



City of San Antonio  
Department of Planning & Community Development  
Division of Grants Monitoring and Administration

REQUEST FOR APPLICATION  
("RFA")

for

MULTI-FAMILY RENTAL HOUSING DEVELOPMENT FUNDING

Release Date: Thursday, June 16, 2016  
Applications Due: Friday, July 15, 2016

This solicitation has been identified as High Profile.

Notice Regarding Prohibition on Campaign or Officeholder Contributions for Individuals and Entities Seeking High-Profile Contracts. Under Section 2-309 of the Municipal Campaign Finance Code, the following are prohibited from making a campaign or officeholder contribution to any member of City Council, candidate for City Council or political action committee that contributes to City Council elections from the 10<sup>th</sup> business day after a contract solicitation had been released until 30 calendar days after the contract has been awarded ("black out" period):

1. legal signatory of a high-profile contract;
2. any individual seeking a high-profile contract;
3. any owner or officer of an entity seeking a high-profile contract;
4. the spouse of any of these individuals;
5. any attorney, lobbyist, or consultant retained to assist in seeking contract.

A high-profile contract cannot be awarded to the individual or entity if a prohibited contribution has been made by any of these individuals during the "black out" period.

## 002 - TABLE OF CONTENTS

003 – HOME PROGRAM REQUIREMENTS.....	3
004 – ADDITIONAL REQUIREMENTS.....	19
005 - TERM OF CONTRACT.....	21
006 - PRE-SUBMITTAL CONFERENCE .....	21
007 - APPLICATION AND SUBMITTAL REQUIREMENTS .....	21
008 - CHANGES TO RFA.....	24
009 – RESTRICTIONS ON COMMUNICATION .....	24
010 - EVALUATION OF CRITERIA .....	25
011 - AWARD OF CONTRACT AND RESERVATION OF RIGHTS .....	28
012 - SCHEDULE OF EVENTS .....	30
013 - INSURANCE REQUIREMENTS.....	30
014 - INDEMNIFICATION REQUIREMENTS.....	33

### **003 – HOME PROGRAM REQUIREMENTS**

The City of San Antonio’s, Department of Planning and Community Development (DPCD) – Division of Grants Monitoring and Administration (the “City”) is requesting applications from nonprofit and for-profit developers to provide a specific multi-family residential new construction or rental rehabilitation development project, for which the developer has site control, and for which the developer has secured, at least conditionally, all non-HOME debt financing funding.

The City has allocated a minimum of \$1,250,000 in HOME Investment Partnership funds specifically for this activity in the FY 2017 Annual Action Plan. However, the City is not obligated under this RFA process to fully award these funds and retains the option, in its sole discretion, to reject all proposals.

Developers will provide applications addressing the following information:

#### **Minimum and Maximum Project Size**

Project must have at least 5 residential rental units that are HOME rent restricted. There is no maximum project size.

#### **Project Defined**

Proposed project must fully satisfy the HOME Program definition requirements for a “project”. Project means “a site or sites together with any building or buildings located on the site(s) under common ownership, management and financing, to be assisted with HOME funds as a single undertaking.” Mixed-use development projects are allowed; however, the development must be primarily residential.

#### **HOME Leverage Requirement**

HOME funding cannot comprise more than 50% of the total uses of funds. Additionally, the project must meet a 25% HOME matching requirement of contributions made from non-federal sources and may be in the form of one or more of the following:

- Cash contributions from non-federal sources
- Forbearance of fees
- Donated real property
- Cost, not paid with federal resources, of on-site and off-site infrastructure that the participating jurisdiction documents are directly required for HOME-assisted projects
- Proceeds from multifamily affordable housing project bond financing
- Reasonable value of donated site-preparation and construction materials, not acquired with federal resources
- Reasonable rental value of the donated use of site preparation or construction equipment
- Value of donated or voluntary labor or professional services in connection with the provision of affordable housing

**Income Targeting**

All HOME-assisted units must be affordable to families whose annual income does not exceed 80% of area median income adjusted for household size.

Not less than 90 percent of the units will be utilized by families whose annual income do not exceed 60 percent of the area median income (“AMI”) for the area, as determined by HUD at the time of initial occupancy.

Not less than 20 percent of the units will be utilized by families whose annual income does not exceed 50 percent of the of the area median income (“AMI”) for the area, as determined and made available by HUD at the time of initial occupancy. (Note: 50% AMI units are also counted toward meeting the 60% AMI requirement)

Successful Respondents will be responsible for verification of income based upon established requirements of the U.S. Department of Housing & Urban Development. The following income limits by household size represent eligibility for assistance. These income limits are updated annually. Currently, the income limits are:

PY 2016 HUD Income Limits for the HOME Program						
Household Size	Low Income 80% AMI		60% AMI		Very low income 50% AMI	
1 person	no more than	\$34,800	no more than	\$26,100	no more than	\$21,750
2 people	no more than	\$39,800	no more than	\$29,820	no more than	\$24,850
3 people	no more than	\$44,750	no more than	\$33,540	no more than	\$27,950
4 people	no more than	\$49,700	no more than	\$37,260	no more than	\$31,050
5 people	no more than	\$53,700	no more than	\$40,260	no more than	\$33,550
6 people	no more than	\$57,700	no more than	\$43,260	no more than	\$36,050
7 people	no more than	\$61,650	no more than	\$46,260	no more than	\$38,550
8 people	no more than	\$65,650	no more than	\$49,200	no more than	\$41,000

**Award Acceptance**

The City will issue an award letter to Respondents of awarded applications. Respondent should provide a response to the commitment of award within ten (10) business days. If the Respondent does not respond to the award letter within the ten day period, or if the Respondent does not comply with the terms of the award letter, or if the respondent relinquishes its award, the City may reverse the funding reservation and may restore the funding to the program.

**HOME Loan Limits**

The amount of the HOME loan shall be based on the lesser amount determined by the program limit calculation, the gap financing calculation, the amount requested by the Application, or the \$1,250,000 amount available for award.

**Program Limit Calculation**

There are two methods for calculating the HOME Program Limit. The Respondent will use the lowest result derived after applying the two methods as their HOME Program Limit. The two methods are:

**Method #1 – Limit based on “City Housing Policy Method”**

In applying this method, the Respondent will multiply the total number of DPCD assisted/rent restricted units by unit size for families at or below 80% of area median income times (x) the appropriate value from either the Rental Rehabilitation or Rental New Construction Table below. DPCD assisted units includes all units assisted with HOME, CDBG, and NSP funds.

Rental Rehabilitation Limit per Rent Restricted Unit by Unit Size

Efficiency	1BR	2BR	3BR	4BR+
\$10,140.26	\$11,624.53	\$14,135.18	\$18,286.44	\$20,072.77

Rental New Construction Limit per Rent Restricted Unit by Unit Size

Efficiency	1BR	2BR	3BR	4BR+
\$112,669.54	\$129,161.39	\$157,057.61	\$203,182.68	\$223,030.80

**Method #2 – Limit based on HUD 234 Subsidy Limit**

In applying this method the Respondent will multiply only the total number of DPCD HOME assisted/rent restricted units rent by unit size (x) the appropriate value from the HOME Subsidy Limit Table below.

HOME Subsidy Limit per HOME Assisted/Rent Restricted Unit by Unit Size

Efficiency	1BR	2BR	3BR	4BR+
\$112,669.54	\$129,161.39	\$157,057.61	\$203,182.68	\$223,030.80

**Method #1 / Method #2 Reconciliation**

The Program Limit shall be the lowest overall result after calculating the Method #1 and Method #2 Program Limits

**Gap Financing Calculation**

This calculation evaluates the amount of funds needed to fill the gap created by total housing development cost less total non-DPCD-sourced funds. Additionally, the City will make adjustments to this calculation if the debt coverage ratio (DCR) does not conform to the debt coverage standards stated in this RFA or when the City determines through its plan and cost review that the housing development cost is excessive. DPCD-sourced funds include City of San Antonio CDBG, HOME, and NSP funds.

**Reconciliation of the Calculation and the Maximum HOME Loan**

As previously stated, the amount of the HOME loan shall be based on the lesser of the Program Limit Calculation, the Gap Financing Calculation, the amount requested by the Application, or the \$1,250,000 amount available for award.

### **HOME Loan Form of Assistance**

The HOME development assistance will generally be in the form of a repayable loan and a proposed loan structure, consistent with the requirements within this RFA, 24 CFR Part 92 (HOME Program) and the City's Housing Policy should be proposed by the Respondent as part of the application. The City will underwrite the transaction and negotiate the final terms of the loan. The loan will be in either (a) first lien position or (b) be in a position behind a senior lien(s) acceptable to the City. Regardless of the lien position, the City will underwrite the transaction with the expectation that there will be an annual payment of interest and principal due on the anniversary date of the loan, unless:

- 1) the Borrower or the managing general partner (or managing member if a limited liability company) controlling the Borrower is the San Antonio Housing Trust or an affiliate of the San Antonio Housing Trust, then the terms of the loan, including repayments, may be structured in a way that is mutually beneficial to the San Antonio Housing Trust and the City of San Antonio;
- 2) the City's HOME loan is junior to a federally insured HUD or FHA first mortgage lien, then the City may approve a loan structure with annual payments of interest and principal payable from surplus cash flow provided the debt coverage ratio, inclusive of the City's loan, continues to meet the City's debt coverage underwriting standard as stated within this RFA;
- 3) the City's HOME loan is being made to a competitive (9%) housing tax credit project that provides for a combination of tax credit equity and deferred developer fee equal to or greater than 70% of the sources of permanent project financing; then the City may approve a loan structure with annual payments of interest and principal payable from surplus cash flow provided the debt coverage ratio, inclusive of the City's loan, continues to meet the City's debt coverage underwriting standard as stated within this RFA;
- 4) the City's HOME loan is being made to non-competitive (4%) housing tax credit project that provides for a deferred developer equal to 20% or more of the maximum developer fee allowed by IRS and/or TDHCA regulations and rules, then the City may approve a loan structure with annual payments of interest and principal payable from surplus cash flow provided the debt coverage ratio, inclusive of the City's loan, continues to meet the City's debt coverage underwriting standard as stated within this RFA; or
- 5) the City's loan is being made in conjunction with a HUD 202, HUD 811 or any other HUD program providing for both a capital advance or development grant and an annual operating subsidy for a minimum of three years, then the City will forgive its loan in equal annual installments (1/20<sup>th</sup> or 1/15<sup>th</sup>, respectively) over a 20 year period for new construction project or a 15 year period for a rehabilitation project.

### **NSPHOME Funding Limited to Funding Gap**

For purposes of structuring the HOME application, Respondents should assume that HOME funds will close any funding gap and that the amount of HOME funding will be limited to that funding gap.

### **Subsidy Layering Review**

Respondents should note that City will perform a review of a post-construction cost certification and conduct a final subsidy layering analysis to verify that HOME funding does not exceed the amount needed to develop the project. The Respondent will be required to submit a signed HUD 92330 (*Mortgagor's Certificate of Actual Cost*) within 75 days of the completion of construction (certificate of occupancy). The respondent may substitute a TDHCA COST CERTIFICATION PACKET in lieu of the HUD 92330. Should the City's review of the cost certification find that the actual financing gap is less than the underwritten financing gap, the Borrower will, within 30 days of the City's determination, repay the City the difference between the underwritten financing gap and the actual gap.

### **Use of HOME**

The City generally will require that HOME funding be used for the hard costs of rehabilitation / construction. Respondents who wish to use HOME for any other purpose need to clearly indicate such in their proposal.

### **Responsible Costs**

The Respondent will be responsible for all costs related to closing the loan, whether or not closing occurs, including all title costs, recording costs, legal fees (including fees for the City's counsel), abstract fees, appraisal costs, environmental and historic property review, and site and progress inspection fees (including fees for City's inspector), survey costs, or such other costs associated with the funding. These costs will include the City's expenses, (if any) that may be incurred subsequent to the closing. Expenses provided under this paragraph and incurred subsequent to the closing but not escrowed at the time of closing shall be the responsibility of the Respondent.

### **Underwriting Requirements**

The City will employ the following criteria when evaluating applications. Except as noted within this RFA, the City generally adopts the underwriting criteria used by Texas Department of Housing and Community Affairs (TDHCA) Multifamily Rental Housing Development (HOME) Program. In addition, the City will utilize the underwriting services of a third party underwriter. A sample underwriting checklist is found in Section – 15 of this RFA.

### **Rents**

With the sole exception of NSP funded units, all HOME and other DPCD-assisted units must be affordable to families whose annual income does not exceed 80% of area median income adjusted for household size.

Not less than 90 percent of the HOME units will be utilized by families whose annual income do not exceed 60 percent of the area median income ("AMI") for the area, as determined by HUD at the time of initial occupancy.

Not less than 20 percent of the HOME units will be utilized by families whose annual income does not exceed 50 percent of the area median income ("AMI") for the area, as determined and

made available by HUD at the time of initial occupancy. (Note 50% AMI units are also counted toward meeting the 60% AMI requirement)

### **Rental Vacancy and Collection Loss**

Rental Vacancy and Collection Loss should be 7.5% of gross potential rents, parking and garage rental income, vending and laundry. If the project involves acquisition of an existing project that has experienced vacancy and collection loss in excess of 7.5%, the application must include an exhibit discussing how the proposed project will overcome the factors that led to the higher historical rent loss. **Residential projects or residential portions of mixed-use projects that are expected to incur rent loss in excess of 10.0% are not eligible for City HOME funds.** Developers of HOME eligible mixed-use projects need to submit a written inquiry to the City requesting instructions on non-residential vacancy and collection loss.

### **Operating Expenses**

In determining the first year stabilized pro forma, the City's underwriter will consider the reasonableness of the Respondent's expense estimate by line item comparisons based upon the specifics of each transaction, including the Development type, the size of the Units, and the Respondent's expectations as reflected in their pro forma. The TDHCA 2015 Regional Operating Expense Database for San Antonio Region 9 (<http://www.tdhca.state.tx.us/readocs/15-RegOperatingExpenseDB.pdf>) will be typically used by the City's underwriter. However, historical stabilized certified financial statements of the Development or Third Party quotes specific to the Development can be submitted as alternatives to the TDHCA Database. Data from the Institute of Real Estate Management's (IREM) most recent Conventional Apartments-Income/Expense Analysis book for the proposed Development's property type and specific location or region may be provided by the Respondent and considered by the City's underwriter. In some cases, local or project-specific data such as property tax rates may be submitted and given consideration in determining the appropriate line item expense estimate. Estimates of utility savings from green building components, including on-site renewable energy, must be documented by an unrelated, third party contractor or component vendor. Well documented information provided in the Market Analysis, Appraisal, the Application, and other sources may be considered, provided it is submitted at the time of Application by the Respondent. Additionally, **any and all alternative data shall be submitted at the time of application by the Respondent in order to be considered by the City's underwriter.**

### **Operating Expense Definitions**

- General and Administrative Expense ("G&A")  
Expense for operational accounting fees, legal fees, advertising and marketing expenses, office operation, supplies, and equipment expenses. G&A does not include partnership related expenses such as asset management, accounting or audit fees. Costs of tenant services are not included in G&A.
- Management Fee

Fee paid to the property management company to oversee the operation of the Property and is most often based upon a percentage of Effective Gross Income (EGI) as documented in a property management agreement. Typically, 5 percent of the Effective Gross Income is used. Percentages may be used if well documented.

- **Payroll Expense**  
Expense for direct on-site staff payroll, insurance benefits, and payroll taxes including payroll expenses for repairs and maintenance typical of a comparable development. It does not, however, include direct security payroll or additional tenant services payroll.
- **Repairs and Maintenance Expense**  
Expense for repairs and maintenance, Third-Party maintenance contracts and supplies. It should not include capitalized expenses that would result from major replacements or renovations. Direct payroll for repairs and maintenance activities are included in payroll expense.
- **Utilities Expense**  
Utilities expense includes all gas and electric energy expenses paid by the Development.
- **Water, Sewer, and Trash Expense**  
Includes all water, sewer and trash expenses paid by the Development.
- **Insurance Expense**  
Insurance expense includes any insurance for the buildings, contents, and general liability, but not health or workman's compensation insurance.
- **Property Tax**  
Includes real property and personal property taxes but not payroll taxes. An assessed value will be calculated based on the capitalization rate published by the county taxing authority. If the county taxing authority does not publish a capitalization rate, a capitalization rate of 10 percent or a comparable assessed value may be used. Property tax exemptions or a Proposed Payment In Lieu Of Tax (PILOT) agreement must be documented as being reasonably achievable. At the discretion of the City's underwriter, a property tax exemption that meets known state and local laws may be applied based on the tax-exempt status of the Development Owner and its Affiliates.
- **Replacement Reserves**  
An annual reserve for replacements of future capital expenses and any ongoing operating reserve requirements. The City's underwriter includes minimum replacement reserves of \$250 per unit per year (PUPY) for new construction and reconstruction developments and \$300 per unit per year for all other Developments. The City may require an amount above \$300 PUPY standard for the Development based on information provided in the Capital Needs Assessment (CNA). The Respondent's

assumption for reserves may be adjusted by the City's underwriter if the amount provided by the Applicant is insufficient to fund capital needs as documented by the CNA during the first twenty (20) years of the long term pro forma.

- **Other Expenses**  
The City's underwriter will include other reasonable and documented expenses. These include audit fees, tenant services, security expense and compliance fees. This category does not include depreciation, interest expense, lender or syndicator's asset management fees, or other ongoing partnership fees.
- **Tenant Services**  
Cost to the Development of any non-traditional tenant benefit such as payroll for instruction or activities personnel and associated operating expenses. Tenant services expenses are considered in calculating the DCR.
- **Security Expense**  
Contract or direct payroll expense for policing the premises of the Development.
- **Compliance Fees**  
Include only compliance fees charged by the City and are considered in calculating the DCR.
- **Cable Television Expense**  
Includes fees charged directly to the Development Owner to provide cable services to all Units. The expense will be considered only if a contract for such services with terms is provided and income derived from cable television fees is included in the projected EGI. Cost of providing cable television in only the community building should be included in G&A as described above.

The City's underwriter may request additional documentation supporting some, none or all expense line items. If a rationale acceptable to the City underwriter for the difference is not provided, the discrepancy is documented in the Credit Underwriting Report. If the Respondent's total expense estimate is within 5 percent of the final total expense figure calculated by the City's underwriter, the Respondent's figure is characterized as reasonable in the Report; however, for purposes of calculating DCR and the HOME Financing Gap, the City's underwriter independent calculation will be used.

**Trending (Inflation) Assumption**

The described cash flow must reflect the following trending (inflation) rates: 2% annually for revenue and 3% annually for expenses.

**Debt Coverage Ratio (DCR)**

The DCR is calculated as Net Operating Income for any period divided by all priority or foreclosable lien financing required to be paid during the same period. For all new construction projects, the acceptable first year stabilized pro forma DCR debt range shall be a minimum of 1.15 to a maximum of 1.35. For rehabilitation projects, the acceptable first year stabilized pro forma DCR debt range shall be a minimum of 1.18 to a maximum of 1.35. *(Note: Borrowers can agree to a higher DCR with their other lenders. However, the City's underwriting will reduce any excess debt coverage to an amount within the above indicated range when preparing its subsidy layering analysis and determining the amount of the gap.)*

**First Mortgage Amount**

The actual amount of the first mortgage loan may not exceed the amount specified in the HOME application.

**Developer Fee**

TDHCA Housing Tax Credit developer fee rules apply to all housing tax credit projects. For non-housing Tax Credit Projects, the developer fee may be up to 15% of the Total Housing Development Cost less the sum of the fee itself, land costs, the cost of permanent financing, excessive construction period financing costs, construction period interest on any related party loans, reserves and any identity of interest acquisition costs.

**Operating Expense/ Debt Service Reserves**

The City's underwriter will utilize the amount described in the Applicant's project cost schedule if it is within the range of two (2) to six (6) months of stabilized operating expenses plus debt service. Alternatively, the City's underwriter may consider a greater amount proposed by the first lien lender or syndicator if the detail for such greater amount is reasonable and well documented at the time of Application. Reserves do not include capitalized asset management fees, guaranty reserves or other similar costs. Lease up reserves, exclusive of initial start-up costs, funding of other reserves and interim interest, may be considered with documentation showing assumptions acceptable to the City's underwriter. In no instance will total reserves exceed twelve (12) months of stabilized operating expenses plus debt service (exclusive of transferred replacement reserves for HUD financed rehabilitation transactions).

**Development Team Capacity and Development Plan**

The City's underwriter will evaluate and report on the overall capacity of the Development Team by reviewing aspects, including but not limited to the following:

- Personal credit reports for development sponsors, Developer fee recipients and those individuals anticipated to provide guarantee(s). The Underwriter will evaluate the credit report and identify any bankruptcy, state or federal tax liens or other relevant credit risks for compliance with eligibility and debarment requirements in this chapter;
- Quality of construction, rehabilitation, and ongoing maintenance of previously awarded housing developments by review of construction inspection reports,

compliance on-site visits, findings of violations, including fair housing violations, and other information available to the City;

- Failure to timely submit cost certifications and timely response to deficiencies in the cost certification process; and
- Adherence to obligations on existing or prior Department funded developments with respect to program rules and documentation.

#### **Final Subsidy Layering Review**

Respondents should note that the City will perform a post-construction-completion subsidy layering analysis\* to verify that HOME funding does not exceed the amount needed to develop the project. The City reserves the right to make and revise reservations in accordance with published federal regulations, rulings, guidelines and notices.

#### **Appraisal Requirements**

Property must be appraised in conformance with established and generally recognized appraisal practice and procedures in common use by professional appraisers. Opinions of value must be based on the best available data properly analyzed and interpreted. The appraisal of land and structures must be performed by an independent, certified appraiser, instructed by a regulated financial institution

#### **Acquisition and Readiness Requirements**

A Respondent must not undertake any involuntary acquisition of property in connection with an eligible project. The buyer must send a “Notice to Seller” regarding voluntary acquisition and current market value. Property will be subject to tenant protections under the Uniform Relocation Act and Section 104(d). Respondents not familiar with the Uniform Relocation Act and Section 104(d) are strongly encouraged to do so in advance of submitting a response to this RFA. See [HUD Handbook 1378](#) for detailed information on the requirements.

The Respondent must demonstrate, to the satisfaction of the City of San Antonio in its sole discretion that site control in the form of either an ownership or ground lease (executed prior to the publication date of this RFA).

If a property will be acquired after the submission of this request for application, developer must provide adequate option to purchase or lease that is acceptable to City of San Antonio in its sole discretion.

#### **Commitment of Funds**

All commitments must be provided as part of this RFA. Commitments (acceptable to Grantee) for all non-HOME sources of funding must be dated no more than 30 days prior to the date on which the application is received by the City and must extend at least 30 days past the anticipated funding date indicated by the Respondent in its application. The City reserves the right to require updated commitments as it deems necessary.

Conditions contained in commitments shall be subject to determination by the City as to reasonableness. The City may reject any commitment (and deem the application deficient) if, in the sole discretion of the City, any condition is outside of market requirements and/or is unlikely to be satisfied.

Each commitment from a lender must acknowledge and permit the Gap Financing Loan, must consent to the form of, execution and delivery of the HOME Legal Documents, and must agree that the loan will be made subject to the HOME agreement.

Projects that will utilize 9% Low Income Housing Tax Credits (LIHTC) must have a LIHTC reservation.

Projects that will utilize 4% LIHTCs need not have a LIHTC reservation but must have a syndication / investor commitment acceptable to the City.

**Choice Limiting Actions and Environmental Clearance**

**PROJECTS FOR WHICH CONSTRUCTION HAS STARTED ARE NOT ELIGIBLE.** Respondents should note that HOME environmental requirements include a requirement that no choice limiting actions may occur until the City has issued environmental clearance as required in 24 CFR Part 58. Preparation of the Environmental NEPA Review Records and the cost associated with preparing the documents are the responsibility of the Respondent and must be submitted in the City's acceptable format for review and approval. A successfully completed ERR will then require a 30 day public comment period prior to Release of Funds. Prior to receipt of environmental clearance from the City, the Respondent **MAY NOT UNDERTAKE, OR COMMIT ANY FUNDS TO,** physical or choice-limiting actions, including property acquisition, demolition, tenant relocation, rehabilitation, conversion, repair or construction. Violations of this provision may result in the denial of any funds under this program. Respondents are encouraged to ensure that site control exists for sufficient period of time to allow environmental clearance process to be completed before purchase must occur.

**Other Compliance Requirements**

In addition to requirements discussed in this Section, all awardees must meet the HOME regulatory compliance requirements contained in the HOME Legal Documents. These requirements include (without limitation):

**Davis-Bacon Prevailing Wage Requirements**

Every contract for the construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act

**Section 504 Accessibility Requirements**

Projects will be subject to accessibility requirements under Section 504 of the Rehabilitation Act of 1973.

**Section 3 Program Requirements**

The City is committed to compliance with the HUD Section 3 regulations 24 CFR Part 135. It is our desire to ensure compliance with the City's Section 3 goals, to the greatest extent feasible, through the awarding of contracts to Section 3 business concerns and through the employment and training of Section 3 residents. In general, Section 3 requires outreach, prior to awarding contracts and subcontracts to construct a project under the program. Respondents must conduct outreach to low-income individuals living in the area where the project is located and to certain businesses located in the area in which the project is located. The intent of the Section 3 requirements is to encourage employment of such individuals and businesses in connection with the construction of the project. These requirements apply to any construction/rehabilitation contract or subcontract in excess of \$100,000.

Respondents are required to complete and submit a Section 3 Utilization Plan.

Section 3 Goals:

- 30% of the aggregate number of new hires shall be Section 3 Residents
- 10% of all covered contracts shall be awarded to Section 3 Businesses
- 3% of all covered non-construction contracts shall be awarded to Section 3 Business

**Lead Based Paint (Rehabilitation Projects)**

HUD's lead based paint regulations at 24 CFR Part 35 will apply. Respondents should be aware that neither compliance with the requirements of the State nor compliance with the requirements of OSHA, is sufficient to meet HUD's Part 35 requirements. The HUD regulations require, among other things, that lead hazard evaluation and reduction activities be carried out for buildings originally constructed before 1978 and receiving HOME assistance. Capitalized terms in this paragraph are as defined in 24 CFR Part 35.

- For any project that includes an existing building that was completed prior to January 1, 1978, the application must include a discussion that establishes whether each such building is Target Housing (as defined in Part 35).
- The required evaluation and reduction activity is dependent upon the amount of HUD funding used for the project.

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

*Testing:* Paint Testing of surfaces to be disturbed by the rehabilitation activities must occur.

*Lead Hazard Reduction:* Surfaces, which are disturbed during rehabilitation, must be re-paired. 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 the 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 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 counted: soft costs, administrative costs, relocation costs, environmental reviews, acquisition of property, and lead hazard evaluation and reduction costs.

**Uniform Relocation Act (URA)**

HOME requires protections for each in-place tenant with a bona fide lease. The tenant must be given at least 90 days advance notice to move, or until the lease expires, whichever is longer. The Respondent must describe URA requirements for compensation. Because acquisition is presumed to be voluntary for most HOME acquisitions, the buyer must send an appropriate "Notice to Seller".

**Section 104(d)**

The one for one replacement provisions of Section 104(d) of the Housing and Community Development Act of 1974 as amended are not applicable. The remaining requirements of Section 104(d) are applicable.

**Affirmative Fair Housing Marketing Plan**

The Affirmative Fair Housing Marketing (AFHM) Plan is a marketing strategy designed to attract renters that would be least likely to apply to assisted multi-family developments. The City of

San Antonio requires that all recipients of HOME funds, resulting in five (5) or more assisted housing units, implement affirmative marketing approaches as part of the overall marketing strategy. The Respondent must complete HUD Form 935.2A.

**Additional Requirement**

If a project site is occupied at the time the HOME application is made, the application must include an exhibit explaining either that no relocation of tenants will result, or that such relocation will be temporary (supported by an adequately documented estimate of relocation costs).

**HOME Reporting Requirements**

Respondent will be subject to additional reporting requirements as deemed necessary by City to ensure full compliance with HOME program requirements.

**Non-Compliance in Federal or Other Agency Programs**

Respondents cited for non-compliance in federal housing programs or in a project/program administered by the City shall not receive a commitment of HOME funds unless or until such non-compliance is cleared to the satisfaction of City's sole discretion.

**Duration of Requirements**

All requirements will be applicable for the duration of the HOME Agreement.

**Loan Documents**

Gap Financing Loans will be documented using the City's legal documents. The summary below is provided for the convenience of Respondents. If the summary below differs from the HOME legal documents, the HOME legal documents will prevail.

**HOME Program Agreement**

The HOME Program Agreement will be subject to only those liens and encumbrances specifically agreed to by the City. The lien of any permanent mortgage will be subject to the HOME Program Agreement.

**Mortgage**

The Gap Financing Loan will be in either (a) first lien position or (b) second lien position behind the lien of permanent financing acceptable to the City. If the first lien lender so requests, the City agrees to execute City's standard form of Subordination Agreement.

**Guaranties**

Respondents should note that the City will require the project owner and a credit-worthy guarantor(s) to guarantee certain personal obligations ("non-recourse carve-outs") under the Note, Mortgage and Loan Agreement. Respondents should note that the City will require a credit-worthy guarantor(s) to give an Operating Deficit Guaranty to the City.

Respondents should note that if a Respondent requests HOME funding during construction, the City will require a credit-worthy guarantor(s) to give a Guaranty of Completion to the City.

The City's requirements for guarantors, for financial statements that all proposed guarantors must submit prior to closing, and the City's template forms for the guaranties, are included with the HOME Legal Documents.

**Transaction Costs/Expenses**

The Respondent will be responsible for all costs related to closing the loan, whether or not closing occurs, including all title costs, recording costs, legal fees (including fees for City's counsel), abstract fees, appraisal costs, environmental and historic property review, and site and progress inspection fees (including fees for City's inspector), survey costs, or such other costs associated with the funding. These costs will include the City's expenses, (if any) that may be incurred subsequent to the closing. Expenses provided under this paragraph and incurred subsequent to the closing but not escrowed at the time of closing shall be the responsibility of the Respondent.

**Conflicts**

Conflicts between the HOME Legal Documents and any other documents executed in connection with the project will be resolved in favor of the HOME Legal Documents. Respondents should note that the City will not be a party to "operating agreements" and other agreements between the Respondent and its investor(s). In particular, Respondents should note that no agreements can be made between the Respondent and its investors and lenders regarding cash distributions, except regarding the share of Surplus Cash that is distributed to the project owner in accordance with the HOME Legal Documents.

**Representations and Warranties**

Respondents should note that the HOME Legal Documents contain representations and warranties that are ongoing. Accordingly it is possible (for example, because of subsequent non-compliance or other circumstances that prevent the Respondent from making the required representations and warranties) that a Respondent may receive an Award Letter but be ineligible to close.

**Interest Rate**

The interest rate for multi-family rental properties will be provided in the forms listed below:

Assistance for owners of multi-family rental property can be provided in the form of a repayable loan with scheduled payments or, if the project involves housing tax credits, a surplus cash loan. The City loan is fully repayable and the interest rate varies by the type of Borrower.

1. The Interest rate for a qualified CHDO or a Public Facility Corporation Borrower or Sponsor shall be zero percent (0%) simple annual interest.
- \* To be a Qualified CHDO or Public Facilities Corporation the following Borrower elements must exist: 1) CHDO or PFC is the general partner or managing member; 2)

CHDO or PFC has a Right of First Refusal (ROFR) to purchase the property; 3) CHDO or PFC receives a minimum of 25% of the non-deferred portion of the developer fee; and 4) CHDO or PFC receives a minimum of 25% of annual deferred fee distribution during the first nine years of operations and a minimum of 50% of the deferred fee distribution commencing in Year 10 through payoff of the CHDO or PFC deferred fee note.

2. The interest rate for a qualified nonprofit Borrower or Sponsors shall be one percent (1%) simple annual interest.

3. The base interest rate for all other Borrowers shall be five percent (5%). However, the 5% base rate can be reduced through a combination of one or more Borrower concessions:

a) A Borrower guarantee to make annual interest payment will reduce base interest rate by 1%;

b) Borrower agreement to limit loan maturity to 20 years or less reduces base interest rate by 1%; or

c) Borrower guarantee of annual interest and principal payments reduces base interest rate by 2%.

\* The Borrower can combine a) and b) above to reduce the 5% annual simple interest base interest rate by 2% to the 3% annual simple interest floor rate. However, in no instance can the floor interest rate be less than 3% annual simple interest for a Borrower in this category.

#### **Loan Term**

Repayment of multi-family rental housing loan principal and interest should be either:

- Equal monthly installments over a period of up to 300 months, if the project does not involve housing tax credits. Subject to City review and approval, multi-family projects may have up to 24 months (in addition to the above stated maturity of 300 months) of deferred principal and interest during a construction and lease-up.
- An annual surplus cash payment, when the project involves housing tax credits. The City's surplus cash loans funding will be structured with note provisions requiring that at least 50% of Eligible Cash in excess of \$50,000 be paid annually to subordinate lenders (including funding partners and related parties) on a prorated basis. Eligible Cash shall be defined as: Surplus cash available for partnership distribution, less any outstanding:
  - Credit adjusters
  - Asset management fees
  - Operating reserve account replenishment
  - Limited partner loans that have been approved by the City
  - Deferred developer fees
  - Supplemental replacement reserve deposits approved by the City

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

Projects shall submit, on an annual basis, either HUD Form 93489 (HUD Computation of Surplus Cash), or the City's form, with the project audit. The City will invoice the project, allowing for repayment to occur up to the end of the current calendar year when HUD financing is involved. Otherwise, the surplus cash payment will be due within 45 days of the invoice postmark. Late payments will be assessed a 5% late charge. The loan will be in default if payments are more than 75 days late. The default interest rate shall be 500 basis points (5%) over the note interest rate

**Timing for Funding**

HOME is a cost reimbursement program. Disbursements during construction are limited to the reimbursement of actual eligible costs that have been incurred. A 10% retainage will be withheld from each draw. The retainage (final disbursement) will be released once a substantial certificate of completion is submitted.

**Required Payments**

Described under "Interest Rate" and "Loan Term" sections above.

**004 – ADDITIONAL REQUIREMENTS**

**Intellectual Property**

If selected, Respondent agrees to abide by the following regarding intellectual property rights:

Respondent shall pay all royalties and licensing fees. Respondent shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, materials and methods used in the project. It shall defend all suits for infringement of any Intellectual Property rights. Further, if Respondent has reason to believe that the design, service, process or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to the City.

Upon receipt of notification that a third party claims that the program(s), hardware or both the program(s) and the hardware infringe upon any United States patent or copyright, Respondent will immediately either:

- obtain, at Respondent's sole expense, the necessary license(s) or rights that would allow the City to continue using the programs, hardware, or both the programs and hardware, as the case may be, or,
- alter the programs, hardware, or both the programs and hardware so that the alleged infringement is eliminated, and
- reimburse the City for any expenses incurred by the City to implement emergency backup measures if the City is prevented from using the programs, hardware, or both the programs and hardware while the dispute is pending.

Respondent further agrees to:

- assume the defense of any claim, suit, or proceeding brought against the City for infringement of any United States patent or copyright arising from the use and/or sale of the equipment or software under this Agreement,
- assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses, and,
- indemnify the City against any monetary damages and/or costs awarded in such suit;

Provided that:

Respondent is given sole and exclusive control of all negotiations relative to the settlement thereof, but that Respondent agrees to consult with the City Attorney during such defense or negotiations and make good faith effort to avoid any position adverse to the interest of the City, the Software or the equipment is used by the City in the form, state, or condition as delivered by Respondent or as modified without the permission of Respondent, so long as such modification is not the source of the infringement claim, the liability claimed shall not have arisen out of the City's negligent act or omission, and the City promptly provide Respondent with written notice within 15 days following the formal assertion of any claim with respect to which the City asserts that Respondent assumes responsibility under this section.

#### **Ownership and Licenses**

In accordance with Texas law, Respondent acknowledges and agrees that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such local government records produced by or on the behalf of Respondent pursuant to this Contract shall be the subject of any copyright or proprietary claim by Respondent.

The term "local government record" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officials or employees pursuant to law including an ordinance, or in the transaction of official business.

Respondent acknowledges and agrees that all local government records, as described in herein, produced in the course of the work required by any contract awarded pursuant to this RFP, will belong to and be the property of City. Respondent, if awarded this contract, will be required to turn over to City, all such records as required by said contract. Respondent, if awarded this contract, shall not, under any circumstances, release any records created during the course of performance of the contract to any entity without City's written permission, unless required to do so by a Court of competent jurisdiction.

In accordance herewith, Respondent, if selected, agrees to comply with all applicable federal, state and local laws, rules and regulations governing documents and ownership, access and retention thereof.

#### **005 - TERM OF CONTRACT**

A letter of award will be provided to the selected Respondent. The Respondent will have two (2) weeks to provide written acknowledgement. The terms of the agreement with the City will be performance driven based on the requested closing date and construction timeline.

#### **006 - PRE-SUBMITTAL CONFERENCE**

A Pre-Submittal Conference will be held at 1400 S. Flores, Department of Planning & Community Development's Division of Grants Monitoring and Administration Conference Room, at 10:00 a.m. Central Time, on Thursday, June 30, 2016. City's responses to questions received by this due date may be distributed at the Pre-Submittal Conference and posted with this solicitation. Attendance at the Pre-Submittal Conference is optional, but highly encouraged.

This meeting place is accessible to disabled persons. The Department of Planning & Community Development's Division of Grants Monitoring and Administration Conference Room is wheelchair accessible. The accessible entrance is located at 1400 S. Flores. Accessible parking spaces are located at 1400 S. Flores. Auxiliary aids and services are available upon request. Interpreters for the Deaf must be requested at least 48 hours prior to the meeting. For assistance, call (210) 207-7245 Voice/TTY.

Any oral response given at the Pre-Submittal Conference that is not confirmed in writing and posted with this solicitation shall not be official or binding on the City. Only written responses shall be official and all other forms of communication with any officer, employee or agent of the City shall not be binding on the City. Respondents are encouraged to resubmit their questions in writing to the City Staff person identified in the Restrictions on Communication section, after the conclusion of the Pre-Submittal Conference.

#### **007 - APPLICATION AND SUBMITTAL REQUIREMENTS**

Respondent's submission shall include the Application (Excel), Exhibit items listed in the Submission Checklist, and all required attachments to this RFA, noted with the appropriate heading. If Respondent is proposing as a team or joint venture, provide the same information for each member of the team or joint venture.

Respondent is expected to examine this RFA carefully, understand the terms and conditions for providing the services listed herein and respond completely. FAILURE TO COMPLETE AND PROVIDE ANY OF THESE APPLICATION REQUIREMENTS MAY RESULT IN THE RESPONDENT'S APPLICATION BEING DEEMED NON-RESPONSIVE AND THEREFORE DISQUALIFIED FROM CONSIDERATION.

Respondent shall submit their application in the following manner:

- One (1) original hard copy of the Application, signed in ink
- One (1) electronic copy of the Application on compact disk (CD) containing a Microsoft Excel version of the Application with any attachments requiring in an Adobe PDF.
- Applications should be submitted in a sealed package clearly marked with the project name and "Multi-Family Rental Housing Funding" on the front/top of the package.

Applications must be received in the City Clerk's Office no later than **2:00 p.m., Central Time, on Friday, July 15, 2016** at the address below. Any application or modification received after this time shall not be considered, and will be returned, unopened to the Respondent. Respondents should note that delivery to the mailing address in a timely manner does not guarantee its receipt in the City Clerk's Office by the deadline for submission. Therefore, Respondents should strive for early submission to avoid the possibility of rejection for late arrival.

**Mailing Address:**

City Clerk's Office

Attn: Planning and Community Development – Division of Grants Monitoring and Administration

100 Military Plaza

1st Floor, City Hall San Antonio, Texas 78205

**Physical Address:**

City Clerk's Office

Attn: Planning and Community Development – Division of Grants Monitoring and Administration

100 Military Plaza

1st Floor, City Hall San Antonio, Texas 78205

**APPLICATIONS SENT BY FACSIMILE OR EMAIL WILL NOT BE ACCEPTED.**

**Application Format**

Each application shall be typewritten and submitted on 8 ½" x 11" white paper. The application should be placed inside a three ring binder. The use of recycled paper and materials is encouraged. Unnecessarily elaborate brochures, artwork, bindings, visual aids, expensive paper or other materials beyond that sufficient to present a complete and effective submission are

not required. Font size shall be no less than 12-point type. All pages shall be numbered. Margins shall be no less than 1" around the perimeter of each page. Websites, or URLs shall not be submitted in lieu of the printed application. Each application must include the sections and attachments in the sequence listed in the Submittal Checklist, and each section and attachment must be indexed and divided by tabs and indexed in a Table of Contents page. Failure to meet the above conditions may result in disqualification of the application or may negatively affect scoring.

**Modified Applications**

Applications may be modified provided such modifications are received prior to the due date for submission of applications and submitted in the same manner as original application. It should include a cover letter with the application, indicating it is a "Modified Application" and that the Original application is being withdrawn.

**Correct Legal Name**

Respondents who submit applications to this RFA shall correctly state the true and correct name of the individual, proprietorship, corporation, and /or partnership (clearly identifying the responsible general partner and all other partners who would be associated with the contract, if any). No nicknames, abbreviations (unless part of the legal title), shortened or short-hand, or local "handles" will be accepted in lieu of the full, true and correct legal name of the entity. These names shall comport exactly with the corporate and franchise records of the Texas Secretary of State and Texas Comptroller of Public Accounts. Individuals and proprietorships, if operating under other than an individual name, shall match with exact Assumed Name filings.

If an entity is found to have incorrectly or incompletely stated its name or failed to fully reveal its identity on the General Information form, the Director of Planning and Community Development shall have the discretion, at any point in the contracting process, to suspend consideration of the application.

**Firm Offer**

All provisions in Respondent's application, including any estimated or projected costs, shall remain valid for one hundred and eighty (180) days following the deadline date for submissions or, if a application is accepted, throughout the entire term of the contract.

**Confidential or Proprietary Information**

All applications become the property of the City upon receipt and will not be returned. Any information deemed to be confidential by Respondent should be clearly noted; however, City cannot guarantee that it will not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by Respondent may not be considered confidential under Texas law, or pursuant to a Court order.

**Cost of Application**

Any cost or expense incurred by the Respondent that is associated with the preparation of the Application, the Pre-Submittal conference, if any, or during any phase of the selection process, shall be borne solely by Respondent.

#### **008 - CHANGES TO RFA**

Changes to the RFA, made prior to the due date for applications shall be made directly to the original RFA. Changes are captured by creating a replacement version each time the RFA is changed. **It is Respondent's responsibility to check for new versions until the application due date.** City will assume that all applications received are based on the final version of the RFA as it exists on the day applications are due.

No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the RFA.

#### **009 – RESTRICTIONS ON COMMUNICATION**

Respondents are prohibited from communicating with elected City officials and their staff regarding the RFA or applications from the time the RFA has been released until the contract is posted as a City Council agenda item. These restrictions extend to “thank you” letters, phone calls, emails, and any contact that results in the direct or indirect discussion of the RFA and/or application submitted by respondent. Violation of this provision by Respondent and/or its agent may lead to disqualification of Respondent's application from consideration.

The only communication allowed with City staff includes the following:

- Respondents may ask verbal questions concerning this RFA at the Pre-Submittal Conference.
- Respondents may submit questions concerning this RFA to the Staff Contact Person listed below until 4:30p.m. Central Standard Time, on Thursday, June 30, 2016. Questions received after the stated deadline will not be answered. All questions shall be sent by e-mail to:

Kimberly Flowers

Contract Manager, Department of Planning and Community Development, Division of Grants Monitoring and Administration

[kimberly.flowers@sanantonio.gov](mailto:kimberly.flowers@sanantonio.gov)

- Respondents may provide responses to questions asked of them by the Staff Contact Person after responses are received and opened. In addition, during interviews, if any, verbal questions and explanations will be permitted. If interviews are conducted, Respondents shall not bring lobbyists. The City reserves the right to exclude any persons from interviews as it deems in its best interests.

- Upon completion of the evaluation process, Respondents shall receive a notification letter indicating the recommended firm and anticipated City Council agenda date.
- Respondents desiring a review of the solicitation process may submit a written request no later than seven calendar days from the date letter was sent. The letter will indicate the name and address for submission of requests for review.

The City reserves the right to contact any Respondent to negotiate if such is deemed desirable by City. Such negotiations initiated by City staff persons shall not be considered in violation by Respondent of this section.

### 010 - EVALUATION OF CRITERIA

The City will conduct a comprehensive, fair and impartial evaluation of all Applications received in response to this RFA. The City may appoint a selection committee to perform the evaluation. Each Application will be analyzed to determine overall responsiveness and qualifications under the RFA. Criteria to be evaluated may include the items listed below. The selection committee may select all, some or none of the Respondents for interviews. If the City elects to conduct interviews, Respondents may be interviewed and re-scored based upon the same criteria. The City may also request additional information from Respondents at any time prior to final approval of a selected Respondent. The City reserves the right to select one, or more, or none of the Respondents to provide services. Final approval of a selected Respondent is subject to the action of the City Council.

The following criteria and scoring methodology is used by the City in the evaluation and selection of multi-family rental housing development and rehabilitation applications seeking gap financing assistance. These criteria are in addition to any threshold requirements of the City of San Antonio Housing Policy and the applicable multi-family rental housing funding source(s), including but not limited to, Federal program requirements found at 24 CFR Part 92 (HOME Investment Partnerships Act), 24 CFR 570 (Community Development Block Grant), the Federal Neighborhood Stabilization Program (NSP), and any other multi-family housing finance programs administered by the Department. **A total of 163 points are possible.**

1. Experience of the Owner and Property Manager – No more than 20 points can be awarded in this category and no floor on the accrual of negative point reductions.
  - Owner, general partner and developer experience
  - Property management company experience
  - Negative points (10 points each, no floor on the accrual of negative points) for any of the below failures in the operation of projects previously assisted by COSA:
    - Failure to submit annual audited financial statements to COSA within the required time period throughout the loan term of a previously- or existing-assisted project.

- Failure to make timely loan payments, including surplus cash loan payments, in accordance with the terms of this or any previously- or existing-assisted COSA loan.
  - Failure to correct serious noncompliance with COSA loan requirements after notice and cure period within a previously- or existing-assisted project.
  - Failure to submit required compliance documentation to COSA within the required period on a previously- or existing-assisted COSA project.
  - Failure to perform tenant income certification prior to move-in and annual tenant recertification during the COSA defined affordability period of a previously- or existing-assisted COSA project.
  - Failure to correctly calculate annual household income in accordance with the HUD Part 5 definition and requirements on a previously- or existing-assisted COSA project.
  - Failure to notify COSA and obtain prior approval of any ownership changes, including general or limited partner changes, during the term of a previously- or existing-assisted COSA loan.
  - Failure to notify COSA and obtain prior approval of any change in the property manager during the term of a previously- or existing-assisted COSA loan.
  - Failure to provide service or physical amenity receiving a scoring preference (points) on a previously- or existing-assisted COSA project.
  - Failure to maintain a COSA assisted property to COSA property maintenance standards and/or Federal housing quality standards on a previously- or existing-assisted COSA project.
  - Failure to set aside operating and replacement reserves in accordance with the project proposal with a previously- or existing-assisted COSA project.
- 2. Efficient Use of HOME or other public funds – *Up to 20 total points***
- Amount of HOME subsidy per HOME assisted unit
  - Leveraging ratio (ratio of HOME/public dollars to other sources of project financing)
  - First mortgage debt coverage ratio of 1.30 or less
- 3. Project Feasibility - No more than 25 points can be awarded in this category and no floor on negative point reductions**
- Evidence of housing need and market demand
  - Proposed rent schedule consistent with program rent limits on rent-restricted units and no rents in excess of market rents for the applicable sub-market
  - Appropriate vacancy and collection loss assumptions in the project pro forma
  - Operating expense assumptions in the pro forma consistent with operating expenses on similar projects
  - Adequate operating reserves identified in the pro forma
  - Adequate replacement reserves identified in the pro forma
  - Minimum 1.15 to 1 debt coverage ratio for all loans with scheduled debt service payments
  - Negative Points for:
    - Excess operating reserves

- Excess replacement reserves
  - Excess first mortgage debt coverage ratio
4. COSA Loan Maturity – No more than 20 points can be awarded in this category
    - Loan maturity cannot exceed the HUD 221(d)(3) or (4) maximum loan maturity, which is currently 42 years (*2 year maximum construction period + 40 year maximum post construction maturity*)
    - One point awarded for each year the proposed loan maturity is less than 42 years
  5. Project Site Characteristics and Transit Amenities – 5 point each, no more than 25 points can be awarded in this category
    - Project meets land use density requirements at time of application
    - Project meets zoning requirements at time of application
    - Project consistent with target area, neighborhood and/or sector plan at time of application
    - Project is located in target areas designated in the Annual Action Plan
    - Project is located in the IC/RIP area, as defined at the time of application
    - Project is located within a census tract that has a poverty rate below 15 percent for individuals based on poverty rate data from the most recent American Community Survey
    - Project is located in the attendance zones of: 1) an elementary school and 2) either a middle school or high school that have achieved a 77 or greater (on a scale of 100) on index 1 of the performance index, related to student achievement, by the Texas Education Agency
    - Project is located in a census tract with a median income in the top quartile of the median household income for the San Antonio MSA
    - Project is located within one quarter (1/4) mile of a bus station or stop
    - Project is located within a 20 minute bus commute of a major employment center
    - Project is located within one quarter (1/4) mile of a public park
    - Project is located within one quarter (1/4) mile of a book-lending library
    - Project is located within one quarter (1/4) mile of a full scale grocery store of 25,000 square feet or more where staples, fresh produce and fresh meats are sold.
    - Project is located within one quarter (1/4) mile of a community, senior or other similar center or facility that serves populations similar to those residing in the project
    - Project is located within one-half (1/2) mile of a hospital or a qualifying medical clinic (a qualifying medical clinic must have a physician, physician’s assistant, or nurse practitioner onsite for a minimum of 40 hours each week and accept Medicare and Medicaid payments)
  6. Project Readiness – 10 points each; no more than 20 points
    - All entitlements secured
    - Property acquired (closed)
    - Other sources of financing committed

- Phase I (and Phase II if recommended by Phase I) Environmental Report (s) completed and submitted with application
7. Resident Services – 5 points each; no more than 10 points can be awarded in this category
    - The equivalent of one (1) FTE resident service coordinator for every 600 project bedrooms.
    - Project provides or has agreements with third party service providers to provide on-site educational, wellness and/or skill building classes
    - Project provides on-site, licensed child care or after school program that operates at least 20 hours per week
  8. Section 3 Utilization Plan – No more than 14 points can be awarded in this category. Plan must meet program requirements to receive points.
  9. Build San Antonio Green (BSAG) - no more than 9 points can be awarded in this category
    - BSAG New Construction Level 1 or BSAG Retro-fit Level 1
    - BSAG New Construction Level 2 or BSAG Retro-fit Level 2
    - BSAG New Construction Level 3 or BSAG Retro-fit Level 3

#### **011 - AWARD OF CONTRACT AND RESERVATION OF RIGHTS**

City reserves the right to award one, more than one or no contract(s) in response to this RFA.

The Contract, if awarded, will be awarded to the Respondent(s) whose Application(s) is deemed most advantageous to City, as determined by the selection committee, upon approval of the City Council.

City may accept any Application in whole or in part. If subsequent negotiations are conducted, they shall not constitute a rejection or alternate RFA on the part of City. However, final selection of a Respondent is subject to City Council approval.

City reserves the right to accept one or more applications or reject any or all applications received in response to this RFA, and to waive informalities and irregularities in the applications received. City also reserves the right to terminate this RFA, and reissue a subsequent solicitation, and/or remedy technical errors in the RFA process.

No work shall commence until City signs the contract document(s) and Respondent provides the necessary evidence of insurance as required in this RFA and the Contract. Contract documents are not binding on City until approved by the City Attorney. In the event the parties cannot negotiate and execute a contract within the time specified, City reserves the right to terminate negotiations with the selected Respondent and commence negotiations with another Respondent.

This RFA does not commit City to enter into a Contract, award any services related to this RFA, nor does it obligate City to pay any costs incurred in preparation or submission of an application, or in anticipation of a contract.

If selected, Respondent will be required to comply with the Insurance and Indemnification Requirements established herein.

The successful Respondent must be able to formally invoice the City for services rendered, incorporating the SAP-generated contract and purchase order numbers that shall be provided by the City.

#### Conflicts of Interest

Respondent 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 the Ethics Code, from having a financial interest in any contract with City or any City agency such as City-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with City or in the sale to City of land materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: the City officer or employee; the City officer or employee's parent, child or spouse; a business entity in which the City officer or employee or the City officer or employee's 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; or 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.

Respondent is required to warrant and certify that it, its officers, employees and agents are neither officials nor employees of the City, as defined in Section 2-42 of the City's Ethics Code. (Discretionary Contracts Disclosure – form may be found online at <https://www.sanantonio.gov/eforms/atty/ContractsDisclosureForm.pdf>)

#### Independent Contractor

Respondent agrees and understands that, if selected, it and all persons designated by it to provide services in connection with a contract, are and shall be deemed to be an independent contractors, responsible for their respective acts or omissions, and that City shall in no way be responsible for Respondent's actions, and that none of the parties hereto will have authority to bind the others or to hold out to third parties, that it has such authority.

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a completed conflict of interest questionnaire with the City Clerk not later than the 7th business day after the date the person: (1) begins contract discussions or negotiations with the City; or (2) submits to the City an application, response to a request for applications or bids, correspondence, or another writing related to a potential agreement with the City. The conflict of interest questionnaire form is available from the Texas Ethics Commission at <http://www.ethics.state.tx.us/forms/CIQ.pdf>. The completed conflict of

interest questionnaire should be submitted as part of this application. Respondent should consult its own legal advisor for answers to questions regarding the statute or form.

### 012 - SCHEDULE OF EVENTS

Following is a list of projected dates/times with respect to this RFA:

RFA Release Date	Thursday, June 16, 2016
Pre-Submittal Conference	Thursday, June 30, 2016 at 10:00am Department of Planning & Community Development 1400 S. Flores, Main Conference Room
Final Questions Accepted	Thursday, June 30, 2016 at 4:30pm
Applications Due	Friday, July 15, 2016 at 2:00pm Office of the City Clerk 100 Military Plaza, 1 <sup>st</sup> Floor

### 013 - INSURANCE REQUIREMENTS

If selected to provide the services described in this RFA, Respondent shall be required to comply with the insurance requirements set forth below:

A) Prior to the commencement of any work under this Agreement, Respondent shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Planning and Community Development Department, which shall be clearly labeled "Multi-Family Rental Funding" in the Description of Operations block of the Certificate. The 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 a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature 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 Agreement until such certificate and endorsements have been received and approved by the City's Planning and Community Development 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 Agreement 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 Agreement. In no instance will City allow modification whereby City may incur increased risk.

C) A respondent’s financial integrity is of interest to the City; therefore, subject to Respondent’s right to maintain reasonable deductibles in such amounts as are approved by the City, Respondent shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Respondent’s sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized 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 below:

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: <ul style="list-style-type: none"> <li>a. Premises/Operations</li> <li>b. Products/Completed Operations</li> <li>c. Personal/Advertising Injury</li> </ul>	For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability <ul style="list-style-type: none"> <li>a. Owned/leased vehicles</li> <li>b. Non-owned vehicles</li> <li>c. Hired Vehicles</li> </ul>	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence

D) Respondent agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of Respondent herein, and provide a certificate of insurance and endorsement that names the Respondent and the CITY as additional insureds. Respondent shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City’s Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City’s Risk Manager, which shall become a part of the contract for all purposes.

E) As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto 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). Respondent 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 10 days of the requested change. Respondent shall pay any costs incurred resulting from said changes.

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

F) Respondent agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, 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, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide 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 notice for nonpayment of premium.

G) Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Respondent shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Respondent'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 Agreement.

H) In addition to any other remedies the City may have upon Respondent'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 Respondent to stop work hereunder, and/or withhold any payment(s) which become due to Respondent hereunder until Respondent demonstrates compliance with the requirements hereof.

I) Nothing herein contained shall be construed as limiting in any way the extent to which Respondent may be held responsible for payments of damages to persons or property resulting from Respondent's or its subcontractors' performance of the work covered under this Agreement.

J) It is agreed that Respondent's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

K) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..

L) Respondent and any Subcontractors are responsible for all damage to their own equipment and/or property.

#### **014 - INDEMNIFICATION REQUIREMENTS**

If selected to provide the services described in this RFA, Respondent shall be required to comply with the indemnification requirements set forth below:

RESPONDENT will covenant and agree to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers 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 or bodily injury, death and property damage, made upon the CITY, directly or indirectly arising out of, resulting from or related to RESPONDENT's activities under an AGREEMENT, including any acts or omissions of RESPONDENT, any agent, officer, director, representative, employee, consultant (hired by RESPONDENT), general contractor or any subcontractors hired by the general contractor of RESPONDENT, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under an 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.

IT WILL BE FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS AGREEMENT. The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. RESPONDENT shall promptly advise the CITY in writing of any claim or demand against the CITY or RESPONDENT known to RESPONDENT related to or arising out of RESPONDENT's activities under an AGREEMENT and shall see to the investigation and defense of such claim or demand at RESPONDENT's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving RESPONDENT of any of its obligations under this paragraph.

It will be the EXPRESS INTENT of the parties to an AGREEMENT, that the INDEMNITY provided for, is an INDEMNITY extended by RESPONDENT to INDEMNIFY, PROTECT, and HOLD HARMLESS the CITY from the consequences of the CITY's OWN NEGLIGENCE, provided however, that the INDEMNITY provided for 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. RESPONDENT will further AGREE 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.

RESPONDENT is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions and that CITY shall in no way be responsible therefor.



Schedule of Contingent Liabilities <i>Schedule should provide sufficient detail to ascertain the Participant's potential exposure to outstanding financial obligations. Please include all recourse loans, notes and/or mortgages, letters of credit, revolving lines of credit, material commercial leases, and guarantees. A sample schedule is provided in Excel form in same workbook as the Schedule of Real Estate Owned.</i>										
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Item	Rcvd	Aprvd	Comments
<b>ADDITIONAL DEVELOPER INFORMATION</b>			
Schedule of Properties Under Development <i>if not included on Schedule of Real Estate Owned. Please provide project name, location, # units, percent complete, anticipated completion date, name of GC, and whether the transaction was financed using TDHC funds.</i>			
<b>FOR LIHTC SYNDICATORS ONLY</b>			
Brief summary of company			
Financial Statements for Syndicator, if applicable <i>Audited for most recent fiscal year ended, if published; otherwise the previous year's audited statements are required until current statements are available.</i>			
<b>GENERAL CONTRACTOR INFORMATION</b>			
Contractors License/Certification			
Executed Construction Contract <i>Include Schedule of Values, Timeline and all attachments</i>			
Resume / Experience of General Contractor <i>Include list of properties currently under construction; previously constructed including what type of financing they had (HC, MMRB, market etc), type of construction (garden, high rise, etc), and # of units.</i>			
Trade References <i>Include name of business, contact name, address, phone &amp; fax #'s</i>			
Financial Statements <i>Audited financial statements or financial statements compiled and reviewed by a CPA for the most recent fiscal year</i>			
Banking References <i>Please provide recent bank/investment account statements that will substantiate the amount of cash or cash equivalent assets disclosed on financial statements provided. Retirement accounts are not considered liquid assets.</i>			
Completed Authorization to Release Information Form			
<b>MANAGEMENT COMPANY INFORMATION</b>			
Management Company Resume / Experience <i>Please provide list of properties currently managed and also type of property (market rate, affordable, etc.). Also, please note any properties managed that involve FHFC and whether the Management Company is a FHFC-approved management company.</i>			
Management Agreement			
Management Plan			
<b>FINANCING INFORMATION</b>			
Final Construction Loan Commitment			
Final Permanent Loan Commitment			
Final Additional Loan Commitment(s), as applicable			
Final Syndication Commitment, if applicable			
Amended & Restated Limited Partnership Agreement - if applicable <i>Please provide full document with all exhibits.</i>			
<b>DEVELOPMENT INFORMATION</b>			

Purchase and Sale Agreement or Ground Lease			
Unit Breakdown <i>Spreadsheet containing: # of units, bedrooms, bathrooms, AML, gross max rental rates, utility allowances, and net rental rates</i>			
Utility Allowance Schedule w/ services indicated and totals for each unit type			
Sources & Uses of Funds for Construction and Permanent Phases			
Revised Sources & Uses of Funds <i>Either in the application format for both the Construction and Permanent Period or in the Developer's internal format (including IIC and HOME ineligible costs)</i>			
Construction Draw Schedule <i>Schedule should indicate sources of funds during each month of the construction phase up until permanent loan conversion</i>			
One-year and 15-year ProForma/Budget			
<b>Site Plan, Survey, Permits, Etc.</b>			
Updated Title report			
Survey (PDF is preferable)			
Architectural Contract/Agreement			
Architect's resume & license			
Engineering contract			
Engineer's resume & license			
Preliminary Civil and Architectural Plans and Specifications <i>Signed and Sealed "approved for construction" are a requirement of Closing</i>			
Signed and sealed "As submitted for permitting" Civil and Architectural Plans and Specifications			
Final Site Plan			
Final Site Plan Approval			
<b>THIRD PARTY REPORTS</b>			
Appraisal <i>Normally engaged by Underwriter. A report prepared for another lender or credit enhancer may be acceptable if the following conditions are met: (1) the report is deemed acceptable upon review by Underwriter; and, (2) The report must be dated within six months of the anticipated Board presentation. Additional updates to existing reports, whether ordered by Underwriter or not, or review of an existing report by a third party on behalf of Underwriter shall be paid for by the Applicant.</i>			
Market Study			
Plan & Cost Review			
Phase I Environmental Site Assessment <i>The scope of the report must meet ASTM 1527-05 Phase I Assessment standards and should also identify and recommend any additional expanded scope of work for potential or known environmental risks. Underwriter may require review of an existing report by a third party, which shall be paid for by the Applicant.</i>			
<b>ADDITIONAL ITEMS REQUIRED</b>			
<b>NOTES</b>			