Plan how many units can be successfully leased or sold each month and how long it will take to achieve initial occupancy/sale of the HOME or CDBG units and stabilized occupancy for the project as a whole.

The City may accept the independent market study prepared for another funder if the study meets the requirements as outlined above. However, the City will review any market studies or assessments and make its own conclusions about the likelihood of project success.

II. DEVELOPER CAPACITY ASSESSMENT

Developer capacity includes (1) the experience and the capacity of the developer (including the entity staff and project team) to implement the project and (2) the fiscal soundness of the developer to meet its financial obligations and risks of the project.

Experience: The assessment must show the experience of the developer by determining whether the developer has the technical and managerial experience, knowledge, and skills to successfully complete the development. Both prior experience and the current capacity of the organization will be included in the assessment. The City will take into account:

- The corporate or organizational experience of the development entity;
- The experience of the staff assigned to the project and overall quality of the development team; and
- The prior experience of the individuals compared to their roles in the proposed project.

For rental projects, a developer/owner needs specific skills and capacity including property management, asset management, service provision (as applicable), and special financing skills.

For homebuyer projects, the development team must demonstrate its capacity to market and sell the units. This may involve the addition of a realty professional to the team, or evidence that in-house staff have the capability to oversee the advertising, unit showing, intake, and processing of potential buyers. For CHDO activities, the City must certify that the CHDO has paid staff with experience relevant to the proposed project and role of the CHDO.

Financial Capacity: The City will examine whether the developer has the financial capacity necessary to complete the proposed project. This includes:

- Adequate financial management systems and practices; and
- Sufficient financial resources to carry the project to completion or through initial lease-up, as the case may be.

When determining whether the developer has the financial capacity to undertake the project, the City will examine financial statements and audits to determine the developer's net worth, portfolio risk, pre-development funding, and liquidity.

III. PROJECT REVIEW

The City must evaluate a proposed project to ensure that funds are invested such that the project is likely to succeed over time. To verify this the City will assess all of the assistance that has been, or is expected to be, made available to that project, and take into account all the factors relevant to project feasibility, which may include, but are not limited to: total development costs and available funds; impacts of HOME restrictions such as eligible costs, maximum subsidy limits, cost allocation, and rent/utility allowance limitations; rates of return to owners, developers, sponsors, or investors; resale or recapture limitations for homebuyer projects; and the long-term needs of rental projects and tenants. In order to assess and underwrite the project, the City will review a sources and uses statement; and an operating pro-forma. For homebuyer development projects, the pro-forma will take the form of a sales and revenue plan.

A. SOURCES AND USES OF FUNDS

Sources

All financing sources must be in place before any commitment of federal funds to a project. The City may request the following for all project sources:

- Firm commitment letters with all terms and conditions for all mortgages, grants, bridge (interim) loans and investment tax credits (historical, low-income, if applicable);
- If the applicant is a partnership or limited liability corporation, a copy of the partnership agreement or operating agreement, which will indicate the cash contributions by the partner(s) or member(s); and
- If equity is committed by the developer or owner(s), evidence of available equity funds.

As part of the project sources review, a subsidy layering analysis will be completed to determine that the total amount of federal funding is reasonable and necessary.

In the case of projects with Low Income Housing Tax Credit (LIHTC), the project must have received a reservation from the Housing Credit Allocator (e.g., State Housing Finance Agency) and be able to provide a good faith offer of equity investment from an investor prior to the issuance of a HOME commitment.

Uses

Uses are the project costs that are budgeted to be paid during the development phase. The City will review all costs of the project because the determination of the amount of federal assistance needed is based on the gap between uses and other sources. Even costs not being paid with federal funds must be necessary and reasonable, as the inclusion of excessive costs inflates the apparent need for public subsidy in a project. The City will request and review documentation showing:

- Detailed breakdown of costs, including all hard and soft costs of the project, and review documentation or explanations of the basis of the calculation;
- Project budgets which include sufficient itemized detail to evaluate not only the sufficiency of the budget but also to evaluate whether project costs are reasonable both on a line item basis and in the aggregate; and
 - Additional documentation, a second opinion and/or reference from the appropriate source (i.e., another construction cost estimator, another architect or lawyer).
 - Note that for projects with tax credits to be sold, the proceeds from the sale of these credits must be identified as a source of funding.

In addition, the City will request and review documentation for all line item costs in the budget, including:

- Acquisition documentation, such as purchase agreement, option or closing statement and appraisal or other documentation of value;
 - Acquisition Costs: Please refer to related third party appraisal section in this Policy.
 - Acquisition-Related Costs: There will be a maximum 24-month look-back from the date that the City funds were committed to the Project. The City commitment expressly permits inclusion of specific acquisition-related costs. The following costs can be requested and considered by the City for inclusion in the project budget:

- Relocation
- Lender financing fees
- Credit reports
- Title binders and insurance
- Surety fees
- Recordation fees, transaction taxes
- Legal and accounting fees
- Appraisals
- Architectural/engineering fees for plans and specifications
- Environmental reviews
- Affirmative marketing
- Purchase Price: The City will underwrite the acquisition cost based on the lesser of the option/purchase agreement purchase price or the appraised value of the property.
 - For a related-or affiliated-party transaction that occurs within three years of a previous arms-length third-party transaction, the City's underwritten acquisition cost will be based upon the lesser of the previous third-party transaction's purchase price, with no adjustment for appreciation or depreciation, or the appraised value of the property following selection for funding.
- Construction cost estimate, construction contract or preliminary bid(s);
 - A construction contingency is required whenever the City is funding its loan before the completion of construction:
 - For new construction developments, a minimum of 3% construction contingency, subject to the City review, is required. A construction contingency of up to 7%, subject to City review, may be allowed provided the need for additional contingency is documented and supported.
 - For rehabilitation developments, a minimum of 7% construction contingency, subject to City review, is required. A construction contingency of up to 15%, subject to City review, may be allowed provided the need for additional contingency is documented and supported.
 - Federal funds may not be budgeted as contingency funding.
- Contracts, quotes or other agreements substantiating key professional costs and the basis for estimating other soft costs and working capital items, including capitalized reserves;
- Agreements governing the various reserves which are capitalized at closing (to verify that the reserves cannot be withdrawn later as fees or distributions);
- A third-party appraisal (to substantiate the value of the land and the value of the property after rehabilitation or the structure being built);
- Projects Receiving City First Mortgage Acquisition Financing: Prior to a funding commitment, the borrower must provide a completed Appraisal Request Form for City-Ordered Appraisals by the date specified in the City's notice of funding award, unless the development is exempt from the appraisal requirement as described below. The establishment of the submission date will take into account the applicable funding source commitment deadline and the Borrower's project timeline.
- Developments exempt from the prior to commitment appraisal requirement:
 - Acquisition price under \$100,000
 - Land only where there is no identity of interest. Identity of interest is used broadly to include non-arm's length transactions, related-party transactions, etc.

- Single family homes (1-4 family structures) that are aggregated under one loan
- The Borrower has provided a Market Study
- The Project is HUD 202 or HUD 811 with a funding reservation
- Note: Whenever, a project is exempt under one of the above provisions, the City will use assessed value unless the borrower requests an appraisal for determining acquisition cost as defined in these Underwriting Standards.
- Appraisals ordered by the Borrower will not be accepted. All appraisals must be ordered by the City, HUD or a designated HUD MAP lender, Fannie Mae or a designated Fannie Mae Delegated Underwriter Services (DUS) lender or a regulated financial institution.
- The cost of appraisals must be borne by the Borrower. All costs incurred for the appraisal, and any revisions, will be the responsibility of the applicant. The City will collect the appraisal costs from its loan proceeds at closing.
- An Agency ordered appraisal will be used to support the acquisition costs identified at the time of application. The appraised value will be used by the City and its funding partners in underwriting the acquisition cost.
- An As-Is Appraisal:
 - Land Only for New Construction: Fee simple value of the land. The market value appraisal will consider the real property's zoning as of the effective date of the appraiser's opinion of value. If the real property consists of more than one parcel, the parcels will be combined in one appraisal with one value conclusion.
 - Acquisition/Rehab:
 - Fee simple “as-is” value of the existing multi-family property assuming market rate rents
 - Fee simple, in “as-is” condition, with existing restricted rate rents
 - Adaptive Re-Use: Fee simple market value of the property to be adapted for an alternate use. The valuation will assume the highest and best use permitted by law and economically feasible in the current market.
 - If Low Income Housing Tax Credit (LIHTC) are utilized, documentation on the syndication costs (legal, accounting, tax opinion, etc.) from the organization/individual who will syndicate and sell the offering. This is to ensure that the project can support the fees necessary to syndicate/fund the project.
 - Note that for homebuyer projects, some of the costs – such as realty fees, closing costs and some of the developer fees – will not be incurred until the closing and might be paid out of closing proceeds. Also, since the development phase loans such as construction loans are repaid at time of sale from sales proceeds, the estimation of the period to sell and close on the units is an essential part of the analysis.

B. OPERATING PRO FORMA

The applicant must furnish an operating pro forma (project income and expense statement) projected for the HOME or CDBG period of affordability at a minimum, whichever is longer.

The City will evaluate the reasonableness of the financial assumptions of the project to establish:

- Minimum total per unit operating costs
- The sufficiency of both specific line item and total operating costs
- The long-term operating projections over the period of affordability are based on reasonable assumptions and

- The project can cover expenses and debt service throughout the affordability period. Note cash flow projections should be neither unduly conservative nor overly optimistic.

Long-term operating projections should be based on reasonable assumptions about how revenues and operating costs are expected to change over time, and demonstrate the project is expected to operate within normal operating parameters throughout the affordability period.

1) Projected Income

Operating revenues must be based on achievable rent levels, reasonable vacancy and collection loss, and conservative estimates of non-residential sources of incomes.

- In most projects, non-residential revenue from fees/late charges, commercial income, interest, laundry/vending, or other similar sources likely will be modest, therefore should be projected conservatively.
 - Other Income: The amount of other income (fees, laundry, and parking) should be reasonable and comparable to other developments within San Antonio.
 - Commercial Space: Income from commercial space will be underwritten on an exception basis only. Five years of operating history will be required, and the City and its underwriter will, at the City's sole discretion, determine an appropriate vacancy rate.
- Even in strong rental markets, HUD recommends setting initial rents somewhat below program limits or projected market rents because HOME rents may not increase as rapidly as market rents.
 - Year-one rents shown in the Project pro forma will be the rents that will be in effect when the development is placed in service. Existing operating developments will be underwritten at current rents unless there is sufficient evidence that a rent increase for the development is feasible in the local market.
- For developments with project-based Section 8 rental assistance, the City will underwrite and size debt based upon the lower of HUD-approved rents under Housing Assistance Payment Contract or market rents. In the case of developments pursuing renewal options that allow for staged-in HUD- approved "after rehab" rents, the City may allow the higher rent levels to be incorporated into the underwriting, but will underwrite a transition reserve into the development budget.
- Vacancy projections should reflect local market conditions and account for both physical vacancy and collections loss.
- Vacancy Factor: Properties will be underwritten at a 7.5% vacancy rate. A lower vacancy rate of 5% will be used if the property has (one or more of the following attributes):
 - Rents at least 20% below HOME rent limits for restricted units and 20% below comparable market rents for market rate units; or
 - Existing properties are supported by historic performance indicating a lower vacancy loss experience; or
 - Section 8 assisted properties if justified by historic operations.
 - The above percentages are minimums, and if warranted by historic performance or market conditions, a higher vacancy rate will be used. The City will, at its sole discretion, determine the appropriate vacancy rate.
- The rate of projected growth for rental income and other revenues should be appropriate to the local market and regulatory limits.

- In projects with deeply targeted rents, lower than average rates of revenue increase should be used, as utility allowances will surpass rent increases. Net Operating Income (gross revenue minus operating expenses) should be sufficient to cover debt service obligations and mandatory replacement reserve funding and generate reasonable but not excessive Cash Flow throughout the period of affordability.

2) Projected Expenses

All operating costs must be in sufficient detail to compare line items against properties that are similar in physical type and size. The operating budget must include general management expenses, maintenance and operating costs, any project paid utilities, taxes, insurance premiums, and adequate deposits to replacement reserves. Evaluation of total operating costs should be summarized in “per unit per year” amounts rather than as a percentage of projected revenue.

Most operating costs (e.g. water/sewer rates or lawn mowing) do not vary based on how much tenants are paying in rent. Whenever possible, the PJ should compare against other projects in the property manager’s portfolio or the neighborhood.

- Management and other fees to the owner should be reasonable in the local market.
 - The Borrower will submit the management and operating (M&O) budget based on anticipated stabilized operating expenses incurred after the development is placed in service or upon full occupancy. For operating properties, the historic M&O expenses will be used, with appropriate adjustments for projected economies attributable to the proposed rehabilitation and for changes associated with new program requirements.
 - M&O expenses (net of real estate taxes and reserves) will be evaluated and analyzed in relationship to comparable properties in City’s portfolio, expense comparable in the appraisal, and other information deemed relevant and appropriate.
 - M&O expenses are calculated on a per room basis. The rental rooms per unit are calculated as follows:

Unit Type	Rental Rooms Per Unit
Bed/Shelter	2
EFF/SRO	2.5
1 BR	3.5
2 BR	4.5
3 BR	6
4 BR	7
5 BR	8.5

- The proposed M&O expenses should be based on the Borrower’s current San Antonio, or southwest Texas if new to the San Antonio market, portfolio and supported by:
 - Actual operating data provided by the Borrower/management company for similar developments
 - Circumstances and/or significant changes to the economics of the development’s current marketplace, such as increased utility costs and property insurance
 - Operating trends of the Borrower or management company

The owner supporting the proposed M&O expenses should include:

- For new construction:
 - Copies of the year-end operating information from three comparable developments that have been in operation preferably at least three years
- For existing properties:
 - Copies of audited financial operating expense statements for the subject property for at least three stabilized years

In sizing its funding awards, the City reserves the right to adjust the proposed M&O expense numbers based upon the information supplied, specified development type, circumstances and/or significant changes to the economics of the development's current marketplace. The City or its Underwriter will also use its M&O expense database to compare projected M&O expenses with audit data from comparable property types.

- Taxes: This section includes real property and personal property taxes, but does not apply to payroll taxes. An assessed value will be calculated based on the capitalization rate published by the county taxing authority. If the county taxing authority does not publish a capitalization rate, a capitalization rate of 10 percent or a comparable assessed value may be used.

Property tax exemptions or a Proposed Payment In Lieu Of Tax (PILOT) agreement must be documented as being reasonably achievable. At the discretion of the City, a property tax exemption that meets known federal, state and local laws may be applied based on the tax-exempt status of the Development Owner and its Affiliates.

- The identity of interest (also referred to as related party) relationships with contracted property management, repair/rehabilitation contractors, or other project vendors must be disclosed.
- Minimum replacement reserve: Reserves for replacement shall be budgeted at no less than \$250 per unit per year for new construction projects and \$300 per unit per year for all other housing. If the Physical Needs Assessment/Capital Needs Assessment indicates a higher amount necessary to address future capital needs, then the higher amount will be required.
 - Initial Deposit to Replacement Reserve: The City may require an initial deposit to the replacement reserve, depending upon the 20-year capital needs assessment and the level of on-going contributions to replacement reserves.
- Any debt service or other funding/reserve requirements related to 'secondary' financing in mixed financed deals, if applicable.
 - Operating Deficit Reserve: The City requires a minimum operating deficit reserve in an amount equivalent to three months of operating expenses and debt service. The City will consider a larger reserve, subject to a staff review and approval on a case-by-case basis. However, the operating deficit reserve can never exceed an amount equivalent to 18 months of operating expenses and debt service.
- Cash flow should be evaluated both as a "debt coverage ratio" and as a percentage of operating costs and debt service.
 - Cash flow:

- The pro forma cash flow will assume revenue increases of no more than 2% per year and operating expenses increases of no less than 3% per year. Developments with expense-based rents can use income and expense inflation factors that are equivalent. Developments with project-based Section 8 will assume revenue increases no greater than historic average or 1.5% per year. A partially assisted project would have a pro rata inflation factor. The City reserves the right to change the appropriate inflation factors based on changes in the economic outlook.
- The development must have a break-even cash flow after all expenses and reserves for 15 years on a pro forma basis. The cash flow must include mandatory expenditures such as bond fees.
- Debt Coverage Ratio
 - The level of risk presented by a development, including overall quality, current market conditions, and other factors, will be considered when making the determination of what level of debt service coverage a particular mortgage will require. The development must maintain a break-even cash flow for a minimum of 15 years on a pro forma basis.
 - For the purposes of underwriting, the City’s minimum and maximum debt coverage ratios are as follows:

	9% HTC New Construction	4% HTC New Construction
Minimum	1.15 DCR	1.20 DCR
Maximum	1.30 DCR	1.35 DCR
	Mixed Income	At least 90% of Units are Section 8
Minimum	1.20 DCR	1.15 DCR
Maximum	1.35 DCR	1.30 DCR
	Substantial Rehab	
Minimum	1.20 DCR	
Maximum	1.35 DCR	

Note: These DCRs are for City underwriting purposes in determining the size of the financing gap as it relates to the City’s maximum loan calculation. It is not the intent of the City to set the DCR range for other project lenders, investors or other funders.

C. SALES PLAN – HOMEBUYER PROJECTS

The developer must submit a sales plan (which may also be evaluated as a component of the market assessment). This sales plan should indicate the developer’s anticipated cash flow and timing of when and how units will be sold.

The City will evaluate the sales plan for:

- Timelines: The speed that the developer anticipates selling homes.
- Cash flow: The developer’s intended plans for use of the sales revenues.

D. PROFIT AND RETURNS TO DEVELOPER

The City requires that any profit or return on the owner's or developer's investment will not exceed the City's established standards. This analysis includes profit that is projected to flow to the developer as operating cash flow from rental projects, sales proceeds from homebuyer units (if not considered as program income or CHDO proceeds) and any other professional fees being paid to the developer or related entities.

Developers and owners may financially benefit from federally-assisted projects in several ways:

- **Developer Fees:** These are fees charged by the developer as a part of the project cost to compensate for the risk, time and effort to build and sell or lease the property.
 - The developer fee is provided to the developer of rental housing for the time and energy expended on and risks associated with putting a development together. Developer fees include developer overhead, developer processing fee, if applicable, developer profit, and any other amounts received by the developer as approved by the City. The developer fee must be attributed only to the development.

In some instances, the developer may delegate some of his or her responsibilities to a third party, such as a processing agent or consultant. In such cases, the delegated responsibilities must be thoroughly understood by all parties involved, and the fee paid to the third party shall be included in the calculation of the permitted maximum developer fee.

A developer fee can be included in the total development cost of the project. For rental development projects, the maximum allowable developer fee is based on a percentage of the total development cost less the developer fee.

Development Type	Size	Maximum Developer Fee
New Construction or Rehabilitation	First 150 Units	15%
Rehabilitation	Units 151 and over	15%
New Construction	Units 151 and over	12%

If the City is disbursing its funds, in part or full, prior to construction completion and stabilized occupancy, the maximum amount of developer fee paid at closing is 25%. Of the remaining developer fee, up to an additional 60% of developer fee shall be paid no sooner than the final construction draw. The final 15% shall be paid no sooner than the developer's submission of all required tenant beneficiary information for City assisted / rent restricted units. This excludes deferred developer fee to be paid from future project cash flow.

For homeownership housing development, a developer fee ranging from 10% to 15% of the Fair Market Value of the residential property will be negotiated during the underwriting process.

- General Contracting Fees:
 - Contractor’s Profit: The maximum contractor profit is 6% of net construction costs. Net construction costs are defined as construction costs and on-site work not including contractor profit, general requirements, and overhead.
 - General Requirements/General Conditions: The maximum general requirements allowed are 6% of the net construction costs.
 - Contractor’s Overhead: The maximum allowance for overhead is 2% of net construction costs.
 - Note: The contractor fee limits may deviate from the above-noted maximum allowances so long as they do not exceed 14% of net construction costs in the aggregate.
- Developer or Owner as Contractor: When there is an identity of interest between the developer or owner and the contractor, in addition to the fee limits stated above, the combined balance of developer fee, contractor profit, contractor overhead, and general requirements may not exceed 20% of the total development costs less the developer fee. The City considers there to be an identity of interest (“IOI”) concern when the owner or developer is an affiliate of, or a related party to, to the contractor.
- Sales revenues: Developers of for-sale properties may keep some or all of the sales proceeds, as deemed reasonable by the City.
- Cash-Flow: Assuming that the rental property is properly structured and financed, successfully attracts residents, and is effectively managed; the project likely will have positive net cash-flow after the payment of debt service. Cash-flow is distributed to the owner and/or investors as a return on their original investment.
- Tax Benefits: Rental owners and/or investors can also benefit from tax savings—a reduction in the income taxes they owe due to tax losses or tax credits.
- Equity Appreciation: Over time, the value of the rental project sponsor/owner’s ownership share in the project will increase as debt financing is paid down (due to the portion of debt service that is applied to the loan principal), and depending on market conditions, the property appreciates in value.
- Identity of Interest (IOI) Roles: Some developers may also own construction companies and if this company is used for the HOME project, the construction firm may earn reasonable profit and overhead as a component of the development budget. If the rental property owner also operates a property management company contracted to service the property, the developer may earn fees from those activities. These and other IOI contracts require additional scrutiny by the PJ to make sure that they are clearly disclosed, priced at arms-length rates, and subject to cancellation if the IOI contractor does not provide acceptable service. For purposes of this paragraph, when there is an IOI between the developer and contractor, reasonable profit is determined to be the lesser of the actual profit or the amount determined by application of the appropriate cap rate set forth above.

IV. ESTABLISHING THE LEVEL OF SUBSIDY (SUBSIDY LAYERING)

The analysis to determine the amount of investment needed to make a project feasible is sometimes referred to as “gap analysis”, as it is used to determine the gap between approved costs (Uses) and available financing and other subsidies (Sources). The gap is influenced by many factors, some of which can be modified prior to commitment, including:

- Level of physical improvements;
- Rent levels and affordability;
- Income levels being served (e.g., a target population of 60 percent of median income could require less assistance than if the target population is below 30 percent of area median income); and
- Payment terms of all funding, including HOME, CDBG and other public funding.
- The City’s funding will be the “last gap in” such that the City’s funding will be the first funding source reduced when there are net cost savings or increases in other sources.

In addition to conducting the subsidy layering review described above, before committing HOME funds to a project to help fill the financing gap, the City will review:

- Evaluate Debt Capacity. Make sure that the lender’s financing terms are reasonable and comparable to those available from other lenders.
 - Are other lenders willing to finance at a higher loan to value ratio (LTV)?
 - Are other lenders willing to finance at a lower debt coverage ratio (DCR)?
 - Is the interest rate competitive with what other lenders are willing to offer?
- Evaluate Equity Contributions. Evaluate the full spectrum of returns that are accruing to owners and investors. Also, evaluate the calculations of tax credit basis and market price to determine if the projected amount of tax credit equity is reasonable.

V. UNDERWRITING TO PROMOTE SELF-SUSTAINING PROJECTS

To promote long-term financial viability and self-sustaining operations for assisted projects during their HOME and CDBG affordability periods, the City will approach the underwriting process in a way that helps to assure:

- Gross potential rents that are actually achievable, taking into account location, design, and intended resident population.
- An allowance for rent loss (vacancy, bad debt, and concessions) that reflects the likely long-term average the property can be expected to achieve.
- Underwritten operating expenses that are likely to be adequate to allow a competent management agent to operate the property successfully, in a typical year.
- Trending factors for income and expenses that are reasonable and prudent.
- Sufficient debt service coverage to allow the property to survive income and expense shocks.

Reserve funding that, when combined with reasonably foreseeable future cash flow and reasonably foreseeable future refinancing potential, will be adequate to meet the property’s capital needs over the affordability period.

VI. REFERENCES

Notice CPD-15-11: Requirements for the Development and Implementation of HOME Underwriting and Subsidy Policy

<https://www.hudexchange.info/resources/documents/Notice-CPD-15-11-Requirements-for-the-Development-and-Implementation-of-HOME-Underwriting-and-Subsidy-Layering-Guidelines.pdf>

Appendix J: Residential Construction Management Policy (RCMP)

In order to comply with [24 CFR 92.251](#), all HOME-funded properties must meet certain minimum property standards at project completion. There is a significant distinction between HOME and CDBG when it comes to property standards. Under CDBG, there are no established rules regarding property quality¹. The City has decided to apply the property standards contained herein to all HUD funded acquisition, construction, or rehabilitation projects. Table 1 lists the minimum property standards that apply to each type of HUD activity. These property standards apply to project commitments on or after October 31, 2019.

Pursuant to [24 CFR 92.251\(b\)\(1\)\(vii\)](#), whenever HOME funds are used for rehabilitation, the work must be performed according to the City's written rehabilitation standard and *all* systems in the unit must be brought up to meet the City Residential Building Code. Rehabilitation projects that do not include any HOME assistance are exempt from this regulation. However, any work funded by other HUD programs must be in compliance with all applicable codes and requirements in effect at the time of construction.

City Residential Building Codes:

Includes all City adopted building codes, land use regulations, ordinances, requirements, design standards, and construction standards;

Uniform Physical Condition Standards (UPCS):

UPCS are uniform standards established by HUD pursuant to [24 CFR 5.703](#) to ensure that housing is decent, safe, sanitary, and in good repair;

Housing Quality Standards (HQS):

This standard applies only to tenant-based rental assistance (TBRA) inspections and is covered in [24 CFR 982.401](#);

Lead Safe Housing Rule Standards:

The Lead Safe Housing Rule ([24 CFR Part 35](#)) requires certain actions in pre-1978 properties to identify and address lead hazards for all HOME-assisted activities;

Accessibility for persons with disabilities:

Requirements related to accessibility for persons with disabilities apply pursuant to the Fair Housing Act and [Section 504 of the Rehabilitation Act of 1973](#), and [Title II](#) and [Title III](#) of the Americans with Disabilities Act;

Site and neighborhood standards:

The site and neighborhood standards of [24 CFR 983.57\(e\)\(2\) and \(e\)\(3\)](#) apply to new construction of rental housing;

Manufactured home safety and construction standards:

All new manufactured housing must meet the construction and safety standards of [24 CFR 3280](#).

Table 1

Minimum Property Standards by Activity	Applicable Section of Manual	Minimum Property Standard All HUD assisted projects
<p><u>Tenant-Based Rental Assistance (TBRA) 92.209(i)</u></p>	<p>Section 4</p>	<ul style="list-style-type: none"> • Housing Quality Standards • Lead Safe Housing Rule
<p><u>Single Family Homebuyer Property Standards 92.251(c)(3)</u> - Acquisition of newly constructed or existing housing including manufactured housing with no rehabilitation or construction (i.e. acquisition only)(down payment assistance)</p>	<p>Section 5</p>	<ul style="list-style-type: none"> • City Residential Building Code • Uniform Physical Condition Standards • Lead Safe Housing Rule • Manufactured Home Construction and Safety Standards (if applicable)
<p><u>Single Family Homeowner Property Standards 92.251(b)</u> - Rehabilitation of housing</p>	<p>Section 5</p>	<ul style="list-style-type: none"> • City Residential Building Code • Texas Department of Housing and Community Affairs' Texas Minimum Construction Standards • Major systems must have a useful life of at least five years, upon project completion. • Uniform Physical Condition Standards • Lead Safe Housing Rule • Accessibility Requirements • Manufactured Home Construction and Safety Standards (if applicable)
<p><u>Single Family Homebuyer Property Standards 92.251(a)</u> - New construction of housing</p>	<p>Section 5</p>	<ul style="list-style-type: none"> • City Residential Building Code • Accessibility Requirements • Manufactured Home Construction and Safety Standards (if applicable)

<p><u>Rental Housing Property Standards</u> 92.521(c)(1)</p> <p>- Acquisition of newly constructed housing including manufactured housing with no rehabilitation or construction (i.e. acquisition only)</p>	<p>Section 6</p>	<ul style="list-style-type: none"> • City Residential Building Code • Accessibility Requirements • Broadband Infrastructure; buildings with 4 or more rental units • Manufactured Home Construction and Safety Standards (if applicable)
<p><u>Rental Housing Property Standards</u> 92.251(c)(1)</p> <p>- Acquisition of newly renovated housing including manufactured housing with no rehabilitation or construction (i.e. acquisition only)</p>	<p>Section 6</p>	<ul style="list-style-type: none"> • City Residential Building Code • Texas Department of Housing and Community Affairs’ Property Standards for HOME Multifamily or Texas Minimum Construction Standards, as applicable. • Major systems must have a useful life of at least five years, upon project completion. • Uniform Physical Condition Standards • Lead Safe Housing Rule • Accessibility Requirements • Broadband Infrastructure; buildings with 4 or more rental units • Manufactured Home Construction and Safety Standards (if applicable)
<p><u>Rental Housing Property Standards</u> 92.251(c)(2)</p> <p>- Acquisition of existing housing including manufactured housing with no rehabilitation or construction (i.e. acquisition only)</p>	<p>Section 6</p>	<ul style="list-style-type: none"> • City Residential Building Code • Texas Department of Housing and Community Affairs’ Property Standards for HOME Multifamily or Texas Minimum Construction Standards, as applicable. • Major systems must have a useful life of at least five years, upon project completion. • Uniform Physical Condition Standards • Lead Safe Housing Rule • Accessibility Requirements • Broadband Infrastructure; buildings with 4 or more rental units • Manufactured Home Construction and Safety Standards (if applicable)
<p><u>Rental Housing Property Standards</u> 92.251(b) -</p>	<p>Section 6</p>	<ul style="list-style-type: none"> • City Residential Building Code • Texas Department of Housing and Community Affairs’ Property Standards for HOME Multifamily or

Rehabilitation of housing		<p>Texas Minimum Construction Standards, as applicable.</p> <ul style="list-style-type: none"> • Major systems must have a useful life of at least five years, upon project completion. • Uniform Physical Condition Standards • Lead Safe Housing Rule • Accessibility Requirements • Broadband Infrastructure; buildings with more than 4 rental units • Manufactured Home Construction and Safety Standards (if applicable)
<p><u>Rental Housing Property Standards</u> 92.251(a) - New construction of housing</p>	Section 6	<ul style="list-style-type: none"> • City Residential Building Code • Accessibility Requirements • Site and Neighborhood Standards • Broadband Infrastructure; buildings with more than 4 rental units • Manufactured Home Construction and Safety Standards (if applicable)

Section 1: General Information

The U.S. Department of Housing and Urban Development provides programmatic funds to rehabilitate and construct affordable housing. Developers shall ensure that projects are in compliance with City Residential Building Code current at the time of permit issuance.

The City has adopted additional standards related to the rehabilitation of affordable housing units and are described beginning in Section 2. The following general information items are applicable to all residential construction projects.

Permits:

The Contractor shall obtain and display at the job site all permits and permit cards as required by the City.

Site Use:

The Contractor shall use the site and its facilities only for the specified construction. The electrical, sanitary waste, water, and gas system shall be used only for construction purposes during the construction phase.

Sanitary Facilities:

Contractor shall be responsible to determine the need for adequate sanitary facilities and to provide those accommodations on site.

Equipment:

Contractor shall be responsible for the safe operation of equipment at all times.

Trades persons:

All work shall be done with skilled and licensed craftsman and accomplished with care.

Construction Materials:

All materials used shall be new (unless otherwise specified in the specifications manual) and of a good quality.

Qualifications of Bidders:

City, the Owner or the City acting on behalf of the Owner, may make such investigations as the Owner or the City deems necessary to determine the ability of the offeror to perform the work, and the offeror shall furnish to the Owner and/or the City all such information and data for this purpose as the Owner and/or the City may request. City, The Owner, or City acting on the Owner’s behalf, reserves the right to reject any proposal if the evidence submitted by, or investigation of, such offeror fails to satisfy the Owner or the City that the offeror is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.

Duplicate Codes:

This document is not intended to take the place of or duplicate the codes adopted by the City. It is intended to clearly define the various methods of construction and the specific materials to be used in the construction work outlined in the description of the work to be performed.

Contract Documents:

Prime contractor, general contractor, and sub-contractor agreements shall utilize the appropriate [AIA Contract Document](#) for all construction agreements. All construction invoicing shall utilize the [AIA G702 Application and Certificate for Payment](#) form.

Section 2: Construction Standards

The minimum property standards:

contained in this policy do not preempt State or City standards, nor do they alter or affect a builder's obligation to comply with any State or City requirements. However, a property shall be eligible for benefits only if it complies with all applicable minimum property standards, including referenced standards.

Conflicting Standards:

In any case where construction standards may conflict with state law and/or City ordinances, the more restrictive requirement shall prevail.

Final Authority:

In the event interested parties cannot agree to a resolution in regard to conflicting standards, the City of San Antonio, Grants Administrator or designee reserves the final authority to determine, in the Grants Administrator or designee’s sole discretion, which standard shall be implemented.

Section 3: Definitions

Texas Department of Housing and Community Affairs (TDHCA) Texas Minimum Construction Standards (TMCS):

In accordance with [24 CFR 92.251\(b\)\(1\)](#), the purpose of the [TMCS document](#) is to identify requirements for Rehabilitation while promoting healthy, safe and decent housing for low- to moderate- income households. TMCS outlines the minimal level of work, methods and materials required, for rehabilitation work. The TCMS will be utilized in order to evaluate and determine

that rehabilitation work is in compliance.

Texas Department of Housing and Community Affairs (TDHCA) Property Standards for HOME Multifamily:

In accordance with [24 CFR 92.251\(b\)\(1\)](#), The [Property Standards for HOME Multifamily](#) document is intended to provide the minimum property standards for new construction, reconstruction, rehabilitation, and maintenance of multifamily housing facilities that receive any federal assistance.

City Residential Building Codes:

This document is not a substitute for [City Residential Building Code](#) (CRBC), which will typically apply to any substantial new work that is being done on existing structures. In some cases, CRBC will apply to existing conditions whether addressed in the course of rehabilitation, or not. In all cases, grantees are responsible for determining the applicability of local building codes. [24 CFR 92.251\(a\)](#)

Note – The City’s Residential Building Code does not include a disaster mitigation plan.

Lead Safe Housing Rule:

Pre-1978 housing assisted with HUD funds is subject to implementing regulations at [24 CFR Part 35](#), subparts A, B, J, K, M and R of this title. All units in a project assisted with HUD funds shall comply with the regulation implementation Title X of the 1992 Housing and Community Development Act. [24 CFR § 92.355](#)

Uniform Physical Condition Standards (UPCS):

A set of standards established by HUD pursuant to [24 CFR 5.703](#) for housing that is decent, safe, sanitary, and in good repair. The [inspection checklist](#) will assess the physical condition of housing units which are assisted under various programs of HUD. Inspection areas include, but are not limited to, site, building exterior, building systems, dwelling units, and common areas. [24 CFR 92.251\(b\)\(1\)\(viii\)](#) & [24 CFR 92.251\(c\)\(3\)](#)

Major Systems:

In accordance with [24 CFR 92.251\(b\)\(1\)\(i\)](#), upon project completion, each of the major systems shall have a remaining useful life of at least five years; otherwise, the major systems shall be rehabilitated or replaced as part of the rehabilitation work. For homeownership and rental housing, include structural support, roofing, cladding, and weatherproofing (e.g., windows, doors, siding, gutters), plumbing, electrical and heating, ventilation, and air conditioning.;

For projects with 26 or more units, this determination shall be done with a capital needs assessment. If the remaining useful life of a system is less than the affordability period, it must be replaced or rehabilitated. Estimates and capital needs assessments shall be certified by an architect or engineer experienced and competent in this type of work.

Accessibility for Persons with Disabilities:

The housing must meet the accessibility requirements of [24 CFR Part 8](#), which implements the Fair Housing, and Section 504 of the Rehabilitation Act of 1973, and Titles II and III of the Americans with Disabilities Act implemented at [28 CFR Part 35](#) and [28 CFR Part 36](#), as applicable. [24 CFR 92.251\(a\)\(2\)\(i\)](#) & [24 CFR 92.251\(b\)\(1\)\(iv\)](#)

Site and Neighborhood Standards:

For new construction of rental housing, the City is responsible for making the determination that proposed sites for new construction meet the requirements in [24 CFR 983.57\(e\)\(2\) and \(3\)](#). A site and neighborhood standards certification form shall be included in the project application. City will review and verify accuracy of this certification prior to commitment of HUD funds. [24 CFR 92.202](#)

Broadband Infrastructure:

For a new construction housing project of a building with more than 4 rental units, the construction must include installation of broadband infrastructure, as this term is defined in [24 CFR 5.100](#), [24 CFR 92.251\(a\)\(2\)\(iv\)](#) & [24 CFR 92.251\(b\)\(1\)\(x\)](#)

Housing Quality Standards (HQS):

In accordance with [24 CFR 92.209\(i\)](#), the City is required to use HQS or the successor requirements established by HUD, for HOME tenant-based rental assistance only. The [HQS Inspection Form](#) shall be used to ensure that a property meets HUD's Housing Quality Standards.

Covered multifamily dwellings:

means buildings consisting of 4 or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of 4 or more dwelling units.
24 CFR 100.201

Manufactured Home and Construction Standards:

New manufactured housing shall meet the Manufactured Home Construction and Safety Standards established in [24 CFR Part 3280](#), which preempt state and local codes covering the same aspects of performance for such housing. Installation of manufactured housing units shall comply with applicable State of Texas and City Residential Building Code. In the absence of such laws or codes, the installer shall comply with the manufacturer's written instructions for installation of the manufactured housing units.

New manufactured housing shall:

- 1) be installed according to state or local codes (or, if none, the manufacturer's written instructions),
- 2) be on a permanent foundation [that meets the requirements of [24 CFR 203.43f \(c\)\(i\)](#)],
- 3) have permanent utility hook-ups, and
- 4) be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

If manufactured housing is rehabilitated with HUD funds, the foundation and anchoring must meet all applicable state and local codes, ordinances, and requirements; or, if none, the Model Manufactured Home Installation Standards at 24 CFR 3285; and, meet the other property standards for units rehabilitated with HUD funds. [24 CFR 92.251\(e\)](#)

Section 4: Tenant-Based Rental Assistance (TBRA)

TBRA provides assistance to individual households, rather than subsidizing particular rental projects. TBRA helps tenants afford the housing costs of market-rate rental units. In addition, the TBRA assistance moves with the tenant -

4.1 Tenant-Based Rental Assistance only:

- *Housing Quality Standards (HQS)* or the successor requirements established by HUD. The use of HQS is required for HOME tenant-based rental assistance only. City shall use the [HQS Inspection Checklist](#) to ensure compliance during initial and annual inspections.

- *Lead Safe Housing Rule*: All units in a project assisted with HUD funds shall comply with the regulation implementation Title X of the 1992 Housing and Community Development Act ([24 CFR Part 35](#)).

Section 5: Single Family Property Standards

Properties that are acquired, rehabilitated, or newly constructed with HUD funds must meet specific standards required by the HOME Rule at [24 CFR 92.251](#).

Pursuant to [24 CFR 92.251\(b\)\(1\)\(vii\)](#), whenever HOME funds are used for rehabilitation, the work must be performed according to the City's written rehabilitation standard and *all* systems in the unit must be brought up to meet the City Residential Building Code. Rehabilitation projects that do not include any HOME assistance are exempt from this regulation. However, any work funded by other HUD programs must be in compliance with all applicable codes and requirements in effect at the time of construction.

5.1 Acquisition only (new construction):

This section applicable to down payment assistance. Properties receiving assistance for acquisition only that are newly constructed shall meet the following property standards and requirements:

- *City Residential Building Code*
- *Uniform Physical Condition Standards*
- *Manufactured Home Construction and Safety Standards (if applicable)*

Acquisition only (newly rehabilitated):

This section applicable to down payment assistance. Properties receiving assistance for acquisition only that have been rehabilitated within 12 months of project commitment shall meet the following property standards and requirements:

- *City Residential Building Code*
- *Uniform Physical Condition Standards*
- *Lead Safe Housing Rule*

Rehabilitation:

Properties receiving assistance for rehabilitation shall meet the following property standards and requirements:

- *City Residential Building Code*
- *TDHCA's Texas Minimum Construction Standards*
- *Uniform Physical Condition Standards*
- *Major Systems Useful Life*
- *Lead Safe Housing Rule*
- *Accessibility Requirements*

New Construction:

Properties receiving assistance for new construction shall meet the following property standards and requirements:

- *City Residential Building Code*
- *Accessibility Requirements*

- *Manufactured Home Construction and Safety Standards if applicable*

Manufactured Home and Construction Standards:

New manufactured housing shall meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280, which preempt state and local codes covering the same aspects of performance for such housing. Installation of manufactured housing units shall comply with applicable State of Texas and City Residential Building Code. In the absence of such laws or codes, the installer shall comply with the manufacturer’s written instructions for installation of manufactured housing units. 24 CFR 92.251(e)

New manufactured housing shall:

- be installed according to state or local codes (or, if none, the manufacturer’s written instructions),
- be on a permanent foundation [that meets the requirements of [24 CFR 203.43f \(c\)\(i\)](#)],
- have permanent utility hook-ups, and
- be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

Inspections:

City shall inspect the property prior to occupancy or at project completion to ensure compliance with applicable standards and codes. The property shall be free from any defects that pose a danger to the health and safety of occupants before occupancy. The property shall meet all standards, City codes, and ordinances at project completion.

Section 6: Rental Property Standards

Properties that are acquired, rehabilitated, or newly constructed with HUD funds must meet specific standards required by the HOME Rule.

Pursuant to [24 CFR 92.251\(b\)\(1\)\(vii\)](#), whenever HOME funds are used for rehabilitation, the work must be performed according to the City’s written rehabilitation standard and *all* systems in the unit must be brought up to meet the City Residential Building Code. Rehabilitation projects that do not include any HOME assistance are exempt from this regulation. However, any work funded by other HUD programs must be in compliance with all applicable codes and requirements in effect at the time of construction.

Acquisition only (new construction):

Properties receiving assistance for acquisition only that are newly constructed units must meet the HOME property standards for new construction.

- *City Residential Building Code*
- *Accessibility Requirements*
- *Broadband Infrastructure (more than 4 rental units)*
- *Manufactured Home Construction and Safety Standards (if applicable)*

Acquisition only (newly rehabilitated):

Properties receiving assistance for acquisition only that have been rehabilitated within 12 months of project commitment must meet the HOME property standards for rehabilitation.

- *City Residential Building Code*

- *TDHCA’s Property Standards for HOME Multifamily or Texas Minimum Construction Standards, as applicable Uniform Physical Condition Standards*
- *Major Systems Useful Life*
- *Lead Safe Housing Rule*
- *Accessibility Requirements*
- *Broadband Infrastructure (more than 4 rental units)*

Rehabilitation:

If the rental project involves rehabilitation, the following property standards and requirements apply.

- *City Residential Building Code*
- *Major Systems Useful Life*
- *Uniform Physical Condition Standards*
- *TDHCA’s Property Standards for HOME Multifamily or Texas Minimum Construction Standards, as applicable*
- *Accessibility Requirements*
 - *Covered Multi-family dwellings as defined at 24 CFR 100.201 must meet Design and construction requirements at 24 CFR 100.205*
- *Lead Safe Housing Rule*
- *Broadband Infrastructure (more than 4 rental units)*

New Construction:

If the rental project involves new construction, the following standards and requirements apply:

- *City Residential Building Code*
- *Accessibility Requirements*
 - *Covered Multi-family dwellings as defined at 24 CFR 100.201 must meet Design and construction requirements at 24 CFR 100.205*
- *Site and Neighborhood Standards*
- *Broadband Infrastructure (more than 4 rental units)*
- *Manufactured Home Construction and Safety Standards (if applicable)*

Inspections:

City shall inspect the property prior to occupancy or at project completion to ensure compliance with applicable standards and codes. The property shall be free from any defects that pose a danger to the health and safety of occupants before occupancy. The property shall meet all standards, City codes, and ordinances at project completion.

Section 7: Affordability Period for Rental Housing

Ongoing standards during affordability period:

in accordance with 24 CFR 92.251(f), during the affordability period, the property owner shall ensure that properties comply with:

- *Uniform Physical Condition Standards*
- *City Residential Building Code*
- *Lead Safe Housing Rule*

Periodic property inspections:

The City shall perform on-site inspections of HUD-assisted rental housing in accordance with

[92.504\(d\)](#) to determine compliance with property standards and to verify the information submitted by the owners in accordance with these requirements:

- The on-site inspections shall occur within 12 months after project completion and at least once every 3 years thereafter during the period of affordability;
- If there are observed deficiencies for any of the inspectable items in the property standards established by the City, a follow-up on-site inspection to verify that deficiencies are corrected shall occur within 12 months. The City may establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation (e.g., paid invoice for work order) rather than re-inspection. Health and safety deficiencies must be corrected immediately. The City shall adopt a more frequent inspection schedule for properties that have been found to have health and safety deficiencies;
- The property owner must annually certify to the City that each building and all HUD- assisted units in the project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the City; and
- Inspections shall be based on a statistically valid sample of units appropriate for the size of the HUD-assisted project, as set forth by HUD through [HOMEfires-Vol3-No2](#). For projects with one-to-four HUD-assisted units, City shall inspect 100 percent of the HUD-assisted units and the inspectable items (site, building exterior, building systems, and common areas) for each building housing HUD-assisted units.
- Rental property inspections shall be the responsibility of the City GMA compliance unit. Inspection procedures in accordance with [24 CFR 92.251\(f\)\(5\)](#) shall be maintained in the Compliance unit policy manual.

¹ – HOME and CDBG Guidebook. p. 38 <https://files.hudexchange.info/resources/documents/HOME-CDBGGuidebook.pdf>

Appendix K: Glossary

Annual Income

The gross amount of income that household members are expected to receive during the coming 12 month period.

Area Median Income (AMI)

The household income for the median household in a region. Each year, the Department of Housing and Urban Development (HUD) calculates the median income for every metropolitan region in the country.

Community Development Block Grant (CDBG)

The CDBG program is a flexible federal funding program administered by the US Department of Housing and Urban Development (HUD) that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses. CDBG is an important tool for helping local governments tackle serious challenges facing their communities.

Community Housing Development Organization (CHDO)

A private, nonprofit, community-based organization with qualified staff that is receiving HOME funds as the owner, developer, or sponsor of affordable housing for the community it serves.

A CHDO is a specific type of private nonprofit entity. To qualify as a CHDO, an organization must meet certain requirements.

Development Subsidy HOME/NSP

Assistance provided to developers by the City in an amount that can be above the fair market value up to the total development cost. This amount is NOT used in a recapture provision.

Direct HOME/NSP Subsidy

The amount of assistance, including any program income that enables the homebuyer to buy the unit. This includes: down payment assistance, closing cost assistance, interest subsidies and any direct subsidy that reduces the purchase price from fair market value to an affordable price. This means that if HOME funds are used for the cost of developing a property and the unit is sold below fair market value, the difference between the fair market value and the purchase price is considered to be directly attributable to the HOME subsidy, and is assistance to the buyer.

Eligible Mortgagor

Shall be a single asset mortgagor entity acceptable to the Federal Housing Commissioner, as limited by the applicable section of the Act (i.e. Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d), and shall possess the powers necessary and incidental to operating the project, except that the Federal Housing Commissioner may approve a non-single asset mortgagor (i.e. original borrower under a mortgage and its successors and assigns) entity under such circumstances, terms and conditions determined and specified as acceptable to the Federal Housing Commissioner; and shall not be a natural person or tenant in common (per 24 CFR 200.5).

Extremely Low-income CDBG/HOME

Annual gross incomes do not exceed 30 percent of the median income for the area (adjusted for family size).

Fair Market Rent (FMR)

Primarily used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, and to serve as a rent ceiling in the HOME rental assistance program.

Fair Market Value

The amount of money that would probably be paid for a property in a sale between a willing seller, who does not have to sell, and a willing buyer, who does not have to buy.

General Requirements/General Conditions

Costs to be considered include:

- Field Office Expenses (e.g. field office, mobilization and demobilization, furniture and furnishings, janitorial, reproduction services, copy machines, fax machines, printers, scanners, paper shredders, computers, software, networking/infrastructure, tech maintenance, office telephones, telephone services, jobsite radios/cellular phones, postage, courier, expressage, scheduling expenses, job meeting expenses, temporary parking and laydown areas, storage facilities, office supplies, labor and travel associated with partnering sessions, construction redline drawings, and project specific signage);
- Temporary Amenities (e.g. temporary toilets, temporary fire protection, fencing and protecting walkways, temporary water distribution and meters, temporary electrical distribution and meters, site erosion control, temporary field offices, drinking water and accessories, cleanup and dumpsters, and temporary heat and ventilation);
- Site Cleanliness and Housekeeping (i.e. daily site cleanup, building cleanup, and final facilities cleaning);
 - Equipment Rental;
 - Permits;
 - Health and Safety Program;
 - Security Program;
 - Material Inspections and Tests;
 - Project Information and Documentation;
 - Construction Management Labor;
 - Tools and Equipment;
 - General Contractor's Insurance (except Builder's Risk)
 - Work Requirements (e.g. surveying equipment and tools, miscellaneous support labor and coordination, surveying and layouts, project site lighting, emergency lighting, temporary barricades, temporary fencing, temporary partitions, and temporary separation/isolation on project site during construction period).

Hard Costs

Often referred to as "brick-and-mortar costs", involve the actual physical construction of a development. These could include labor, grading, excavation of a site, the materials used, landscaping, and carpentry.

HOME Investment Partnerships Program (HOME)

HOME, administered by the US Department of Housing and Urban Development (HUD), is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. The HOME program provides formula grants that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities. Eligible HOME projects include building, buying, and/or rehabilitating affordable housing for rent or homeownership, as well as providing direct rental assistance to low-income people.

Household

All the people who occupy a housing unit. A household includes related family members *and* any unrelated people residing in the unit. Household members include, but are not limited to, lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

Housing Quality Standards (HQS)

These standards help HUD and local Public Housing Authorities (PHAs) define “standard housing” by establishing the minimum quality criteria necessary for the health and safety of program participants. In accordance with [24 CFR 92.209\(i\)](#), the City is required to use HQS or the successor requirements established by HUD, for HOME tenant-based rental assistance only. The [HQS Inspection Form](#) shall be used to ensure that a property meets HUD's Housing Quality Standards.

Identity of Interest (IOI)

An identity of interest relationship exists if any officer, director, board member, or authorized agent of any project team member (consultant, general contractor, supplier, vendor, vendee, attorney, management agent, seller of the land, etc.):

- (i) is also an officer, director, board member or authorized agent of any other project team member;
- (ii) has any control over or any financial interest in any other project team member's firm or corporation;
- (iii) is a business partner of an officer, director, board member, or authorized agent of any other project team member;
- (iv) has a family relationship through blood, marriage or adoption with an officer.

Low- and Moderate- Income (LMI)

LMI is one of three national objectives for the CDBG program. The LMI national objective is often referred to as the “primary” national objective because the statute requires that recipients expend 70 percent of their CDBG funds to benefit LMI persons. The four categories that can be used to meet the LMI national objective:

- Area Benefit activities;
- Limited Clientele activities;
- Housing activities; or
- Job Creation or Retention activities

Low-Income CDBG/NSP

Income equal to or less than the Section 8 Very Low Income limit (50% of the area median income) as established by HUD.

Low-income HOME

Annual gross incomes do not exceed 80 percent of the median income for the area (adjusted for family size).

Median

The median is the value separating the higher half from the lower half of a data sample (a population or a probability distribution). For a data set, it may be thought of as the "middle" value. For example, in the data set {1, 3, 3, 6, 7, 8, 9}, the median is 6, the fourth largest, and also the fourth smallest, number in the sample. For a continuous probability distribution, the median is the value such that a number is equally likely to fall above or below it.

Middle-income NSP

Annual gross incomes do not exceed 120 percent of the median income for the area (adjusted for family size)

Moderate-Income CDBG

Income equal to or less than the Section 8 Low Income limit (80% of area median income) established by HUD, but greater than the Section 8 Very Low Income limit (50% of area median income) established by HUD.

Net Proceeds

This is the seller's financial gain after seller has (a) satisfied all mortgages (including the PHA's, if it provided one), (b) paid closing costs, and (c) recovered seller's investment (down payment and other paid-in equity, and the depreciated value of seller's improvements to the home).

Participating Jurisdiction (PJ)

Any State or local government that has been designated by HUD to administer a HOME program grant. The City is the participating jurisdiction with the City of San Antonio limits and extra-territorial jurisdiction.

Public Facility Corporation (PFC)

A corporation created by and existing within the State of Texas, with the broadest possible powers to finance or to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, and placement in service of public facilities in an orderly, planned manner and at the lowest possible borrowing costs.

A PFC is created to be a public corporation, constituted authority, and instrumentality authorized to issue bonds on behalf of its sponsor for the purposes of Section 103, Internal Revenue Code of 1986. (*Texas Local Government Code, Title 9, Subtitle C, Chapter 303*)

"San Antonio Housing Trust Public Facility Corporation". The PFC enables housing resources to be better coordinated and directed to accomplish the City's revitalization goals.

Rehabilitation

The labor, materials, tools, soft costs, and other costs of improving buildings, other than minor or routine repairs. The term includes where the use of a building is changed to an emergency shelter and the cost of this change and any rehabilitation costs does not exceed 75 percent of the value of the building before the change in use.

Request for Applications (RFA)

A type of solicitation notice in which the City announces that grant funding is available, and allows applicants to present proposals on how the funding could be used.

Residential Construction Management Policy (RCMP)

All HUD-funded properties must meet certain minimum property standards at project completion. The RCMP lists the minimum property standards that apply to each type of HUD funded activity.

Soft Costs

Soft costs are any costs that are not considered direct construction costs. Soft costs include everything from architectural and engineering fees, to legal fees, pre- and post-construction expenses, permits and taxes, insurance, etc. Soft costs also include movable furniture and equipment (as opposed to fixed equipment included in hard costs) such as computer data equipment, telephone systems, etc.

Tenant-Based Rental Assistance (TBRA)

The HOME program can assist low- and very low-income families in obtaining decent, safe, and sanitary housing in private accommodations by making up the difference between what they can afford and the approved rent for an adequate housing unit.

Universal Design

A design concept that encourages the construction or rehabilitation of housing and elements of the living environment in a manner that makes them usable by all people, regardless of ability, without the need for adaptation or specialized design. Codified through City Ordinance 95641.

Very low-income HOME

Annual gross incomes do not exceed 50 percent of the median income for the area (adjusted for family size).

ATTACHMENT E:
CHANGE ORDER FORM

CHANGE ORDER # _____

PROJECT SITE: **FORTUNA SUBDIVISION**

TO:

DATE:

The Agreement dated _____ between the Contractor and Habitat for Humanity of San Antonio, Inc. (the "Agreement") is hereby changed as follows:

Item #	Description	Unit	Qty	Unit Price	Total

Reason for change:

Defined terms contained in this Change Order shall have the same meaning set forth for such terms in the Agreement, unless the context clearly requires otherwise.

The Original Contract Sum was: \$
 Net change by previously authorized Change Orders: \$
 The Contract sum prior to this Change Order was: \$

The Contract Sum will be increased by this Change Order for: \$

The new Contract Sum including this Change Order shall be: \$

The Contract Time shall be remain unchanged and the Contract Work shall be completed by _____.

HABITAT FOR HUMANITY
OF SAN ANTONIO, INC.
By: _____

[GENERAL CONTRACTOR]
By: _____

Date: _____

Date: _____

Pape-Dawson Engineers, Inc.

By: _____

Date: _____

ATTACHMENT F:
INFRASTRUCTURE CONSTRUCTION PLANS

Signature verifying receipt of:
Three (3) Infrastructure Construction Plan Sets
Name: _____
Signature: _____