

EXHIBIT 11 CDBG & HOME FUNDING REQUIREMENTS & INFORMATION

Audited Financial Statements

Applicant should provide the most recent audited financial statements with this RFP as **Attachment #14**.

Affirmative Fair Housing Marketing Plan

A detailed and fully completed Affirmative Fair Housing Marketing Plan is required to be submitted as **Attachment #15**. Details from this plan will be reviewed during the evaluation process to gauge the racial and economically underserved populations within the area of the proposed development and how the marketing and outreach can successfully eliminate or mitigate barriers to residents of these communities near the proposed project. The form can be downloaded here: <https://www.hud.gov/sites/documents/935-2A.PDF>.

Environmental Review Requirements

The respondent is required to provide a Phase I Environmental Assessment submitted as **Attachment #16**. All Environmental Assessments must be prepared and submitted by a City-contracted and approved environmental consultant. Consultants must have HEROS access and must have completed HUD HEROS training.

Before committing funds to an affordable housing development, the City will evaluate the development in accordance with the Environmental Review Requirements found in the Program Policies for HUD-Funded Affordable Housing Activities.

All costs associated with the environmental review assessment will be applied to any award of funding and should be included in the cost estimates for the development budget provided by the Applicant. Such costs shall be charged against the Loan. Costs for environmental review are estimated at \$10,000 per development. Note: Costs are just an estimate and will be dependent upon the complexity and size of the development. Additional costs such as archaeological investigations, if required, can cost an additional \$15,000 or more. It is recommended to allocate funding within the proposed development budget that will adequately consider these costs and provide a true gap amount being sought via this proposal.

Choice Limiting Actions and Environmental Clearance

PROJECTS FOR WHICH CONSTRUCTION HAS STARTED ARE NOT ELIGIBLE. Applicants should note that HUD 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 Applicant 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 Applicant **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. Applicants are encouraged to ensure that site control exists for sufficient period 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 HUD regulatory compliance requirements contained in the project legal documents. These requirements include (without limitation) those listed in this document.

Commitment for Title Insurance

Proposals that receive an award of funds are required to provide an acceptable Commitment for Title Insurance Policy showing the City's interest in the total amount of the City's Deferred Payment Loan prior to closing. This does not need to be provided at the time of submitting your proposal to this solicitation.

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 or 8 or more units assisted with CDBG 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.

Applicant shall utilize the program software licensed by City to ensure labor compliance including, but not limited to, Davis-Bacon. Applicant and its sub-contractors shall enter accurate information into the program as frequently and in the manner requested. Applicant shall fully cooperate with the on-call labor compliance monitoring service, if any contracted by the City, and provide access to information and records of Applicant and its sub-contractors to ensure compliance with applicable labor law(s).

All project costs associated with labor compliance will be charged to the project and should be included in the cost estimates for the development budget provided by the Applicant. Such costs shall be charged against the Loan. Costs for labor compliance are estimated at \$15,000 per development. Note: Costs are just an estimate and will be dependent upon the complexity, size, scope of work, and timeline of the project. It is recommended to allocate funding within the proposed development budget that will adequately consider these costs and provide a true gap amount being sought via this proposal.

HUD Section 3 Requirements

Section 3 is a provision of the HUD Act of 1968 that promotes local economic development, neighborhood economic improvement, and individual self-sufficiency. To the greatest extent possible, Section 3 requires that recipients of certain HUD financial assistance provide job training and employment opportunities to low- or very low-income residents in connection with projects and activities in their neighborhoods. The new Section 3 Final Rule took effect on November 30, 2020. Among these changes, is a requirement to track labor hours rather than new hires of Section 3 workers and Targeted Section 3 Workers. **These requirements apply to housing rehabilitation, housing construction, and other public construction projects that have \$200,000 or more of housing and community development financial assistance from one or more HUD funding programs, regardless of its use in the overall project (e.g. acquisition, hard construction costs, etc.).** For this solicitation, the evaluation criteria will consider whether the Applicant is a Section 3 certified business. For information on [determining if you are a Section 3 business](#) and self-certifying as HUD Section 3 Business, please visit [HUD Section 3 Business Registry](#). At this time, the City will accept any non-expired City-provided Section 3 Business certifications. Verification will come from either the HUD Section 3 Business Registry or previous (and still active) certification with the City of San Antonio.

Program Policies for HUD-funded Affordable Activities

If awarded federal funds as a result of this solicitation, respondent agrees to adhere to the City Council-approved [Program Policies for HUD-Funded Affordable Housing Activities](#) (“Program Policies”), as outlined at the link herein. Program Policies are in addition to any other requirements of this solicitation and, in some cases, supersede those written requirements where necessary to meet federal requirements of the federal grant funds.

Part 5 Annual Income

For the purposes of establishing resident qualification in assisted units and per its City Council-approved Program Policies, the City has elected to use the definition of annual income as defined at [24 CFR 5.609](#), otherwise known as Part 5 Income. The City recommends calculating income via the HUD CPD Income Eligibility Calculator that is updated each year located at: <https://www.hudexchange.info/incomecalculator/>.

Market Study and Appraisal of Property

Respondent is encouraged to review the requirements of the market study and proper appraisal of the real property, as dictated by the Program Policies, as related to the award and acceptance of federal grant funds. Respondent will be required to meet these policies during the full underwriting review and assessment after award of funds.

Violence Against Women Act

The Violence Against Women Act (VAWA, 34 U.S.C. § 12471 et seq.) provides housing protections for survivors of domestic violence, dating violence, sexual assault, and/or stalking. Despite the name of the law, VAWA’s protections apply regardless of sex, sexual orientation, or gender identity. If awarded federal funding from this solicitation, respondent will adhere to the City’s policies and protections to meet the requirements of VAWA. Provisions and information to be provided to any tenants will be incorporated into the final contractual documents.

Real Property Acquisition

The acquisition of real property for a project is subject to the URA and the requirements of 49 CFR Part 24, subpart B. A Residential Anti-Displacement and Relocation Assistance Plan should be submitted for all projects requesting assistance

with federal funds to properly document whether the project involves demolition, conversion, or relocation, which would require adherence to the HUD regulations at 24 CFR 42.325.

CDBG and Acquisition of Property

The use of CDBG funds solely for acquisition costs of land in support of affordable housing is an eligible activity. However, the respondent should be aware that the City will need to execute an agreement with an eligible non-profit subrecipient in this type of transaction, per HUD guidance. This may preclude the use of CDBG funds for acquisition costs for transactions that do not involve an eligible non-profit subrecipient who is acquiring the real property.

SOLID WASTE DISPOSAL ACT - Procurement Of Recovered Materials Contract Clause

Contractor and its subcontractors shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

HOME and CDBG Reporting Requirements

Applicant will be subject to additional reporting requirements as deemed necessary by City to ensure full compliance with HOME and/or CDBG program requirements.

HOME Match Requirements

The HOME Program requires that the City provide match in an amount equal to no less than 25% of the total HOME funds drawn for affordable housing development activities. HOME match is a permanent contribution to affordable housing and **is not leveraging**. All affordable housing development activities funded by the HOME program are required to document the 25% match for the purposes of the HOME Program. These contributions must come from non-federal resources and may only be in the form of one or more of the following:

- Cash contributions from non-federal sources
- Forbearance of State/Local taxes, charges, and fees
- Donated real property
- Cost, not paid with federal resources, of on-site infrastructure that the participating jurisdiction documents are directly required for HOME-assisted projects
- Proceeds from single-family affordable housing project bond financing validly issued by a State or local government, or an agency or instrumentality of a State or local government or a political subdivision of a State and repayable with revenues from the affordable housing project
- Reasonable value of donated site-preparation and construction materials, not acquired with federal resources
- Reasonable rental value of the donated use of site preparation or construction equipment
- Value of donated or voluntary labor or professional services in connection with the provision of affordable housing
- The value of sweat equity provided to a homeownership project, under an established component of a participating jurisdiction's program, up until the time of project completion
- The direct cost of supportive services provided to families residing in HOME-assisted units during the period of affordability. Examples include: case management, mental health services, assistance with the tasks of daily living, substance abuse treatment and counseling, day care, job training, and counseling
- The direct cost of homebuyer counseling services provided to families that acquire properties with HOME funds, including ongoing counseling services provided during the period of affordability
- **Low-Income Housing Tax Credit (LIHTC) equity is NOT an eligible form of HOME match**

Non-Compliance in Federal or Other Agency Programs

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

Conflicts

Conflicts between the HOME and/or CDBG Legal Documents and any other documents executed in connection with the project will be resolved in favor of the HOME and/or CDBG Legal Documents. Applicants should note that the City will not be a party to "operating agreements" and other agreements between the Applicant and its investor(s). In particular, Applicants should note that no agreements can be made between the Applicant 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 and/or CDBG Legal Documents.

Representations and Warranties

Applicants should note that the HOME and/or CDBG 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 Applicant from making the required representations and warranties) that an Applicant may receive an Award Letter but be ineligible to close.

PROHIBITION ON CONTRACTS WITH COMPANIES DISCRIMINATING AGAINST FIREARM AND AMMUNITION INDUSTRIES

Texas Government Code Chapter 2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship. "Discriminate against a firearm entity or firearm trade association": (A) means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association, and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association. OWNER hereby verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate against a firearm entity or firearm trade association during the term of this AGREEMENT. City hereby relies on OWNER's verification. If found to be false, City may terminate the contract for material breach. This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ENERGY COMPANIES

Texas Government Code Chapter 2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship. "Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described in (A). OWNER hereby verifies that it does not boycott energy companies and will not boycott energy companies during the term of this AGREEMENT. City hereby relies on Company's verification. If found to be false, City may terminate this AGREEMENT for material breach. This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.