

AN ORDINANCE 2007-04-12-0397

AUTHORIZING THE REPROGRAMMING OF \$1,231,252.91 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS AND \$641,820.92 IN HOME INVESTMENT PARTNERSHIP GRANT (HOME) FUNDS AVAILABLE FROM FY 2005-2006 CITY-WIDE PROJECT COMPLETIONS, PROGRAM INCOME FUNDS AND CANCELLED PROJECTS TO ADDRESS EXISTING PROJECT SHORTFALLS AND NEW PROJECTS; AUTHORIZING THE CLOSE-OUT AND CANCELLATION OF AFFECTED PROJECTS AND THE CREATION OF APPROPRIATE PROJECTS AND PROJECT BUDGETS; AUTHORIZING THE CANCELLATION OF THE NEW BRAUNFELS STREET DISTRICT NEIGHBORHOOD COMMERCIAL REVITALIZATION (NCR) PROJECT IN THE AMOUNT OF \$40,000.00, MIDTOWN ON BLANCO NCR PROJECT IN THE AMOUNT OF \$50,000.00 AND PRESA REAL NCR PROJECT IN THE AMOUNT OF \$50,000.00 FOR A TOTAL AMOUNT OF \$140,000.00; AND AUTHORIZING THE APPROPRIATION AND ALLOCATION OF SAID FUNDS TO THE FACADE IMPROVEMENT PROGRAM; REVISING THE APPROPRIATE PROJECT BUDGETS; ESTABLISHING ACCOUNTS; AUTHORIZING THE EXECUTION AND SUBMISSION OF CONTRACTS AND OTHER DOCUMENTS AS NECESSARY IN CONNECTION THEREWITH; AND PROVIDING FOR PAYMENT; AUTHORIZING THE RENAMING OF PECAN VALLEY PARK PLAYGROUND AND SKATEBOARD RING CDBG PROJECT TO THE SOUTHSIDE LIONS PLAYGROUND AND SKATEBOARD RING CDBG PROJECT FOR HUD REPORTING PURPOSES; AND AUTHORIZING THE AMENDMENT OF ORDINANCE NO. 100918, PASSED AND APPROVED MAY 19, 2005 TO INCREASE THE FY 2005-2006 EMERGENCY SHELTER GRANT (ESG) ADOPTED BUDGET BY \$7,078.00 FOR A TOTAL FY 2005-2006 ESG BUDGET AMOUNT OF \$635,638.00.

* * * * *

WHEREAS, Community Development Block Grant (CDBG) and HOME Investment Partnership Grant (HOME) funds available in previously-appropriated projects may, pursuant to regulations of the U.S. Department of Housing and Urban Development (HUD), be retained by grantees for reprogramming to provide supplementation to existing projects and/or funding in support of new programs; and

WHEREAS, the City of San Antonio ("City") is a CDBG and HOME fund grantee; and

WHEREAS, in connection with the current CDBG Program, the sum of \$1,231,252.91 is currently available in CDBG funds for said reprogramming and allocation; and

WHEREAS, in connection with the current HOME Program, the sum of \$641,820.92 is currently available in HOME funds for said reprogramming and allocation; and

WHEREAS, pursuant to applicable HUD regulations, statutory requirements and/or City Council policy designed to ensure adequate citizen input, a public hearing is required prior to any reprogramming of or modification to funds and projects, respectively and prior to the adoption of activities under the City's Community Development Program; and

WHEREAS, the required notice having been duly published, and said public hearing having been held before City Council on January 18, 2007, it is now the desire of the City to formally resolve the issues of allocating reprogrammable CDBG and HOME funds; and

WHEREAS, the New Braunfels Street District Neighborhood Commercial Revitalization (NCR) Project in the amount of \$40,000.00, Midtown on Blanco NCR Project in the amount of \$50,000.00 and Presa Real NCR Project in the amount of \$50,000.00 for a total amount of \$140,000.00, did not perform in a manner consistent with the contractual scope of work; and

WHEREAS, City staff elected not to renew said contracts with the delegate agencies on the aforesaid NCR projects, and desires to appropriate said \$140,000.00 to the Façade Improvement Program to serve as matching funds to provide businesses located within NCR corridors with façade improvements and renovations necessary to maintain the integrity of the building and community; and

WHEREAS, in compliance with applicable HUD regulations, it is necessary to authorize the Director of the City's Grants Monitoring and Administration Department to rename the Pecan Valley Park Playground and Skateboard Ring to the Southside Lions Playground and Skateboard Ring; and

WHEREAS, Ordinance No. 100918, passed and approved on May 19, 2005, adopted the FY 2005-2006 Emergency Shelter Grant (ESG) budget in the amount of \$628,560.00; and

WHEREAS, it is now desire of the City Council to amend Ordinance No. 100918, and authorize the increase of the FY 2005-2006 ESG budget by \$7,078.00 for a total FY 2005-2006 ESG budget amount of \$635,638.00; **NOW THEREFORE:**

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

SECTION 1. Revisions to the FY 2005-2006 Community Development Block Grant (CDBG) and HOME Investment Partnership Grant (HOME) projects and the modifications to the budgets and reprogramming in support thereof in the amounts of \$1,231,252.91 and \$641,820.92, respectively, are hereby approved in accordance with the budget schedule affixed hereto and incorporated by reference herein for all purposes as Attachment I. Said funds are hereby authorized to be reprogrammed to cover existing project shortfalls, modifications and/or the creation of new CDBG and HOME projects in accordance with Attachment I.

SECTION 2. The Façade Improvement Program, adopted as a line item in the NCR budget by Ordinance No. 2006-06-01-0628 is hereby authorized to be increased by the amount of the cancelled Neighborhood Commercial Revitalization (NCR) Projects, including the New Braunfels Street District Project in the amount of \$40,000.00, Midtown on Blanco Project in the amount of \$50,000.00 and Presa Real Project in the amount of \$50,000.00 for a total amount of \$140,000.00.

SECTION 3. The Director of the City's Grants Monitoring and Administration Department is hereby authorized to rename the Pecan Valley Park Playground and Skateboard Ring to the Southside Lions Playground and Skateboard Ring for reporting purposes in compliance with the regulations of the U.S. Department of Housing and Urban Development (HUD).

SECTION 4. Ordinance No. 100918, passed and approved on May 19, 2005, is hereby authorized to be amended to increase of the FY 2005-2006 ESG budget by \$7,078.00 for a total FY 2005-2006 ESG budget amount of \$635,638.00.

SECTION 5. The appropriations of funds and the budget revision necessitated and scheduled pursuant to the aforesaid Attachment I are hereby authorized for entry into the City's accounting system.

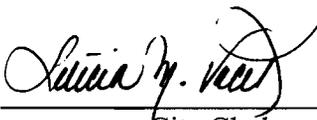
SECTION 6. The Director of the City's Finance Department is hereby authorized to effect on the books of the City the cancellations, revisions and reprogramming in support thereof, set forth in Attachment I. The City Manager, or her designee or the Director of the City's Grants Monitoring and Administration Department is hereby authorized to execute any and all contracts and other documents as necessary for (a) implementation of the reductions, revisions and reprogramming set forth in Attachment I and (b) compliance with HUD rules, regulations and procedures, and to submit all certifications and such other information to and as required by HUD.

SECTION 7. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, SAP GL Account Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 8. This ordinance shall be effective on and after the 22nd day of April, 2007.

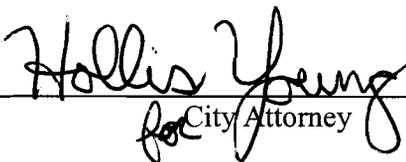
PASSED AND APPROVED this 12th day of April, 2007.


M A Y O R

ATTEST: 

City Clerk

PHIL HARDBERGER

APPROVED AS TO FORM: 

for City Attorney

Agenda Voting Results

Name: 7.

Date: 04/12/07

Time: 03:20:01 PM

Vote Type: Multiple selection

Description: 7. A Public Hearing and Ordinance reprogramming \$1,231,252.91 in Community Development Block Grant (CDBG) funds and \$641,820.92 in HOME Investment Partnership Grant (HOME) funds available from FY 2005-2006 City-wide project completions, program income funds and cancelled projects to address existing project shortfalls and new projects; closing and cancelling affected projects and creating appropriate projects and project budgets; changing the HUD Project name from Pecan Valley Park Playground and Skateboard Ring to the Southside Lions Playground and Skateboard Ring for reporting purposes; and amending Ordinance No. 100918 (dated May 19, 2005) to increase the FY 2005-2006 Emergency Shelter Grant (ESG) adopted budget by \$7,078.00 for a total FY 2005-2006 ESG budget amount of \$635,638.00. [Presented by Andrew Cameron, Director, Grants Monitoring and Administration; T.C. Broadnax, Assistant City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3	Not present			
RICHARD PEREZ	DISTRICT 4	Not present			
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		



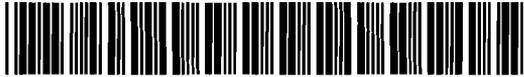
CMS or Ordinance Number: OR00000200704120397

TSLGRS File Code: 1000-05

Document Title:
ORD - 28-031126 - Stinson Park Baseball Field-Lights

Ordinance Date:
4/12/2007





CMS or Ordinance Number: CN4600006006

TSLGRS File Code:1025-08-A

Document Title:
CONT - 28-031126 - Stinson Park Baseball Field-Lights

Commencement Date:

7/12/2007

Expiration Date:

4/30/2008



**INTERDEPARTMENTAL
AGREEMENT**

PROJECT NAME: STINSON PARK BASEBALL FIELD LIGHTS
CFDA-14.218

PROJECT NO.: 28-031126

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Interdepartmental Agreement (“AGREEMENT”) is hereby made and entered into by and between the Department of Grants Monitoring and Administration (hereinafter referred to as “GMA”) of the City of San Antonio (hereinafter referred to as “CITY”) and CITY’s Parks and Recreation (hereinafter referred to as “DEPARTMENT”).

WHEREAS, CITY has received certain funds from the U.S. Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974, as amended (hereinafter referred to as “Community Development Act”) for utilization in connection with its Community Development Block Grant (CDBG) Program; and

WHEREAS, the City Council has adopted a budget for such funds and has included therein, pursuant to Ordinance No. 2007-04-12-0397 dated April 12, 2007, the allocation of One Hundred Eighty Thousand Dollars and No/100 Dollars (\$180,000.00) for a project entitled, “Stinson Park Baseball Field Lights” (hereinafter referred to as “Project”); and

WHEREAS, the City Council has designated GMA as the CITY department responsible for the administration and monitoring of the Project and all matters pertaining thereto; and

WHEREAS, GMA wishes to engage DEPARTMENT to implement and manage said Project; and

WHEREAS, in consideration for the tasks to be performed by DEPARTMENT hereunder, such allocated funds shall be available for use by DEPARTMENT, as herein authorized;

NOW THEREFORE:

The parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained, and to the performance and accomplishment of the tasks hereinafter described.

I. TERM

1.1 Except as otherwise provided for pursuant to the provisions hereof, this AGREEMENT shall commence immediately upon its execution and shall terminate on the earlier of (a) April 30, 2008, or (b) Project completion.

II. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

2.1 DEPARTMENT understands that funds provided to it pursuant to this AGREEMENT are funds which have been made available to CITY by the federal government under the Community Development Act and in accordance with CITY's HUD-approved Grant Application and with other specific assurances made and executed by CITY. DEPARTMENT, therefore, assures and certifies that it will comply with the requirements of the Community Development Act, with all regulations promulgated thereunder as codified at Title 24 of the Code of Federal Regulations, and with any and all applicable amendments or revisions to said Community Development Act or regulations.

2.2 DEPARTMENT understands that summaries of certain compliance requirements mandated by applicable laws or regulations are contained in CITY's Federal Compliance Manual, CDBG Program Policies, and that DEPARTMENT must at all times remain in compliance therewith; DEPARTMENT further understands that said summaries are intended only as such and in no way are meant to constitute a complete compilation of all duties imposed upon DEPARTMENT by law or administrative ruling, or to narrow the standards which DEPARTMENT must follow.

2.3 DEPARTMENT 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 CITY's Federal Compliance Manual and that a copy of said Federal Compliance Manual will be included as part of every contract awarded in connection with this Project.

2.4 DEPARTMENT shall observe and comply with all city, state and federal laws, regulations, ordinances and codes affecting DEPARTMENT's operations pursuant to the AGREEMENT.

III. MAINTENANCE OF EFFORT

3.1 DEPARTMENT agrees that the funds and resources provided to it under the terms of this AGREEMENT shall in no way be substituted for funds and resources provided from other sources, nor shall such funds and resources in any way serve to reduce the funds, resources, services, or other benefits which would have been available to, or provided through, DEPARTMENT had this AGREEMENT not been executed.

IV. PERFORMANCE

4.1 DEPARTMENT shall manage, implement, perform, provide, and carry out in a timely manner all of the tasks, activities, and services set forth in the Work Program (EXHIBIT "A") attached hereto and incorporated herein for all purposes, utilizing funds only in the manner allocated in the Project Budget (EXHIBIT "B") also attached hereto and incorporated herein for all purposes.

4.2 Modifications or alterations to the Work Program or the Project Budget may be made only pursuant to the prior written approval of GMA.

4.3 Funds are provided for the accomplishment of this Project and its specific work tasks only, as approved by the City Council. Accordingly, when all approved work tasks are completed, DEPARTMENT shall forward to GMA a Project completion statement in conjunction with the final invoice.

V. FISCAL

5.1 Inasmuch as the City Council has designated to GMA the responsibility for fiscal oversight, control and monitoring of CDBG project funds, DEPARTMENT shall submit to GMA, for written approval prior to final processing, all Project matters fiscal in nature including, but not limited to, requests for payment, purchase orders, requisitions, budget adjustments and invoices. DEPARTMENT agrees and understands that funds are awarded only for the current fiscal year. DEPARTMENT is solely responsible for submitting any and all invoices incurred through September of the current fiscal year by no later than October 15th of the next fiscal year.

VI. MAINTENANCE AND ACCESSIBILITY OF RECORDS

6.1 DEPARTMENT agrees to maintain records that will provide accurate, current separate, and complete disclosure of the status of any funds received pursuant to this AGREEMENT. DEPARTMENT 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 DEPARTMENT's record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure.

6.2 As often, at such times, and in such form as GMA may require, DEPARTMENT shall, upon GMA's verbal or written request, make available and furnish to GMA any and all statements, reports, data and information deemed by GMA to pertain to matters covered by this AGREEMENT.

VII. PERFORMANCE REPORTS

7.1 At minimum, DEPARTMENT shall submit project performance reports to GMA in accordance with the following schedule:

<u>Fiscal Quarter</u>	<u>Report Due</u>
First (October-December)	January
Second (January-March)	April
Third (April-June)	July
Fourth (July-September)	October

7.2 Project performance reports shall be submitted to GMA by DEPARTMENT no later than ten (10) working days following the end of each required reporting period.

VIII. CHANGES AND AMENDMENTS

8.1 Alterations, additions or deletions to the terms of this AGREEMENT shall be by written amendment executed by both GMA and DEPARTMENT.

IX. SPECIAL CONDITIONS

9.1 DEPARTMENT acknowledges, understands and agrees to comply with the following federal regulations as promulgated in Section 3 clause of the Housing and Urban Development Act of 1968, as amended:

(A) 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, 12 U.S.C. 170(1)(u) (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.

- (B) The parties to this AGREEMENT agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this AGREEMENT, the parties to this AGREEMENT certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (C) The contractor agrees to send to each labor organization or representative of workers with which the 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.
- (D) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, 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 135. The 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 135.
- (E) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 135.
- (F) Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this AGREEMENT for default, and debarment or suspension from further HUD-assisted contracts.

(G) 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 (25 U.S.C.C. 450e) also applies to the work to be performed under this AGREEMENT. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this AGREEMENT that are subject to the provision of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

9.2 DEPARTMENT acknowledges and agrees that funds provided hereunder shall be used solely to pay expenses associated with the implementation of Project activities as described in the Project Description of this Agreement and accordingly must benefit low to moderate-income persons.

9.3 DEPARTMENT shall not enter into any third-party professional or contractual service agreement in connection with the Project without providing notice to, and obtaining prior approval from, the Grants Monitoring and Administration.

9.4 DEPARTMENT shall ensure that all third-party professional and contractual services in connection with Project implementation are procured in accordance with 24 C.F.R. 85, the Common Rule on Procurement and Competitive Standards.

9.5 DEPARTMENT warrants that all federal and local procurement and bidding policies have been, and will continue to be, adhered to in the implementation of this Project.

9.6 DEPARTMENT shall assume responsibility for monitoring and oversight of all activities relating to this Project and shall ensure compliance with all applicable statutory and regulatory requirements and guidelines, including, but not limited to those related to Davis Bacon Wage rates, building plans and permits, building inspections and environmental reviews.

9.7 DEPARTMENT shall coordinate with the CITY's Public Works Department with regard to ascertaining how the Project Budget will support construction expenses and all other construction related activities including, but not limited to, building plans, specifications, certificates of occupancy, building inspections, permits, bidding procedures, and Davis-Bacon Wage Rates.

9.8 DEPARTMENT shall submit quarterly Performance Reports to GMA, consistent with the performance measures set forth in this AGREEMENT, on the status of the Project(s) no later than ten (10) working days following the end of each quarter.

-OR-

9.9 DEPARTMENT shall submit to GMA, a performance report summarizing project activities, on a one-time basis to be due ten (10) business days after the completion of the Project.

9.10 DEPARTMENT shall uphold the CITY's Small Business Economic Development Advocacy (SBEDA) policy to involve qualified, Small, Minority, Women-Owned Business Enterprises (SMWBE), and local business enterprises, to the greatest extent feasible, in the CITY's public works construction, procurement contracts, professional service, and other discretionary contracts.

EXECUTED this 26th day of June, 2007.

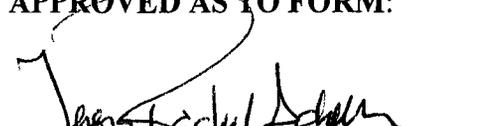
DEPARTMENT OF GRANTS
MONITORING AND ADMINISTRATION

PARKS AND RECREATION
DEPARTMENT

BY: 
RA ANDREW W. CAMERON
Title: Director

BY: 
MALCOLM MATTHEWS
Title: Director

APPROVED AS TO FORM:


Assistant City Attorney

ATTACHMENTS

Exhibit "A" - Work Program

Exhibit "B" - Project Budget

EXHIBIT "A"

WORK PROGRAM

WORK PROGRAM

- I. DEPARTMENT: Parks and Recreation
- II. PROJECT NAME: Stinson Park Baseball Field Lights
- III. PROJECT NO.: 28-031126
- IV. PROJECT LOCATION: 900 March
- V. PROJECT DESCRIPTION:

CDBG Funds will be used to fund the installation of lighting for two existing baseball fields. Stinson Park is located at 900 March.

- VI. DETAILED/QUANTIFIED SCOPE OF WORK:

<u>Performance Measaures</u>	<u>Goal/Adopted FY 2007-2008</u>	<u>1st. Qtr. Actual</u>	<u>2nd Qtr. Actual</u>	<u>3rd Qtr. Actual</u>	<u>4th Qtr. Actual</u>
Total CDBG Funds Expended	\$180,000				
Total Other Project Funds Expended	0				
Pre-Construction Start Date	June 2007				
Pre-Construction Completion Date	October 2007				
Construction Start Date	December 2007				
Construction Completion Date - CDBG Funded Activity	April 2008				
Construction Completion Date -- All Project Activity	April 2008				
Total No. of Persons Served (Per Qtr)	*				
Total No. of Low/Moderate Income Persons Served (Per Qtr)	*				

* The Parks and Recreation Department does not keep track of the number of people who use the baseball fields. The baseball fields are located in Census Tract 1518.1 where 56% of the households are low to moderate income.

EXHIBIT "B"
PROJECT BUDGET

CITY OF SAN ANTONIO

DEPARTMENT OF GRANTS MONITORING AND ADMINISTRATION

Interdepartmental Correspondence

TO: Sebastain Guajardo, Special Projects Manager, Parks and Recreation
Department

FROM: Lucy G. Hernandez, Community Development Analyst, Department of
Grants Monitoring and Administration

COPIES TO: File

SUBJECT: Stinson Park Baseball Field Lights

DATE: July 3, 2007

Attached is a copy of the executed Interdepartmental Agreement for the Stinson Park Baseball Field Lights in the amount of \$180,000.00. The project is now ready to proceed. Please let me know when the contractor is selected and when the pre-construction meeting will be held.

If you have any questions, please call me at 207-5473.

Atchs.

2007 CDBG Reprogramming

CDBG Programmatic Revenues		CDBG Reprogramming Projects	
<u>Project</u>	<u>Balance</u>	<u>Project</u>	<u>Allocation</u>
After School Kare	1,344.75	AGA Artist Studio Progresso El Parion Imp	85,000.00
CDBG Neighborhood Planning Administration	13,505.60	Community Revitalization Study	75,000.00
CDBG Rezoning Administration	19,677.90	District 2 Makeover Program	168,441.00
CDBG/HOME Grants Accounting	63,727.00	Johnson Library Improvements	150,000.00
CERA Unfunded Mandate	844.01	Linear Park Lighting (Dist. 6 Showcase)	120,000.00
Code Compliance	25,703.54	Rental Rehabilitation Program	56,486.44
Code Compliance Enforcement	19,479.81	SA Youth Centers - Alamo YouthBuild	50,000.00
Cool It Program	6.35	Seeling Park Lighting	90,000.00
Disability Access Administration	21,142.51	Stinson Park Baseball Field Lights	180,000.00
Eastside Boys And Girls Club	1,500.00	Villa Coronada/Alameda Neighborhood Impr.	256,325.47
Empowerment Zone Outreach & TA	16,454.60		
JOVEN CARE	13,795.92		
JOVEN Creando La Vision	20,009.85		
JOVEN Por Los Ninos	4,678.12		
Legal Administration	52,824.83		
NAD Housing Operations Administration	784.00		
Neigh Commercial Revitalization Program	10,862.66		
Roving Leader Program	127,895.11		
Teen Connection Program	8,550.28		
UUHAC Senior Housing District 2	<u>38,576.37</u>		
Total Programmatic Revenues	461,363.21		
CDBG Program Income			
Administrative Fee	17,700.00		
Fees from Vacant Lot Clean-up	2,726.50		
Owner-Occupied program Income	168,441.00		
Rental Income	580,140.23		
SAWS Contribution CDBG Capital Project	<u>881.97</u>		
Total CDBG Program Income	769,889.70		
Total CDBG Reprogramming Revenues	1,231,252.91	Total CDBG Reprogramming Projects	1,231,252.91
		Available to Allocate ----->	0.00

HOME Reprogramming Revenues	
Costa Brava Repayment	24,902.00
Costa Dorada Repayment	22,956.22
King's Court Repayment	17,487.34
AAMHC Bently Place Apartments	38,750.00
Monticello Manor Repayment	1,909.05
Oak Manor/Oak Hills Loan Repayment	<u>122,375.31</u>
Total HOME Program Income	228,379.92

Avenida Guadalupe Association FTHB	20,000.00
District 2 Makeover Program	168,441.00
DSDB Program	125,000.00
Rosemont @ University Park (SADA)	<u>100,000.00</u>
Programmatic Revenues	413,441.00

Total HOME Reprogramming Revenues 641,820.92

HOME Reprogramming Projects	
Merced Housing (CHDO Capacity Building)	15,000.00
Owner-Occupied Rehab (from Dist 2 Makeover)	168,441.00
Rental Rehabilitation Program	458,379.92

Total HOME Reprogramming Projects 641,820.92

Available to Allocate -----> 0.00

HOME Reprogramming Revenues

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Rental Rehabilitation Program	458,379.92

Total HOME Reprogramming Projects 641,820.92

Available to Allocate -----> 0.00

Revised Budget

0.00

0.00

0.00

190,000.00

\$190,000.00



CMS or Ordinance Number: CN4600006492

TSLGRS File Code:1025-08-A

Document Title:

CONT - Merced Housing Texas will provide technical assistance to U.U. Housing assistance Corporation (UUHAC) for the purpose of increasing UUHAC's

Commencement Date:

4/12/2007

Expiration Date:

3/31/2008

HOME CHDO AGREEMENT

**PROJECT NAME: CHDO-CAPACITY BUILDING
TECHNICAL ASSISTANCE
CFDA-14.239**

PROJECT NO.: 25-011030

**STATE OF TEXAS §
 §
COUNTY OF BEXAR §**

This HOME CHDO Agreement (hereinafter referred to as "AGREEMENT") is hereby made and entered into by and between the CITY OF SAN ANTONIO (hereinafter referred to as "CITY"), a Texas municipal corporation, acting by and through its Director of Grants Monitoring and Administration, pursuant to Ordinance No. 2007-04-12-0397, dated April 12, 2007, and Merced Housing Texas (hereinafter referred to as "CHDO"), a Texas non-profit corporation and a Community Housing Development Organization, acting by and through its duly authorized President.

WHEREAS, CITY has received certain funds from the U.S. Department of Housing and Urban Development (HUD) under Title II of the National Affordable Housing Act of 1990, (P. L. 101-625) (hereinafter referred to as "the Act") for utilization in connection with its HOME Investment Partnerships Grant (hereinafter referred to as "HOME) Program; and

WHEREAS, the City Council has adopted a budget for such funds and has included therein the expenditure of funds for the project entitled, "CHDO-Capacity Building Technical Assistance" (hereinafter referred to as "Project"); and

WHEREAS, the City Council has designated the Grants Monitoring and Administration Department as the CITY department responsible for the administration and monitoring of the Project and all matters pertaining thereto; and

WHEREAS, CITY wishes to engage CHDO to implement and manage said Project;

NOW THEREFORE:

The parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained, and to the performance and accomplishment of the tasks hereinafter described.

I. TERM AND TYPE OF ASSISTANCE

1.1 Except as otherwise provided for pursuant to the provisions hereof, this AGREEMENT shall be effective upon its execution and shall terminate on the earlier of (a) March 31, 2008, or (b) Project completion.

1.2 The amount of Fifteen Thousand and No/100 Dollars (\$15,000.00) to CHDO under this AGREEMENT will be made by CITY to CHDO under the terms and conditions set forth herein. CITY shall not be required to make any additional disbursements to CHDO or to any third party under this AGREEMENT.

II. RESPONSIBILITIES

2.1 CHDO hereby accepts responsibility for the performance, in a satisfactory and efficient manner as solely determined by CITY, of all services and activities set forth in this AGREEMENT.

2.2 Unless written notification by CHDO to the contrary is received and approved by CITY, CHDO's President shall be CHDO's designated representative responsible for the management of all contractual matters pertaining to this AGREEMENT.

2.3 The Director of the Grants Monitoring and Administration Department or his designate shall be CITY's representative responsible for the administration of this AGREEMENT.

2.4 Communications between CITY and CHDO shall be directed to the designated representatives of each as set forth in paragraphs numbered 2.2 and 2.3 hereinabove.

III. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

3.1 CHDO understands that funds provided to it pursuant to this AGREEMENT are funds which have been made available to CITY by the federal government under the Act and in accordance with CITY's HUD-approved Grant Application and with other specific assurances made and executed by CITY. CHDO, therefore, assures and certifies that it will comply with the requirements of the Act and with all regulations promulgated thereunder as codified at Title 24 of the Code of Federal Regulations. CHDO understands, however, that the Act in no way is meant to constitute a complete compilation of all duties imposed upon CHDO by law or administrative ruling, or to narrow the standards which CHDO must follow. Accordingly, CHDO understands that if the regulations and issuances promulgated pursuant to the Act are amended or revised, it shall comply with them or otherwise immediately notify CITY pursuant to the provisions of Article XLIII of this AGREEMENT.

3.2 CHDO understands that summaries of certain compliance requirements mandated by applicable laws or regulations are contained in CITY's Federal Compliance Manual and CITY's CDBG and HOME Housing Program Policies, copies of which are attached hereto and incorporated herein for all purposes as Attachment "A" and Attachment "B," respectively, and

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

3.3 CHDO shall observe and comply with all city, state and federal laws, regulations, ordinances and codes affecting CHDO's operations pursuant to this AGREEMENT.

IV. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA)

4.1 CITY's SBEDA, Non-Discrimination and Affirmative Action Policies. CHDO agrees and acknowledges that it is CITY's policy that Small, Minority or Woman-owned Business Enterprises shall have the maximum practical opportunity to participate in the performance of public contracts (SBEDA Policy). CHDO agrees that CHDO will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin or disability and will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. CHDO further agrees that CHDO will abide by all applicable terms and provisions of CITY's Non-Discrimination Policy, CITY's SBEDA Policy and CITY's Equal Opportunity Affirmative Action Policy, these policies being available in CITY's Department of Economic Development and the CITY Clerk's Office.

4.2 Good Faith Effort Plan (GFEP) Required. If CHDO's Fee paid to CHDO pursuant to this AGREEMENT will equal or exceed a total of \$200,000.00, then CHDO shall have submitted to CITY a Good Faith Effort Plan (GFEP) indicating CHDO's utilization of Small, Minority and Woman-owned Business Enterprises at the time of its proposal to seek this AGREEMENT. If CITY approved the GFEP, and CHDO subsequently changes or does not utilize one or more of the subcontractors listed on its GFEP, CHDO shall submit a request for approval of this change to the original affirmed list of subcontractors. If CITY approved the GFEP, and CITY subsequently finds material deficiencies in any aspect of the GFEP, CHDO shall submit a written report to CITY's Department of Economic Development. CHDO shall also submit a Supplemental GFEP indicating efforts to resolve any deficiencies. A denied Supplemental GFEP, by CITY's Department of Economic Development, will constitute failure to satisfactorily resolve any deficiencies by CHDO. Failure to obtain an approved Supplemental Good Faith Effort Plan, within sixty (60) days of initial denial shall constitute a default and may result in withholding of CHDO's fee or suspension of this AGREEMENT until all deficiencies are resolved. Failure to cure all deficiencies within another sixty (60) days of the date the penalty is initially assessed constitutes a further (additional) condition of default by CHDO which can, at the option of the Director, result in forfeiture of the entirety of this AGREEMENT.

4.3 Acknowledgment. CITY hereby acknowledges that CHDO's GFEP at the time of the execution of this AGREEMENT meets the requirements of the CITY's Economic Development Department.

V. LEGAL AUTHORITY

5.1 CHDO represents, warrants, assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this AGREEMENT and to perform the responsibilities herein required. A certified resolution by CHDO authorizing this AGREEMENT and its execution must be submitted to the Director of CITY's Grants Monitoring and Administration Department prior to execution of this AGREEMENT.

5.2 The signer of this AGREEMENT for CHDO represents, warrants, assures and guarantees that he or she has full legal authority to execute this AGREEMENT on behalf of CHDO and to bind CHDO to all terms, performances and provisions herein contained. A certified resolution approving such authority by CHDO must be submitted to the Director of CITY's Grants Monitoring and Administration Department prior to execution of this AGREEMENT.

5.3 In the event that a dispute arises as to the legal authority to enter into this AGREEMENT of either the CHDO or the person signing on behalf of CHDO, CITY shall have the right, at its option, to either temporarily suspend or permanently terminate this AGREEMENT. Should CITY suspend or permanently terminate this AGREEMENT pursuant to this paragraph, however, CHDO shall be liable to CITY for any monies it has received from CITY hereunder.

VI. MAINTENANCE OF EFFORT

6.1 CHDO agrees that the funds and resources provided to it under the terms of this AGREEMENT shall in no way be substituted for funds and resources provided from other sources, nor shall such funds and resources in any way serve to reduce the funds, resources, services, or other benefits which would have been available to, or provided through, CHDO had this AGREEMENT not been executed.

VII. PERFORMANCE BY CHDO

N/A
7.1 (A) The Project to be assisted pursuant to this AGREEMENT is for the purpose of purchasing real property (the "Property") for resale to, constructing new homes for, performing rehabilitation work for, and/or providing gap financing of low interest loans to "qualified first-time homebuyers," as that term is defined in CITY's CDBG and HOME Housing Program Policies; and CHDO shall ensure that the foregoing purpose is maintained and completed in accordance and compliance with the terms, provisions and requirements of this AGREEMENT.

(B) CHDO shall manage, perform and provide all of the activities and services set forth in the Work Statement attached hereto and incorporated herein for all purposes as Attachment "C," to CITY's satisfaction, utilizing those funds in the Budget Package available hereunder described in Attachment "D," attached hereto and incorporated herein for all purposes and is remitted to CHDO by CITY.

N/A

(C) Prior to the closing of the loan between CHDO and each homebuyer, CHDO shall maintain a report of the verified income of such homebuyer, copies of all closing documents regarding CHDO's loan with such homebuyer, written evidence that all taxes on the parcel of property to be sold to such homebuyer are paid and such other information as may be reasonably required by CITY and be submitted to CITY upon CITY's request.

N/A

(D) CHDO shall ensure that one hundred percent (100%) of the dwelling units in the Project financed with funds provided under this AGREEMENT are sold to qualified first-time homebuyers, as that term is defined in the CDBG and HOME Housing Program Policies.

N/A

(E) CHDO certifies that all real property and improvements thereon financed under the terms of this AGREEMENT will remain affordable to qualified first-time homebuyers, pursuant to deed restrictions, covenants running with the land, or other mechanisms approved by CITY that will ensure that the Property will remain affordable without regard to the term of any mortgage or the transfer of ownership, for the period of affordability as set forth in the CDBG and HOME Housing Program Policies.

N/A

(F) The funds provided under this AGREEMENT may be used only to purchase real property for resale, constructing new homes, performing rehabilitation work and/or provide gap financing of low interest loans to "qualified first-time homebuyers," as that term is defined in the CDBG and HOME Housing Program Policies. Such funds may not be used for expenses incurred prior to execution of this AGREEMENT nor for administrative or indirect costs, nor for costs incurred for any "non-arms length" contractor or such other prohibited uses set forth elsewhere in this AGREEMENT.

(G) CHDO shall ensure that the Project meets such other requirements as CITY may reasonably require with reasonable notice to CHDO.

N/A

(H) CHDO must submit to CITY for its written approval prior to execution, any contract for the sale of any dwelling unit acquired pursuant to this AGREEMENT, along with such information as CITY may require in order to assure that the affordability and other requirements set forth in this AGREEMENT will be satisfied in connection with such sale.

7.2 Modifications or alterations to paragraph 7.1 (A) or Attachment "C" may be made only pursuant to the prior written approval of the Director of CITY's Grants Monitoring and Administration Department or his designate.

7.3 CHDO shall comply with each and every term and condition of Attachments "C" through the Universal Design and Construction Ordinance attached hereto and incorporated herein as Attachment "G" for all intents and purposes.

VIII. DISBURSEMENT BY CITY

8.1 The funds provided under this AGREEMENT will be disbursed to CHDO upon request to CITY in accordance with the provisions herein. The following procedure will be used to

ensure orderly and timely disbursement to CHDO upon request in accordance with the provisions below:

CITY will release the funds to be provided hereunder to CHDO within ten (10) days after CITY's receipt from CHDO of a fully complete and CITY-approved invoice billing package, a copy of which is attached hereto and incorporated herein for all purposes as Attachment "E." Not less than fourteen (14) days prior to the requested date for each disbursement under the Loan, CHDO shall submit to CITY a written request for such disbursement, together with such supporting documentation and information as CITY may reasonably require. After submission by CHDO of this disbursement request and required information, CITY staff will inspect the Property, verify the information submitted, and inform CHDO of disapproval, if such is the case, at least three (3) business days before the projected funding date. It is expressly understood and agreed by the parties hereto that such approval or disapproval lies exclusively and solely within the discretion of CITY. If disapproved, the Director of CITY's Grants Monitoring and Administration Department will specify in writing the grounds for denial of the request for disbursement. CHDO will have the opportunity to cure any deficiency in its request for disbursement and obtain CITY approval of such cure within five (5) business days after the date of such denial. For purposes of this AGREEMENT, the term "business day" shall mean every day of the week except all Saturdays, Sundays and those scheduled holidays officially adopted and approved by the San Antonio City Council for CITY employees. If, and to the extent that, CHDO's request for such disbursement is approved, CITY will disburse funds in a certified check made payable to the order of CHDO within ten (10) business days thereafter. It is expressly agreed by the parties hereto that CITY shall pay CHDO an amount equal to CITY's obligations at such time, not previously billed to and subsequently paid by CITY, subject to deduction for any costs questioned or not allowable.

8.2 This AGREEMENT obligates only the specific funds made to CHDO by CITY as specified in paragraph 1.2 of this AGREEMENT. It does not obligate CITY's general funds or any other monies or credits of CITY.

8.3 CITY shall not be liable for any cost, or portion thereof, which:

(A) Has been paid, reimbursed or is subject to payment or reimbursement from another source;

(B) Is not in strict accordance with the terms of this AGREEMENT, including all exhibits attached hereto; or

(C) Is not an allowable cost as defined by Article X of this AGREEMENT or by the Budget Package (Attachment "D"), the Federal Compliance Manual (Attachment "A"), the CDBG and HOME Housing Program Policies (Attachment "B").

8.4 CITY shall not be liable for any cost, or portion thereof, which is or was incurred in connection with an activity of CHDO where:

(A) Prior written authorization from CITY is required for the activity and such authorization was not first procured; or

(B) CITY has requested that CHDO furnish data concerning an activity prior to proceeding further therewith and CHDO nonetheless proceeds without first submitting the data and receiving CITY approval thereof.

8.5 CITY shall not be obligated or liable under this AGREEMENT to any party, other than CHDO, for payment of any monies or provision of any goods or services.

8.6 Upon termination of this AGREEMENT, should any expense or charge for which payment has been made be subsequently disallowed or disapproved as a result of any auditing or monitoring by CITY, HUD, or any other federal agency, CHDO shall refund such amount to CITY within ten (10) business days of CITY's written request therefor wherein the amount disallowed or disapproved shall be specified. Refunds of disallowed or disapproved costs, or refunds of any other nature referred to in this AGREEMENT, however, shall not be made from funds received pursuant to this AGREEMENT or from funds received from or through the federal government or CITY.

8.7 In the event that the actual amount expended by CHDO to meet the level of performance specified in Attachment "C," or any amendment thereto, is less than that amount provided to CHDO pursuant to this AGREEMENT, then CITY reserves the right to reappropriate or recapture any such underexpended funds.

IX. PROGRAM INCOME

9.1 For purposes of this AGREEMENT, "program income" shall mean earnings of CHDO realized from activities resulting from this AGREEMENT or from CHDO's management of funding provided or received hereunder. Such earnings shall include, but shall not be limited to, interest income, usage or rental/lease fees, income produced from contract-supported services of individuals or employees or from the use of equipment, or facilities of CHDO provided as a result of this AGREEMENT, and payments from clients or third parties for services rendered by CHDO pursuant to this AGREEMENT.

9.2 On a monthly basis, CHDO shall report to CITY all program income received or accrued during the preceding month. CHDO shall be allowed to retain such program income provided that said funds are used by CHDO solely and specifically for affordable housing purposes and the administration of these affordable housing programs. For purposes of this AGREEMENT, the term "affordable housing purposes" shall be defined as the expansion of the supply of decent, safe, sanitary, and affordable housing for low-income residents of San Antonio, Texas. For purposes of this AGREEMENT, "low-income" shall mean a household whose income cannot exceed 80% of the median income, adjusted for household size, in accordance with the most

recently issued HUD Section 8 Income Guidelines, and “affordable” shall mean having the monthly payments for principal, interest, property taxes and insurance for the home purchased not exceed 33% of household gross income. Prior to the retaining of such program income by CHDO, CHDO shall first make a written request and obtain written approval from CITY as to the activity for which CHDO desires to expend program income. Should CITY not approve such an activity, such program income shall be immediately returned to CITY.

9.3 Records of the receipt and disposition of program income shall be maintained by CHDO in the same manner as required for other contract funds and shall be submitted to CITY in the format prescribed by CITY.

9.4 CHDO shall include this Article, in its entirety, in all of its subcontracts involving income-producing services or activities.

9.5 It shall be CHDO’s responsibility to obtain from CITY a prior determination as to whether or not income arising directly or indirectly from this AGREEMENT, or from the performance thereof, constitutes program income, and unless otherwise approved in writing by CITY, CHDO shall be responsible to CITY for the repayment of any and all amounts determined by CITY to be program income.

X. ALLOWABLE COSTS

10.1 Costs shall be considered allowable only if approved in writing by CITY and incurred directly and specifically in the performance of and in compliance with this AGREEMENT and with all city, state and federal laws, regulations and ordinances affecting CHDO’s operations hereunder. Further, approval of CHDO’s budget package as set forth in Attachment “D” shall constitute prior written approval of the items included therein.

10.2 Written requests for prior approval by CITY under any provision of this AGREEMENT shall be CHDO’s responsibility and shall be made within sufficient time to permit a thorough review by CITY. Written approval by CITY must be obtained prior to the commencement of procedures to solicit or purchase services, or real or personal property. Procurements and/or purchases which must be approved pursuant to the terms of this AGREEMENT shall be conducted entirely in accordance with all applicable terms, provisions and requirements hereof.

XI. OWNERSHIP OF PERSONAL PROPERTY

11.1 CHDO shall be fully and solely responsible for safeguarding and maintaining all personal property referred to in this Article. Furthermore, CHDO shall be fully and solely responsible for reporting any and all lost, stolen, missing, damaged or destroyed property referred to in this Article. Inasmuch as funds provided to CHDO pursuant to this AGREEMENT are funds which have been made available to CITY by the federal government, all such lost, stolen, missing, damaged or destroyed property shall be reported by CHDO to the local Police Department. CHDO shall make such reports immediately and shall deliver a copy of the official written police

report to CITY's Grants Monitoring and Administration Department immediately. Prior to such delivery, CHDO shall ascertain that said report includes, at a minimum, the following:

- (A) An accurate and complete description of such property; and
- (B) An accurate and complete description of the circumstances surrounding the loss, theft, damage or destruction of such property.

In the event a copy of the official written police report has not been made available to CHDO, a summary of said report shall be provided and delivered by CHDO to CITY's Grants Monitoring and Administration Department, including therein the date the report was made to the local Police Department and the name and badge number of the police officer who wrote such police report.

XII. FURTHER REPRESENTATIONS AND WARRANTIES

12.1 CHDO further represents and warrants that:

(A) All information, data or reports heretofore or hereafter provided to CITY are, shall be and shall remain complete and accurate as of the date shown on the information, data or report, and that since said date shown, shall not have undergone any significant change without written notice to CITY; further, the submission of falsified information or the failure of CHDO to submit information as requested is grounds for termination of this AGREEMENT and CHDO will be liable to CITY for any and all monies it has received from CITY hereunder;

(B) Any supporting financial statements heretofore or hereafter provided to CITY are, shall be and shall remain complete, accurate and reflective of the financial condition of CHDO on the date shown on said statements and during the period covered thereby, and that since said date shown, except as provided by written notice to CITY, there has been no material change, adverse or otherwise, in the financial condition of CHDO;

(C) No litigation or proceedings are presently pending or threatened against CHDO; and CHDO has no information, or cause to believe, that litigation or proceedings, whether judicial or administrative against CHDO is imminent;

(D) None of the provisions contained herein contravene or in any way conflict with the authority under which CHDO is doing business or with the provisions of any existing indenture or agreement of CHDO;

(E) CHDO has the legal authority to enter into this AGREEMENT and accept payments hereunder, and has taken all necessary measures to authorize such execution of AGREEMENT and acceptance of payments pursuant to the terms and conditions hereof; and

(F) None of the assets of CHDO are, both currently and for the duration of this AGREEMENT, subject to any lien or encumbrance of any character, except for current taxes not delinquent and except as shown in the financial statements provided by CHDO to CITY.

XIII. CONDITIONS OF REIMBURSEMENT

13.1 In addition to the provisions of paragraph 35.1 hereof, CITY at its option, may terminate this AGREEMENT should any one or more of the following occur:

(A) CHDO or a first-time homebuyer fully or partially sells, conveys, disposes of, alienates, hypothecates, assigns, mortgages, pledges, transfers or encumbers all or any part of the Property or improvements thereon or any interest therein, the income therefrom, or any other item of collateral, whether voluntarily or involuntarily, other than to a qualified first-time homebuyer, without the prior written consent of CITY;

(B) CHDO fully or partially sells, conveys, assigns, mortgages, pledges, transfers or encumbers an interest in CHDO (if CHDO is not a natural person or persons but a corporation, partnership, trust or other legal entity) including, in the event CHDO is a limited or general partnership, a joint venture or a limited liability company, a change in the ownership interest in any general partner, any joint venturer or any member, either voluntarily, involuntarily or otherwise, without the prior written consent of CITY, whether such interest is in the form of a beneficial or partnership interest or in the form of a power of direction, control or management, or otherwise;

(C) CHDO or a subsequent first-time homebuyer converts the Property or a portion thereof to a form of condominium or cooperative ownership or other non-residential use;

(D) CHDO files, or has filed against it, a petition for the appointment of a receiver or for bankruptcy or insolvency, becomes or is adjudicated insolvent or bankrupt or admits in writing the inability to pay debts as they mature, petitions or applies to any tribunal for or consents to or does not contest the appointment of a receiver, trustee, custodian or similar officer for CHDO, or commences any case, proceeding or other action under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect;

(E) The Property or any part thereof is taken on execution or other process of law in any action against CHDO or a first-time homebuyer;

(F) CHDO or a first-time homebuyer abandons the Property or a portion thereof, in which event such abandonment shall constitute an assignment to CITY, at CITY's option, of CHDO's interest in any contract then affecting the abandoned property;

(G) The holder of any lien or security interest on the Property, without implying the consent of CITY to the existence or creation of any such lien or security interest (except as otherwise acknowledged herein), declares a default and such default is not cured within any

applicable grace period set forth in the applicable document or institutes foreclosure or other proceedings for the enforcement of its remedies thereunder;

(H) The Property, or any portion thereof, is subjected to actual or threatened waste or to removal, demolition or alteration so that the value of the Property is diminished thereby and CITY determines that it is not adequately protected from any loss, damage or risk associated therewith;

(I) CHDO submits false or falsified information to CITY or fails to timely submit information as requested by CITY;

(J) CHDO (i) initiates any changes in the Project without CITY's written approval or (ii) fails to provide to CITY documentation acceptable to CITY of the actual quoted costs incurred;

(K) CHDO fail to comply with the resales and recapture provisions established by CITY in its CDBG and HOME Housing Program Policies; and

(L) CHDO fails to commence, continue and complete the Project in accordance with the dates set forth in the Work Statement, attached hereto and incorporated herein for all purposes as Attachment "C."

XIV. MAINTENANCE OF RECORDS

14.1 CHDO agrees to maintain records that will provide accurate, current, separate, and complete disclosure of the status of any funds received pursuant to this AGREEMENT. CHDO 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 CHDO's record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure.

14.2 CHDO agrees to retain, for the period of time and under the conditions specified by CITY, all books, records, documents, reports, and written accounting policies and procedures pertaining to the operation of programs and expenditures of funds under this AGREEMENT.

14.3 CHDO agrees to include the substance of this Article in all of its sub-contracts.

14.4 Nothing in this Article shall be construed to relieve CHDO of:

(A) Responsibility for retaining accurate and current records which clearly reflect the level and benefit of services provided under this AGREEMENT; and

(B) Fiscal accountability and liability pursuant to this AGREEMENT and any applicable rules, regulations and laws.

**XV. ACCESSIBILITY OF RECORDS, MONITORING,
EVALUATION AND INSPECTIONS**

15.1 The Director of CITY's Grants Monitoring and Administration Department, or his duly authorized representative, will monitor, provide fiscal control, and evaluate CHDO's performance and operations under this AGREEMENT to ensure CHDO's compliance herewith, to ensure compliance with the National Affordable Housing Act, and to ensure compliance with all other laws, regulations and ordinances related to the performance hereof. CHDO agrees to cooperate fully with CITY in the development, implementation and maintenance of record-keeping systems and will provide CITY staff and other authorized persons, (e.g., City of San Antonio internal auditors, EEO officers, independent public accountants, architects, engineers) access during regular business hours, as often as CITY deems necessary for the purposes of audit, monitoring, evaluation, coordination, or investigation, to any and all of CHDO's books, records and files on the programs covered by this AGREEMENT and such other programs administered by CHDO with funds from any other sources, and to any and all books, records and files pertaining to CHDO's proprietary, agency or other funds as CITY may need and request. CITY may make excerpts, transcripts and copies from all such books, records and files, including all agreements, invoices, materials and other data relating to all matters covered by this AGREEMENT. CHDO agrees that it will cooperate with CITY in such a way so as not to obstruct or delay CITY in its monitoring of CHDO's performance and that it will designate one of its staff to coordinate the monitoring process as requested by CITY staff.

(A) Unless otherwise provided herein, all such records must continue to be available for inspection and audit for a period of four (4) years after the termination date hereof or until all audits are complete and findings on all claims have been finally resolved, whichever is the greater period of time.

(B) CHDO agrees that during the term of this AGREEMENT any duly authorized representative of CITY may conduct on-site inspections at reasonable times, and interview personnel and clients, for the purpose of evaluating and monitoring CHDO's operations for compliance with this AGREEMENT.

(C) Any designated representative of CITY may attend any of CHDO's board, executive, staff or other meetings if any item relating to this AGREEMENT will, or is reasonably anticipated to be discussed.

(D) Copies of any and all fiscal, management or audit reports by any of CHDO's funding or regulatory bodies shall be submitted to both CITY's Grants Monitoring and Administration Department and Department of Internal Review within five (5) business days of receipt thereof by CHDO.

15.2 CHDO agrees to permit CITY to inspect the Property, or any portion thereof, at any time deemed appropriate by CITY, to determine if it is being maintained in accordance with local Uniform Building Code standards.

XVI. PERFORMANCE RECORDS AND REPORTS

16.1 As often and in such form as CITY may require, CHDO shall furnish CITY such performance records and reports as deemed by CITY as pertinent to matters covered by this AGREEMENT.

16.2 As of the commencement date of this AGREEMENT, CHDO agrees to gather information and data relative to all programmatic and financial reporting.

16.3 Performance records and reports shall be submitted to CITY by CHDO as often as CITY may require and shall be in accordance with the format set forth in Attachment "F" attached hereto and incorporated herein for all purposes.

XVII. INSURANCE

17.1 CHDO agrees to comply with the following insurance provisions:

- (A) Prior to the commencement of any work under this CONTRACT, CHDO shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the CITY's Grants Monitoring and Administration Department, which shall be clearly labeled "CHDO-Capacity Building Technical Assistance" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The CITY will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the CITY. The CITY shall have no duty to pay or perform under this CONTRACT until such certificate and endorsements have been received and approved by the CITY's Grants Monitoring and Administration Department. No officer or employee, other than the CITY's Risk Manager, shall have authority to waive this requirement.
- (B) The CITY reserves the right to review the insurance requirements of this Article during the effective period of this CONTRACT and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by CITY's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this CONTRACT. In no instance will CITY allow modification whereupon CITY may incur increased risk.

- (C) CHDO's financial integrity is of interest to the CITY; therefore, subject to CHDO's right to maintain reasonable deductibles in such amounts as are approved by the CITY, CHDO shall obtain and maintain in full force and effect for the duration of this CONTRACT, and any extension hereof, at CHDO's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

<u>POLICY TYPES*</u>	<u>AMOUNTS</u>
1. Workers' Compensation Employers' Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
2. Commercial General (public) Liability Insurance to include coverage for the following: a. Premises operations b. Independent contractors c. Products/completed d. Personal Injury e. Contractual Liability f. Broad form property damage, to include fire legal liability	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
3. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence
4. Professional Liability (Claims Made Form)	\$1,000,000

- (D) The CITY shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto as they apply to the limits required by the CITY, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). CHDO shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to CITY at the address provided below within ten (10) days of the requested change. CHDO shall pay any costs incurred resulting from said changes.

City of San Antonio
 Attn: Grants Monitoring and Administration Department
 P.O. Box 839966
 San Antonio, Texas 78283-3966

- (E) CHDO agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:
- Name the CITY and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the CITY, with the exception of the workers' compensation and professional liability policies;
 - Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the CITY is an additional insured shown on the policy;
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the CITY; and
 - Provide thirty (30) calendar days advance written notice directly to CITY of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- (F) Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, CHDO shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend CHDO's performance should there be a lapse in coverage at any time during this CONTRACT. Failure to provide and to maintain the required insurance shall constitute a material breach of this CONTRACT.
- (G) If CHDO fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, the CITY may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the agreement; however, procuring of said insurance by the CITY is an alternative to other remedies the CITY may have, and is not the exclusive remedy for failure of CHDO to maintain said insurance or secure such endorsement. In addition to any other remedies the CITY may have upon CHDO's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the CITY shall have the right to order CHDO to stop work hereunder, and/or withhold any payment(s) which become due to CHDO hereunder until CHDO demonstrates compliance with the requirements hereof.
- (H) Nothing herein contained shall be construed as limiting in any way the extent to which CHDO may be held responsible for payments of damages to persons or

property resulting from CHDO's or its subcontractors' performance of the work covered under this CONTRACT.

- (I) It is agreed that CHDO's insurance shall be deemed primary with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this contract.
- (J) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this CONTRACT.

XVIII. INDEMNIFICATION

18.1 CHDO covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors and representatives of the CITY, individually or 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 injury or death and property damage, made upon the CITY, directly or indirectly arising out of, resulting from or related to CHDO's activities under this AGREEMENT, including any acts or omissions of CHDO, any agent, officer, director, representative, employee, contractor or subcontractor of CHDO, 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 under Texas law and without waiving any defenses of the parties under Texas law. 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. CHDO shall promptly advise the CITY in writing of any claim or demand against the CITY or CHDO known to CHDO related to or arising out of CHDO's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at CHDO's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CHDO of any of its obligations under this paragraph.

18.2 It is the EXPRESS INTENT of the parties to this AGREEMENT, that the INDEMNITY provided for in this Article (Article XVIII), is an INDEMNITY extended by CHDO to INDEMNIFY, PROTECT, and HOLD HARMLESS the CITY from the consequences of the CITY's OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this Article SHALL APPLY only when the NEGLIGENT ACT of the CITY is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the CITY is the sole cause of the resultant injury, death or damage. CHDO further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

18.3 It is expressly understood and agreed that CHDO is and shall be deemed to be an independent contractor and operator responsible to all parties for its acts or omissions and that CITY shall in no way be responsible therefor.

XIX. SPECIAL CONDITIONS

19.1 CHDO acknowledges, understands and agrees to comply with the following federal regulations as promulgated in Section 3 clause of the Housing and Urban Development Act of 1968, as amended:

(A) 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, 12 U.S.C. 170(1)(u) (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.

(B) The parties to this AGREEMENT agree to comply with HUD's regulations in 24 C.F.R. 135, which implement Section 3. As evidenced by their execution of this AGREEMENT, the parties to this AGREEMENT certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(C) CHDO agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of CHDO'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.

(D) CHDO agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. 135, 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. 135. CHDO will not subcontract with any subcontractor where CHDO has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. 135.

(E) CHDO will certify that any vacant employment positions, including training positions, that are filled (1) after CHDO is selected but before the AGREEMENT is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. 135 require employment opportunities to be directed, were not filled to circumvent CHDO's obligations under 24 C.F.R. 135.

(F) Noncompliance with HUD's regulations in 24 C.F.R. 135 may result in sanctions, termination of this AGREEMENT for default, and debarment or suspension from further HUD-assisted contracts.

(G) 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 (25 U.S.C.C. 450e) also applies to the work to be performed under this AGREEMENT. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this AGREEMENT that are subject to the provision of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

19.2 CHDO shall prepare accurate and complete ^{periodic}~~monthly~~ performance measures reports and submit to CITY's Department of Housing and Community Development on or before the tenth (10th) day of each month, with each report reflecting the previous month. Each such report shall contain details of all inputs (i.e., resources) and outputs (i.e., utilization of resources) in conjunction with efficiency and effectiveness measures regarding the Project. The form for each report must meet the approval of CITY'S Department of Housing and Community Development, and CHDO agrees to make any and all changes to such form as may be recommended by CITY's Department of Housing and Community Development, as well as provide additional information in connection with such reports as may be requested by CITY.

19.3 CHDO shall ensure that all professional and contractual services in connection with Project implementation shall be procured in accordance with 24 CFR 570, Part 85, The Common Rule, Procurement, Competitive Standards.

19.4 Notwithstanding the provisions of Article VII and Article VIII hereof, CHDO shall submit to CITY all invoices for reimbursement and accompanying requests for such reimbursement within thirty (30) days following the purchase of goods or services for which such reimbursement is to be requested. All requests for reimbursement, and all accompanying invoices shall be aggregated prior to submission to CITY and submitted to CITY when such amount equals or exceeds \$500.00. This paragraph shall be complied with in conjunction with an in addition to Article VII, paragraph 7.1 of this HOME CHDO Agreement.

19.5 Notwithstanding the provisions of Article IX hereof, CHDO shall expend all funds remitted to CHDO by CITY under this CONTRACT only for "allowable costs," as such term is defined herein, within fifteen (15) days of receipt of said funds by CITY from HUD, in accordance with 24 CFR 92.502(c)(2).

19.6 CHDO understands and acknowledges that CITY shall not be liable for any cost, or portion thereof, which is or was incurred in connection with an activity of CHDO where prior written authorization from CITY is required for the activity and such authorization was not first

procured, or CITY has requested that CHDO furnish data concerning an activity prior to proceeding further therewith and CHDO nonetheless proceeds without first submitting the data and receiving approval thereof.

19.7 CHDO shall commit all prior year(s) HOME Project allocations and complete all prior year(s) Home Projects prior to initiating any Project activity under this CONTRACT.

19.8 CHDO agrees to provide a comprehensive roster of all personnel and pertinent documentation (i.e., schedule of holidays and agency leave policies) involved in administration of HOME related activities, and for which this contract agreement shall cover monthly gross income. Said list shall include, but not be limited to, detailed time sheets (highlighting explicit activities indirectly or directly related to HOME funded activities), recording of leave taken and necessary training required for effective implementation of the HOME funded activity.

19.9 In accordance with Section C(2) of the HOME Exhibit packet, CHDO shall provide a detailed description of all funding sources and the commensurate funding amount and/or percentage of administrative funds provided in support of HOME related activities.

19.9 CHDO shall submit sufficient support documentation along with the request for payment in order to ensure reimbursement from the CITY.

XX. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

20.1 In the event that CHDO receives funding hereunder in excess of \$10,000.00, CHDO shall submit for CITY approval, within thirty (30) calendar days following execution of this AGREEMENT, a written plan for compliance with federal equal employment opportunity and affirmative action rules, regulations and laws.

20.2 CHDO shall comply with all applicable local, state and federal equal employment opportunity and affirmative action rules, regulations and laws.

20.3 So that CITY can investigate compliance with local, state and federal equal employment opportunity and affirmative action rules, regulations and laws, CHDO shall furnish to CITY any and all information and reports requested by CITY, and shall permit access by CITY of any and all of its books, records and accounts.

20.4 In the event of non-compliance by CHDO (or CHDO'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 by CITY, in whole or in part, and CHDO may be barred from further contracts with CITY.

XXI. NONDISCRIMINATION

21.1 CHDO covenants that it, or its agents, employees or anyone under its control, will not discriminate against any individual, homebuyer, prospective homebuyer, 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, or eligibility for housing assistance under any federal, state or local housing assistance program, or on the basis that a homebuyer or prospective homebuyer has a minor child or children who will be living with him/her, which said discrimination CHDO acknowledges is prohibited.

XXII. PERSONNEL POLICIES, PROCEDURES AND PRACTICES

22.1 Personnel policies, procedures and practices shall be established by CHDO and shall be available for examination. Such policies, procedures and practices, however, shall be in writing and approved by the governing body of CHDO.

XXIII. CONFLICT OF INTEREST

23.1 CHDO acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a CITY officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the CITY or any CITY agency such as city owned utilities. An officer or employee has a “prohibited financial interest” in a contract with the CITY or in the sale to the CITY of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a CITY officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a CITY contract, a partner or a parent or subsidiary business entity.

23.2 Pursuant to the subsection above, CHDO warrants and certifies, and this AGREEMENT is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the CITY. CHDO further warrants and certifies that it has tendered to the CITY a Discretionary Contracts Disclosure Statement in compliance with the CITY’s Ethics Code.

XXIV. NEPOTISM

24.1 CHDO shall not employ in any paid capacity any person who is a member of the immediate family of any person who is currently employed by CHDO or who is a member of CHDO’s governing body. The term “member of immediate family” shall include: wife, husband, son, daughter, mother, father, brother, sister, in-law, aunt, uncle, cousin, nephew, niece, step-parent, step-child, half-brother and half-sister.

XXV. POLITICAL ACTIVITY

25.1 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.

XXVI. SECTARIAN ACTIVITY

26.1 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, operations, 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.

XXVII. DIRECTORS' MEETINGS

27.1 During the term of this AGREEMENT, CHDO shall cause to be delivered to CITY copies of all notices of meetings of its Board of Directors. Said copies of notices shall set forth the time and place of each meeting, shall be delivered to CITY in a timely manner so as to give CITY adequate notice thereof and shall include therein an agenda and a brief description of the matters to be discussed thereat.

27.2 CHDO understands and agrees that CITY representatives shall be afforded access to all Board of Directors' meetings.

27.3 Minutes of all meetings of CHDO's governing body shall be submitted to CITY within ten (10) business days of approval.

XXVIII. PUBLICITY

28.1 When appropriate, as determined by and upon written approval of CITY, CHDO shall publicize the activities conducted by CHDO pursuant to the terms of this AGREEMENT. In any news release, sign, brochure, or other advertising medium disseminating information prepared or distributed by or for CHDO, however, mention shall be made that HUD's funding and CITY's participation have made this Project possible.

XXIX. PUBLICATIONS

29.1 All published materials and written reports submitted pursuant to this AGREEMENT shall be originally developed unless otherwise specifically provided for herein. If material not originally developed is included in a report, however, said material shall have its source identified, either in the body of the report or by footnote, regardless of whether the material is in a verbatim or extensive paraphrase format.

29.2 All published materials submitted pursuant to this Project shall include the following reference on the front cover or title page:

“This document was prepared in accordance with the City of San Antonio’s HOME Entitlement Grant Program, with funding received from the United States Department of Housing and Urban Development.”

XXX. RIGHTS TO PROPOSAL AND CONTRACTUAL MATERIAL

30.1 All finished or unfinished reports, documents, data, studies, surveys, charts, drawings, maps, models, photographs, designs, plans, schedules, or other appended documentation to any proposal or contract, and any responses, inquiries, correspondence and related material submitted by CHDO, shall, upon receipt, become the property of CITY.

XXXI. FUNDING APPLICATIONS

31.1 CHDO agrees to notify CITY each time CHDO is preparing or submitting any application for funding directly or indirectly relating to the Project. When so preparing or submitting such an application, the following procedures shall be adhered to by CHDO:

(A) When the funding application is in the planning stages, a description of the funds being applied for and of the proposed use for the funds shall be submitted by CHDO to CITY;

(B) Upon award or notice of award, whichever is sooner, CHDO shall notify CITY of the award or notice thereof, and of the effect, if any, of such funding on the funds and programs agreed to hereunder. Such notice shall be submitted by CHDO to CITY, in writing, within ten (10) business days of receipt of the award or notice thereof, together with copies of the applicable budget, personnel complement, program description, and contract; and

(C) Except pursuant to prior written consent of CITY, CHDO shall not use, either directly or indirectly, resources provided hereunder to prepare applications for other federal or private funds, nor shall said resources be used, directly or indirectly, as contributions.

XXXII. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

32.1 CHDO certifies, and the CITY relies thereon in execution of this AGREEMENT, that neither CHDO nor its Principals are presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded for the award of contracts by any Federal governmental agency or department.

32.2 “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).

32.3 CHDO shall provide immediate written notice to CITY, in accordance with Article XLIII, if, at any time during the term of this AGREEMENT, including any renewals hereof, CHDO

learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

32.4 CHDO's certification is a material representation of fact upon which the CITY has relied in entering into this AGREEMENT. Should CITY 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, the CITY may terminate this AGREEMENT in accordance with Article XXXV relating to termination of the AGREEMENT.

XXXIII. SUB-CONTRACTING

33.1 Any other clause of this AGREEMENT to the contrary notwithstanding, none of the work or services covered by this AGREEMENT shall be sub-contracted without the prior written approval of CITY. Any work or services approved for sub-contracting hereunder, however, shall be sub-contracted only by written contract or agreement and, unless specific waiver is granted in writing by CITY, shall be subject by its terms to each and every provision of this AGREEMENT. Compliance by sub-contractors with this AGREEMENT shall be the responsibility of CHDO.

33.2 CHDO agrees that no sub-contract approved pursuant to this AGREEMENT shall provide for payment on a "cost plus a percentage of cost" basis.

33.3 Despite CITY approval of a sub-contract, CITY shall in no event be obligated to any third party, including any sub-contractor of CHDO, for performance of work or services, nor shall CITY funds ever be used for payment of work or services performed prior to the date of AGREEMENT execution or extending beyond the date of AGREEMENT expiration without the prior written approval of CITY.

XXXIV. CHANGES AND AMENDMENTS

34.1 Except when the terms of this AGREEMENT expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by both CITY and CHDO.

34.2 It is understood and agreed by the parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this AGREEMENT and that any such changes shall be automatically incorporated into this AGREEMENT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

34.3 CHDO agrees to notify CITY in writing of any proposed change in physical location for work to be performed pursuant to the terms of this AGREEMENT. Such notice shall be provided by CHDO to CITY at least thirty (30) calendar days in advance of the proposed change.

34.4 CHDO further agrees to notify CITY of any changes in personnel or governing board composition, such notice to be provided within five (5) business days of the change.

XXXV. TERMINATION AND SUSPENSION

35.1 If CHDO fails to fulfill in a timely and proper manner any of its obligations under this AGREEMENT, violates any of the covenants, agreements, guarantees or stipulations of this AGREEMENT, or violates any rule, regulation or law to which CHDO is bound or will be bound under the terms of this AGREEMENT, CITY will have the right to terminate this AGREEMENT by sending written notice to CHDO of such termination and specifying the effective date thereof.

35.2 Notwithstanding any other remedy contained herein or provided by law, and without limiting or waiving any rights and remedies it may otherwise have, CITY, at its option, may delay, suspend, limit, or cancel funds, rights and privileges herein given CHDO for failure to timely and properly comply with the letter or spirit of this AGREEMENT. Further, CITY may, at its option, place CHDO on probation or suspension, whichever CITY deems appropriate, during which time CITY may withhold disbursements where CITY determines that CHDO is not in full compliance with the AGREEMENT. The period of funding suspension shall be of such duration as is appropriate to accomplish corrective action, but in no event shall it exceed thirty (30) calendar days. Upon expiration of the suspension period, one of the following shall occur:

(A) If CITY determines that the default or deficiency has been cured, CHDO may at CITY's option, be restored to full compliance status and paid all eligible funds withheld during such probation or suspension period; or

(B) If CITY determines that CHDO continues to not comply or cannot comply with this AGREEMENT, CITY may terminate this AGREEMENT.

35.3 The CITY shall have the further right to terminate this AGREEMENT if one or more of the following occur:

(A) Neglect or failure by CHDO to perform or observe any of the terms, conditions, covenants or guarantees of this AGREEMENT or of any written contract or amendment between CITY and CHDO;

(B) Termination or reduction of funding of the Project by HUD;

(C) Failure by CHDO to cure, within the period prescribed pursuant to paragraph 34.2 of this AGREEMENT, any default or deficiency that is the basis for termination or suspension hereunder;

(D) Finding by CITY that CHDO:

(1) is in such unsatisfactory financial condition as to endanger performance under this AGREEMENT, including, but not limited to:

(a) The apparent inability of CHDO to meet its financial obligations;

(b) The appearance of items that reflect detrimentally on the creditworthiness of CHDO, including, but not limited to, liens, encumbrances, etc., on the assets of CHDO;

(2) has allocated inventory to this AGREEMENT substantially exceeding reasonable requirements; or

(3) is delinquent, in the ordinary course of business, in the payment of taxes or in the payment of costs of performance of this AGREEMENT;

(E) Appointment of a trustee, receiver or liquidator for all or a substantial part of CHDO's property, or property in which CHDO possesses an interest, or institution of bankruptcy, reorganization, rearrangement of or liquidation proceedings by or against CHDO;

(F) The entry by a court of competent jurisdiction of a final order providing for the modification or alteration of the rights of CHDO's creditors;

(G) Inability by CHDO to conform to changes in local, state and federal rules, regulations and laws as provided for in Article III and in paragraph number 34.2 of this AGREEMENT; and

(H) Violation by CHDO of any rule, regulation or law to which CHDO is bound or shall be bound under the terms of this AGREEMENT.

35.4 Should this AGREEMENT be terminated by either party hereto for any reason, including termination under Section 35.5 of this AGREEMENT, if the work required hereunder of CHDO is not fully completed to the satisfaction of CITY in accordance with the terms of this AGREEMENT, CHDO shall refund any and all sums of money it has received hereunder within ten (10) working days of CITY's written request therefor.

35.5 CITY may terminate this AGREEMENT for convenience at any time.

35.6 Upon a decision to terminate by either CITY or CHDO, written notice of such, and the effective date thereof, shall be immediately provided to the other party.

35.7 Upon receipt of notice to terminate, CHDO shall cancel, withdraw, or otherwise terminate any outstanding orders or subcontracts which relate to the performance of this AGREEMENT. To this effect, CITY shall not be liable to CHDO or CHDO's creditors for any expense, encumbrances or obligations whatsoever incurred after the date of termination.

35.8 Upon default or upon receipt of notice to terminate, all finished or unfinished documents, data, studies, surveys, charts, drawings, maps, models, photographs, designs, plans, schedules, or other appended documentation to any proposal or contract, prepared by or on behalf of CHDO under this AGREEMENT shall, at the option of CITY, and in accordance with Article XXX

hereof, become the property of CITY and shall, if requested or agreed to by CITY, be delivered by CHDO to CITY in a timely and expeditious manner.

35.9 Within thirty (30) days after receipt of notice to terminate, CHDO shall submit a statement to CITY, indicating in detail the services performed under this AGREEMENT and the status of the Project prior to the effective date of termination.

35.10 Any termination of this AGREEMENT as herein provided shall not relieve CHDO from the payment or repayment of any sum(s) that shall then be due and payable or become due and payable to CITY hereunder or as provided for at law or in equity, and any such termination shall not prevent CITY from enforcing the payment or repayment of any such sum(s) or claim for damages from CHDO. Instead, all rights, options, and remedies of CITY contained in this AGREEMENT shall be construed and held to be cumulative and no one of them shall be exclusive of the other, and CITY shall have the right to pursue any one or all of such remedies or any such other remedy or relief which may be provided by law or in equity whether or not stated in this AGREEMENT.

XXXVI. NOTIFICATION OF ACTION BROUGHT

36.1 In the event that any claim, demand, suit, proceeding, cause of action or other action (hereinafter collectively referred to as "claim") is made or brought against CHDO, CHDO shall give written notice thereof to CITY within two (2) business days after itself being notified. CHDO's notice to CITY shall state the date and hour of notification to CHDO of the claim, the names and addresses of those instituting or threatening to institute the claim, the basis of the claim, and the name(s) of any others against whom the claim is being made or threatened. Written notice pursuant to this Article shall be delivered either personally or by mail in accordance with Article XLIII of this AGREEMENT.

XXXVII. ASSIGNMENTS

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

XXXVIII. SEVERABILITY OF PROVISIONS

38.1 If any clause or provision of this AGREEMENT is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the CITY Charter, CITY Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this AGREEMENT shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this AGREEMENT that is invalid, illegal, or unenforceable, there be added as a part of the

AGREEMENT a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XXXIX. RENEWAL NOT AUTOMATIC

39.1 Funding under this AGREEMENT and any amendments or waivers that may be made or granted hereunder shall not be automatically renewed on the anniversary date of this AGREEMENT. To the contrary, funding of any project requiring contract execution shall be achieved only pursuant to approval of the City Council of the City of San Antonio.

XL. NON-WAIVER OF PERFORMANCE

40.1 No waiver by CITY of a breach of any of the terms, conditions, covenants or guarantees of this AGREEMENT shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of CITY to insist in any one or more cases upon the strict performance of any of the covenants of this AGREEMENT, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this AGREEMENT shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged.

40.2 No act or omission of CITY shall in any manner impair or prejudice any right, power, privilege, or remedy available to CITY hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

40.3 No representative or agent of CITY may waive the effect of the provisions of this Article.

XLI. ENTIRE AGREEMENT

41.1 This AGREEMENT, including any and all existing exhibits and attachments cited herein, constitutes the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this AGREEMENT shall be deemed to exist or to bind the parties hereto unless same be in writing, dated of even date or subsequent to the date hereof, and duly executed by the parties.

XLII. INTERPRETATION

42.1 In the event any disagreement or dispute should arise between the parties hereto pertaining to the interpretation or meaning of any part of this AGREEMENT or its governing rules, regulations, laws, codes or ordinances, CITY, as the party ultimately responsible to HUD for matters of compliance, shall have the final authority to render or secure an interpretation.

XLIII. NOTICES

43.1 For purposes of this AGREEMENT, all official communications and notices among the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

LENDER: Director
Grants Monitoring and Administration Department
City of San Antonio
1400 S. Flores, Unit 3
San Antonio, Texas 78204

CHDO: Merced Housing Texas
212 West Laurel Street
San Antonio, Texas 78212

Notice of changes of address by either party must be made in writing delivered to the other party's last known address within five (5) business days of such change.

XLIV PARTIES BOUND

44.1 This AGREEMENT shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, except as otherwise expressly provided herein.

XLV. GENDER

45.1 Words of gender used in this AGREEMENT shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XLVI. RELATIONSHIP OF PARTIES

46.1 Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the parties hereto.

XLVII. TEXAS LAW TO APPLY

47.1 This AGREEMENT shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Bexar County, Texas. Venue and jurisdiction arising under or in connection with this AGREEMENT shall lie exclusively in Bexar County, Texas.

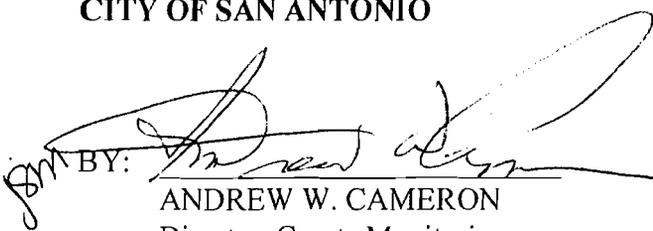
XLVIII. CAPTIONS

48.1 The captions contained in this AGREEMENT are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this AGREEMENT.

EXECUTED this the 2nd day of JULY, 2007.

CITY OF SAN ANTONIO

MERCED HOUSING TEXAS

AWC BY: 

ANDREW W. CAMERON
Director, Grants Monitoring
and Administration Department

BY: Susan R. Sheeran

SUSAN SHEERAN
President

APPROVED AS TO FORM: 
Assistant City Attorney

ATTACHMENTS:

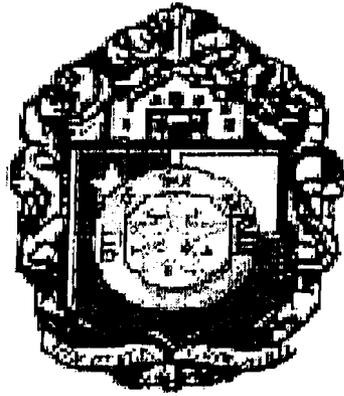
- Attachment "A"- Federal Compliance Manual
- Attachment "B"- CDBG and HOME Housing Program Policies
- Attachment "C"- Work Statement/Goals, Objectives/Performance Indicators
- Attachment "D"- Budget Package
- Attachment "E"- Invoice/Billing Package
- Attachment "F"- Performance Reports
- Attachment "G"- Universal Design and Construction Ordinance

HOME INVESTMENT PARTNERSHIP PROGRAM
Project Name: Merced Housing Texas- Technical Assistance
Project Number: 25-011030

EXHIBIT "A"

CITY OF SAN ANTONIO
FEDERAL COMPLIANCE MANUAL
Revision April 2005

Received by Ausan R. Sheeran



CITY OF SAN ANTONIO
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
FEDERAL COMPLIANCE MANUAL

Revised April 2005

Introduction

As sub-grantees you are an indispensable part of the City's federal grant program. You provide the City of San Antonio and the U.S. Department of Housing and Urban Development (HUD) with assurance that the diverse communities, groups and individuals whom the federal program is intended to serve are in fact reached by the program.

Procedures established for administration of the City of San Antonio and U.S. Department of Housing and Urban Development supported grant programs require adherence to several applicable Federal Regulations. To aid in the identification of those regulations and to establish uniformity in policies and procedures utilized for compliance with them, the Department of Housing and Community Development has compiled the "Federal Compliance Manual". This manual is not meant to constitute a complete compilation of all duties imposed upon sub-grantees by law or administrative ruling or to narrow the standards to which sub-grantees must adhere.

Certain requirements defined in this manual may not be the direct duty of the sub-grantee. Nevertheless the sub-grantee has ultimate responsibility for seeing that the requirement is met. All City departments, agencies and other contractors receiving federal funds for the operation of a project are required to adhere to all applicable regulations included in this manual.

DISCLAIMER

The views and materials presented herein are those of the City of San Antonio's Department of Housing and Community Development and not those of HUD. The recommendations and interpretations offered in this manual are meant to supplement, not replace, the formal regulations and policies of the Community Development Block Grant and HOME Entitlement Program. In areas of doubt, readers are advised to consult the specific program regulations.

FEDERAL COMPLIANCE MANUAL

1. Record Keeping

Accurate record keeping is crucial to the successful management of City funded activities. Insufficient documentation is likely to lead to monitoring findings, and these findings will be more difficult to resolve if records are *missing*, inadequate or inaccurate.

- A. The requirements for financial management systems and reporting are found in 24 CFR Part 85.20 for governmental and public agency sub-grantees, and in OMB Circular A-122 Attachment F, for non-profit sub-grantees. The purpose of these requirements are to ensure that a sub-grantee receiving federal funds has a financial management system sufficient to:
1. Provide effective control over and accountability for all funds, property, and other assets;
 2. Identify the source and application of funds for federally sponsored activities, including verification of the reasonableness, allowability, allocability of costs, and verification that funds have not been used in violation of the restrictions or prohibitions that apply to this federal assistance; and
 3. Permit the accurate, complete, and timely disclosure of financial results, in accordance with the reporting requirements of the City or HUD.
- B. The soundness of any organization's financial management structure is determined by its system of internal controls. Internal controls consist of a combination of procedures, specified job responsibilities, qualified personnel, and records which together create accountability in an organization's financial system and safeguard its cash, property, and other assets. Through its system of internal controls, an agency's management can ensure that:
1. Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies;
 2. These resources are protected against waste, mismanagement or loss; and
 3. Reliable information on the source, amount and use of resources is secured, maintained up-to-date, and disclosed in appropriate records and reports.
- C. Some of the basic elements that a sub-grantee should consider in developing its system of internal controls include:

1. An organizational chart setting forth the actual lines of responsibility of individuals involved in approving or recording financial transactions.
 2. Written definition of the duties of key employees.
 3. A formal system of authorization and supervision sufficient to provide accounting control over assets, liabilities, receipts, and expenditures. This should include:
 - a. Maintenance of a policy manual specifying approval authority for financial transactions and guidelines for controlling expenditures; and
 - b. Written procedures for the recording of transactions as well as an accounting manual and a chart of accounts.
 4. Adequate separation of duties so no one individual has authority over an entire financial transaction. In organizations with very limited staff it may be difficult to achieve optimal separation of duties. In such instances, the most critical functional areas are separation between custody of cash, record keeping for cash, and control of assets easily converted to cash. Separation of duties specifically involves the separation of three types of functional responsibilities:
 - a. Authorization to execute a transaction;
 - b. Recording of the transaction; and
 - c. Custody of the assets involved in the transaction.
 5. Hiring policies to ensure that staff qualifications are commensurate with job responsibilities.
 6. Physical access to records, blank forms, cash and other assets should be limited to authorized personnel only. For example, access to accounting records should be limited to only those individuals having record-keeping or supervisory responsibility for them.
 7. Periodic comparisons of financial records to actual assets and liabilities, with corrective action taken in response to any discrepancies. As with separation of duties, it is a crucial exercise to uncover and correct inadvertent record-keeping errors in a timely manner. It is also essential for identifying potential weaknesses in an organization's system for safeguarding resources, as well as possible instances of fraud or misuse of assets.
- D. The system of authorizations should provide a way for management to ensure supervisory approval of transactions, and documentation of these transactions for accounting purposes. A

system of authorizations can be general - as in a procedure manual which explains how accounting functions are to be performed - or very specific, as in identifying who has the authority to sign a contract on behalf of the organization or to sell a piece of equipment.

E. Sub-grantees are required to have accounting records that adequately identify the source and application of City funds provided to them. To meet this requirement, a sub-grantee's accounting system should include at least the following elements:

1. A chart of accounts. This is a list of names and the numbering system for the individual accounts that contain the basic information about particular classifications of financial transactions for the organization.
2. Cash receipts journal. This journal documents (in chronological order) when funds were received, in what amounts, and from what sources.
3. A cash disbursements journal. This journal documents the expenditures of the organization in chronological order (e.g., when the expense was incurred, how much was spent, to whom it was paid, and for what purpose).
4. A payroll journal. This journal documents the organization's expenses for salaries and benefits, and distinguishes different categories for regulatory purposes.
5. A general ledger. After a transaction is entered in a journal, that information also should be transferred to the proper accounts contained in the general ledger. The general ledger summarizes in chronological order the activity and financial status of all the accounts of an organization. The entries in the journal and ledger should be crossed-indexed to permit the tracing of any recorded transaction (i.e., an audit trail).

F. For the City's programs, these accounting records must contain reliable and up-to-date information about the source and uses of funds, including:

1. Federal grant awards (or sub-grantee allocations) received by the organization;
2. Current authorization and obligations of City funds;
3. Un-obligated balances (funds remaining available for distribution);
4. Assets and liabilities;
5. Program income;
6. Actual outlays or expenditures, with further breakdown by:
 - a. The grant program from which the funds are derived;
 - b. The eligible activity classifications (housing and rehabilitation, economic

development, public facilities, public service, etc.) or similar classifications that clearly indicate use of program funds for eligible activities.

G. The internal control requirements provide for the separation of duties and the secure storage of accounting records in limited access areas. In maintaining these accounting records a sub-grantee should also ensure that:

1. Journal entries are properly approved and explained/supported;
2. Posting and trial balances are performed on a regular basis; and
3. Fidelity bond coverage is obtained for responsible officials of the organization.

H. The standards for determining the reasonableness, allowability, and allocability of costs incurred as part of federally financed activities are found in 24 CFR Part 85 for governmental sub-grantees, and in OMB A-122 for nonprofit sub-grantees. According to basic guidelines contained within these OMB circulars, a cost is allowable under the federal program if:

1. The expenditure is necessary, reasonable and directly related to the grant. This standard applies equally to such items as salaries and administrative services contracts, as well as to real property and equipment purchases or leases, travel, and other administrative expenditures. In determining the reasonableness of a given cost, consideration shall be given to:
 - a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or performance of the award;
 - b. The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, federal and state laws, and regulations, terms, and conditions of the award;
 - c. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees and clients, the public at large, and the government; and
 - d. Significant deviations from the established practices of the organization that may unjustifiably increase the award costs.
2. The expenditure has been authorized by the City, generally through approval of the budget for activity. The City, based upon the provision of the contract, may disallow any expenditure by sub-grantee on such activities exceeding the approved amount.
3. The expenditure is not prohibited under federal, state, or local laws, or regulations.

4. The expenditure is consistently treated, in the sense that the sub-grantee applies generally accepted accounting standards in computing the cost, and utilizes the same procedures in calculating costs as for its non-federally assisted activities.
5. The cost must be allocable to the federal program. A cost is allocable to a particular cost objective (e.g., grant, program or activity) in proportion to the relative benefits received by that objective. This means that:
 - a. If an office is utilized by two programs during the same hours, the costs of the office must be allocated between the two programs on an equitable basis.
 - b. The same expense cannot be claimed against more than one account (e.g., double billing is prohibited).
 - c. A cost originally allocable to a particular program cannot be shifted to another program in order to overcome deficiencies, to avoid restrictions imposed by the funding source or by law, or for any other reason;
 - d. The composition of direct and indirect costs must be clear. Direct costs must be identified specifically with a particular activity. Indirect costs are those incurred for common objectives, which benefit more than one activity. A sub-grantee's indirect costs must be supported by an indirect cost proposal/cost allocation plan.
6. The cost is net of all applicable credits. Any credits such as purchase discounts or price adjustments must be deducted from total costs charged. The sub-grantee is not allowed to make a profit from any costs charged to City funds.
- I. The general standard is that all accounting records must be supported by source documentation. Supporting documentation is necessary to show that the costs charged against City funds were incurred during the effective period of sub-grantee's contract with the City, were actually paid (or properly accrued), were expended on allowable items, and had been approved by the responsible officials in the sub-grantee's organization.
 1. The source documentation must explain the basis of the costs incurred, as well as showing the actual dates and amount of expenditures.
 - a. With respect to payroll, source documentation includes employment letters and all authorizations for rates of pay, benefits, and employee withholdings. For staff time charged to the program activity, time and attendance records must be available.
 - b. With respect to the cost of space and utilities, space costs must be supported by

documentation such as rental or lease agreements. The bills from the utility companies will support payment of utilities. Both types of expenses will be supported by canceled checks, if the cost of space or utilities is split between City funds and other funding sources, there must be a reasonable method in place to allocate the charges fairly among the sources.

- c. With respect to supplies, documentation includes purchase orders or requisition forms initiated by an authorized representative of the sub-grantee, an invoice from the vendor (which has been signed and dated by the sub-grantee) indicating the goods were received and the canceled check from the vendor demonstrating that payment was made, and information regarding where the supplies are being stored, and for what cost objectives they are being used.
2. All source documentation does not have to be located in the Department of Housing and Community Development's project files, but it must be readily available for review by the City, HUD or other authorized representatives at all times.
 3. The sub-grantee must ensure that either (a) an encumbrance/obligation is recorded whenever a contract is signed or purchase order is issued, or (b) up-to-date information on the status of all obligations is otherwise readily accessible.
 4. The sub-grantee must maintain a complete, accurate and up-to-date record of the receipt and use of City generated program income.
- J. Sub-grantees must have procedures in place to monitor obligations and expenditures against their approved budget(s) for City funded activities. The City is under no obligation to reimburse a sub-grantee for expenditures that exceed approved budget line items or the overall budget for City assisted activities. Therefore, the sub-grantee must have an on-going system to compare actual receipts, encumbrances, and expenditures with the City program budget in order to ascertain in a timely fashion whether it will be necessary to initiate a formal budget revision. In addition, since the budget reflects the sub-grantee's best estimate of the resources necessary to accomplish the project scope of services, any pattern of line item overruns should prompt a careful re-assessment of whether the available resources will still be sufficient to achieve the agreed-upon objective.
 - K. Sub-grantees are required to have procedures in place to minimize the time elapsed between receipt of funds from the City and the actual disbursement of those funds.

1. The City operates under the cost reimbursement method that entails a transfer of City funds to the sub-grantee based on actual expenditures or incurred cost by the sub-grantee prior to the request for funds.
 2. Sub-grantee must include accurate information in its reimbursement requests. This requirement is intended to address the intentional falsification of reimbursement information.
 3. Sub-grantee must return erroneously reimbursed funds to the City in a timely fashion.
 4. Program income (other than program income deposited in a City authorized revolving fund) must be disbursed in payment of program costs prior to requesting further reimbursements from the City. (24 CFR 570.504(b)(2)(ii) and 570.504 (c)).
- L. Financial reports prepared by a sub-grantee must be accurate, timely, current, and represent a complete disclosure of the financial activity and status in each program under which assistance is received. A sub-grantee's accounting and record-keeping system must be able to support the data included in (a) its reimbursement requests, (b) its other financial and progress reports, and (c) any submission necessary for the sub-grantee's performance reports.

II. Procurement and Contracting

This section outlines the requirements for using Federal funds to purchase materials, products or services under the CDBG and HOME Entitlement programs. Whether you are a small agency purchasing occasional office supplies or a large organization contracting for millions of dollars of construction services, the requirements governing the purchasing process are designed to ensure free and open competition. You should seek to buy with City funds only what is necessary under the terms of your contract and no more. You should also be able to ensure the integrity of your purchasing decisions, to document the history, results and decisions behind your purchases, to follow the rules for certain kinds of transactions and to offer opportunities to low and disadvantaged firms to respond to your purchasing needs. By following these requirements you are helping to guarantee the fairness and the vitality of our free market system, and to ensure that taxpayer resources are not being wasted.

Sub-grantees will maintain a written code of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the sub-grantees shall participate in selection, or in the award or administration of a contract

supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (i) The employee, officer or agent, (ii) Any member of his/her immediate family, (iii) His/her partner, or (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The sub-grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontracts. Sub-grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the sub-grantee's officers, employees, or agents, or by contractors or their agents. The City/County may by regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

A. Grantee Responsibilities.

This section covers general information about the procurement requirements:

1. General provisions
2. Summary of Federal requirements
3. Bonding and insurance
4. Use of local, small, minority and/or women-owned businesses
5. Procurement Options
 - a. Small Purchases
 - b. Competitive Sealed Bid
 - c. Competitive Proposals
 - d. Non-competitive Proposals/Sole Source
6. Other Options for Performing the work
7. Continuing with a previously-selected contractor

B. General Provisions

The standards and procedures for procurement are intended to ensure that supplies, equipment, construction, and other services acquired in whole or part with federal funds are:

- Obtained as efficiently and economically as possible; and
- Procured in a manner that provides, to the maximum extent practical, open and free competition.

Solicitations must explain all the requirements that the bidder/offeror has to meet for his or her bid/offer to be evaluated by the sub-grantee. Solicitations for goods and services must be based on a clear and accurate description of the material, product, or service to be procured, and cannot contain features which unduly restrict competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable qualifying requirements on firms;
- Requiring unnecessary experience and excessive bonding;
- Specifying only “brand name” products instead of allowing an “equal” product;
- Non-competitive pricing practices between firms or affiliated companies; and
- Non-competitive awards to consultants on retainer contracts.

Awards are to be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the sub-grantee, price and other factors considered. Any and all bids may be rejected when it is in the sub-grantee’s interest to do so. The sub-grantee must ensure that the award is made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration should be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

C. Summary of Federal requirements

1. Records and files. According to 24 CFR 85.36(b)(9), the sub-grantee must maintain records to detail the significant history of a procurement. The sub-grantee must maintain files on the rationale for selecting the methods of procurement used, selection of contract type, the contractor selection/rejection process, and the basis for the cost or price of a contract. (See Chapter 7 for more on recordkeeping.)
2. Pre-qualified lists of vendors/contractors. If such lists are used, they must be current, developed through open solicitation, include adequate numbers of qualified sources, and must allow entry of other firms to qualify at any time during the solicitation period (24 CFR 85.36(c)(4)).
3. Unfair competitive advantage. To eliminate unfair competitive advantage, if the sub-grantee has used a contractor to develop or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals, the sub-grantee should exclude that contractor from the competition for such.

4. Debarred/ineligible contractors. The sub-grantee must ensure that awards are not made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, “Debarment and Suspension” (24 CFR 85.35).
5. Written procedures for contractor selection. The sub-grantee must have written selection procedures for procurement transactions, adequate to ensure that:
 - a. The purchase of unnecessary or duplicate items is avoided. Where appropriate, an analysis should be made of lease vs. purchase alternatives (24 CFR 85.36(b)(4));
 - b. Whenever possible, use of federal excess and surplus property, or of intergovernmental agreements for procurement or use of common goods and services should be considered as a way to foster greater economy and efficiency (24 CFR 85.36(b)(5) and (6));
 - c. All purchase orders (and contracts) are signed by the sub-grantee’s authorized official(s);
 - d. Items delivered and paid for are consistent with the purchase order and/or contract for the goods or services;
 - e. Timely payment to vendors occurs once the order is delivered, inspected, accepted, and payment authorized;
 - f. A cost or price analysis is performed for every procurement action, including contract modifications, and documentation to that effect is maintained in the sub-grantee’s files. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the sub-grantee must make independent estimates before receiving bids or proposals (24 CFR 85.36(f)); and,
 - g. Profit or fee is negotiated separately from price where competition is lacking or a cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor’s investment, the amount of subcontracting, the quality of past performance, and industry rates for the area (24 CFR 85.36(f)(2)).
6. Contract pricing. The sub-grantee must not use “cost plus a percentage of cost” pricing for contracts (24 CFR 85.36(f)(4)); in addition, the sub-grantee should use “time and material” type contracts only after a determination is made that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk (24 CFR

85.36(b)(10)).

7. Protest procedures. The sub-grantee must have protest procedures in place to handle and resolve disputes relating to procurement (24 CFR 85.36(b)(12)).
8. Documenting contractor performance. The sub-grantee must have a documented system of contract administration for determining the adequacy of contractor performance (24 CFR 85.36(b)(2)).
9. Code of conduct. The sub-grantee must have a written code of conduct governing employees, officers, or agents engaged in the award or administration of contracts (24 CFR 85.36(b)(3)).

D. Bonding and insurance

For construction or facility improvement contracts or subcontracts exceeding \$100,000, the sub-grantee must ensure that its procurement meets the minimum federal requirements (24 CFR 85.36(h)) for bid guarantees, performance bonds, and payment bonds. These include:

1. A bid guarantee from each bidder equivalent to 5% of the bid price. The bid guarantee must be a firm commitment in the form of a bid bond, certified check or other negotiable instrument as assurance that the bidder is prepared to execute a contract within the time specified for the bid amount;
2. A performance bond from the (sub)contractor for 100% of the contract price to secure the (sub)contractor's fulfillment of all obligations under the contract; and,
3. A payment bond from the (sub)contractor for 100% of the contract price, to assure payment of all persons supplying labor and material under the contract.

E. Use of local, small, minority and/or women-owned businesses

1. Federal regulations make it very clear that sub-grantees should make every effort to use local business firms and contract with small, minority-owned, and women-owned businesses in the procurement process. Specifically, the sub-grantee must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in the grantee's CDBG-financed activities (24 CFR 85.36(e)). For example, the sub-grantee should:
 - a. Incorporate such businesses in solicitation lists whenever they are potential sources;
 - b. Ensure that such businesses are solicited when identified as potential sources;
 - c. Divide procurement requirements, when economically feasible, to permit maximum

participation of such businesses; and

- d. Require prime contractors, when subcontracts are let, to take affirmative steps to select such firms.
2. In conformance with the requirements of Section 3 of the Housing and Community Development Act of 1968, to the greatest extent feasible, the sub-grantee must award contracts for work to be performed to eligible business concerns located in or owned by residents of the target area to ensure that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low income persons, particularly those who are recipients of government assistance for housing (see 24 CFR 570.607(b)).

Note, however, that the desire to award contracts to local firms is not a legitimate excuse for avoiding an open and competitive procurement process.

3. The City of San Antonio, as a public employer, has a policy to ensure equal employment opportunity and the City carries out affirmative action programs to fulfill that policy in the allocation of City of San Antonio contracts. It shall be the purpose of the Small Business Economic Development Advocacy (SBEDA) Program to increase minority business enterprise utilization in the awarding of City of San Antonio contracts for professional services, construction, and procurement, and, to better assist small business enterprise in competitively bidding on City projects or procurement. This program shall also assist business enterprises owned and controlled by women and business enterprises owned and controlled by handicapped individuals.
 - a. It is the policy of the City of San Antonio that Small and/or Minority Business Enterprises shall have a maximum practicable opportunity to participate in the awarding of City contracts.
 - b. The contractor agrees to use its best efforts to carry out this policy through award of sub-contracts to small and/or minority business enterprises to the fullest extent consistent with the efficient performance of the contract to which this Manual is attached and/or to which it relates.

- c. To the greatest extent feasible, sub-grantees shall adhere to the herein described SBEDA participation and utilization policies and provisions.

In the event of the contractor's failure or refusal to comply with this SBEDA clause, either during the bidding process or at any time during the term of a contract, the contract may be cancelled, terminated or suspended in whole or in part by the City of San Antonio.

F. Procurement Options

Contracted: If the sub-grantee wants to contract out for services, the sub-grantee must go through a procurement process. If the total cost of the project from all funding sources is less than \$100,000, the sub-grantee can procure services using one of several options discussed below. If the total cost of the project exceeds \$100,000, the sub-grantee may not use the small purchase method.

No loss leader arrangements: The intent of federal regulations is to require maximum open and free competition. Any "loss leader" type of arrangement in which a consultant offers to provide free services before an applicant receives a grant in return for a future contract is prohibited by federal regulations.

Note about the procurement methods: Among the procurement approaches described below, the competitive sealed bid resulting in a firm, fixed price contract is the preferred procurement approach when there are numerous available and qualified providers, when the requirements and specifications are thoroughly detailed and are unlikely to change, and where the sub-grantee has the opportunity to make the provider assume a large share of the risk for non-performance.

HUD allows grantees to follow either their local small purchase procurement policy or the federal policy. If the local policy is used, it must be at least as stringent as the federal policy, described below.

1. Small Purchase

The small purchase method may be used for procurement of \$100,000 or less in the aggregate, pursuant to 24 CFR 85.36(d) (1). A procurement of more than \$100,000 may not be inappropriately broken up into smaller components solely to qualify for the small purchase approach. Competition is sought through oral or written price quotations. The grantee must document the receipt of an adequate number (usually three) of price or rate

quotations from qualified vendors.

2. Competitive Sealed Bid [24 CFR 85.36 (d)(2)]

The competitive sealed bid is the preferred method for procuring construction services. This method must lend itself to a firm, fixed price contract (lump sum or unit price) where the selection can be made principally on the basis of price.

- a. The sub-grantee must advertise the Invitation for Bid (IFB) in publications of general circulation;
- b. The IFB must include complete and accurate specifications and pertinent attachments, and clearly define items or services needed, in sufficient detail for the bidders to properly respond;
- c. Bids must be opened publicly at the time and place stated in the IFB;
- d. The sub-grantee must receive at least two or more responsible bids for each procurement transaction; and
- e. If awarded, the contract must be given to the lowest responsive and responsible bidder.

The sub-grantee can, however, decide not to make the award to any of the bidders.

3. Competitive Proposals [24 CFR 85.36(d)(3)]

This method has two sub-parts—the Request for Proposal and the Request for Qualifications.

Request for Proposals

- a. The Request for Proposals (RFP) must clearly and accurately state the technical requirements for the goods and services required;
- b. The sub-grantee must publicize the RFP, and to the maximum extent practicable, honor reasonable requests by parties to have an opportunity to compete;
- c. Proposals must be solicited from an adequate number of qualified sources, consistent with the nature and requirements of the procurement;
- d. The sub-grantee must conduct a technical evaluation of the submitted proposals to identify the responsible offerors;
- e. As necessary, the sub-grantee must conduct negotiations with those offerors who are deemed responsive and responsible and fall within a competitive price range, based on the sub-grantee's evaluation of the bidders' pricing and technical proposals. After negotiations, these bidders may be given the opportunity to submit a "best and final"

offer; and

- f. The sub-grantee must award the contract to the most responsive and responsible offeror after price and other factors are considered through scoring the proposals or “best and final” offers according to predetermined evaluation criteria. The successful proposal/offeror must clearly be the most advantageous source of the goods and services.

Request for Qualifications

For procurement involving architecture or engineering services, the sub-grantee may use the Request for Qualifications (RFQ) competitive proposal procedure whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. In these instances, price is not used as a selection factor.

Once the most qualified firm is identified, only that firm is asked for a price proposal that is subject to negotiation of a fair and reasonable price. If negotiations with the selected firm are unsuccessful, this process is repeated with the next highest-ranked firm, until a fair and reasonably priced contract can be awarded. The sub-grantee must take care to document the basis for its determination of the most qualified competitor and the reasonableness of the contract price. This qualifications-based approach to the competitive proposals method may not be used to purchase types of services other than architectural and engineering services (24 CFR 85.36(d)(3)(v)).

For applicants’ information, the above-cited federal rule relating to the procurement of architectural and engineering (A/E) services is quoted verbatim:

“Grantees and sub-grantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in

procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.”

This means that:

- Qualifications-based procurement can be used only for A/E services.
- A Request for Qualifications may be issued.
- The competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.
- An RFQ cannot be used to purchase other types of services, even though A/E firms are potential sources to perform other types of services.

In addition, the federal procurement regulations generally discourage the use of local geographical preferences in the evaluation of bids or proposals except where mandated by federal statutes, due to the restrictions on open competition that result. However, in procuring architectural and engineering services, geographic location is permitted as a selection criteria provided this criterion leaves an appropriate number of qualified firms (24 CFR 85.36(c)(2)).

4. Non-Competitive Proposals/Sole Source [24 CFR Part 85.36 (d) (4)]

This method may be used only under very limited circumstances and the sub-grantee must obtain the Department of Housing and Community Development’s approval before using this method. When requesting permission to use this method, the sub-grantee will have to show that another method of procurement was not feasible because:

- a. The item or service was only available from a single source;
- b. A public emergency or condition requiring urgency existed which did not permit the use of competitive procurement; or
- c. Competition was determined to be inadequate after solicitation of proposals from a number of sources.

G. Continuing with a previously selected contractor.

If the jurisdiction has a consultant under a pre-existing, multi-year contract, it is permissible to continue to use that consultant for the new grant as long as the activity to be carried out was outlined in the original scope of work used to procure the consultant, and the process used to procure the consultant met Federal requirements.

Please note that multi-year contracts should be limited to three years and to one specialty area, such as housing, public works, or economic development. A single RFP for CDBG administrative services including housing, public works, and economic development is not consistent with federal procurement requirements. That is, an RFP of such broad scope would place unreasonable requirements on firms in order for them to qualify to do business. Therefore, the Department of Housing and Community Development restricts three-year contracting to specific specialty areas. A single RFP to carry out all CDBG and HOME housing-related activities or all CDBG economic development-related activities is acceptable.

III. Civil Rights and Fair Housing, Employment and Contracting Opportunities

For a more complete explanation of the standard and procedures relevant to any particular requirement, refer to the federal regulations, to the executive orders or laws cited, and to your written contract with the City of San Antonio.

The sub-grantee must certify that it will administer its federal funds in compliance with the following laws and Executive Orders:

- A. Title V of the Civil Rights Act of 1964 (Public Law 88-352): This law states that no person shall be refused on the grounds of race, color, or national origin, or be excluded from, participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- B. The Fair Housing Act - Title VIII of the Civil Rights Act of 1968 (Public Law 90-284): This law prohibits discrimination in the sale, rental, and financing of housing and the provisions of brokerage services because of race, color, religion, sex, national origin, handicap, or familial status.
- C. Executive Order 11063, as amended by Executive Order 12259 (implemented in 24 CFR Part 107): This order and its implementing regulations require the Department of Housing and Community Development to take all actions necessary to prevent discrimination because of race, color, religion, sex, or national origin in the use, occupancy, sale, leasing, rental or other disposition of residential property assisted with federal loans, advances, grants or contributions.
- D. Section 104 (b) of Title I of the Housing and Community Development Act of 1974, as amended: This law provides that any grant under section 106 shall be made only if the sub-

grantee certifies to the satisfaction of the Secretary of HUD that the sub-grantee will, among other things, affirmatively further fair housing.

- E. Section 109 of Title I of the Housing and Community Development Act of 1974, as amended: This section mandates that no person on the grounds of race, color, national origin, sex, or religion shall be excluded from participation, denied the benefits of, or otherwise be subject to discrimination under any activity funded in whole or in part with federal funds.
- F. Section 504 of the Rehabilitation Act of 1973, as amended: This section specifies that no otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal assistance.
- G. Americans with Disabilities Act of 1990: This law prohibits discrimination on the basis of disability in employment, state and local government services, and in public accommodation and commercial facilities. The Act defines the range of conditions that qualify as disabilities, and the reasonable accommodations that must be made to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities.
- H. The Age Discrimination Act of 1975, as amended: This law provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal assistance.
- I. Executive Order 11246 (as amended by Executive Order 11375 and 12086) Equal Opportunity Under HUD Contracts and HUD assisted Construction Contracts: This order requires that grantees and sub-grantees, and their contractors and subcontractors, agree not to discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin.
 - 1. Exemptions to Equal Opportunity Clause (41) CFR Chapter 50:
 - a. Contracts and subcontracts not exceeding \$10,000 (other than government bills of lading) are exempt. The total amount of the contract, rather than the amount of the federal financial assistance, shall govern in determining the applicability of this exemption.
 - b. Except in the case of subcontractors for the performance of construction work at the site of construction, the clause shall not be required to be inserted in subcontracts below the second tier.

- c. Contracts and subcontract not exceeding \$100,000 for standard commercial supplies or raw materials are exempt.
 2. Anyone contracting with the City for federally funded projects must insert the above clauses in all applicable subcontracts.
 3. The subcontractor will submit a quarterly report to the Department of Housing and Community Development three months after the start of work on the contract and every three months thereafter. Said report shall be made on HUD Form 3 (Economic Opportunities for Low and Very Low Income Persons in Completion with Federally Assisted Project) and the New Hire Form.
 4. Should the Department of Housing and Community Development determine a contractor to be in non-compliance with the equal opportunity requirements, procedures to “show cause” why funds should not be withheld will be reported with a copy of the report going to HUD.
- J. Section 3 of the Housing and Community Development Act of 1968 requires that to the greatest extent feasible, a sub-grantee must:
1. Ensure opportunities for training and employment arising in connection with housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing reconstruction, or other public construction project are given to low and very low-income persons residing within the metropolitan area in which the federally funded project is located; where feasible, priority should be provided to low and very low-income residents within the service area of the project or the neighborhood in which the project is located, and to low and very low-income participants in other HUD programs; and
 2. Award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing reconstruction, or other public construction projects to business concerns that provide economic opportunities for low and very low-income persons residing within the metropolitan area in which the federally funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low and very low-income residents within the service area of the project or the neighborhood in which the project is located, and to low and very low- income participants in other HUD programs.

IV. Labor Standards

Sub-grantees are strongly encouraged to consult closely with the City during the planning of any construction or rehabilitation projects in order to assure that all the requisite labor standards will be properly observed.

A. Statutory provisions.

1. The Davis-Bacon Act, the Contract Work Hours and Safety Standards Act and the Copeland (Anti Kickback) Act apply to construction being assisted with federal funds except that housing rehabilitation projects with less than eight units do not trigger these requirements. The Fair Labor Standards Act (relating to minimum wages) will be applicable in most cases whether or not the previous acts apply. Sub-grantees must include provisions relating to the foregoing listed acts as more particularly described below in each application contract.
2. Davis-Bacon and Related Act (40 USC 276 (A)-7) 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.
3. The Copeland (“Anti Kickback”) Act (40 USC 276c) 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.
4. The Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333) 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.
5. Fair Labor Standards Act of 1938, as amended (29 USC 201, etc. seq.) Establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work and establishes child labor standards.

V. Davis-Bacon Act Compliance Requirements

The Davis-Bacon Act was enacted in 1931, amended in 1935 and 1964, to protect communities and workers from the economic disruption caused by competition arising from non-local contractors coming into an area and obtaining federal construction contracts by underbidding local wage levels.

The Davis-Bacon Act requires payment of locally “prevailing wages” and benefits to laborers or mechanics employed on direct federal contracts in excess of \$2,000 for construction, alteration, or repair (including painting and decorating) of public buildings or public works.

A complete copy of the Davis-Bacon and Related Acts is on file and available for review in the City’s Department of Housing and Community Development.

- A. All laborers and mechanics employed or working on the site of the work shall be paid unconditionally and not less often than once a week the full amount of wages and bona fide fringe benefits computed at rates not less than those contained in the wage determination.
 - 1. Employers who do not make contributions or payments to bona fide fringe benefits funds, plans, or programs shall pay an amount equivalent to the fringe benefit rate (if any) required on the wage determination directly to the employee added to the basic hourly rate of pay.
 - a. The employer may make payroll deductions as permitted by the Department of Labor (DOL) Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to “kick back” any of their earnings. Deductions may include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings accounts, and any other legally permissible deduction authorized by the employee. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee.
 - b. Each laborer and mechanic shall be classified in accordance with the work classification listed on the wage determination and the actual type of work he/she performs and shall be paid the appropriate wage rate and fringe benefits for the classification regardless of the level of skill.
 - c. Laborers and mechanics that perform work in more than one classification may be

compensated at the rate specified for each classification provided that the employer maintains time records that accurately set forth the time spent in each classification in which work was performed. If accurate time records are not maintained, the employee shall be compensated at the highest of all wage rates for the classifications in which work was performed.

- d. If the wage determination does not include a work classification needed for the construction of the project, HUD may approve an additional classification and wage rate.
2. Apprentices and trainees may be compensated at rates less than prescribed by the wage determination for their craft only in accordance with the following parameters.
 - a. The apprentice or trainee shall be individually registered in a bona fide certification program.
 - b. Each apprentice and trainee shall not be paid less than the specified rate in the registered program for his/her level of progress. If the rate specified is represented as a percentage of the journeyman rate for that craft, the percentage shall be applied to the corresponding wage rate contained in the applicable wage determination.
 - c. The maximum number of apprentices or trainees employed on the site of work may not exceed the ratio of apprentices or trainees to journeymen permitted to the employer in the certified program. Apprentices or trainees, who are employed at the site in excess of the allowable ratio, shall be paid the wage rate contained on the applicable wage determination for classification of work actually performed. Compliance with the allowable ratio shall generally be met on a day-to-day basis.
 - d. In the event approval of an apprenticeship or trainee program is withdrawn, the employer shall no longer be permitted to utilize apprentices/trainees at less than the predetermined rate for the type of work performed, unless or until an acceptable program is approved.
 3. Payrolls and basic records to such payrolls shall be maintained by each employer with respect to his/her workforce employed on the site of the work. The principal contractor shall maintain such records relative to all laborers and mechanics working on the site of the work. Payrolls and related records shall be maintained during the course of the construction work and preserved by the contractor and all employers for at least 3 years

following the completion of the work. Such records shall contain:

- a. The name, address and social security number of each laborer and mechanic;
 - b. His or her correct work classification(s);
 - c. Hourly rates of pay including rates of contributions or costs anticipated for fringe benefits;
 - d. Daily and weekly number of hours worked, including any overtime hours;
 - e. Deductions made and actual net wages paid;
 - f. Evidence pertaining to any fringe programs;
 - g. Evidence of the approval of any apprenticeship or trainee program, the registration of each apprentice or trainee and the ratios and wages contained in the program.
4. Certified weekly payroll reports (CPRs) shall be submitted with respect to each week any contract work is performed. The principal contractor is responsible for full compliance with regard to its own workforce and with regard to the compliance of every subcontractor. For this reason, all CPRs and any related records are submitted to the CITY through the principal contractor.
- a. CPR information may be submitted in any form provided that the CITY can reasonably interpret the information to monitor employer compliance with the labor standards.
 - b. CPRs shall be submitted for each contractor/subcontractor (employer) beginning with the first week such employer performs work on the site of the work. CPRs shall be submitted promptly following the close of each such pay week.
 - c. CPRs for each employer shall be numbered sequentially beginning with "1". The CPR for the last week of work performed on the project by each employer shall be clearly marked "final."
 - (1) The first payroll on which each employee appears shall contain the employee's name, address and social security number. Thereafter, the address and social security only need to be reported if there is a change in such information.
 - (2) The first payroll on which any apprentice or trainee appears shall be accompanied with a copy of that apprentice's or trainee's registration in an approved program. A copy of the approved program pertaining to the wage rates and ratios shall also accompany the first CPR on which the first apprentice or trainee appears.

- (3) The division of hours worked in different classifications shall be accurately maintained and clearly reported. The employer may list the employee once for each classification, distributing the hours of work accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon the total gross amount earned for all classifications.
 - (4) The CPR should reflect only hours worked at the site of work. If an employee performs work at job sites other than the project for which the CPR is prepared, those hours should not be reported on the CPR. In these cases the employer should list employee's name, classification and the hours for this project only, and the rate of pay and gross earnings on this project. Deductions and net pay may be reflected based upon the employee's total earnings (for all projects) for the week.
- d. Employers are not required to submit CPRs for weeks during which no work was performed on the site of the work, provided that the CPRs are numbered sequentially or that the employer has provided written notice that its work on the project has been suspended.
 - e. Each weekly payroll shall be accompanied by a "Statement of Compliance". The Statement of Compliance shall be executed by the original signature of the principal executive of the contractor/subcontractor, or of a person authorized in writing by the principal. The statement shall certify to the following:
 - (1) That the payroll period documents contain the information required to be maintained and that the information is correct and complete;
 - (2) That each laborer or mechanic (including each helper, apprentice, or 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 federal regulation 29 CFR 3; and
 - (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.
 - f. 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.

- (1) Each employer shall make the required records (CPRs and related documents) available for inspection copying or transcription by authorized representatives of the CITY, HUD, or DOL. In addition, each employer shall permit authorized representatives to interview employees during work hours on the job site.
- (2) Failure by an employer to submit the required records or to make them available, or permit on-site employee interviews may, after written notice to the contractor, cause a suspension of any further payment, advance or guarantee of funds. In addition, failure to submit the records on request or to make them available may be grounds for debarment action pursuant to 29 CFR 5.12.
- (3) In order to protect the personal privacy interests of employees, copies of weekly payrolls shall not be released to outside parties and may be withheld under Exemption 6 of the Freedom of Information Act (FOIA) unless the employees' personal identifiers (e.g., name, address, and social security number) are first deleted.
- (4) The identity of any person providing information concerning the labor standards compliance of any contractor or subcontractor shall not be disclosed in any manner to anyone other than authorized City or Federal officials unless written consent is provided in advance by such person. Additionally, any portions of a statement or written document provided by such person that would reveal the identity of the source shall not be disclosed without prior written consent. Disclosure of such statements and documents shall be governed by the provisions of the Freedom of Information Act and the Privacy Act of 1974.

VI. Labor Standards Administration, Compliance Monitoring and Enforcement

Routine monitoring of projects, Certified Payroll Records and related documentation is performed to ensure compliance of all employers with the applicable labor standards provisions. Monitoring identifies possible misunderstandings on the part of the employers, discrepancies in the records, and violations. Written monitoring reports to the principal contractor advise the contractor of the status of compliance, provide clarification where misunderstanding may exist,

and informs the contractor of any additional submissions, which may be required to correct discrepancies or to complete the record.

A. The City is responsible for the administration and enforcement of labor standards provisions for HUD assisted programs administered by the City. For each program and proposed project or contract the City shall:

1. Determine the specific labor standard parameters applicable to the project.
2. Obtain the Davis-Bacon wage and hour determination and labor standards provisions applicable to the project from the HUD Labor Relations Field staff and ensure incorporation of the same in the project specifications.
3. Ensure that the wage determination is still current at bid opening or other appropriate wage determination effective date.
4. Verify the eligibility of the principal contractor.
5. Conduct a Pre-construction Conference to inform and instruct the contractor and subcontractors concerning their wage and reporting obligations.
6. Identify and initiate requests for additional classifications and wage rates needed for the construction of the project.
7. Perform timely routine monitoring reviews of CPRs and related submissions for compliance with labor standards.
8. Notify the principal contractor in writing of any labor standards deficiencies and required corrective actions.
9. Investigate complaints of underpayment or other labor standards violations.
10. Prepare and submit to HUD reports on all enforcement activity.
11. As necessary, refer cases for administrative hearing (29 CFR, Part 5, 5.11) and/or makes recommendations for debarment (29 CFR, Part 5,5.12).
12. As necessary, require escrow accounts to ensure the payment of outstanding wage or liquidated damages liability.
13. Dispose of any escrow accounts established for labor standards purposes.
14. Establish and maintain full documentation of all labor standards administration and enforcement activities.

B. The City is responsible for the creation, maintenance and preservation of labor standards enforcement files for each project. The files shall be kept up-to-date, maintained in a

consistent manner, and secured for the life of the active monitoring of the project and preserved for at least three (3) years following the completion of the project and the final disposition of any compliance issues. The City shall establish a system of labor standards enforcement files for each covered project.

C. The City is responsible for the following monitoring activities:

1. Interviews of workers will be conducted on a regular basis and will include a broad sampling of the work classifications being employed on the project. (Record of Employee Interviews Form (form HUD-11)).
2. On-site inspections will be made to ensure that the required notices are posted.
3. Weekly payrolls will be reviewed and compared with employee interviews and wage rates to verify compliance with applicable labor standards and requirements (e.g. payment of minimum wages, payment of overtime, no ineligible deductions, etc.)
4. Once the project is completed, a final wage compliance report shall be filed with HUD.

D. For each construction contract, the Sub-grantee shall maintain a file with the following documentation:

1. Copy of wage rate request;
2. Copy of wage rate, along with any additional classifications;
3. Bid/contract documents with labor standards provision included;
4. Contractor eligibility verification;
5. Ten-day call verification;
6. Pre-construction conference minutes/sign-in sheet;
7. Payrolls, with evidence of their review;
8. Notice of start of construction;
9. Employee interviews;
10. Evidence of any violations and corrective actions;
11. Final wage compliance reports; and
12. Monthly employment utilization reports, where applicable.

E. Violations of the labor standards and requirements must be corrected. Failure to pay sufficient overtime wages will result in the assessment of liquidated damages in the amount of \$10 per worker per day. Only HUD and the Department of Labor are authorized to reduce or waive these liquidated damages. The contractor must be notified of his or her liability.

Then, if appropriate, he or she may request a waiver.

F. Debarred, Suspended and Ineligible Contractors and Sub-recipients. Federal cannot be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or sub-recipient during any period of debarment, suspension or placement of ineligibility status. CITY will check all contractors, subcontractors, lower tier contractors and sub-grantees against the Federal publication that lists debarred, suspended and ineligible contractors.

VII. Environmental Requirements

In its use of federal funds, the City is required to assume responsibility for environmental review, decision-making and other actions that would otherwise apply to HUD under the National Environmental Policy Act of 1969 and other provisions of law. The Federal regulations explicitly prohibit Sub-grantees from assuming the City's environmental responsibilities.

However, under the applicable regulations, Sub-grantees are not allowed to incur program expenses until the City has completed an environmental review of the proposed activities, received the release of funds, and provided the Sub-grantee with formal clearance with directives for any action necessary to mitigate negative environmental impacts.

VIII. Historic Preservation

Sub-grantees must comply with the provisions of the Historic Preservation Act and related laws and Executive Orders. Before any commitments are made for any physical improvements, alterations or demolition of any building, a sub-grantee must receive assurances from the City that they are in compliance.

Part of the City's responsibility is to consult with the State Historic Preservation Officer as to: (1) whether the property is or could be declared a historic property; (2) if the property is located in a historic district or an area which could be declared a historic district; (3) if the proposed changes to the property could adversely affect historic properties or neighborhoods which could be declared historic.

If properties can be adversely affected, prior to initiating project work, an agreement must be reached on appropriate mitigating measures with all parties identified. (36 CFR Part 800)

IX. National Flood Insurance Program

If a community has had notice for more than a year that an area has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, federal funds cannot be used for acquisition or construction purposes in the area unless the community is participating in the National Flood Insurance Program and such insurance has been purchased for the properties in question.

X. Relocation, Real Property Acquisition and One-for-One Housing Replacement

A sub-grantee must comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and 24 CFR 570.606(b); and (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan (Plan) under section 104(d) of the HCD Act. The policies and requirements of these laws are described in HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition.

Under URA and the Plan, the sub-grantee must provide relocation assistance to persons (families, individuals, businesses, non-profit organizations and farms) that are permanently displaced as a direct result of acquisition, rehabilitation, demolition or conversions for a federally assisted project. All property occupants must be issued certain notices on a timely basis. (Failure to issue timely notices may result in unnecessary expenses.)

The Plan also requires one-for-one replacement of any occupied or vacant low/moderate income housing that is demolished or converted to another non-residential use in connection with a federally assisted project. Finally, the Plan requires the identification of the steps that will be taken to minimize displacement.

XI. Lead-Based Paint

There is a general prohibition against the use of lead-based paint in connection with any federally funded activities involving the construction or rehabilitation of residential structures. In addition:

A. For properties constructed prior to 1978, the sub-grantee must notify applicants for

rehabilitation assistance, and tenants or purchasers of properties owned by the sub-grantee or City and acquired or rehabilitated with federal funds, of the hazards of lead-based paint poisoning and the other specific information set out in 24 CFR 570.608(b)(2)(I) through (vi).

- B. According to 24 CFR 570.608(c)(3), for housing built prior to 1978 that is being rehabilitated with federal funds which may be occupied or frequented by families with children under seven years of age, the sub-grantee must undertake steps to ensure that such housing is inspected for defective paint and those surfaces found to be defective must be tested for the presence of lead paint. If lead-based paint is detected, all interior and exterior chewable surfaces found to contain lead must be treated in accordance with 24 CFR 570.608(c)(4).

XII. Political Activity

Sub-grantees are prohibited from using federal funds to finance the use of facilities or equipment for political purposes, or to engage in other partisan political activities, such as sponsoring candidate forums, brochures, voter transportation, or voter registration.

XIII. Conflict of Interest

Except for the use of federal funds to pay for salaries and other related administrative or personnel costs, the general standard is that no employee, agent, or officer of the sub-grantee, who exercises decision making responsibility with respect to the funds and activities, is allowed to obtain a financial interest in or benefit from the activities, or have a financial interest in any contract, subcontract or agreement regarding those activities or in the proceeds of the activities. Specific provisions include these requirements:

- A. Applies to any person who is an employee, agent, consultant, or officer, or elected or appointed official of the grantee, designated public agency, or sub-recipient, and their immediate family members, and business partner(s).
- B. Applies for such person during their tenure and for a period of one year after leaving the grantee or sub-grantee organization.
- C. Is applicable to the procurement of supplies, equipment, construction, and services; acquisition and disposition of real property; provision of assistance to individuals, businesses and other private entities for all eligible activities (24 CFR 570.201-204); and provision of

loans to individuals, businesses, and other private entities.

Part 570.611 Conflict of Interest.

(a) *Applicability.*

- i. In the procurement of supplies, equipment, construction, and services by sub-recipients, the conflict of interest provisions in 24 CFR 85.36 shall apply (see below).
- ii. In all cases not governed by 24 CFR 85.36, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the sub-grantee to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities).

(b) *Conflicts prohibited.* The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG/HOME activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG/HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG/HOME-assisted activity, or with respect to the proceeds of the CDBG/HOME-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of sub-grantee that is receiving funds under this part.

(d) *Exceptions.* (May happen in rare circumstances; see regulations for specifics).

Upon written request, exceptions may be granted by HUD, through the City, after consideration of the cumulative effect of various factors on a case-by-case basis and only with:
(a) full disclosure of the potential conflict, and (b) a legal opinion of the sub-grantee's attorney

that there would be no violation of state or local laws in granting the exception.

XIV. Citizen Participation

The citizen participation segment of the federal funding process must provide citizens with adequate information and notification regarding the amount of funds available for community development and housing activities, the range and scope of activities eligible, as well as other important program requirements as specified in the City of San Antonio Consolidated Plan Budget. Sponsors may submit proposals for projects that address priorities and needs as identified during the citizen participation process.

XV. Resident Aliens

Certain newly legalized aliens are not eligible to apply for benefits under covered activities handled by the CDBG and HOME programs. "Covered activities" are activities meeting requirements of 24 CFR 570.208(a) that either (1) have income requirements limiting benefits exclusively to low and moderate income persons, or (2) are targeted geographically or otherwise to primarily benefit low and moderate income persons (except for activities that benefit the public at large), and provide benefits on the basis of an application.

XVI. References

- 24 CFR 85, referred to as the "HUD common rule," establishes administrative requirements for grants to local government. 24 CFR 85.36 specifically addresses procurement. This chapter is largely based on the language contained in 24 CFR 85.36.
- 24 CFR 570.502(a)(12) invokes the "HUD common rule" for the State CDBG program.
- Federal Circular OMB A-87 establishes principles and standards for determining costs applicable to grants, contracts, and other agreements with state and local governments.
- Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that to the greatest extent feasible, opportunities for training and employment that arise through State CDBG-financed projects shall be given to lower-income residents of a project area, and that contracts awarded in connection with such projects be awarded to businesses located in the project area or businesses owned, in substantial part, by residents of the

project area.

- Section 109 of the Housing and Community Development Act of 1974, as amended, provides that no person shall be excluded from participation or employment, or be denied benefits, or be subjected to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part by the CDBG Program.
- Title VII, Civil Rights Act of 1964, provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination based on race, color, or national origin under any program or activity receiving federal financial assistance.
- Executive Order 11246, as amended, provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in any phase of employment during the performance of federal or federally assisted construction contracts.

EXHIBIT "B"

CITY OF SAN ANTONIO
CDBG and HOME Housing Program Policies

Revision February 1, 2007

Received by Susan R. Sheeran

**CDBG
HOME
ADDI**

CITY OF SAN ANTONIO

Grants Monitoring & Administration Department

**COMMUNITY DEVELOPMENT BLOCK GRANT = CDBG
HOME INVESTMENT PARTNERSHIP PROGRAM = HOME
AMERICAN DREAM DOWNPAYMENT INITIATIVE = ADDI**

CDBG, HOME, & ADDI Housing Policy Guide

CITY OF SAN ANTONIO

CDBG, HOME, & ADDI Housing Policy Guide

Mayor Phil Hardberger

Councilman Roger O. Flores
Councilwoman Sheila D. McNeil
Councilman Roland Gutierrez
Councilman Richard Perez
Councilwoman Patti Radle

Councilwoman Delicia Herrera
Councilwoman Elena Guajardo
Councilman Art A. Hall
Councilman Kevin Wolff
Councilman Christopher "Chip" Haas

Sheryl Sculley
City Manager

Jelynn LeBlanc Burley
Deputy City Manager

Andrew W. Cameron, Director, Grants Monitoring & Administration Department
Jeanetta Tinsley, Community Development Coordinator
Rose Arredondo, Interim Community Development Coordinator

Adopted by City Council
February 1, 2007

Grants Monitoring & Administration Department
1400 South Flores • Unit 3
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Housing Policy Guide Process

This second revised edition of the Housing Policy Guide implements updates to both program parameters as well as allowable and allocable costs under the City's CDBG and HOME programs. The changes herein reflect City Council and HUD mandated revisions as well as clarifications to the original document. These modifications have been reviewed by staff and the group of stakeholders who participated in the development of the first edition.

Stakeholders consulted in this edition include the following individuals and organizations:

Judy Babbitt, Disability Access Officer, COSA Public Works Department
Richard Collins, COSA Housing & Neighborhood Services Department
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Background Information

The City of San Antonio receives support from the U.S. Department of Housing and Urban Development to assist low and moderate income families in obtaining affordable housing. The City receives several block grants, which it can use to support its housing initiatives. HUD outlines certain regulations that apply when using the block grant funds. The City has had several recent efforts to streamline the housing system and increase inner city revitalization efforts. This policy document uses the HUD regulations as a basis and also incorporates the City's own goals and objectives in relation to affordable housing as outlined in the Community Revitalization Action Group reports, the Housing Master Plan and the recommendations in relation to the Housing Services Delivery System.

Community Development Block Grant (CDBG) Objectives

The Community Development Block Grant has been in existence for over 30 years. The primary objective of the CDBG program is to improve communities by providing decent housing, providing a suitable living environment, and expanding economic opportunities. The primary beneficiary of CDBG funds must be low to moderate-income persons, or the funds must aid in the prevention or elimination of slums or blight, or meet an urgent need. In San Antonio, we use CDBG funds for the repair of rental housing and housing owned by its occupants.

Home Investment Partnership Program (HOME) Objectives

The goals of the HOME program are to provide decent affordable housing to lower-income households, expand the capacity of nonprofit housing providers, strengthen the ability of state and local governments to provide housing, and leverage private sector participation. All HOME funds must benefit persons of low and moderate income.

American Dream Downpayment Initiative (ADDI) Objectives

ADDI aims to increase local homeownership rates among lower income and minority households across the San Antonio community. ADDI helps first-time homebuyers with downpayment and closing costs. The program was created to assist low-income first-time homebuyers in purchasing single-family homes by providing funds for downpayment, closing costs in conjunction with the assisted home's purchase.

Income Requirements

For CDBG, if a project directly benefits a person or family, they must be low or moderate income (below 80% of Area Median Income). For CDBG projects that do not directly benefit an individual, a minimum of 51% of the project beneficiaries must be low to moderate income. In certain special circumstances, CDBG funds can assist persons who are up to 120% of the Area Median Income. For the HOME and ADDI programs, all program participants must have incomes at 80% of the Area Median Income or below, as established by HUD. (Please refer to Appendix 2 for current income limits.)

How to Use this Document

Use this document to familiarize yourself with the applicable HUD regulations and City policies in relation to federally assisted affordable housing programs. When applying for funding from CDBG, HOME, and ADDI ensure that your proposed program will meet the standards outlined here. When implementing an affordable housing program, use this guide as a reference tool to ensure that your program meets the guidelines established by the City and HUD.

City of San Antonio Housing Master Plan

The City of San Antonio invested a great deal of time and money into revamping the housing services delivery system to create efficiencies and better utilize the funding available for housing and community development. In June 2001, The City Council accepted the Housing Master Plan, a comprehensive document that lays out a vision for meeting the housing needs of all of San Antonio's citizens. The CDBG and HOME funds, which are the focus of this guide, are largely restricted to use for projects and programs benefiting low income persons. The Housing Master Plan, however, attempts to meet the housing needs of all citizens, including the most needy, while creatively planning for the use of available resources to revitalize San Antonio's inner city and ensure balanced growth. The goals outlined in the Housing Master Plan are as follows:

Housing Master Plan Goals

-  **Expand affordable housing opportunities.**
-  **Expand special needs housing opportunities.**
-  **Encourage desirable housing development projects.**
-  **Encourage the development of partnerships between developers, financial institutions and non-profit agencies.**
-  **Improve program efficiencies.**
-  **Encourage urban design standards and amenities.**

This policy document incorporates many of these goals in the rules for CDBG, HOME and ADDI activities. If you are implementing a program using CDBG, HOME or ADDI funds, please keep these goals in mind.

CDBG and HOME Program Policies Requirements by Activity

This section outlines the requirements for a variety of housing activities financed with CDBG and HOME funds.

The Community Development Block Grant (CDBG), Home Investment Partnership Program (HOME), and American Dream Downpayment Initiative (ADDI) funds can be used to fund affordable housing projects that fall into the following categories:

CDBG and HOME

- **Owner Occupied Rehabilitation and Reconstruction**
- **Homebuyer Activities**
- **Rental Rehabilitation Activities**

HOME Only

- **Tenant Based Rental Assistance**
- **New Construction**

CDBG Only

- **Emergency Repair**

ADDI Only

- **Homebuyer Activities**

Owner-Occupied Rehabilitation & Reconstruction

HOME and CDBG funds may be used to assist homeowners in repairing, rehabilitating and reconstructing homes that have significantly deteriorated. These homes must be occupied by their owners. HOME and CDBG funds can be used by the City and its partners to implement this activity. Emergency Repair programs may be operated by non-profit partners using CDBG funds only. The following requirements apply to Owner Occupied Rehabilitation programs that are operated by the City and any of its partners implementing programs funded by or through the City. Please note, these policies do not apply to non-federal funds.

Client Eligibility

Clients assisted by the Owner-Occupied Rehabilitation programs must meet the following criteria:

- Applicant's household annual income must be 80% of the Area Median Income or below (See Appendix 2 for Income Limits).
- Applicant must have acceptable credit.
- Applicant must be a U.S. Citizen or legal resident alien.
- Home to be repaired must be occupied as the primary residence of applicant, designated as "homestead".
- Home must be within the San Antonio city limits.
- Applicant must have clear title to the property.
- Taxes must be current.
- The house must be structurally and economically feasible for repair.

Repayment Requirements

Policy Directions:

CRAG 2000 Report Recommendation: "Reduce or eliminate the practice of providing completely forgivable first-lien loans from CDBG and HOME funds."

The program will assist homeowners by providing **low-interest loans** or **deferred payment loans** to cover the cost of the needed repairs. No forgivable loans will be granted.

For clients who are under 30% of the Area Median Income, a perpetual lien will be attached to the property at the time of the assistance. All payments will be deferred until sale or transfer of the property. Upon sale or transfer of the property, the City will be repaid 50% of the appraised value of the property, or 100% of the cost of the rehabilitation/reconstruction, whichever is LESS.

For clients between 31% and 60% of the Area Median Income, a determination will be made on what portion of the rehabilitation costs the family can afford to repay to the City. The repayable portion will be at an interest rate of 1%. A perpetual lien will be secured against the property. Whatever portion is not repaid by the family will be deferred until sale or transfer of the property. At that time, the City will be repaid 50% of the appraised value of the property, or 100% of the cost of the rehabilitation/reconstruction (outstanding loan balance), whichever is LESS.

For clients between 61% and 80% of the Area Median Income, a loan, secured by a lien against the property, will be made at an interest rate of 3% for the cost of the rehabilitation. The term of the loan will depend on the amount of funds invested in the property (See chart below). If it is determined that the family does not have the ability to repay a loan, a perpetual lien will be secured against the property and the loan amount will be deferred until sale or transfer of the property. At that time, the City will be repaid 50% of the appraised value of the property, or 100% of the cost of the rehabilitation/reconstruction (outstanding loan balance), whichever is LESS.

For clients between 81% and 120% of Area Median Income in special areas, funds will be provided in the form of a loan at 3%. A lien against the property will only be for the term of the loan. Upon repayment of the loan, the lien will be released.

In all cases, the City will be repaid at the time of sale, a portion, if not all, of the funds invested in rehabilitating the property. This will generate repayments that can be used to assist additional homeowners.

? *What does "appraised value" mean?* – The value of the home as determined by Bexar Appraisal District at the time of sale or transfer.

If the property is transferred to one or more heirs of recipients of federal assistance, and one or more of these heirs intends to continue residence in the assisted property, the City may make payment arrangements with these heir(s) for repayment of the assistance at the interest rates and loan terms outlined above, dependent on the heir's income level. However, payment arrangements will only be considered if the total income of all heirs designated as owners of the property meets the low-income criteria established by HUD. Any repayment provision with an heir must be worked out within thirty days of transfer of title.

Heirs may NOT make repayment arrangements with the City and then rent out the property. If a property is rented, the city loan will immediately become due and payable.

If the heirs must sell the property in order to repay the City's loan, they must do so within six months of the transfer of title. The City Department Director may grant extensions if there are problems with the sale.

Repayable Loan Terms

All repayable rehabilitation loans will be secured by a lien on the property. The loan term will be dependent upon the amount of funds invested in the property as follows:

Investment	Loan Term
Less than \$15,000	5 years
\$15,000 to \$40,000	10 years
Over \$40,000	15 years

Loan Limits for Rehabilitation

- Minimum Amount: \$5,000
 - Maximum Amount: \$65,000, but no more than \$42.00 per square foot
- ☞ For clients that are assisted with CDBG or HOME funds, the loan, plus the amount of any outstanding lien on the property must not exceed 90 percent of the after-rehabilitation value of the property.
- ☞ Loan limits do not include money received from the City or other source for lead hazard reduction activity or accessibility modifications, with the exception of additional loan amounts for lead abatement costs in excess of \$15,000 (see "Additional Loan Conditions, below, and Part 6 – Lead Based Paint Requirements.)

The City Council Urban Affairs Committee, on a case-by-case basis, may waive the loan and deferred payment loan maximum if the after-

rehabilitation value of the property is high enough to support the expenditure, and if the rehabilitation option is less costly than other housing alternatives.

Underwriting Standards

In all cases, the applicant must have an acceptable credit, and mortgage payment history. These minimum standards apply to all applicants, including those who do not make monthly repayments on their loans. Following is the minimum standard for credit:

- 12 month current payment history for rent and/or utilities will be the standard. No more than one late payment in a year's time will be accepted.
- No bankruptcy within the following timeframe:
 - For Chapter 7: Must be five (5) years from discharge
 - For Chapter 13: Must be two (2) years from discharge

Loans underwritten by the City or other agency implementing a program will use 30 percent of gross monthly income for housing expenses as a standard for determining ability to pay. Monthly housing expenses include: payments on any mortgage, property taxes, home insurance, cost of utilities, and the additional payment required for the rehabilitation loan. Monthly housing expenses should not exceed 30% of the family's gross monthly income.

Refinancing of an existing mortgage or home improvement loan is an eligible expense up to the maximum of \$8,000. The total debt, including refinanced amount and rehabilitation costs, cannot exceed 100% of the market value of the property. Such refinancing will be a part of a low interest loan (at 3%); resulting repayments for the refinanced portion will be payable immediately. There will be no deferment period for the refinanced portion of the rehabilitation loan. A contract for deed with the balance not exceeding \$8,000 may be bought and refinanced under this provision, to allow the applicant to qualify for rehabilitation assistance (provided that clear title is obtained). Refinancing will be used to secure first lien position for the City whenever possible. No payment of credit card debt or property taxes is allowable through the refinancing vehicle. Mortgage balance is the only debt allowable through the refinancing option, with the exception of liens from the City for lot clearance or demolition.

Please note, if a client has already been assisted with HOME or CDBG funds to rehabilitate their home, they are prohibited from refinancing the project with additional HOME or CDBG funds after the project is complete. There will be no exceptions to this provision. (Providing exceptions could conflict with the Federal Guidelines.)

Additional Loan Conditions

Loan documents will contain the requirement that the rehabilitated home must remain owner-occupied during the loan term. If a home is vacated or leased during the term of the loan, then the full remaining balance of the loan is immediately due and payable in full. If the home is transferred through sale during the term of the loan the balance is immediately due and payable in full.

In rehabilitation cases where the costs for lead abatement and treatment exceed the \$15,000 allowable grant, the cost in excess of that amount may be passed on to the homeowner in the form a low interest loan based on household income and not to exceed 3%.

All homeowners are responsible for paying real property taxes, and for maintaining adequate fire and extended coverage insurance on the subject property for the full term of the loan. Failure to comply will be cause for default and repayment of the entire note in full will become due immediately.

Permitted Repairs

Rehabilitation funds may be used to make any necessary repairs to remove deficiencies, which prevent the structure from meeting the standards outlined in the Building Code of the City of San Antonio. All code deficiencies must be addressed.

Funds may also be used for weatherization and/or energy conservation items. Weatherization and energy grants will not be counted toward the maximum loan amounts.

Accessibility modifications are also eligible. ADA grants will not be counted toward loan limits.

Less critical work (general property improvements) may be completed only after all code deficiencies making a structure substandard have been eliminated. All improvements must enhance the basic livability of the home.

Rehabilitation assistance may be denied if it is been determined that the house is structurally or economically infeasible for any repairs.

Although modernization is allowable, this program is not intended for cosmetic repairs. COSA reserves the right to determine repairs, which may be deemed as cosmetic.

Lead-Based Paint

The U.S. Department of Housing and Urban Development instituted new rules in relation to lead based paint hazards. The following requirements apply to Owner-Occupied Rehabilitation Programs. The required Lead Activity is based upon the amount of CDBG or HOME funding invested in the rehabilitation project. See chart below.

Lead-Based Paint Requirements Based on Dollar Amounts

Requirement	Level of CDBG/HOME Funding		
	<\$5,000	\$5,000 to \$25,000	>\$25,000
Approach to Lead Hazard Evaluation and Reduction	Do no harm	Identify and control lead hazards	Identify and abate lead hazards
Notification	Yes	Yes	Yes
Lead Hazard Evaluation	Paint Testing	Paint Testing and Risk Assessment	Paint Testing and Risk Assessment
Lead Hazard Reduction	Repair surfaces disturbed during rehabilitation	Interim Controls	Abatement (Interim controls may be used on exterior surfaces not disturbed by rehabilitation)

For additional information, please refer to Part 6 of this manual.

Owner-Occupied Reconstruction

If a home is deemed infeasible for rehabilitation, the deteriorated structure may be torn down and a new home may be built on the same lot to assist the client. This is called "Reconstruction". For reconstructed homes, conventional construction methods must be used unless other methods are specifically authorized by City Council. The same eligibility and repayment requirements apply to reconstruction as for rehabilitation.

Emergency Repair Assistance

Only CDBG funds can be used for Emergency Repair Programs. This activity is prohibited under the HOME program.

Definition of Emergency Repair:

The home must have one or more conditions which immediately threaten the health and safety of the occupants, and which must be addressed in an expeditious manner.

Eligibility

Any owner-occupant within the San Antonio City limits whose annual gross household income does not exceed 80 percent of the area median income is eligible for assistance.

Home meets the criteria for emergency repair outlined in the above definition.

Applicant must be a U.S. Citizen or legal resident alien.

The applicant must be on a waiting list for an owner-occupied rehabilitation program. A full home rehabilitation must be performed following the emergency repair work.

Assistance Terms

An emergency repair grant, up to a maximum of \$5,000 will be made to correct only the specific conditions, which immediately threaten the health and safety of the occupants. Please note that spending more than \$5,000 would mean HUD's lead-based paint requirements must be met. Since this assistance is provided as a grant, no repayment provisions are required. If the client does not follow through with the full rehabilitation of the home, the emergency repair funds must be repaid. The established repayment guidelines will apply.

Program Standards

Emergency Repair Assistance is provided only to resolve housing emergencies resulting from natural disasters, fires, or severe deterioration. In all cases, complete housing rehabilitation cannot be accomplished due to extensive structural deficiencies.

Only those repairs needed to address code deficiencies which present an immediate threat to the health and safety of the occupants will be addressed through this program. These deficiencies must be related to the roof, plumbing

and/or electrical systems. Foundation repair or replacement is not an eligible repair. The Emergency Repair work will only stabilize the property until a more substantial rehabilitation can be performed.

The City will not operate any emergency repair program. The City's partners (non-profit community based organizations, or for-profit builders) may receive CDBG funding for Emergency Repair activities.

There will be no second time assistance provided. (Emergency Repair assistance will not be provided more than once.)

Contractors for Owner-Occupied Rehabilitation, Reconstruction and Emergency Repair

The City will not enter into a contract agreement with any contractor selected to perform work for a rehabilitation project. The owner-occupant or the non-profit partner will select the contractor and make an agreement for the work to be performed.

Any contractor participating in the owner occupied rehabilitation, reconstruction or emergency repair activities must have general liability insurance in place for the term of the home warranty.

Additional Information in relation to Owner-Occupied Rehabilitation, Reconstruction and Emergency Repair

Secondary Structures

If a home that is being assisted has a **residential** secondary structure on the lot, a determination will be made on a case by case basis by the appropriate City Department Director and/or Urban Affairs Council Committee on how to address that structure. If the secondary structure does not meet any previous or current building code standard, then water, gas, electric and sewer lines to the structure must be cut. Secondary structures will not be rehabilitated using HOME or CDBG funds.

? *What is a "secondary structure"?* A secondary structure can be a detached garage, work shed or small residential structure on a single family lot that is intended for residential use.

Waiting Lists

No entity which is implementing an owner-occupied rehabilitation, reconstruction or emergency repair program funded by or through the City will be allowed to maintain a waiting list with a number of clients that exceeds 115% of the year's allocation to that project activity. For example, if the agency's average single family rehabilitation project costs \$50,000 and an agency is allocated \$450,000 in one year for owner occupied rehabilitation, that agency may not have more than ten families on its waiting list at one time. This applies to City department as well as outside agencies. This provision is based on the agency or department budget for its projects and allows agencies to have projects ready for subsequent year start-ups in the beginning of the fiscal year. The City, however, does not guarantee subsequent years funding and the agencies/departments must make that clear to all applicants. There should be **no commitments** beyond 100% of the annual funding.

The City will not allocate funding to any agency or City Department, which has more than two years of uncommitted CDBG and/or HOME funds on its books. This rule applies to each specific activity/program. If the agency has more than two years of CDBG/HOME funding, it must demonstrate strong evidence of commitment or extenuating circumstances that have caused a delay in expending funds. In that instance, an agency may be considered for additional funding.

Monitoring

The agency or City Department implementing a rehabilitation program will be required to send out a yearly inquiry form each year to assisted property owners. If the completed survey form is not returned to the agency, that will trigger an investigation into the status of the title for the assisted property.

Homebuyer Programs

HOME, CDBG, and ADDI funds may be used to assist families in purchasing homes. Funds can be used to assist families who are purchasing homes for the first time or families who have previously owned homes.

Assistance for First Time Homebuyers

The following rules apply to First Time Homebuyer programs that are operated by the City and its non-profit partners.

Applicant Eligibility

Applicants to First Time Homebuyer programs must meet the following criteria:

- Applicant's projected annual income must not exceed 80% of the Area Median Income, adjusted for household size, at the time of application to the program.
- Applicant must have acceptable credit.
- Applicant household must be U.S. Citizens or legal resident aliens.
- Home to be purchased must be primary residence of applicant.
- Home must be in the city limits of San Antonio.
- Purchaser must attend a certified homebuyer counseling class.
- Applicant must make a minimum initial cash investment of \$500 toward purchase of home.
- Home must have been constructed legally and meet City Code requirements.

COSA First Time Homebuyer Criteria

The following criteria must be met in order to be considered a "First Time Homebuyer":

- Applicant has not owned a home during the three year period immediately prior to application

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).

Other exceptions to this criteria based on special circumstances can be appealed to the City Council Urban Affairs Committee.

COSA American Dream Downpayment Initiative (ADDI) Criteria

ADDI Funds may only be used in the form of a \$10,000 grant to eligible homebuyers.

A full discussion of ADDI program policies can be found in Appendix 11.

Eligible Properties

The property can be privately or publicly owned prior to sale to the first time homebuyer. The property must be within the San Antonio city limits.

The property must contain adequate living/sleeping space for the applicant household as verified by the property appraisal, site visit, and/or Bexar Appraisal District Data.

The property can be an existing property or it may be newly constructed.

The property can be:

- a single-family property (one unit)
- a two to four unit property (Assistance will only be provided for the unit to be occupied as the purchaser's principal residence)
- condominium or cooperative unit

Special Provision:

The property may be a modular home with City Council Approval.

Property Standards

All properties must meet City Building Codes and other federal standards (Lead Based Paint and Environmental standards) at the time of initial occupancy.

Property Value

All first time homebuyer projects require an appraisal.

The appraised value of an assisted property to be acquired by a first time homebuyer cannot exceed the FHA 203(b) limit for San Antonio. This limit is updated annually (See Appendix 4). The sales price of an assisted property may not exceed the

"Affordable Home Price" established by the San Antonio City Council (See Appendix 5).

Credit Standards

Following are the credit standards for homebuyer programs:

- 12 month current payment history for rent and utilities will be the standard. No more than one late payment in a year's time will be accepted.
- No bankruptcy within the following timeframe:
 - For Chapter 7: Must be five (5) years from discharge
 - For Chapter 13: Must be two (2) years from discharge

Predatory lending is not acceptable. Loans will not be made with an interest rate more than 2% above the prevailing market rate.

? *What is "Predatory Lending"?* Predatory Lending describes lending practices that take advantage of clients by charging usurious interest rates or excessive fees and penalties.

Repayment Requirements

Assistance will be repaid at an interest rate of 3%. If the homebuyer is not able support the entire second lien note at 3%, any portion that cannot be repaid will become a perpetual lien against the property. That amount will be repaid to the City upon sale or transfer of the property.

The interest rate can be changed with approval of the Urban Affairs Council Committee if an entity can demonstrate the following:

- Variance in interest rate allows second lien notes to be sold on the secondary market.
- Project uses significant private sector leverage.
- Agency has an effective loan-servicing program.
- Agency has a homebuyer education program that uses a recognized Homebuyer Education curriculum with a certified Homebuyer Education instructor.
- Agency has an existing loan underwriting regimen.

Eligible Expenses

First Time Homebuyer programs may include any of the following activities: land acquisition, mortgage subsidy, principal reduction, down payment and closing cost assistance. Please refer to Appendix 8 for allowable down payment and closing costs.

Counseling Requirements

Pre-Purchase Counseling:

All First Time Homebuyer programs funded with City HOME or CDBG funds must have a pre-purchase counseling component. Applicants must complete the course prior to the loan closing date. The course must be a recognized homebuyer education curriculum taught by an individual that has been certified to conduct homebuyer counseling.

Post Purchase Counseling:

Clients who have a front or back end ratio higher than 50% at the time of closing must receive post purchase counseling to increase the likelihood of their success as a homeowner. Such counseling must be completed within six months after the closing date.

? *What is a "Front End Ratio" and a "Back End Ratio"?* These ratios are used to determine how much an applicant can afford to pay each month for their mortgage in relation to the amount of existing debt the applicant already has.

Affordability Periods

The residence must remain affordable for a certain period of time, which is dependent on the amount of HOME or CDBG funds invested.

Amount of Funds Invested	Required Affordability Period
Less than \$15,000	5 Years
\$15,000 to \$40,000	10 years
Over \$40,000	15 years

If the house is sold before the required affordability period has elapsed, the assistance funds must be recaptured or the house may be sold to another eligible low income homebuyer and the subsidy transferred.

Assistance for Previous Homeowners

With the approval of the Urban Affairs Council Committee, HOME and CDBG funds can be used to assist families who have previously owned homes and are not classified as a "First Time Homebuyer". Unless otherwise authorized, this assistance

will only be available in areas identified by the City Council as target areas. All income limits, underwriting standards, credit requirements, property standards, and affordability periods still apply. The Urban Affairs Council Committee may adopt additional rules to ensure that the homebuyer remains in the home for a certain number of years. This program will provide an incentive for families to purchase homes in designated revitalization areas.

Rental Housing Programs

HOME and CDBG funds may be used to build or rehabilitate affordable single and multi-family rental housing. Transitional and permanent rental housing are both eligible for HOME funding.

RENTAL REHABILITATION PROJECTS

The following guidelines apply for Rental REHABILITATION programs and activities. This activity may be implemented by the City of San Antonio or by any non-profit or for profit partner.

Eligibility:

To be eligible for CDBG or HOME funded Rental Rehabilitation Program assistance, the proposed rental property must meet all of the following basic criteria:

- Single-family (1-4 units) or multi-family (5 or more units) rental dwelling located within the San Antonio City limits.
- Structure requires rehabilitation, at a minimum cost of \$5,000, of at least one primary system (i.e.: foundation, electrical, plumbing, roof) to resolve code deficiencies.
- The after-rehabilitation rents required to effectively support the property, including the additional rehabilitation project debt service, must be:
 - ⇒ Reasonable in terms of bedroom size, and in accordance with the standard, fair market rate rents for the target neighborhood, or HUD current Section 8 Rental limits, whichever is the lesser; and
 - ⇒ Affordable to lower income tenants (residents at 80% of the area median income) in accordance with HUD Section 8 current Income Guidelines, without further public rental assistance to the family.
- Owners must exhibit a cash equity participation of at least 10% in the rental property proposed for rehabilitation.

Preference will be given to those projects meeting any of the following criteria:

- Units contain two or more bedrooms.
- Property is located within Loop 410.

- Property requires moderate rehabilitation.
- Property is not located within a designated 100-year flood plain.
- Property is not located within one (1) mile of an above ground hazard of other environmental conditions, which may impose a major threat to public health or safety.

What is 'Moderate rehabilitation'? Moderate rehabilitation is when the cost of repairs does not exceed \$25,000.

Loan Terms

Single-Family Dwellings (1-4 units)

Owners of single-family dwellings are eligible for the 50/50 Combo Loan. The loan includes an "earned forgiveness" to offset costly environmental hazards such as lead-based paint. Those environmental costs are subtracted from total rehabilitation expenses. The owner does not have to repay the environmental related cost as long as they comply with program guidelines. The remaining repair costs will be split with the owner. 50% of the cost is offered as a public loan over ten years, interest free, with deferred payments.

Multi-Family Dwellings (5 or more units)

Assistance for owners of multi-family rental property can be provided in the form of a low-interest 5% repayable loan. The public loan will not exceed 50% of the total cost of rehabilitation. The owner must secure the remaining 50% through alternative sources of financing (i.e. private lender). The public loan is limited to only the amount needed to fully fund the required rehabilitation work, not to exceed:

- \$9,500/ unit - Efficiency
- \$12,500/unit - 1 Bedroom
- \$15,000/unit - 2 Bedroom
- \$17,500/unit - 3+ Bedroom

Amount of CDBG or HOME funds	Minimum Period of Affordability
Under \$15,000	Five (5) years
\$15,000 - \$40,000	Ten (10) years
Over \$40,000 or rehabilitation involving refinancing (special circumstances only)	Fifteen (15) years
New construction of Rental Housing	20 years

The Period of Affordability applies to both single-family and multi-family projects.

What is the "Period of Affordability"? This is the length of time during which the property must be rented to a low income resident at a rent at Fair Market rate (as determined by HUD) or below.

Conditions of all public loans include:

- 1). The property remains 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 unforgiven portion, plus interest based on the existing market, will become immediately due and payable;
- 2). The owner maintains the property according to the San Antonio Uniform Building Code and agrees to allow City personnel to annually inspect the property; and
- 3). The Owner provides evidence of having paid annual property taxes and having secured fire and extended insurance coverage for the property.
- 4). Owners must annually provide the City of San Antonio with the information on rents and occupancy of HOME-assisted units to demonstrate compliance with the affordability rent requirements.
- 5). The owner will maintain reserves for maintenance.
- 6). No further assistance during the affordability period or term of the loan, whichever is longer.

The public loan will be secured by a lien on the property. The lien position will be no less than a second, except upon approval of the appropriate City Department Director, 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 it is 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, interest on the unpaid principal will thereafter:

- (a) accrue at the highest non-usurious rate allowed by law, and
- (b) be immediately payable in addition to the entire outstanding principal amount.

Underwriting Standards

The rental property to be rehabilitated under this program must be financially solvent, based on the standard market criteria, without requiring further infusion of public funds. Therefore, the after-rehabilitation rent revenues must be sufficient to support all operating costs, debt service, and reserve accounts, without unduly increasing rent rates, or securing additional public subsidy. To this effect, a complete pro forma analysis will be completed for each project. In addition to the program application, the owner will be required to provide documentation for the following:

- Proof of ownership of the property to be rehabilitated (Warranty Deed, Mortgage Title Policy, Earnest Money Contract).
- Annual cost of property insurance (copy of annual premium statement).
- Annual property taxes for this property, and proof that all taxes are current.
- Mortgage payment schedule for all existing liens, and proof payment is current (annual mortgage statement, original mortgage agreement, and/or monthly bank statement clearly indicating debt service payment).
- Annual utility costs (copies of utility bills).
- Property's current appraised value.
- Recent Financial Statement
- Recent Income Statement
- Bid for Construction

The loan underwriting pro forma analysis will also include a vacancy factor (5-10%), property maintenance costs (8-10%), property management expenses (3-10%), a reserve for replacement (3% minimum), and owner's return on investment (5-15%). The project pro forma analysis must clearly exhibit uncommitted funds sufficient to fully support the total rehabilitation cost. All operating expenses are to be included in the pro forma as well as all project exemptions.

Loan Conditions

As a condition of the public sector Rental Rehabilitation Loan, property owners must agree:

- To rent these properties 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 accordance and the Fair Housing Act.
- Not to discriminate on 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 public note.
- To maintain the property in a safe, sanitary and decent condition, in compliance with the City of San Antonio Building Codes 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.
- Follow applicable procurement procedures in accordance with Federal Regulatory Guidelines 24CFR Part 58.36.
- To adhere to Lead-Based Paint Abatement guidelines for all properties built 1978 and before.
- To 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.

? *What is "Annual Re-certification of income"?* Each year the property owner must document the income of the tenant by reviewing documents such as W-2's, pay stubs, etc. in order to ensure that their income meets the low-income requirements.

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, then the balance of the note then owing,

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 at the time of Loan commitment. Fixed units remain the same throughout the period of affordability. Floating units are changed to maintain conformity so that the total number of housing units meeting the requirements of this section remains the same, and each substituted unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.

Loan Closing

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

- An after-rehabilitation appraisal of the property showing the appropriate value relative to the proposed loan.
- 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 property owners.
- List of all real property assets and their value.
- An acceptable bid from an approved contractor. The approved contractor must be licensed, and provide proof of appropriate insurance coverage, covering the total cost of the rehabilitation work and including, but not limited to worker's compensation, general liability, and personal liability.
- Copy of the insurance policy for fire and extended coverage for 80% of the value of the property with City named as co-insured.

Permitted Rehabilitation Program Costs

CDBG or HOME funds will be used to support only the following eligible costs:

- Actual rehabilitation costs necessary to correct substandard conditions to comply with the City of San Antonio Building Codes, federal environmental conditions standards, and federal lead-based paint abatement requirements.
- Essential improvements including energy conservation-related repairs, and improvements to permit use of the rehabilitated units by persons with disabilities.
- Repairs to major building system in danger of failure.

- Costs, generated by the public sector, for processing and closing the financing for the project, such as: credit reports, fees for title evidence, fees for recordation and filing of legal documents, attorney's fees, permits, and appraisal fees.
- Cost for the relocation of tenants currently residing in the property at the date of initial application, who must be temporarily or permanently displaced as a direct result of the rehabilitation activity.

Lead-Based Paint

The U.S. Department of Housing and Urban Development has instituted new rules in relation to lead-based paint hazards. The following requirements apply to Rehabilitation Programs. The required Lead Activity is based upon the amount of CDBG or HOME funding invested in the rehabilitation project.

	<\$5,000	\$5,000 to \$25,000	>\$25,000
Approach to Lead Hazard Evaluation and Reduction	Do no harm	Identify and control lead hazards	Identify and abate lead hazards
Notification	Yes	Yes	Yes
Lead Hazard Evaluation	Paint Testing	Paint Testing and Risk Assessment	Paint Testing and Risk Assessment
Lead Hazard Reduction	Repair surfaces disturbed during rehabilitation	Interim Controls	Abatement (Interim controls may be used on exterior surfaces not disturbed by rehabilitation)

For additional information, please refer to Part 6 of this manual.

NEW CONSTRUCTION RENTAL PROJECTS

The following rules apply for NEW CONSTRUCTION rental programs and activities. This activity may be implemented by the City's non-profit or for profit development partner. HOME funds can be used for new construction as well as rehabilitation. CDBG funds cannot be used for new construction.

Eligibility

HOME funds may be used to construct a variety of rental units: single family, high-rise or garden apartments. Projects may be mixed income or 100% low income.

Applicants must demonstrate the ability to successfully complete and maintain a newly constructed affordable rental housing development.

All HOME assisted units must benefit residents earning 80% of the Area Median Income or below.

Permitted New Construction Costs

The following costs may be reimbursed with HOME funds:

Hard Costs	Soft Costs
Land and Structure Acquisition	Financing Fees & credit reports
Site preparation, including demolition	Affirmative marketing, initial leasing & marketing costs
Securing Buildings	Title binders and insurance
Construction Materials and Labor	Performance bonds and surety fees
	Recording fees
	Legal & accounting fees
	Appraisals
	Soft Costs Continued
	Environmental reviews
	Staff and overhead costs related to project
	Operating deficit reserves (up to 18 months)

Loan Terms

The loan terms will be negotiated between the builder/developer and the City and based on the pro forma.

Leverage

For new construction, the City will support a maximum funding gap of 25% of the total development cost. Exceptions to this rule may be applied to projects meeting a Special Need (such as construction of transitional housing, elderly developments, housing for persons with AIDS, persons with disabilities, or housing for the mentally challenged.) The City will also consider waiver of this

requirement for City pilot programs. The City Council's Urban Affairs Committee will approve these exceptions.

Layering Analysis

All new construction rental projects to be funded with HOME Funds will be evaluated using the *Layering Analysis* found in Appendix 10 of this document. For a project to be eligible for funding it must meet the criteria and parameters of the *Layering Analysis*. The form will be filled out by City Staff for all rental new construction projects prior to any funding recommendations.

Underwriting Standards

Prior to approval of funding support, developer must provide a valid pro forma, demonstrating funding commitment from all funding sources and the capacity to support all debt service during the period of affordability for HOME funded projects. A current income statement and balance sheet reflecting Total Assets to Total Current Liabilities liquidity ratios that are no greater than 1:1 is the City's standard to ensure the developer has adequate resources to support the project in the event of a commitment failure.

Other Requirements for New Construction Projects

Affordability Period

- All newly constructed rental projects must remain affordable for a period of twenty (20) years.

Collaboration

- New construction developments must have demonstrated an attempt to collaborate and secure support from organized neighborhood associations (in the area where development is to occur), school districts, and approval of local statutes for zoning and variances required to effectively develop within a targeted area. Additionally, City staff will require that some attention be given to the provision of social and community amenities to meet the needs of the population to be served.

Commitment

- Firm Commitment of all funds must be demonstrated before City staff will recommend a funding award. If low-income housing tax credits or other public funding is part of the funding design, the City may conditionally approve funding until the other funding round is completed. If the applying entity does not receive the funding commitment, HOME funds will be reprogrammed until the applying entity is able to reapply for tax credits or other funds and receive a letter of approval from the State or other entity. Exceptions to this rule may be granted if CDBG funds have been allocated to support infrastructure improvements at the site or if other arrangements for funding have been made. The appropriate City Department Director with the approval of the City Manager may grant these exceptions.

Additional Requirements for ALL Rental Housing Projects

The following applies for both rental rehabilitation and new construction projects funded with HOME or CDBG:

Maximum Subsidy Per Unit

The maximum amount that can be spent for rehabilitation of a single-family rental house is \$25,000 per unit.

The maximum for rehabilitation of a unit in a multi-family development is:

Efficiency	1BR	2BR	3R+
\$9,500	\$12,500	\$15,000	\$17,500

The maximum that can be spent for new construction of a multi-family rental unit is:

Efficiency	1BR	2BR	3+BR
\$43,964	\$50,691	\$61,134	\$78,252

Tenant Selection/Eligibility

An owner of rental housing assisted with HOME or CDBG funds must adopt written tenant selection policies and criteria that:

- are consistent with the City’s goal of providing housing for very low-income and low- income families;
- are reasonably related to program eligibility and the applicant’s ability to perform the obligations of the lease;
- provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
- give prompt written notification to any rejected applicant stating the grounds for the rejection.

Income Eligibility and Re-certification

Tenant incomes must be re-certified annually and verified with source documents every six years. If the income of a household in an assisted unit rises above 80% of Area Median Income, the household may continue to rent the unit and the household must pay monthly rent equal to the lesser of:

The rent permitted by state law; or

- 30% of the family’s adjusted monthly income at annual re-certification.
- If the project was financed with Low Income Housing Tax Credits, the tax credit rent prevails.

Acceptable Rents for HOME Projects Only

The HOME program has established rules in relation to acceptable rents. There are two rent standards: High HOME Rent and Low HOME rent. For properties with five (5) or more HOME assisted units, at least 20% of the units must have rents that meet the "Low HOME" criteria.

- ☞ **High HOME Rent:** lesser of the Section 8 Fair Market Rents (See Appendix 2) for existing housing OR thirty (30) percent of the adjusted income of a family whose annual income equals 65% of the area median income.
- ☞ **Low HOME Rent:** Thirty percent of the tenant's monthly adjusted income OR thirty percent of the annual income of a family whose income equals 50% of the area median income.

Tenant Based Rental Assistance

Only HOME funds can be used to fund Tenant Based Rental Assistance (TBRA) programs. This is not an eligible activity under the Community Development Block Grant (CDBG) Program.

Eligible Uses

TBRA may be provided to:

- 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 identified by an agency working on behalf of the City of San Antonio

TBRA may assist eligible clients with the following housing costs:

- Rent
- Utility costs
- Security deposits
- Utility deposits

Utility deposits, utility payments and security deposits may only be provided to clients who are also receiving rental assistance.

TBRA payments will be provided by making payments 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.

Prohibited Uses

- City of San Antonio HOME TBRA funds may not be used to assist tenants in conjunction with homebuyer programs, including lease purchase programs.

Income Targeting And Tenant Eligibility

All HOME funds used for Tenant Based Rental Assistance must assist families at 60% of the Area Median Income and below.

The only exceptions to the above rule are tenants who reside in rental projects being rehabilitated through the use of City HOME funds. Those tenant's incomes may reach, but not exceed, 80% of Area Median Income.

Eligible Units

Eligible tenants may rent any housing that meets the following criteria:

- Located in San Antonio City Limits
- Meets Section 8 Housing Quality Standards
- Reasonable rents are charged
- Are not public housing projects, or receiving project based federal assistance

Subsidy Amounts And Tenant Contribution

Maximum Subsidy: Maximum assistance that can be provided is the difference between 30% of the household's adjusted monthly income and the payment standard (Fair Market Rent – See Appendix 3).

Minimum Tenant Contribution: All tenants are required to pay 30% of their monthly adjusted income, or \$20.00 per month, whichever is greater.

Length of Assistance: Assistance will not be provided for a period of time longer than two years.

Other Tenant Requirements

Agencies administering TBRA programs may require tenant participation in a self-sufficiency program as a condition of rental assistance.

A legitimate, legal lease is required for program participants.

Income Re-Certification

Income of tenants receiving HOME tenant based rental assistance 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, HOME assistance must be terminated.

Payment Standard

The HOME payment standard will be the Fair Market Rent, annually established and published by the US Department of Housing and Urban Development (See Appendix 2).

Termination of Assistance

HOME assistance 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;
- 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 to the tenant and landlord.

Maximum Program Benefits

This portion of the document outlines the maximum allowable benefit for each of the activities outlined in Part One.

In order to maximize the dollars available from Community Development Block Grant (CDBG) and the Home Investment Partnership Program (HOME) funds, the City has established maximum levels of assistance for each of the activities eligible under the two programs.

Policy Direction:

Housing Master Plan Objective 5.1: Assist a larger number of clients through benefit caps.

Housing Master Plan Recommendation: "Optimize the use of CDBG and HOME funding through the establishment of maximum benefit levels for housing programs."

<u>Activity</u>	<u>Maximum Benefit Per Client/Family</u>
• Homeownership Incentive Program	\$12,000
• First Time Homebuyer Program (Program can include any of the following activities: Principal Reduction, Mortgage Subsidy, Land Acquisition, Development Cost Subsidy for New Construction/ Homeownership)	\$45,000 \$10,000 maximum land subsidy; \$8,000 maximum down-payment assistance subsidy; \$7,000 maximum for other forms of subsidy
• Single-Family Rehabilitation	\$65,000 (\$42 or less per square foot)

<u>Activity</u>	<u>Maximum Benefit Per Client/Family</u>
• Single-Family Reconstruction	\$52 per square foot PLUS site preparation, demolition and environmental remediation costs (May be adjusted yearly) up to single-family affordable home price limit.
• Single-Family Rental Housing Rehabilitation	\$25,000
• Multifamily Rental Housing Rehabilitation	Up to \$9,500 for Efficiency Up to \$12,500 for 1 BR Up to \$15,000 for 2 BR Up to \$17,500 for 3+ BR
• Multifamily Rental Housing New Construction	Up to \$51,330 for Efficiency Up to \$58,840 for 1BR Up to \$71,549 for 2BR Up to \$92,559 for 3BR Up to \$101,602 for 4BR

Funded entities have the flexibility to decide whether a particular income eligible client will receive the maximum benefit allowable based on the applicants needs and ability to repay, or the agency's program design.

Lead-Based Paint: Any assistance to a developer or homeowner to eliminate or alleviate lead-based paint hazards will be provided as a grant, up to \$15,000 per unit. In rehabilitation cases where the costs for lead abatement and treatment exceed the \$15,000 allowable grant, the cost in excess of that amount may be passed on to the homeowner in the form a low interest loan based on household income and not to exceed 3%.

Accessibility modifications: Any assistance to a developer or homeowner to fund modifications for accessibility (ADA) will be provided as a grant.

Please note that the maximum subsidies do not include the following: lead based paint assistance (up to \$15,000); funds for ADA modification; weatherization grants, and funds for environmental remediation.

? *What does "Principal Reduction" mean?* – "Principal Reduction" is when the principal amount of a mortgage loan (does not include interest) is reduced for a low income homebuyer in order to make the home purchase more affordable.

- ? *What does "Mortgage Subsidy" mean?* – "Mortgage Subsidy" makes a home more affordable to a low-income homebuyer by reducing the amount of the mortgage loan required from the bank. It is similar to "principal reduction".
- ? *What does "Reconstruction" mean?* – "Reconstruction" means that an old structure, which is not feasible for rehabilitation, is demolished and a brand new house is built on the same lot.
- ? *What does "Development Cost Subsidy" mean?* – "Development Cost Subsidy" are funds that are provided to a developer of newly constructed homes to help pay for some of the costs associated with making the land ready for construction. The result should be a lower priced home for the homebuyer.

Maximum program benefits will be revisited and updated on an annual basis. Staff will review the established maximums and revisit them based on inflation, cost of construction materials and other market conditions. Staff will recommend changes to the Urban Affairs Council Committee. The UACC will adopt the changes to these benefits. Any changes made will go into effect starting with the next Fiscal Year, unless otherwise directed by City Council, so that ongoing programs will not be disrupted.

General Program Rules

This portion of the manual recaps general rules that apply to all housing activities.

The following rules apply for all housing programs funded with City of San Antonio CDBG and/or HOME funds.

Income Eligibility

For CDBG, if a project directly benefits a person or family, they must be low or moderate income (below 80% of Area Median Income). For CDBG projects that do not directly benefit an individual, a minimum of 51% of the project beneficiaries must be low to moderate income. For the HOME program, all program participants must have incomes at 80% of the Area Median Income or below, as established by HUD. In certain special circumstances, CDBG funds can assist persons who are up to 120% of the Area Median Income. (Please refer to Appendix 2 for current income limits.)

Acceptable Credit

All households that are assisted must have acceptable credit. Acceptable credit is defined as follows:

- 12 month current payment history for rent and utilities will be the standard. No more than one late payment in a year's time will be accepted.
- No bankruptcy within the following timeframe:
 - For Chapter 7: Must be five (5) years from discharge
 - For Chapter 13: Must be two (2) years from discharge

Families who have outstanding abstract judgments may not be assisted.

Affordability Periods

Properties that are assisted will be required to remain affordable for a period of time dependent on the amount of funding invested.

Amount of CDBG or HOME funds	Minimum Period of Affordability
Under \$15,000	Five (5) years
\$15,000 - \$40,000	Ten (10) years
Over \$40,000 or rehabilitation involving refinancing (special circumstances only)	Fifteen (15) years
New Construction of rental housing	20 years

Location of Properties

All properties must be located inside the established legal limits for the City of San Antonio.

Residency Requirement

All households that are assisted must be United States Citizens or Legal Resident Aliens. Each contributing member of the household must meet this requirement.

Environmental Review Requirements

Any housing provided through CDBG and HOME must be safe for its residents. The Housing and Community Development Department requires an environmental review of each property to ensure that it meets this criterion. For larger projects, a Phase I Environmental Assessment will be necessary. For every project, a Site Specific Environmental Review Form must be submitted for approval to the Housing and Community Development Department. (Note, submission of Phase I ESA does not eliminate requirement for Site Specific ERR).

Application Guidelines

This portion of the manual outlines the application process for seeking CDBG and HOME support for affordable housing projects.

AN application demonstrating the capacity to implement the proposed project is necessary for consideration for CDBG or HOME funding. While City staff reviews the applications and makes recommendations, the City Council makes the final decision on the allocation of funds.

Policy Direction:

Housing Master Plan Objective 5.3: Establish a formal process for the evaluation of proposals.

Housing Master Plan Recommendation: "Create a formal request for proposal and evaluation guidelines that would steer the process of awarding and distributing CDBG and HOME funds."

The City's Department of Housing and Community Development is responsible for accepting and evaluating all applications and proposals for the use of CDBG and HOME funds, including the HOME CHDO set aside funds.

? *What are "HOME CHDO set aside funds"?* – HUD has mandated that a minimum of 15% of the city's annual HOME allocation be reserved for use by Community Housing Development organizations or CHDO's.

An application must be submitted in order for a project to be considered for CDBG, HOME, or ADDI funding. Generally, applications are called for early each calendar year for projects to be funded in the next fiscal year. Please contact the Department of Housing and Community Development for the most current application.

Housing and Community Development staff will review all applications submitted, rate them and provide recommendations to the City Council, upon approval of the City Manager's office. The recommendations will be based on the applicant proposal

scores. The City Council makes all final decisions on allocation of CDBG, HOME and ADDI funds.

Applications will be evaluated and rated based on the following criteria:

- Responsiveness to the application format and content
- Extent of partnerships and collaboration
- Budget
- Applicant Capacity

Scores will be based on a 100-point scale. A minimum score of 70% is required for staff to recommend the project to the City Council for consideration for funding.

With approval from the Urban Affairs Council Committee, the Housing and Community Development Department may issue a request for qualifications (RFQ) for developers to implement a specific City driven project leveraging private dollars with CDBG and/or HOME funds.

The City will not allocate funding to any agency or City Department that has more than two years of uncommitted CDBG and/or HOME funds on its books. This rule applies by specific activity. If the agency has more than two years of CDBG/HOME funding, it must demonstrate strong evidence of commitment or extenuating circumstances that have caused a delay in expending the funds. In that instance, an agency may be considered for additional funding.

? *What does "commitment" mean?* – Commitment means that an agency will be ready to expend funds or make significant progress on a project within a three to six month timeframe or that the project has been "set-up" in the HUD IDIS system.

Community Housing Development Organizations (CHDOs)

This portion of the manual outlines the requirements and expectations for City of San Antonio Community Housing Development Organizations.

One of the goals of the Home Investment Partnership Program (HOME) is to expand the capacity of non-profit housing providers. In order to ensure the accomplishment of this goal, HUD requires that 15% of the HOME allocation each year be made available to Community Housing Development Organizations (CHDOs). HUD has established minimum criteria for eligibility as a CHDO. In addition, the City has established criteria to ensure that the goals established in the Housing Policy Guide can be accomplished.

Policy Direction:

Housing Master Plan Objective 1.3: Support non-profit housing providers through the provision of capacity building and technical assistance.

Non Profit organizations seeking CHDO status must meet the following criteria:

1. LEGAL STATUS

- a) Evidence of organization as a non-profit under state and local law;
- b) No part of net earnings benefit any member, founder, contributor or individual;
- c) Evidence of IRS 501(c) Tax Exempt status;
- d) Evidence of purpose to provide decent affordable housing to low and moderate income families (Organization's strategic plan must include an affordable housing initiative.);

2. CAPACITY

- a) Conforms to financial accounting standards as defined in OMB Circular A-133;
- b) Demonstrated capacity to carry out activities proposed with HOME funds;
- c) History of serving the community where assisted housing is to be provided with HOME funds. Organization must show evidence of operating in San Antonio for at least three years prior to CHDO application.

3. ORGANIZATIONAL STRUCTURE

- a) Maintains 1/3 of its governing board membership from residents of low-income neighborhoods or low income neighborhood organizations in San Antonio;
- b) At least 3/4 of board members must reside in the San Antonio MSA;
- c) Provides a formal process for low income potential program beneficiaries to advise the organization in all phases of the development of HOME assisted projects including siting, design, development and management decisions;
- d) CHDO may only have a maximum of 1/3 of its board members consist of representatives of the public sector. A representative of the public sector is elected official, appointed public official, public employee, or an individual is appointed by a public official. Representatives of the public sector appointed by a public official may not select the other 2/3 members of the board, such that more than 1/3 of the members can be traced back to public officials;
- e) A CHDO sponsored or created by a for-profit entity may not have more than 1/3 its board membership appointed by the for-profit entity, and the board members appointed by the for-profit may not, in turn, appoint the remaining 2/3 of the board membership.

4. RELATIONSHIP WITH FOR-PROFIT ENTITIES

- a) CHDO is not controlled or under the direction of for-profit entities or individual seeking profit from the organization;
- b) CHDO is free to contract for goods and services from vendors of its own choosing.

5. SERVICE AREA

- a) Applicant must provide a description of proposed site for development or service area boundaries;
- b) Service area and proposed projects must be within the city limits of the City of San Antonio.

Please note, CHDO partnerships are allowable. For example, a local CHDO can partner with an agency/developer that is not based in San Antonio to do a project. Or a local CHDO can sponsor an outside CHDO on a specific project.

CHDO Certification Process

Applicants must submit the necessary materials to meet the criteria outlined above to the Housing and Community Development Department in order to be considered for CHDO status (See checklist in Appendix 7). Applications will be accepted by the Housing and Community Development Department in **September** of each year, unless otherwise noted. A Request for Qualifications will be issued. If CHDO designation has already been secured, it must be updated each year. A CHDO must apply for re-certification each year in order to continue to be a CHDO in good standing. Re-certification will occur in September. CHDOs will be notified by the Housing and Community Development Department.

Applying for CHDO Set Aside Funds

Eligible CHDOs may apply to the City Department of Housing and Community Development. The Housing and Community Development Department will allocate a minimum of 15% of the HOME allocation for CHDOs to perform CHDO eligible activities. To be considered a "CHDO Activity", the CHDO must own, develop, or sponsor the housing project. All applications for CHDO funds must demonstrate adherence to goals outlined in the Housing Master Plan and the City of San Antonio Consolidated Plan.

Lead-Based Paint Requirements

This portion of the manual outlines the requirements in relation to Lead-Based Paint.

The U.S. Department of Housing and Urban Development recently adopted new regulations in relation to the treatment of Lead Based Paint in properties built before 1978, that are assisted with HUD funding. The requirements are outlined below based on the activity undertaken. To obtain a copy of the rules from HUD, go to the HUD website at: www.hud.gov/lead and download the regulation.

This section does not outline the City programs that are available to provide financial assistance in relation to lead abatement. Please contact the City's Neighborhood Action Department for that information. **Please note, however, that any financial assistance provided by the City to address lead based paint will be in the form of a GRANT to the homeowner or developer, up to \$15,000 per unit.**

For Down-Payment Assistance Programs:

The following are HUD's requirements See 24 CFR part 35 (subpart K):

- Distribute Lead Hazard Information Pamphlet and Disclosure to buyers of homes built prior to 1978.
- Perform Visual Assessment of all painted surfaces.
- If Visual Assessment reveals deteriorated paint, action must be taken to stabilize each deteriorated paint surface.
 - At this point, you will have to assume every component has lead since the Visual Assessment does not determine where lead is present. Safe work practices must be used by trained worker in this field. Paint stabilization works well on non-friction surfaces such as walls (interior/exterior). When dealing with friction points such as windows and doors, abatement procedures (removal, replacement, enclosure) are recommended.

- After paint stabilization, clearance must be performed by a certified Risk Assessor or Lead Inspector. HUD has established lead levels that meet clearance requirements.
- Notify the homebuyer within 15 days of results of clearance exam.

At the Visual Assessment Stage, the homebuyer *may opt* for a lead test. This will reveal the levels of lead present in the home. A lead inspection will not tell you the risk involved, but only where the lead is located. This is when a buyer may request a Risk Assessment to outline the necessary Lead Hazard Reduction methods needed to insure a lead safe residence.

Following are some options (NOT REQUIREMENTS) to consider in relation to your program design for downpayment assistance programs:

- If the **visual assessment** reveals defective paint in which stabilization and clearance is required then this cost can be funded by the nonprofit or the homebuyer or seller.
- If **visual assessment** shows no deterioration of a painted surface, the homebuyer can sign a waiver stating that they are aware of the potential presence of lead paint and they choose not to address it.
- A qualified consultant should advise on any lead inspection, lead hazard screen or risk assessments.

For Rehabilitation Programs (Owner-Occupied, Homebuyer, and Rental Property Rehabilitation Programs)

See 24 CFR Part 35 (subpart J)

If you are implementing a rehabilitation program, HUD's requirements are a bit more stringent in relation to lead based paint.

The following describes HUD's requirements:

For HUD funded rehabilitation activities, lead hazard evaluation and reduction activities must be carried out for all projects constructed before 1978.

In all cases, notification must be made to the homeowner/buyer in the form of the HUD Lead Hazard Information Pamphlet and Disclosure or an acceptable alternative pamphlet.

The required evaluation and reduction activity is dependent upon the amount of HUD funding used for the project.

For cases where less than \$5,000 will be spent on the rehabilitation:

Testing: Paint Testing of surfaces that will be disturbed by the rehabilitation activities must occur.

Lead Hazard Reduction: Surfaces, which are disturbed during rehabilitation, must be repaired. Safe work practices must be used. After the rehabilitation activities are completed, clearance must be performed by a certified professional to ensure that units are safe.

For cases where \$5,001 to \$25,000 will be spent on the rehabilitation:

Testing: Paint testing of surfaces to be disturbed by rehabilitation must occur. In addition, a risk assessment must be performed.

Lead Hazard Reduction: Interim controls must be used. This means that friction and impact surfaces would be addressed. Interim controls include paint stabilization and cleaning. Safe work practices must be used. After the rehabilitation activities are completed, clearance must be performed by a certified professional to ensure that units are safe.

For cases where more than \$25,000 will be spent on the rehabilitation:

Testing: Paint testing of surfaces to be disturbed by rehabilitation must occur. In addition, a risk assessment must be performed

Lead Hazard Reduction: Abatement of hazards is the required approach. Abatement involves permanently removing lead based paint hazards, often through paint and component removal, replacement, encapsulation and enclosure. Interim controls and paint stabilization may be used on the home's exterior if it is not involved in the rehabilitation. Safe work practices must be used. After the lead hazard reduction activities are completed, clearance must be performed by a certified professional to ensure that units are safe.

Calculating the level of rehabilitation assistance:

When calculating how much HUD funding will be used on a rehabilitation project, the following costs are not counted: soft costs, administrative costs, relocation costs, environmental reviews, acquisition of property, and lead hazard evaluation and reduction costs.

Universal Design & Design Guidelines

This portion of the manual outlines the City's policy on Universal Design and the minimum design criteria for new affordable housing projects.

In order to ensure the sustainability of the projects supported by CDBG and HOME funds, the City has established guidelines in relation to Universal Design. In addition, the City wants to ensure that newly constructed units are compatible with existing neighborhoods.

Policy Direction:

Housing Master Plan Objective 3.3: Develop a program in support of Sustainable Development.

Texas Senate Bill 623: Requires universal design in single-family homes built with funds from Texas Department of Housing and Community Affairs.

COOSA Ordinance 95641: Requires specific design features to create barrier free construction in new single family homes, duplexes, and triplexes built with financial assistance from the City.

Universal Design

On April 18, 2002, the City of San Antonio adopted Universal Design Ordinance (95641) and construction requirements for all new single-family homes, duplexes, and triplexes using financial assistance from the City.

The goal of "Universal Design" is to ensure that housing can accommodate the needs of people with a wide range of abilities, including children, aging populations and persons with disabilities. Consequently, all new construction housing projects using City of San Antonio CDBG and/or HOME funds will meet all of the following criteria:

- At least one entrance shall have a 36-inch door and be on an accessible route.
- All interior doors shall be no less than 32-inches wide; except for a door that provides access to a closet of fewer than 15 square feet in area. Each hallway shall have a width of at least 36-inches wide and shall be level with ramped or beveled changes at each door threshold.
- All bathrooms shall have the walls reinforced around the toilet, bathtub and shower; for future installation of grab bars.
- Each electrical panel, light switch or thermostat shall be mounted no higher than 48 inches above the floor. Each electrical plug or other receptacle shall be at least 15 inches from the finished floor.
- An electrical panel located outside the dwelling unit must be between 18 inches and 42 inches above the ground and served by an accessible route.
- All hardware installed to open/close doors and operate plumbing fixtures shall be lever handles.

Universal Design Waiver of Exterior Accessibility Requirements

- The Director of Development Services or his designee may only grant modifications or an exemption to the requirements of the Ordinance regarding full compliance with the exterior path of travel on an individual case-by-case basis. The criteria for granting a modification or exemption are as follows:
 1. The lot rises or falls so steeply from the street that a maximum 1:12 slope cannot be achieved without extensive grading ; and
 2. No vehicular access to the back of the house will be available by means of an alley.
- Appeals of orders, decisions of determination made by the Director of Development Services may be made to the Building and Fire Code Board of Appeals.

Universal Design Implementation

- Clearly stamp or print “Universal Design” on plans submitted in accordance with the 95641 Ordinance.
- Clearly Identify design elements outlined in Ordinance

- Certify that the plans comply with the requirements of the Ordinance.
- Plan checking, construction inspections and enforcement shall be accomplished by the Development Services Department in accordance with existing procedures.

For complete information please refer to the approved Ordinance 95641, should you have any questions a preconstruction meeting is suggested to discuss the Universal Design Ordinance and the process of development.

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 CDBG and/or HOME funds, developers will be required to demonstrate that the neighborhood association near the land to be developed has been consulted on the design issues. Developers should obtain input and feedback from neighborhood residents and work with them to ensure that designs are compatible with existing housing and development patterns.

In extreme cases where an agreement cannot be reached between the developer and local neighborhood groups, CDBG and/or HOME funding may be pulled from the project.

Specific design guidelines may be developed for certain City sponsored projects. Historic and 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.

APPENDICES

- Appendix 1:** Housing Master Plan Goals and Objectives
- Appendix 2:** 2006 Income Limits
- Appendix 3:** 2006 Applicable Rents
- Appendix 4:** 2006 FHA Limits
- Appendix 5:** Affordable Home Price Limit
- Appendix 6:** Regulatory References
- Appendix 7:** CHDO Checklist
- Appendix 8:** HUD Approved/Disapproved Closing Costs
- Appendix 9:** 221(d)(3) Limits for 2006
- Appendix 10:** Subsidy Layering Review
- Appendix 11:** American Dream Downpayment Initiative Program Policies

APPENDIX 1

Housing Master Plan Goals & Objectives

GOAL 1: Expand affordable housing opportunities.

Objective 1.1: Rehabilitate existing single and multi-family housing units to provide additional housing units.

Objective 1.2: Provide infill housing development to provide new housing stock in older neighborhoods.

Objective 1.3: Support non-profit housing providers through the provision of capacity building and technical assistance.

Objective 1.4: Increase the participation of community and faith-based organizations in revitalization efforts.

Objective 1.5: Establish a standard allotment of CDBG funding to support housing development.

Objective 1.6: Redefine SADA's role in revitalization efforts to take advantage of their unique powers for land acquisition and land assembly.

Objective 1.7: Increase resources dedicated to housing and revitalization.

Objective 1.8: Expand housing rehabilitation efforts utilizing volunteer support and resources.

Goal 2: Expand special needs housing opportunities.

Objective 2.1: Develop alternatives to the traditional housing development models to serve special needs populations.

Objective 2.2: Continue to stimulate a spirit of cooperation among service providers through the Continuum of Care process.

Objective 2.3: Work with special needs providers to establish relationships with other funding sources and assist in the development of their funding proposals.

Objective 2.4: Work with neighborhood associations to relieve Not In My Back Yard (NIMBY) attitudes.

Goal 3: Encourage desirable housing development projects.

Objective 3.1: Stimulate increased production of units for downtown housing development.

Objective 3.2: Encourage mix-use development inside Loop 410.

Objective 3.3: Develop a program in support of Sustainable Development.

Objective 3.4: Encourage adaptive reuse projects.

Objective 3.5: Encourage retail and supportive services in close proximity to inner-city housing initiatives.

Objective 3.6: Encourage the design and development of Walkable Communities.

Objective 3.7: Assist developers with removing barriers in the development process.

Objective 3.8: Implement the Incentive Toolkit and expand the use of TIF, PID, tax abatement, and fee abatements as incentives for desirable housing development.

Objective 3.9: Encourage infill housing production.

Goal 4: Encourage the development of partnership between developers, financial institutions and nonprofit agencies.

Objective 4.1: Establish short and long-term goals and evaluate progress in an annual gathering of housing interests.

EXHIBIT "C"

WORK STATEMENT

1. WORK STATEMENT/GOALS, OBJECTIVES/PERFORMANCE INDICATORS

WORK STATEMENT

- I. SUB-GRANTEE: Merced Housing Texas
- II. PROJECT NAME: CHDO- Capacity Building Technical Assistance
- III. STATEMENT OF PROJECT RESPONSIBILITY:
- A. POLICY: Dept. of Grants Monitoring and Administration, City of San Antonio
President, Merced Housing Texas
- B. ADMINISTRATION: President, Merced Housing Texas
- C. STAFFING: President, Merced Housing Texas
- D. OPERATIONS: President, Merced Housing Texas
- E. BUDGET & FISCAL MATTERS: Dept. of Grants Monitoring and Administration, City of San Antonio
President, Merced Housing Texas

IV. PROJECT DESCRIPTION:

Merced Housing Texas will provide technical assistance to U.U. Housing assistance Corporation (UUHAC) for the purpose of increasing UUHAC's efficiency and effectiveness in delivering its program activities. The relationship will be that of Merced Housing as the 'mentor' and UUHAC as the 'mentee'. The intent of this relationship is to provide advisory services to strengthen UUHAC in order to support increased program activities and organizational sustainability. Activities may include assessment and analysis, strategic planning and outlining action steps. Programmatic areas that may be considered are client/program eligibility, scope of work for rehabilitation activities, timeliness of completion of activities, program reporting and monitoring, documentation and allocation of grant funds, program budgeting, achieving cost efficiencies in program operations, loan servicing, and identification of additional funding sources and mechanisms.

V. PROGRAM OUTCOMES, OBJECTIVES, AND PERFORMANCE INDICATORS:

Merced Housing will allocate staff resources, at its discretion, in order to facilitate advisory services to UUHAC. In addition, Merced will be required to submit periodic progress reports to Grants Monitoring and Administration summarizing the progress of activities and related accomplishments and in order to receive reimbursement for allocated resources. The objective of related activities is the sharing of knowledge and program expertise and to provide recommendations for increased organizational effectiveness of UUHAC.

VI. SERVICE AVAILABILITY: (Contact Information, i.e. location, phone and days/hours of operation)

Agency: Merced Housing Texas	Hours of Operation:
212 W. Laurel	Monday – Friday
San Antonio, Texas 78212	8:00am – 5:00pm
(210) 281-0234	

VII. TARGET POPULATION:

U.U. Housing Assistance Corporation, 221 W. Poplar, San Antonio, Texas 78212

VIII. ELIGIBILITY CRITERIA: Contained in City of San Antonio Housing Policy Guide

IX. FEES: None

X. SPECIAL CONSIDERATIONS: None

EXHIBIT "D"

BUDGET PACKAGE

1. BUDGET SUMMARY AND SOURCES AND USES DETAIL
2. PROJECT FUNDING SOURCES

PROJECT FUNDING SOURCES

**HOME INVESTMENT PARTNERSHIP PROGRAM
CITY OF SAN ANTONIO
FY 2006-2008**

SUB-GRANTEE: Merced Housing Texas

PROJECT NAME: Capacity Building Technical Assistance

CONTRACT PERIOD: December 1, 2006 – December 31, 2007

PROGRAM	ALL FUNDING SOURCES (please list all)	AMOUNT
City of San Antonio	HOME Funds	\$15,000
Enterprise Communities		\$10,000
		\$25,000

Agency: Merced Housing Texas
 Project Name: Capacity Building Technical Assistance
 Project Number: 25-011030

Sources and Uses

SOURCES	HOME Loan	Funding Source 2:	Funding Source 3:	Funding Source 4:	TOTAL
Funding Source Name	City of San Antonio	Enterprise			
Award Amount	\$15,000	\$10,000			\$25,000
USES					
Administrative Costs					
Salaries		\$10,000			\$10,000
FICA		\$0			\$0
Worker's Compensation		\$0			\$0
TEC		\$0			\$0
Health Insurance		\$0			\$0
Retirement		\$0			\$0
		\$0			\$0
Telephone/Commun.		\$0			\$0
Utilities		\$0			\$0
Facility Mortgage		\$0			\$0
Facility Maintenance		\$0			\$0
Supplies		\$0			\$0
Other: Professional Fees	\$15,000				\$15,000
Audit		\$0			\$0
Bank Charges		\$0			\$0
Sage Accounting Soft.		\$0			\$0
Consultant/Contr. Labor		\$0			\$0
Debt Service		\$0			\$0
Dues & Memberships		\$0			\$0
Insurance, Liability		\$0			\$0
Insurance, Bond		\$0			\$0
Interest Pay't on Debt		\$0			\$0
Legal Fees		\$0			\$0
Meals & Enter: Business		\$0			\$0
Mtg. Expense: Board		\$0			\$0
Mtg. Expense: Staff		\$0			\$0
Mileage & Parking		\$0			\$0
Misc./Contingency		\$0			\$0
Ofc. Equip/ Lease		\$0			\$0
Postage		\$0			\$0
Printing		\$0			\$0
Pub. & Subscriptions		\$0			\$0
Maintain. Equipment		\$0			\$0
Board Training		\$0			\$0
Staff Training		\$0			\$0
Travel		\$0			\$0
TOTAL	\$15,000	\$10,000			\$25,000

EXHIBIT "E"

INVOICE / BILLING PACKAGE

INVOICE

SUB-GRANTEE: Merced Housing Texas

PROJECT:NO.: 25-011030

PROJECT NAME: Technical Assistance

INVOICE NO.: _____

ADDRESS: 212 West Laurel Street

San Antonio, Texas 78212

BANK: _____

PERIOD COVERED: _____

PROGRAM: Technical Assistance

Internal Order Number	Budget	Cost to Date	Less Payment Rec'd	Amount Due
131000001490	\$15,000			
TOTAL:	<u>\$15,000</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>

Certified Correct: _____

City Approval: _____

Title: _____

Date: _____

Date: _____

SUMMARY OF EXPENDITURES

PROGRAM: Merced Housing- Technical Assistance

PERIOD COVERED: _____

Internal Order Number	Line Item	Detail	Total Amount
131000001490	Professional Fees		
		TOTAL:	\$

VOUCHER
(Attach Required Documentation)

PROGRAM: Merced Housing- Technical Assistance

AMOUNT: _____

CHECK #: _____

CHECK DATE: _____

VENDOR

NAME: _____

ADDRESS: _____

DESCRIPTION AND PURPOSE:

Approved by: _____

Title: _____

Date: _____

EXHIBIT "F"

PERFORMANCE REPORTS

1. PERFORMANCE REPORT

PROJECT PERFORMANCE MEASURES
HOME INVESTMENT PARTNERSHIP PROGRAM

PROJECT NAME: CHDO- Capacity Building Technical Assistance

PROJECT NUMBER: 25-011030

SUB-GRANTEE: Merced Housing Texas

CONTRACT PERIOD: December 1, 2006- December 31, 2007

PROJECT MISSION:

Merced Housing Texas will provide technical assistance to U.U. Housing assistance Corporation (UUHAC) for the purpose of increasing UUHAC's efficiency and effectiveness in delivering its program activities. The relationship will be that of Merced Housing as the 'mentor' and UUHAC as the 'mentee'. The intent of this relationship is to provide advisory services to strengthen UUHAC in order to support increased program activities and organizational sustainability. Activities may include assessment and analysis, strategic planning and outlining action steps. Programmatic areas that may be considered are client/program eligibility, scope of work for rehabilitation activities, timeliness of completion of activities, program reporting and monitoring, documentation and allocation of grant funds, program budgeting, achieving cost efficiencies in program operations, loan servicing, and identification of additional funding sources and mechanisms.

PERFORMANCE MEASURES: **Fiscal Years**
FY 06-07, FY 07-08

Input

01. Available HOME Funds	\$15,000
02. Total Other Project Funds	\$10,000
03. Number HOME Units/Contracted	N/A

Output

01. Total HOME Expenditures	\$15,000
02. Total Other Expenditures	\$10,000
03. No. Units/Clients Served	N/A
04. No. Units/Clients Completed	N/A

Efficiency

01. Avg. Clients/Units per HOME Staff	N/A
02. Avg. HOME Cost/ Single Family dwelling or multi-family Unit	N/A
03. Avg. Total Cost/Single Family dwelling or multi-family unit	N/A

Effectiveness

01. % HOME Funds Expended	100%
02. % All Project Funds Expended	100%
03. % HOME/Units Completed	N/A

EXHIBIT "G"

UNIVERSAL DESIGN AND CONSTRUCTION ORDINANCE

Not Applicable

