



## **M E M O R A N D U M**

**City of Austin  
Financial Services Department  
Purchasing Office**

**DATE:** July 22, 2016  
**TO:** Memo to File  
**FROM:** Jonathan Dalchau, Senior Buyer Specialist  
**RE:** MA 7200 NG160000050

This MA was created as a payment mechanism only. The original contract is administered, maintained, and located with Austin Housing Finance Corporation (AHFC).



# Austin Housing Finance Corporation

# MEMO

P.O. Box 1088, Austin, TX 78767-1088

**Sherry Cardino, Contract Compliance Specialist Senior**  
(512) 974-3153, Fax: (512) 974-3161, [sherry.cardino@ci.austin.tx.us](mailto:sherry.cardino@ci.austin.tx.us)

Date: July 12, 2016  
To: Linda Lindsey, Finance  
Subject: PO# Set-Up Request

This memo is to request a PO/RQM be set up for the new loan agreement between **Austin Habitat for Humanity** and the **Austin Housing Finance Corporation**.

Purchasing approval is required so that funds may be available for draw-down/payment requests for costs associated with pre-development of **The Saltillo** to be located at **1411 E. 4<sup>th</sup> Street, Austin, Texas 78702**.

Once pre-development has been determined feasible, 20 single-family attached homes (condominiums) will be constructed and sold to buyers whose total household incomes are at or below 80% of MFI. The term of the agreement is from contract execution through October 31, 2023 (10-Year Affordability Period).

Vendor ID: **AUS6053110**  
**Austin Habitat for Humanity**  
**500 W Ben White Blvd**  
**Austin, TX 78704**  
**CONTACT: Kim Kestner**

Please find the following payment and funding information:

Amount:	Approved Funding Line:	Funding Source:
<b>\$294,773</b>	<b>6145 – 7208 – 6188 – 6830 – 238440</b>	<b>HOME</b>

The CARR form and its attachments are included.

Please contact Sherry Cardino or David Potter should you have any questions. Thank you in advance for your assistance.

**ACQUISITION AND DEVELOPMENT PROGRAM  
LOAN AGREEMENT**

**Austin Habitat for Humanity, Inc.  
The Saltillo New Construction  
HOME Funding [CFDA 14.239]**

**Effective Date:**        July 7, 2016

**THIS ACQUISITION AND DEVELOPMENT PROGRAM LOAN AGREEMENT** (the "Loan Agreement"), is between **AUSTIN HABITAT FOR HUMANITY, INC.**, (the "Borrower"), and the **AUSTIN HOUSING FINANCE CORPORATION**, a Texas public, nonprofit corporation organized and operated under Chapter 394, Texas Local Government Code (the "AHFC").

**Recitals**

**WHEREAS**, the City of Austin, Texas has received certain funds from the United States Department of Housing and Urban Development under the HOME Investment Partnerships Program, as enacted under Title II of the Cranston Gonzalez National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990), amended by the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992), further amended by the HUD Demonstration Act (Pub. L. 103-120, approved October 27, 1993), further amended by the Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103-223, approved April 11, 1994), and any subsequent amendments thereto; and,

**WHEREAS**, Borrower has submitted an application for funding through the AHFC Acquisition and Development (the "A&D") Program dated May 2, 2016; and

**WHEREAS**, AHFC has reviewed the application and has determined upon the basis of the information provided that a portion of said proposal may properly be funded with HOME funds; and,

**WHEREAS**, the City of Austin has contracted with AHFC to carry out its Community and Housing Development projects; and,

**WHEREAS**, making the Loan to Borrower, which will be secured by a Deed of Trust applicable to the property and improvements (the "Property") to be constructed by Borrower, will enable Borrower to fulfill its mission of providing affordable homeownership opportunities to persons with low and very low incomes.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

**Section 1 DEFINITIONS.** As used in this Loan Agreement and any attachment or exhibit incorporated in it, the terms defined in the A&D Program Definitions attached as **Exhibit "A"** to

this Loan Agreement and by this reference incorporated in it have the meanings assigned to each term.

**Section 2 PURPOSE AND AMOUNT OF LOAN.** The Loan is for the purpose of implementing and carrying out the Project as further described in the **Exhibit "B"** (Statement of Work and Budget), including construction on the Property and achieving the obligations of Borrower under the A&D Program.

**Section 3 THE NOTE.** The Loan to be made hereunder shall be evidenced by a promissory note dated of even date with this Loan Agreement (the "Note").

**Section 4 TERMS OF PAYMENT.** The Loan to be made hereunder shall bear interest at the rate specified in the Note and shall be paid in accordance with the terms and conditions of the note of even date with this Loan Agreement.

**Section 5 TERM.** The term of this Loan Agreement and the Loan shall begin on the Effective Date of this Loan Agreement and end on the maturity date stated in the Note.

**Section 6 RIGHTS AND OBLIGATIONS.** The holders of the Note, and Borrower, hereby expressly reserve all rights to jointly amend any provisions of this Loan Agreement, to consent to or waive any departure from the provisions of this Loan Agreement, to amend or consent to or waive departure from the provisions of the Note, and to release or otherwise deal with any collateral security for payment of the Note.

**Section 7 PERFORMANCE AND COMPLIANCE WITH ALL LAWS.**

- 7.1 **Agreement to Perform.** Borrower agrees to perform the Project and to produce reports as necessary until completion of the Project in accordance with the terms and conditions of this Loan Agreement.
- 7.2 **Prevailing Documents.** In the event any conflict should arise between the terms of this Loan Agreement, the other Loan Documents, and the Program Guidelines, this Loan Agreement shall prevail, then the other Loan Documents, then the Program Guidelines.
- 7.3 **Performance within Legal Requirements.** It is expressly understood that Borrower's performance shall be in strict compliance with all Legal Requirements, which in no way is meant to constitute a complete compilation of all duties imposed upon Borrower by law or administrative ruling or to narrow the standards which Borrower must follow. Borrower shall promptly refund any funds not expended in accordance with the Legal Requirements or the Loan Documents.
- 7.4 **Legal Requirements Governing Property and Improvements.** The Land and the Improvements and the intended use thereof by Borrower comply with all Legal Requirements, including, without limitation, all applicable restrictive covenants, zoning ordinances, subdivision and building codes, flood disaster laws, applicable health and environmental laws and regulations and all other ordinances, orders or requirements issued by any state, federal or municipal authorities having or claiming jurisdiction over the Property.

- 7.5 **Compliance with Legal Requirements.** Borrower will promptly and faithfully comply with, conform to, and obey all Legal Requirements, whether the same shall necessitate structural changes in, improvements to, or interfere with the use or enjoyment of, the Property.

**Section 8** CONDITIONS OF CLOSING. The obligation of AHFC to make a loan as provided in this Loan Agreement is subject to the receipt by AHFC from Borrower of the Note in compliance with the terms hereof and, in AHFC's sole discretion, to the following additional conditions precedent:

- 8.1 **Truth and Accuracy.** The truth and accuracy, as of the Effective Date of this Loan Agreement, of all representations and warranties made herein by Borrower and the receipt by AHFC of such documents, certificates of officers of Borrower, and such other evidence, as AHFC reasonably shall have requested respecting the meeting of these conditions.
- 8.2 **Receipt of Documents.** The receipt by AHFC from Borrower of the additional Loan Documents executed by Borrower and copies of all other documents required in connection with this Loan Agreement and the transactions contemplated thereby, or respecting the business and affairs of Borrower, that AHFC may reasonably have requested.
- 8.3 **Effective Date of Agreement.** The receipt by AHFC from Borrower of the Loan Documents, each dated effective the same date as this Loan Agreement, executed by Borrower, satisfactory in form and substance to AHFC and certified, when appropriate, by proper corporate officers and Governmental Authorities.
- 8.4 **Reserved.**
- 8.5 **Receipt of Title Policy.** The receipt by AHFC of a mortgagee's title policy covering the Property free and clear of all liens and other encumbrances other than the Superior Lien or Superior Liens.
- 8.6 **Payment of Closing Costs.** The payment by the Borrower of all closing costs and expenses.

**Section 9** APPLICATION OF PROCEEDS.

- 9.1 **Purpose of Loan.** Borrower agrees that it will apply the funds received by it under this Loan Agreement solely for the purpose set forth in Section 2 of this Loan Agreement.
- 9.2 **Payment of Additional Project Costs.** Borrower agrees to provide additional, unencumbered funds to pay all additional project costs incurred as a result of cost overruns or unanticipated expenses necessary to complete the Project according to the terms and conditions of this Loan Agreement.

**Section 10** CONDITIONS OF LOAN AND DISBURSEMENT OF LOAN PROCEEDS. The making of the Loan and each disbursement of the Loan Proceeds hereunder shall be subject to the following conditions precedent:

- 10.1 **True and Correct Statements.** All of the representations and warranties contained in the Loan Documents shall be true and correct in all material

respects on and as of the Date of this Loan Agreement and continuing to be true and correct on the date of each disbursement of a payment.

- 10.2 **Satisfactory Form of Documents.** All actions undertaken in connection with the transaction contemplated by the Loan Documents and all documents incidental thereto shall be satisfactory in form, scope and substance to AHFC, and AHFC shall have received copies of all documents which it may have requested in connection with said transaction in form, scope and substance reasonably satisfactory to it.
- 10.3 **Approvals and Consents.** All necessary approvals or consents, if any such approvals or consents are required of Governmental Authorities having jurisdiction with respect to the construction herein contemplated, shall have been obtained, and failure to have obtained prior to the issuance of the Certificate of Occupancy such consents shall constitute a default hereunder.
- 10.4 **Corporate Authority.** If Borrower, or entity constituting part of Borrower, or any guarantor of the Loan to be made hereunder, is a corporation, there shall be delivered to AHFC (with respect to each such corporation, if there be more than one) a copy of the record(s) of minutes of the Board of Directors of each such corporation specifically authorizing its officers to execute this Loan Agreement and all other Loan Documents necessary for the consummation of this transaction. The Secretary or Assistant Secretary of such corporation(s) shall certify the record(s) of the minutes of the Board of Directors to be true.
- 10.5 **Approvals of other parties.** All necessary approvals, releases, or consents required with respect to this transaction by any mortgagee or other party having any interest in the Property shall have been obtained, and failure to have obtained such consents shall constitute default hereunder.
- 10.6 **Good Standing.** None of the following exists:
  - 10.6.1 an Event of Default; or
  - 10.6.2 the requested funds, plus the sum of (i) previous released Loan Proceeds (including retained amounts deemed to have been advanced) and (iii) other sums disbursed by AHFC under this Loan Agreement exceeds the total authorized Loan Amount evidenced by the Note; or
  - 10.6.3 an order or decree in any court of competent jurisdiction enjoins or prohibits Borrower, any person or AHFC or any of them from performing their respective obligations under this Loan Agreement; or
  - 10.6.4 any cost or portion thereof with respect to the Project which:
  - 10.6.5 has been paid, reimbursed or is subject to payment or reimbursement, from any other source other than Borrower's own funds; or
  - 10.6.6 was incurred prior to the effective date of this Loan Agreement or after the maturity date specified in the Note, unless specifically authorized in writing by AHFC; or was incurred other than in material accordance with the terms of this Loan Agreement, including all exhibits attached hereto and the Legal Requirements; or

- 10.6.7 has not been billed to AHFC on or before the earlier of (i) 60 calendar days following billing to Borrower, or (ii) within 90 calendar days following termination of this Loan Agreement; or
- 10.6.8 is incurred with respect to any activity of Borrower after AHFC has requested that Borrower furnish data concerning such action prior to proceeding further, unless and until Borrower was thereafter advised by AHFC to proceed.

**Section 11 DISBURSEMENT OF LOAN.** This loan will be used for construction costs related to the Project and Loan Proceeds will be disbursed in accordance with the progress of the construction of the Project. Borrower shall submit all required documentation to support the costs incurred and to document the progress of Project construction.

**Section 12 ALLOWABLE COSTS.**

- 12.1 **Incurred in Performance of Agreement.** Costs will be considered allowable only if incurred directly and specifically in the performance of and in compliance with this Loan Agreement and in conformance with the standards and provisions of the Obligations and the Approved Budget. Under no circumstances shall any portion be used for any purpose other than the payment of those costs and fees approved by the AHFC as legitimately relating to the cost of completing the work required by this Loan Agreement, or for an amount in excess of the amount authorized to be paid Borrower in the Approved Budget unless otherwise agreed to in writing by the AHFC.

**Section 13 SECURITY.** Borrower shall execute and deliver to AHFC at closing of the Loan the Deed of Trust, Security Agreement and Financing Statement as security for payment of the Note and performance of the Obligations under the Loan Documents. The Note and Deed of Trust, Security Agreement and Financing Statement shall be in a form satisfactory to AHFC and shall provide that, in the event of default by the Borrower in the payment of the Indebtedness or the performance of any Obligation, AHFC may, at its sole option, in addition to all other remedies, take possession of the Collateral given as security, provided AHFC has given Borrower the right to cure the default as provided in subsection 21.2 of this Loan Agreement and such default is continuing.

**Section 14 REPRESENTATIONS.** In order to induce the AHFC to make the Loan hereunder Borrower represents and warrants as follows:

- 14.1 **No Litigation.** Except as disclosed in writing to AHFC, there are no (i) judicial, administrative, mediation or arbitration actions, suits, or proceedings, at law or in equity, before any Governmental Authority or arbitrator pending or threatened against or affecting Borrower, any Signatory Party, or involving the Property, (ii) outstanding or unpaid judgments against Borrower, any Signatory Party, or the Property, or (iii) defaults by Borrower with respect to any order, writ, injunction, decree, or demand of any Governmental Authority or arbitrator. Borrower or any Signatory Party are not a party to any action, suit or proceeding pending or concluded, nor, to the knowledge and good faith belief of the Borrower, is Borrower or any Signatory Party threatened with any suit or

proceedings which may bring into question the validity of the transaction herein contemplated or might result in any adverse change in the business or financial condition of the Borrower or any Signatory Party from that evidenced by the financing statement provided to AHFC by Borrower or any Signatory Party at or before closing.

- 14.2 **No Bankruptcy.** No bankruptcy or insolvency proceedings are pending or contemplated by Borrower or any Signatory Party or, to the best knowledge, information, and belief of Borrower or any Signatory Party, against Borrower or any Signatory Party or by or against any endorser, cosigner or guarantor of the Note.
- 14.3 **Legal Authority.** Borrower represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into the Loan Documents. The person(s) executing the Loan Documents on behalf of Borrower represents and warrants that they have been fully authorized by Borrower to execute the Loan Documents on its behalf and to bind Borrower legally to all the terms, performances and provisions of the Loan Documents. If there is a dispute as to the legal authority of either Borrower or of the person signing the Loan Documents to enter into the Loan Documents, AHFC shall have the right, at its option, to either temporarily suspend or permanently terminate this Loan Agreement. If AHFC has suspended or terminated this Loan Agreement for the reasons enumerated in this subsection 14.3, Borrower is liable to AHFC for any money it has received from AHFC for performance of this Loan Agreement.
- 14.4 **No Default.** Borrower or any Signatory Party is not in default on any obligations, covenants, or conditions contained in any bond, debenture, note, or other evidence of indebtedness or any mortgages or collateral instruments securing the same. Borrower also covenants that the making of this Loan Agreement and the consummation of the transaction contemplated herein will not violate any provision of law or result in any breach or constitute a default under any agreement to which Borrower or any Signatory Party is presently a party, or result in the creation of any lien, charge or encumbrance upon any of its property or its assets other than may be specifically allowed under the Loan Documents including without limitation the AHFC's liens and security interests.
- 14.5 **No Assignment.** Borrower and each Signatory may not assign this Loan Agreement or any other Loan Document or any of Borrower's or Signatory's rights under it without AHFC's prior written consent, and any attempted assignment is void.
- 14.6 **Taxes.** Borrower and each Signatory Party have filed all federal, state, county, municipal, and city income and other tax returns required to have been filed by them (including, without limitation, those required under the Tax Code) and have paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by them. Neither Borrower nor any Signatory Party knows of any basis for any additional assessment in respect of any such taxes and related liabilities. Borrower and

each Signatory Party believe that their respective tax returns properly reflect the income and taxes of Borrower and each Signatory Party for the periods covered thereby, subject only to reasonable adjustments required by the Internal Revenue Service or other applicable tax authority upon audit. Borrower or any Signatory Party shall promptly and completely file all tax returns which are required and has made or will make provision for the payment of all taxes which have or may become due pursuant to said returns or pursuant to any assessments received by Borrower or any Signatory Party. Borrower or any Signatory Party covenants that no tax liability has been asserted against Borrower or any Signatory Party by the Internal Revenue Service or any other taxing authority for taxes in excess of those already paid and Borrower or any Signatory Party knows of no basis for any such deficiency assessment.

- 14.7 **Correct Information.** In the event reports required to be submitted by Borrower pursuant to this Loan Agreement, are deemed by AHFC to be incomplete or unsatisfactory, Borrower agrees to make such revisions or changes as may be required by AHFC and at no additional cost to AHFC.
- 14.8 **Mailing Address.** Borrower's mailing address, as set forth in subsection 21.1 of this Loan Agreement or as changed pursuant to the provision hereof, is true and correct.
- 14.9 **No Reliance on AHFC.** Borrower is experienced in the ownership and operation of properties similar to the Property, and Borrower and AHFC have and are relying solely upon Borrower's expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on AHFC's expertise or business acumen in connection with the Property.
- 14.10 **Environmental and Hazardous Substances.** Without regard to whether AHFC has, or hereafter obtains, any knowledge or report of the environmental condition of the Property:
  - 14.10.1 The Property and the operations conducted thereon do not violate any applicable law, statute, ordinance, rule, regulation, order, or determination of any Governmental Authority or any restrictive covenant or deed restriction (recorded or otherwise), including without limitation all applicable zoning ordinances and building codes, flood disaster laws and Environmental Laws.
  - 14.10.2 Without limiting subsection 14.10.1 immediately preceding, the Property and operations conducted thereon by the current owner or operator of such Property, are not in violation of or subject to any existing, pending, or threatened action, suit, investigation, inquiry, or proceeding by any Governmental Authority or non-governmental entity or person or to any remedial obligations under any Environmental Law.
  - 14.10.3 All notices, permits, licenses, or similar authorizations, if any, required to be obtained or filed in connection with the ownership, operation, or use of the Property, including, without limitation, the past or present

generation, treatment, storage, disposal, or release of a Hazardous Substance into the environment, have been duly obtained or filed.

- 14.10.4 The Property does not contain any Hazardous Substance.
- 14.10.5 Borrower has taken all steps necessary to determine and has determined that no Hazardous Substances have been generated, treated, placed, held, located, or otherwise released on, under, from, or about the Property.
- 14.10.6 Borrower has not undertaken, permitted, authorized, or suffered and will not undertake, permit, authorize, or suffer the presence, use, manufacture, handling, generation, transportation, storage, treatment, discharge, release, burial, or disposal on, in, under, from or about the Property of any Hazardous Substance or the transportation to or from the Property of any Hazardous Substance.
- 14.10.7 There is no pending or threatened litigation, proceedings, or investigations before or by any administrative agency in which any person or entity alleges or is investigating any alleged presence, release, threat of release, placement on, in, under, from or about the Property, or the manufacture, handling, generation, transportation, storage, treatment, discharge, burial, or disposal on, under, from or about the Property, or the transportation to or from the Property, of any Hazardous Substance.
- 14.10.8 Borrower has not received any notice, and has no actual or constructive knowledge, that any Governmental Authority or any employee or agent thereof has determined, or threatens to determine, or is investigating any allegation that there is a presence, release, threat of release, placement on, in, under, from or about the Property, or the use, manufacture, handling, generation, transportation, storage, treatment, discharge, burial, or disposal on, in, under, from or about the Property, or the transportation to or from the Property, of any Hazardous Substance.
- 14.10.9 There have been no communications or agreements with any Governmental Authority or any private entity, including, but not limited to, any prior owners or operators of the Property, relating in any way to the presence, release, threat of release, placement on, under or about the Property, or the use, manufacture, handling, generation, transportation, storage, treatment, discharge, burial, or disposal on, in, under or about the Property, or the transportation to or from the Property, of any Hazardous Substance.
- 14.10.10 Neither Borrower nor, to the best knowledge, information and belief of Borrower, any other person, including, but not limited to, any predecessor owner, tenant, licensee, occupant, user, or operator of all or any portion of the Property, has ever caused, permitted, authorized or suffered, and Borrower will not cause, permit, authorize, or suffer, any Hazardous Substance to be placed, held, located, or disposed of,

on, in, under or about any other real property, all or any portion of which is legally or beneficially owned (or any interest or estate therein which is owned) by Borrower in any jurisdiction now or hereafter having in effect a so-called "superlien" law or ordinance or any part thereof, the effect of which law or ordinance would be to create a lien on the Property to secure any obligation in connection with the "superlien" law of such other jurisdiction.

14.10.11 Borrower has been issued all required federal, state, and local licenses, certificates, or permits relating to the Property, and Borrower and its facilities, business assets, property, leaseholds, and equipment are in compliance in all respects with all applicable federal, state, and local laws, rules, and regulations relating to, air emissions, water discharge, noise emissions, solid or liquid waste disposal, hazardous waste or materials, or other environmental, health, or safety matters.

14.11 **Separate Tax Parcel; Legal Lot.** The Property is taxed separately without regard to any other real estate and the Land constitutes a legally subdivided lot or lots under all applicable Legal Requirements (or, if not subdivided, no subdivision or platting of the Land is required under applicable Legal Requirements), and for all purposes may be mortgaged, conveyed or otherwise dealt with as an independent parcel.

14.12 **Location of Property.** The Land is located wholly within the corporate limits of the City of Austin, Texas.

14.13 **Utilities Access.** All utility services necessary and sufficient for the full use, occupancy, operation and disposition of the Land and the Improvements for their intended purposes are available to the Property, including water, storm sewer, sanitary sewer, gas, electric, cable and telephone facilities, through public rights-of-way or duly recorded perpetual private easements; all streets, roads, highways, bridges and waterways necessary for access to and full use, occupancy, operation and disposition of the Land and the Improvements have been completed, have been dedicated to and accepted by the appropriate municipal authority and are open and available to the Land and the Improvements without further condition or cost to Borrower; all curb cuts, driveways and traffic signals shown on the survey delivered to AHFC prior to the execution and delivery of this Loan Agreement are existing and have been fully approved by the appropriate Governmental Authority.

**Section 15 AFFIRMATIVE COVENANTS.** Until payment in full of the Note and all of the other payments due AHFC hereunder, and the performance of all of the terms, conditions and provisions of the Loan Documents, and, with respect to any Restrictive Covenant required by this Loan Agreement, during the Restricted Period, Borrower and its assigns shall cause the following to be done:

15.1 **Compliance Information.** Borrower will deliver to AHFC within ten (10) calendar days after its receipt of any written request therefor, such information as the AHFC may reasonably determine in its sole discretion necessary to determine whether the Borrower is complying with its covenants and

agreements contained in the Loan Documents or whether an Event of Default has occurred. So long as Borrower commences the process of obtaining such information and notifies AHFC of such action within the ten (10) calendar day period and proceeds diligently toward obtaining such information, Borrower shall have an additional twenty (20) calendar days to furnish such information to AHFC.

- 15.2 **Work Required.** Borrower will perform or cause to be performed the work described in this Loan Agreement with respect to the Project, including, without limitation, the work described in the **Exhibit "B"** (Statement of Work and Budget).
- 15.3 **[Reserved.]**
- 15.4 **Subcontracting.** Borrower agrees that any work or service which is allowed to be subcontracted under this Loan Agreement shall be subcontracted by written contract or agreement and shall be subject by its terms, unless specific waiver is granted, in writing, by AHFC, to each and every provision of this Loan Agreement. Borrower agrees to assume the responsibility for performance and financing compliance by a subcontractor under this Loan Agreement.
- 15.5 **No Obligation to Others.** AHFC shall not be obligated or liable under this Loan Agreement to any party other than Borrower for payment of any monies or for provision of any goods or services.
- 15.6 **Payment of Amounts Due.** Subject to the provisions of Section 19 of this Loan Agreement, Borrower will pay punctually and fully each installment payment of principal and interest to become due on the Note in accordance with the terms of this Loan Agreement and the Note.
- 15.7 **Payment of Impositions.** Borrower will duly pay and discharge, or cause to be paid and discharged, the Impositions not later than the earlier to occur of (i) the due date thereof, (ii) the date any fine, penalty, interest, or cost may be added thereto or imposed, or (iii) the date prior to any date any lien may be filed for the nonpayment thereof (if such date is used to determine the due date of the respective item), and Borrower shall deliver to AHFC a written receipt evidencing the payment of the respective Imposition, except that Borrower shall not be required to pay any such Impositions so long as the validity thereof shall be actively contested in good faith by proper proceedings, provided that any such Imposition shall be placed in escrow during such proceedings and shall be paid forthwith upon a final adjudication and order to pay from a court of competent jurisdiction.
- 15.8 **Payment for Labor and Materials.** Borrower will promptly pay all bills for labor, materials, supplies, and specifically fabricated materials incurred in connection with the Property and never permit to exist in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and security interests hereof, for any such bill.
- 15.9 **Payment of Other Amounts.** Borrower will pay the installments due on all indebtedness with respect to the Property to any other lenders, either heretofore or hereafter incurred or assumed by it when and as the same shall become due

and payable, and will observe, perform and discharge all of the covenants, conditions and obligations which are imposed on it by any and all agreements securing or evidencing any encumbrance upon the Property securing this Loan so as to prevent an occurrence of any act or omission which, under the provisions thereof, may be declared to be a default thereunder which, could result in a lien being placed upon the Property. In the event any such payment is not paid, Borrower will immediately provide notice to AHFC describing such default. However, giving such notice will in no way waive any other covenant in the Loan Documents.

- 15.10 **Payment of Borrower Expenses.** Subject to the provisions of Section 19 of this Loan Agreement, Borrower will pay on demand all reasonable and bona fide out-of-pocket costs, fees, and expenses and other expenditures, including, but not limited to, reasonable attorneys' fees and expenses, paid or incurred by AHFC or Trustee to third parties incident to this Loan Agreement (including without limitation, reasonable attorneys' fees and expenses in connection with the negotiation, preparation, and execution hereof and of any other Loan Documents and any amendment hereto or thereto, any release hereof, any consent, approval or waiver hereunder or under any other Loan Documents, the making of any advance under the Note, and any suit to which AHFC or Trustee is a party involving the Deed of Trust, the Loan Documents or the Property) or incident to the enforcement of the Indebtedness or the Obligations or the exercise of any right or remedy of AHFC under any of the Loan Documents, and including without limitation:
- 15.11 **Expenses.** Borrower will pay all costs and taxes that might be imposed or be determined to be payable in connection with the execution, issuance or delivery of the Loan Documents, or in connection with any modification, amendment or alteration of the terms and provisions thereof, and to hold AHFC and any other holder of the Note harmless against any and all liability with respect to the Loan Documents, all of which agreements of Borrower shall survive payment of the Note.
- 15.12 **Loan Expenses.** If required by AHFC, Borrower will pay in addition to any other amounts a monthly servicing fee due with each installment payment in an amount stated in the Note.
- 15.13 **Expenses of Collection or Enforcement.** If Borrower shall at any time default in making any payment on the Note, Borrower will, to the full extent permitted by law, pay to the holder of the Note, in addition to any other amounts that may be due from Borrower to such holder, an amount equal to the reasonable costs and expenses of collection including reasonable attorney's fees, court costs or enforcement costs incurred by holder in such collection.
- 15.14 **Expenses of Correction by AHFC of Default.** In the event of any default by Borrower in the full performance or observance of any covenant or agreement contained in any of the Loan Documents, AHFC may, upon notice to Borrower at the address and in the manner specified in subsection 21.1 of this Loan Agreement, at AHFC's sole option (but without any obligation of AHFC to do so), take such steps as reasonably may be deemed by AHFC in its sole

discretion, necessary or appropriate to correct or remedy such default in whole or in part, and all costs and expenses incurred by AHFC in taking such steps (including reasonable attorney's fees and court costs) shall, subject to an opportunity to cure such default as provided by subsection 21.2 of this Loan Agreement, be due and payable by Borrower, with interest thereon from time of incurrence thereof by AHFC at the Maturity Rate stated in the Note. The taking of such action shall not be deemed to be a waiver by AHFC of the default of Borrower or a waiver of any other available right or remedy by reason of such default.

- 15.15 **Expenses of Amendments, Waiver, Consents, and Refinancing.** In the event Borrower proposes to take or omit to take any act or action prohibited or required by any provision of the Loan Documents, and Borrower requests AHFC to consent thereto or waive compliance with any such provision, then, in each such case, Borrower will reimburse or pay to AHFC any reasonable expenses incurred by AHFC in connection with such consent or waiver, or such modification or amendment.
- 15.16 **Excess Payments.** Borrower shall refund to the AHFC within ten (10) working days of the AHFC's request, any sum of money which has been paid by the AHFC and which the AHFC at any time thereafter determines:
- 15.16.1 has resulted in overpayment to Borrower; or
  - 15.16.2 is not supported by adequate documentation to fully justify the expenditure.
- 15.17 **Repair.** Borrower will keep the Property in reasonably good order and condition and will make all repairs, replacements, renewals, additions, betterments, improvements, and alterations thereof and thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, which are necessary or reasonably appropriate to keep same in such order and condition. Borrower will prevent any act, occurrence, or neglect, which might impair the value or usefulness of the Property for its intended usage. In instances where repairs, replacements, renewals, additions, betterments, improvements, or alterations are required in and to the Property on an emergency basis to prevent loss, damage, waste, or destruction thereof, Borrower shall proceed to repair, replace, add to, better, improve, or alter same, or cause same to be repaired, replaced, added to, bettered, improved, or altered, notwithstanding anything to the contrary contained in subsection 16.2 hereof; provided, however, that in instances where such emergency measures are to be taken, Borrower will notify AHFC in writing of the commencement of same and the measures to be taken, and, when same are completed, the completion date and the measures actually taken.
- 15.18 **Protection of Lien Status.** Borrower will protect and preserve the lien and security interest status of the Security Agreements on the date of execution of this Loan Agreement and will not permit to be created or to exist in respect of the collateral or any part thereof, unless agreed to in writing by AHFC, any lien or security interest on a parity with, superior to, or inferior to any of the liens or security interests hereof.

15.19 **Insurance.** Prior to commencing work with respect to the Property, Borrower, in accordance with the Insurance Requirement and at Borrower's own expense, will obtain, maintain and keep in full force and effect insurance coverages upon and relating to the Property with such insurers, in such amounts, in such manner, provide such notices and covering such risks as shall be requested by and satisfactory in writing to AHFC. Borrower agrees to procure such required insurance coverages and deliver evidence of such coverages to AHFC as required by the Insurance Requirement. In the event any insurance proceeds with respect to a policy described in the Insurance Requirement are paid, such proceeds thereof shall be paid to AHFC to satisfy the balance owing on the Note at the time of the loss; the remainder of the insurance proceeds to be payable to Borrower. If the proceeds of the insurance together with such other funds as are available to Borrower are sufficient to pay for the restoration of the premises, Borrower may apply such funds to such restoration, provided the procedure to release such insurance proceeds for restoration are agreed to in writing between Borrower and AHFC. It is expressly understood and agreed that the Insurance Requirement represents AHFC's minimum requirements. Further, (i) the insolvency, bankruptcy or failure of any insurance company covering Borrower or the Property, (ii) the failure of any insurance company to pay claims occurring, or (iii) any exclusion from or insufficiency of coverage will not limit the amount of recovery AHFC may have in the event of casualty, damage or other occurrence giving rise to a claim under the insurance provided by Borrower under this Loan Agreement.

15.20 **Bonding Requirements.**

15.20.1 Bonds, when required in the Statement of Work, must be executed on forms furnished by or acceptable to AHFC. If required, Borrower shall furnish AHFC proof of an adequate bond prior to the earlier of (i) thirty (30) calendar days following the Effective Date of this Loan Agreement or (ii) payment of any Loan Proceeds to Borrower by AHFC under this Loan Agreement.

15.20.2 If the surety on any bond furnished by Borrower is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Texas or it ceases to meet the requirements of subsection 15.20.3 of this Loan Agreement, Borrower must substitute immediately another bond and surety, both of which must be acceptable to AHFC.

15.20.3 When Performance Bonds and/or Payment Bonds are required in accordance with this Loan Agreement, each bond must be issued in an amount of one hundred percent (100%) of the Note, as security for the faithful performance of all of Borrower's obligations under this Loan Agreement. Performance Bonds and Payment Bonds must be issued by a solvent surety company authorized to do business in the State of Texas, U.S. Treasury listed, and with an A.M. Best rating of A- or better, or otherwise acceptable to AHFC.

15.21 **Condemnation.** Borrower will pay, or assign if requested by AHFC, to AHFC to satisfy the balance owing on the Note at the time of receipt of all amounts

payable to or received by Borrower from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. If the amounts payable to or received by Borrower through the actions described in this subsection 15.21, together with such other funds as are available to Borrower, are sufficient to pay for the restoration of the premises, Borrower may apply such funds to such restoration after receiving written concurrence from AHFC.

- 15.22 **Enforcement of Leases.** Borrower shall (i) submit any and all proposed Leases to AHFC for approval prior to the execution thereof, (ii) duly and punctually perform and comply with any and all representations, warranties, covenants, and agreements expressed as binding upon the lessor under the Leases, (iii) maintain the Leases in full force and effect during the term thereof, (iv) appear in and defend any action or proceeding in any manner connected with the Leases, (v) deliver to AHFC true, correct and complete copies of the Leases, and (vi) deliver to AHFC such further information, and execute and deliver to AHFC such further assurances and assignments, with respect to the Leases as AHFC may from time to time request. Without AHFC's prior written consent, Borrower shall not (v) do or knowingly permit to be done anything to impair the value of any of the Leases, (w) except for security or similar deposits, collect any of the Rent more than one (1) month in advance of the time when the same becomes due under the terms of any Lease, (x) discount any future accruing Rents, (y) amend, modify, rescind, conceal, surrender or terminate any of the Leases, or (z) assign or grant a security interest in or to any of the Leases and/or Rents except for Permitted Exceptions in the Deed of Trust.

- 15.23 **Environmental and Hazardous Substances.** Borrower will:

- 15.23.1 not use, generate, manufacture, produce, store, release, discharge, treat, or dispose of on, in, under, from or about the Property or transport to or from the Property any Hazardous Substance or allow any other person or entity to do so;
- 15.23.2 keep and maintain the Property in compliance with, and shall not cause or permit the Property to be in violation of, any Environmental Law;
- 15.23.3 establish and maintain, at Borrower's sole expense, a system to assure and monitor continued compliance with Environmental Laws and the exclusion of Hazardous Substances from the Property, by any and all owners or operators of the Property, which system shall include annual reviews of such compliance by employees or agents of Borrower who are familiar with the requirements of the Environmental Laws and, at the request of AHFC no more than once each year prior to issuance of a Certificate of Occupancy and once every five years thereafter, a detailed review of such compliance of the environmental condition of the Property (the "Environmental Report") in scope satisfactory to AHFC by an environmental consulting firm approved in advance by AHFC; provided, however, that if any Environmental Report indicates any violation of any Environmental Law or a need for Remedial Work, such system shall include at the request of AHFC a detailed review of

the status of such violation (a "Supplemental Report") by such environmental consultant. Borrower shall furnish an Environmental Report or such Supplemental Report to AHFC within sixty (60) calendar days after AHFC so requests, together with such additional information as AHFC may reasonably request.

- 15.24 **Notice of Hearings.** Borrower will give AHFC prior notice, in writing, of any public hearing or meeting before any Governmental Authority which may, in any manner, affect the Property.
- 15.25 **Inspection of Books and Records.** Borrower shall allow AHFC from time to time to inspect all books and records relating to Borrower's financial condition and to the Indebtedness, and to make and take away copies of such books and records. If Borrower is a corporation, limited liability company, partnership, joint venture, trust or other type of business association, Borrower shall provide Monitors with any and all financial statements and other documents and make any and all disclosures to Monitors with respect to any of the Constituent Parties, as Borrower is required to provide and make, and in the manner required to be provided and made, with respect to Borrower pursuant to this subsection 15.25.
- 15.26 **Monitoring, Inspection and Audit.** Borrower will permit AHFCs to enter the Land and Improvements at all reasonable times, and inspect the Property with or without prior notice to Borrower. AHFC will have the right, at all reasonable hours and without causing any unreasonable interruption to the operations of Borrower, to carry out monitoring and evaluation activities to ensure adherence by Borrower to the provisions of this Loan Agreement and to ensure that the use of any Loan Proceeds paid to Borrower are for eligible purposes in accordance with the Legal Requirements, to inspect and audit all books, accounts, reports, files, records, contracts, and all other papers relating to the Property, the Project or the use of Loan Proceeds; and to be given free access to the Property for the purpose of such monitoring, inspection or audit and also for the purpose of determining the condition of the premises. In addition, Borrower shall provide to AHFC such audited management letters or financial statements as the AHFC may require in their sole discretion.
- 15.27 **Property Reports.** With respect to the Project, Borrower will maintain full and accurate books of account and other records reflecting the results of the operations of the Property and will furnish, or cause to be furnished, to AHFC: (i) on or before January 31 of each calendar year during the term of this Loan Agreement, an Annual Compliance Certificate, (ii) immediate notice of any material adverse change in the Property's financial condition or business prospects or any lapse of coverage with respect to the Insurance Requirement, (iii) all reports required by the Statement of Work, and (iv) upon request of Monitors, and at Borrower's expense, such other operating, financial, insurance coverage and credit information as Monitors may reasonably request with respect to the Property. At any time and from time to time Borrower shall deliver to Monitors such other financial data as Monitors shall reasonably request with respect to the ownership, maintenance, use and operation of the Property, and Monitors shall have the right, at reasonable times and upon

reasonable notice, to audit, examine, and make copies or extracts of Borrower's books of account and records relating to the Property to enable the Monitors to comply with its record keeping and reporting obligations and to determine the level and adequacy of the Borrower's compliance with this Loan Agreement, all of which shall be maintained and made available to Monitors for such purpose at the address specified herein for Borrower or at such other location as AHFC may approve. Upon Monitors' request, Borrower shall also furnish Monitors with convenient facilities and all books and records necessary for an audit of such statements.

- 15.28 **Annual Inventory.** Borrower agrees to provide AHFC during the term of this Loan Agreement with an inventory of the real and personal property acquired in connection with this Loan Agreement no later than October 31 and within thirty (30) calendar days following the termination date of this Loan Agreement. Borrower shall maintain adequate accountability and control over such property, maintain adequate property records in a form acceptable to AHFC, and perform an annual physical inventory which shall be submitted to AHFC on or before October 31 of each year during the term of this Loan Agreement.
- 15.29 **Tax.** If at any time any law shall be enacted imposing or authorizing the imposition of any tax any rights, titles, liens, or security interests created by the Loan Documents, or upon the Indebtedness or any part thereof (whether pursuant to the Tax Code or otherwise), Borrower will immediately pay all such taxes, provided that if such law as enacted makes it unlawful for Borrower to pay such tax, Borrower shall not pay nor be obligated to pay such tax. Nevertheless, if a law is enacted making it unlawful for Borrower to pay such taxes, then Borrower must prepay the Indebtedness in full within sixty (60) calendar days after demand therefor by AHFC.
- 15.30 **Statement of Unpaid Balance.** At any time and from time to time, Borrower will furnish promptly, upon the request of AHFC, a written statement or affidavit, in form satisfactory to AHFC, stating the unpaid balance of the Indebtedness and that there are no offsets or defenses against full payment of the Indebtedness and the terms hereof, or if there are any such offsets or defenses, specifying them.
- 15.31 **Borrower's Meetings.** Upon request of AHFC, Borrower shall inform AHFC of the dates and times of meetings of its governing body. Such notice shall be delivered to AHFC in a timely manner to give adequate notice and shall also include an agenda and a brief description of the matters to be discussed. Upon request of AHFC, minutes of meetings of Borrower's governing body shall be submitted to AHFC within fifteen (15) calendar days of such request. If Borrower utilizes advisory board(s), notices of meetings and formal minutes of advisory board meetings shall be kept and shall remain on file with Borrower for AHFC's inspection.
- 15.32 **Confidentiality.** Upon authorization from AHFC to render client files anonymous, Borrower agrees to mask client-identifying information in such way that said marking will not in any way obstruct AHFC's monitoring and evaluation duties. Borrower agrees, at all times, to keep confidential all client

and personnel identifying information and any information received by Borrower unless required by law to release such information.

- 15.33 **Personnel Policies.** In the event the number of full-time employees of Borrower equals five (5) or more, personnel policies shall be established by Borrower in writing and shall be available for examination by AHFC. Such personnel policies, taken as a whole, shall be no more liberal than AHFC's personnel policies, procedures, and practices, including, without limitation, policies with respect to employment, salary and wage rates, working hours and holidays, fringe benefits (health and hospitalization, retirement, etc.), vacation and sick leave privileges, and travel.

15.34 **Conflict of Interest.**

15.34.1 Borrower covenants that neither it nor any member of its governing body presently has any interest or shall acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Loan Agreement. Borrower further covenants that in the performance of this Loan Agreement no person having such interest shall be employed or appointed as a member of its governing body.

15.34.2 Borrower further covenants that no member of its governing body or its staff or employees shall possess any interest in or use their position for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves, or others; particularly those with which they have family, business, or other ties.

15.34.3 No officer, member, or employee of AHFC and no member of its governing body who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Agreement, shall (i) participate in any decision relating to this Loan Agreement which affects his personal interest or the interest of any corporation, partnership, or association in which he has a direct or indirect interest, or (ii) have any interest, direct or indirect, in this Loan Agreement or the proceeds thereof.

- 15.35 **Nepotism.** Borrower shall not employ in any paid capacity any person who is a member of the immediate family of: (i) a person who is currently employed by Borrower, or (ii) a current AHFC employee who has discretionary authority with respect to this Loan Agreement, or (iii) a member of the AHFC or Borrower's governing body, without prior written approval by AHFC. The term "member of the immediate family" includes: wife, husband, son, daughter, mother, father, brother, sister, grandfather, grandmother, grandson, granddaughter, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, niece, first cousin, stepparent, stepchild, half-brother, and half-sister.

- 15.36 **Contract Close Out.** The contract close out package, together with a final Payment Request, for the time period covered by the last invoice requesting a disbursement of Loan Proceeds, shall be submitted by Borrower to the AHFC

with respect to the Project within ninety (90) calendar days following the close of the term of this Loan Agreement, unless extended in writing by the AHFC, using the format as provided to Borrower by the AHFC.

15.37 **Audit.** Borrower agrees to submit to AHFC a complete set of audited financial statements and the auditor's opinion and management letters covering Borrower's fiscal year until the termination of this Loan Agreement and the Promissory Note.

15.37.1 Borrower, at its expense, shall contract with an independent auditor utilizing a Letter of Engagement. The auditor must be a Certified Public Accountant recognized by the regulatory authority of the State of Texas.

15.37.2 Prior to the start of the audit, a letter of engagement between Borrower and their auditor, which details the services to be provided, including the audit requirements of this subsection 15.37.2 must be executed. Borrower must provide AHFC two (2) copies of a complete financial audit and the auditor's opinion and management letters within one hundred-eighty (180) calendar days following the end of each Borrower Fiscal Year, unless AHFC approves alternative arrangements in writing.

15.37.3 Borrower must provide AHFC with annual audits as required by this subsection 15.37 until termination of this Loan Agreement, unless waived by AHFC.

15.37.4 The expiration or termination of this Loan Agreement shall in no way relieve Borrower of the requirement to complete the above audit requirements in the manner set forth.

15.38 **[Reserved.]**

15.39 **Disclosures.** If at any time Borrower shall become aware of the existence or occurrence of any financial or economic conditions or natural disasters which might have a Material Adverse Effect, Borrower shall promptly notify AHFC of the existence or occurrence thereof, unless AHFC has actual notice thereof, and of Borrower's opinion as to what effect such may have on the Property or Borrower. Borrower shall also give prompt notice to AHFC, unless AHFC has actual notice thereof, of (i) the serious illness or death of any principal or key employee of Borrower, (ii) any litigation or dispute, threatened or pending against or affecting Borrower, a Signatory Party, or the Property which could have a Material Adverse Effect, (iii) any Event of Default, (iv) any default by Borrower or any acceleration of any indebtedness owed by Borrower under any contract to which Borrower is a party which could have a Material Adverse Effect, and (v) any change in the character of Borrower's business as it existed on the date hereof which could have a Material Adverse Effect.

15.40 **Filing Documents.** Borrower will file for record the Deed of Trust that secures the Note.

15.41 **Delivery of Contracts.** Borrower will deliver to AHFC a true, correct and complete copy of each Contract within five (5) calendar days after the execution of it by all parties thereto. Within twenty (20) calendar days after a request by

AHFC, Borrower shall prepare and deliver to AHFC a complete listing of all Contracts, showing date, term, parties, subject matter, whether any defaults exist, and other information specified by AHFC, of or with respect to each of such Contracts, together with a true, correct and complete copy thereof (if so requested by AHFC).

- 15.42 **Further Assurances and Corrections.** From time to time, at the request of AHFC, Borrower will (i) promptly correct any defect, error, or omission which may be discovered in the contents of this Loan Agreement or in any other Loan Document or in the execution or acknowledgment thereof; (ii) execute, acknowledge, deliver, record and/or file such further instruments (including, without limitation, amendments to this Loan Agreement, further deeds of trust, security agreements, financing statements, continuation statements and assignments of rents) and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in AHFC's opinion, to carry out more effectively the purposes of this Loan Agreement and the Loan Documents and to subject to the absolute assignments, liens and security interests hereof and thereof any property intended by the terms hereof or thereof to be covered hereby or thereby, including without limitation, any renewals, additions, substitutions, replacements, or appurtenances to the Property; (iii) execute, acknowledge, deliver, procure, file, and/or record any document or instrument (including without limitation, any financing statement) deemed advisable by AHFC in AHFC's sole discretion to protect the liens and the security interests herein granted against the rights or interests of third persons; and (iv) pay all costs connected with any of the foregoing.

**Section 16 NEGATIVE COVENANTS.** Borrower hereby unconditionally covenants and agrees with AHFC until the entire Indebtedness shall have been paid in full and all of the Obligations shall have been fully performed and discharged as follows:

- 16.1 **Use Violations.** Borrower will not use, maintain, operate, or occupy, or allow the use, maintenance, operation, or occupancy of, the Property in any manner which (i) violates any Legal Requirement, (ii) may be dangerous, unless safeguarded as required by law and/or appropriate insurance, (iii) constitutes a public or private nuisance, or (iv) makes void, voidable, or cancelable, or increases the premium of, any insurance then in force with respect thereto.
- 16.2 **Waste; Alterations.** Borrower will not commit or permit any waste or impairment of the Property and will not (subject to the provisions of subsection 7.4 hereof) without the prior written consent of AHFC, make or permit to be made any alterations or additions to the Property of a material nature.
- 16.3 **Replacement of Fixtures and Personalty.** Borrower will not, without the prior written consent of AHFC, permit any of the Fixtures or Personalty to be removed at any time from the Land or Improvements unless the removed item is removed temporarily for purposes of maintenance and repair or, if removed permanently, is replaced by an article of equal suitability and value, owned by Borrower, free and clear of any lien or security interest except as may be approved in writing by AHFC.

- 16.4 **No Drilling.** Borrower will not, without the prior written consent of AHFC, permit any drilling or exploration for or extraction, removal, or production of, any Minerals from the surface or subsurface of the Land regardless of the depth thereof or the method of mining or extraction thereof.
- 16.5 **Additional Obligations.** Borrower shall not create or incur any additional liability, whether contingent or non-contingent, with respect to the Property that is secured by a lien on the Property, except as specifically allowed or contemplated pursuant to the Loan Documents or, in writing, by the AHFC.

**Section 17** **EVENTS OF DEFAULT.**

- 17.1 The principal indebtedness evidenced by the Note or the unpaid balance thereof at the time outstanding, shall be due and payable at the election of the AHFC if any one or more of the following events shall occur for any reason whatsoever, and whether such occurrences shall be voluntary, involuntary or come about or be effected by operation of law, or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or Governmental Authority and is not cured or corrected within the times and in the manner required to cure or correct such event of default by Borrower as required by subsection 21.2 of this Loan Agreement:
- 17.1.1 **Payment of Indebtedness.** Default shall be made in the timely and complete payment (by payment or by credit as provided in the Note) of any installment or portion of the Indebtedness as and when the same shall become due and payable, whether at the due date thereof stipulated in the Loan Documents, upon acceleration or otherwise; or
- 17.1.2 **False Representation.** Any representation or warranty made by the Borrower herein or any statement or representations made in any certificate, statement or opinion delivered to the AHFC pursuant to this Loan Agreement, the Note, or any other Loan Documents shall prove to have been incorrect in any material respect as of the date made; or
- 17.1.3 **Performance of Obligations.** Default shall be made in the performance or observance of any of the Obligations; or
- 17.1.4 **Default Under Other Lien Documents.** Borrower shall default or commit an event of default under and pursuant to any other mortgage or security agreement which covers or affects any part of the Property; or
- 17.1.5 **Abandonment.** Borrower abandons or removes all or substantially all of the Improvements, Personalty or Fixtures without written approval from the AHFC; or
- 17.1.6 **Discontinuance of Operations.** Borrower vacates, or discontinues operations of or from, any substantial portion of the Property without written approval from the AHFC; or
- 17.1.7 **Bankruptcy or Insolvency.** Borrower shall admit in writing its inability to pay its debts generally as they become due, make an

assignment for the benefit of creditors, file a petition in bankruptcy, be adjudicated insolvent or bankrupt, petition or apply to any tribunal for the appointment of any receiver or trustee thereof or of any substantial part of its property or commence any proceedings under any arrangement, readjustment of debt, or statute of any jurisdiction, whether now or hereafter in effect; or there is commenced against Borrower any such proceeding which remains undismissed for a period of thirty (30) calendar days; or

17.1.8 **Receivership.** Borrower by any act indicates its consent to, approval of or acquiescence in any such proceeding or in the appointment of any receiver or of any trustee for Borrower with respect to a substantial part of its property; or

17.1.9 **Inability to Pay Judgment.** If any final judgment for the payment of money that is not fully covered by liability insurance and is in excess of \$10,000.00 shall be rendered against the Borrower concerning a claim filed with respect to the Property and not discharged within thirty (30) calendar days from the date of final disposition thereof including the exhaustion of all appellate rights; or

17.1.10 **Non-compliance with Loan Documents.** If Borrower defaults, breaches, or commits an event of default that is uncured pursuant to any other Loan Document; or

17.1.11 **Insurance not Maintained.** If Borrower does not keep in full force and effect or any agreement with a contractor of Borrower constructing Improvements or installing Personalty does not require such contractor to keep in full force and effect any insurance coverages required by the Insurance Requirement of this Loan Agreement.

17.2 Notwithstanding anything to the contrary contained herein or in the other Loan Documents, including without limitation the Note, AHFC agrees that if the holder of any loan insured by HUD or if HUD itself acquires ownership of the Property, then such holder or HUD, as applicable, may succeed to the interest of the initial Borrower with respect to this Agreement and the other Loan Documents and receive advances hereunder, subject to the terms and conditions of this Agreement and the other Loan Documents, provided that in no event shall this section be construed as obligating a successor in interest to the Borrower to take any action to continue construction of the Property.

#### **Section 18 REMEDIES IN THE EVENT OF DEFAULT.**

18.1 Upon the occurrences of any Event of Default as stated in Section 17 of this Loan Agreement AHFC may at any time, and without further notice take any or all of the following action:

18.1.1 If Borrower fails to cure such Event of Default within the time period provided by subsection 21.2 of this Loan Agreement:

18.1.2 demand repayment of the Note, and Borrower shall remit such amount to AHFC within ten (10) calendar days thereof;

- 18.1.3 cancel, suspend or terminate payment of any funds due Borrower under this Loan Agreement;
- 18.1.4 cancel, suspend or terminate this Loan Agreement in whole or part;
- 18.1.5 exercise control over the collateral pursuant to the Security Agreement; and
- 18.1.6 pursue such other measures as may be lawful, including suing for specific performance, for the recovery of damages and for the release or return of all or part of the funds committed herein.
- 18.1.7 If the Event of Default is material, in addition to the remedies described in Section 18 and any and all other rights, remedies and recourses available to it under any of the Loan Documents or otherwise available at law or in equity:
- 18.1.8 suspend payment of any funds due the Borrower under this Loan Agreement;
- 18.1.9 suspend the right of the Borrower to incur any additional obligations under this Loan Agreement in whole or part; or
- 18.1.10 suspend the right of the Borrower to continue any performance under this Loan Agreement in whole or part.
- 18.2 Notwithstanding anything to the contrary contained herein or in the other Loan Documents, including without limitation the Note, AHFC agrees that if the holder of any loan insured by HUD or if HUD itself acquires ownership of the Property, then such holder or HUD, as applicable, may succeed to the interest of the initial Borrower with respect to this Agreement and the other Loan Documents and receive advances hereunder, subject to the terms and conditions of this Agreement and the other Loan Documents, provided that in no event shall this section be construed as obligating a successor in interest to the Borrower to take any action to continue construction of the Property.

**Section 19 HOLD HARMLESS AND INDEMNITY.**

- 19.1 **Injuries or Damages.** Borrower shall perform all duties hereunder as an independent contractor and any of its employees performing work required by this Loan Agreement shall be deemed solely employees of Borrower or its subcontractor. Borrower shall save and hold harmless AHFC, its officers, agents, and employees from any and all liability of any nature or kind on account of any claims, audit exceptions, demands, suits, or damages including reasonable attorneys' fees and court costs arising or resulting from injuries or damages sustained by any persons or property resulting in whole or in part from the performance or omissions of any employee, agent, or representative of Borrower.
- 19.2 **Any and All Liability.** Borrower undertakes to indemnify AHFC from any and all liability, loss or damages AHFC may suffer as a result of claims, demands, costs, or judgments against it arising out of the performance of the terms of this Loan Agreement, provided that for so long as the Project and

Property is subject to a loan held or insured by HUD, any Borrower indemnity obligations shall be limited to Surplus Cash, as such term is defined in the Regulatory Agreement for Multifamily Projects by and between the Borrower and HUD. It is agreed that any indemnity obligations herein or in any other document executed in connection herewith are personal to Borrower or any other party entering an indemnification agreement with Lender. In the event that HUD becomes a successor in interest to the Borrower, none of the indemnity obligations shall apply to, or be binding on, HUD.

**Section 20 WAIVER OF NOTICE.** The Borrower hereby expressly waive any requirement for presentation, demand, protest, notice of protest or other notice or dishonor of any kind, other than the notice specifically provided for in this Loan Agreement.

**Section 21 Notices.**

- 21.1 All notices, demands and communications provided for herein or made hereunder shall be delivered, or sent by certified mail, return receipt requested, addressed in each case as follows, until some other address shall have been designated in a written notice to the other party hereto given in like manner:

If intended for Borrower: Austin Habitat for Humanity, Inc.  
Attn: The Saltillo  
500 West Ben White Boulevard  
Austin, Travis County, Texas 78704

If intended for AHFC: AUSTIN HOUSING FINANCE CORPORATION  
Attn: A&D Program Manager  
1000 East Eleventh Street, #200  
Austin, Travis County, Texas 78702

and shall be deemed to have been given or made when so delivered or mailed, except as herein otherwise expressly provided. Notification of a change of address shall be delivered to AHFC and Borrower within ten (10) calendar days of such change of address.

- 21.2 Notwithstanding anything herein contained in this Loan Agreement, the Note or the Loan Documents securing same to the contrary, it is agreed that AHFC shall not declare any amounts owing in the Note immediately due and payable if default is made in the payment of any installment of principal or interest thereon, as and when the same is or becomes due, unless any such default has not been fully cured within ten (10) calendar days after notice of such default shall have been given to Borrower and to the Limited Partner. Further, notwithstanding anything herein to the contrary, it is agreed that the AHFC shall not declare any amounts owing on the Note immediately due and payable in the event of a default or breach by Borrower of any of the covenants or obligations herein contained or contained in any instrument securing the payment of the Note or executed in connection herewith other than the covenant to timely pay installments of principal and interest on the Note, unless

any such default has not been fully cured within thirty (30) calendar days after notice of such default or breach shall have been given to Borrower and to the Limited Partner; provided, however, if Borrower commences the process of curing such default and notifies AHFC of such action within such thirty day period, or within any subsequent thirty day period, and proceeds diligently and continuously toward fully curing such default, Borrower shall have an additional period, in increments of thirty (30) calendar days each, up to ninety (90) calendar days to fully cure such default. Any such notice shall be given in writing and shall be deemed to be given three (3) calendar days after the date such notice is deposited, postage prepaid, via certified mail, return receipt requested, in the U.S. mail addressed to Borrower at the address set forth in subsection 21.1 of this Loan Agreement. Any cure tendered by Limited Partner shall be treated as a cure tendered by Borrower, and shall be accepted or rejected on the same terms as if the cure had been tendered by Borrower.

**Section 22 SURVIVAL OF REPRESENTATIONS COVENANTS AND WARRANTIES.** All representations, covenants and warranties contained herein shall survive the execution and delivery of the Loan Documents, any investigation at any time made by the AHFC or on its behalf, and any sale or transfer of the Loan Documents.

**Section 23 ENTIRE AGREEMENT, CONSTRUCTION AND AMENDMENT.** The Loan Documents constitute the entire agreement between the parties pertaining to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings of the parties in connection therewith. These Loan Documents may not be changed, amended or terminated orally but only by agreement in writing and signed by the party against whom enforcement of any change, amendment or termination is sought. Provided the amendment does not increase the Loan amount, the City Manager or the City Manager's designee is authorized to execute any amendment to the Loan Documents without further authorization by the AHFC Board of Directors.

**Section 24 FORCE MAJEURE.**

- 24.1 The failure of a party to perform its obligations hereunder shall be excused to the extent, and for the period of time, such failure is caused by the occurrence of an event of Force Majeure. Force Majeure shall mean acts and events not within the control of the party claiming suspension, and which that party has been unable by the exercise of due diligence to avoid or prevent. Events of Force Majeure include, without limitation: Acts of God; strikes, lockouts or other industrial disputes; inability to obtain material, equipment or labor; epidemics, civil disturbances, acts of domestic or foreign terrorism, wars, riots or insurrections; landslides, lightning, earthquakes, fires, storms, floods or washouts; arrests and restraint of rulers and people; interruptions by government or court orders; present or future orders of any regulatory body having proper jurisdiction and authority; explosions; and breakage or accident to machinery. Force Majeure does not include economic or market conditions which affect a party's cost, but not its ability, to perform.
- 24.2 Nothing contained herein shall be construed to require a party to settle a strike or other labor dispute against its will.

- 24.3 The party invoking Force Majeure shall give prompt, timely and adequate notice to the other party, by facsimile transmission or telephone confirmed promptly thereafter in the manner and at the address set forth in subsection 21.1 of this Loan Agreement, and shall use due diligence to remedy the event of Force Majeure, as soon as reasonably possible.

**Section 25 PAYMENT.** The Borrower will pay to AHFC at its notice address specified in subsection 21.1 of this Loan Agreement, or at such other address as it may designate in writing, all amounts payable with respect to the Loan Documents.

**Section 26 LEGAL COUNSEL.** The parties are each represented by legal counsel and have negotiated the Loan Documents with benefit of such counsel.

**Section 27 SUCCESSOR AND ASSIGNS.** All covenants, agreements, representations and warranties made in the Loan Documents or in certificates delivered in connection herewith shall, whether so expressed or not, bind and inure to the benefit of the successors and permitted assigns of the Borrower and AHFC.

**Section 28 COUNTERPARTS.** These Loan Documents may be executed in multiple originals.

**Section 29 SEVERABILITY.** In the event that any provisions of the Loan Documents or any other instrument executed at closing or the application thereof to any person or circumstances shall be declared to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remainder of such provisions and agreements shall nevertheless remain in full force and effect; and to this end, the provisions of all covenants, conditions and agreements described herein are deemed severable for this purpose.

**Section 30 NO WAIVER; REMEDIES CUMULATIVE.** No exercise, partial exercise, failure, forbearance or delay on the part of the AHFC in exercising any power or right under the Loan Documents shall operate as a waiver of the power or right, except as specifically provided herein. No remedy conferred in the Loan Documents is intended to be exclusive of any other remedy, and each and every other remedy given hereunder or now or hereafter existing at law or in equity by statute or otherwise, may be sought by the enforcing party.

**Section 31 EXECUTION BY ADDITIONAL PARTIES.** When any Signatory Party joins in the execution of any of the Loan Documents, said party has done so for the purpose of consenting to all of the terms and conditions in such instrument and agrees by such execution to be bound hereby.

**Section 32 SURVIVAL OF OBLIGATIONS.** All obligations of Borrower under the Loan Documents, which have not been fully performed, paid and satisfied at the termination of this Loan Agreement, shall survive the termination.

**Section 33 ALTERNATIVE DISPUTE RESOLUTION.** Initiation of any alternative dispute resolution under this Section 33 shall not relieve either party of its obligations under the Loan Documents regarding matters not disputed. Any agreement reached under this Section 33 shall be enforceable as a settlement agreement in any court having jurisdiction thereof.

- 33.1 If a dispute arises out of or relates to the Loan Documents, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages.

However, this Section 33 does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after the initial written request for a meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to Mediation as described in subsection 33.2. Negotiation as described in this subsection 33.1 may be waived by a written agreement signed by both parties, in which event the parties shall proceed directly to Mediation as described in subsection 33.2.

- 33.2 If the procedure to resolve the dispute through negotiation as described in subsection 33.1 fails or is waived in accordance with subsection 33.1, the parties agree to participate in Mediation in good faith for up to forty-five (45) calendar days immediately following the failure or waiver. The parties agree to pay the fees and expenses of the Mediation equally. In the event either party fails to reach resolution of the dispute through Mediation, then each party is released to pursue any other remedies available to each party.

**Section 34 GOVERNING LAW.** The Loan Documents shall be governed by and interpreted in accordance with the laws of the State of Texas. Although drafted by the AHFC, the Loan Documents shall be fairly construed, neither more strongly for nor against any party.

**Section 35 PERFORMANCE VENUE.** The Loan Documents shall be performed in Travis County, Texas. Venue shall be in Travis County, Texas.

**EXECUTED AND DELIVERED** effective as of the date first above written.

**Borrower:** AUSTIN HABITAT FOR HUMANITY, INC.

BY: Phyllis Snodgrass  
NAME: PHYLLIS SNODGRASS  
TITLE: CEO

Date: 8/7/2016

**AHFC:** AUSTIN HOUSING FINANCE CORPORATION

BY: Elizabeth Spencer  
NAME: ELIZABETH A. SPENCER  
TITLE: Treasurer

Date: 7/5/16

**Attached Exhibits:**

- EXHIBIT A - Definitions
- EXHIBIT B - Statement of Work (plus attachments)
- EXHIBIT C - Insurance Requirements

**PREPARED IN THE LAW OFFICE OF:**

City of Austin  
Law Department

## Exhibit A

### ACQUISITION AND DEVELOPMENT PROGRAM DEFINITIONS

**Borrower:** AUSTIN HABITAT FOR HUMANITY, INC.

**Section 1 Approved Budget:** The budget setting forth the Borrower's expenses in connection with the Project and set forth in an attachment to the Statement of Work and by this reference incorporated in it, as the same may be amended from time to time with the AHFC's prior written consent.

**Section 2 Architectural Barrier Laws:** Any and all architectural barrier laws including, without limitation, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, the Americans with Disabilities Act of 1990, P.L. 101-336, the Architectural Barriers Act of 1968, 42 U.S.C. 4151 et seq., the Architectural Barrier Act, 23 Tex. Rev. Civ. Stat. art. 9102, all as amended, or any successors thereto.

**Section 3 Borrower:** The entity identified at the beginning of these definitions and in the first paragraph of the Loan Agreement and any Signatory Party.

**Section 4 Borrower Fiscal Year:** Each one year period ending on December 31 of each year during the term of the Loan Agreement, which period shall also be the fiscal year of the Mortgaged Property.

**Section 5 CFDA #:** The Catalog of Federal Domestic Assistance Programs number assigned by the federal government to a particular federal assistance program.

**Section 6 C.F.R.:** The Code of Federal Regulations.

**Section 7 Certificate of Occupancy:** The certificate issued by the appropriate Governmental Authority authorizing the occupancy of the Mortgaged Property following completion of the work described in the Statement of Work.

**Section 8 City Ordinances:** Any and all ordinances of the Austin City Code, provided any subsequently enacted ordinance does not unconstitutionally impair the rights of Borrower under the Loan Agreement.

**Section 9 Commercial Code:** The Uniform Commercial Code, Title 1, Texas Business and Commerce Code, as amended from time to time.

**Section 10 Compliance Affidavit:** The affidavit in a form acceptable to AHFC, executed by Borrower and evidencing payment of contractors and subcontractors with respect to a Draw Request Form.

**Section 11 Consideration:** Ten and No/100 Dollars (\$10.00) and other good and valuable consideration advanced by the AHFC to the Borrower pursuant to the Loan Agreement, the receipt and sufficiency of which is acknowledged.

**Section 12 Construction Monitoring Consultant:** The AHFC employee or agent, compensated by AHFC, who will review the Contractor's records to verify that the work performed by Contractor is in accordance with the Obligations.

**Section 13 Contracts:** All of the right, title, and interest of Borrower, including equitable rights, in, to, and under any and all (i) contracts for the purchase of all or any portion of the Mortgaged Property, whether such contracts are now or at any time hereafter existing, including but without limitation, any and all earnest money or other deposits escrowed or to be escrowed or letters of credit provided or to be provided by the purchasers under such contracts, including all amendments and supplements to and renewals and extensions of such contracts at any time made, and together with all payments, earnings, income, and profits arising from the sale of all or any portion of the Mortgaged Property or from such contracts and all other sums due or to become due under and pursuant thereto and together with any and all earnest money, security, letters of credit or other deposits under any such contracts; (ii) contracts, licenses, permits, and rights relating to living unit equivalents or other entitlement for water, wastewater, and other utility services whether executed, granted, or issued by a private person or a governmental or quasi-governmental agency, which are directly or indirectly related to, or connected with, the development, ownership, maintenance or operation of the Mortgaged Property, whether such contracts, licenses, and permits are now or at any time thereafter existing, including without limitation, any and all rights of living unit equivalents or other entitlement with respect to water, wastewater, and other utility services, certificates, licenses, zoning variance, permits, and no-action letters from each governmental authority required: (a) to evidence compliance by Borrower and all improvements constructed or to be constructed on the Mortgaged Property with all Legal Requirements applicable to the Mortgaged Property, and (b) to develop and/or operate the Mortgaged Property as a commercial and/or residential project, as the case may be; (iii) any and all right, title, and interest Borrower may have in any financing arrangements relating to the financing of or the purchase of all or any portion of the Mortgaged Property by future purchaser; and (iv) all other contracts which in any way relate to the use, enjoyment, occupancy, operation, maintenance, repair, management or ownership of the Mortgaged Property (save and except any and all Leases), including but not limited to maintenance and service contracts and management agreements.

**Section 14 Debtor Relief Laws:** Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts, or similar laws affecting the rights of creditors.

**Section 15 Deed of Trust:** That certain deed of trust conveying the Mortgaged Property to the Trustee in such form as is acceptable to the AHFC, dated even date with the Loan Agreement, incorporated herein by reference, executed by Borrower, and securing the payment of the Indebtedness and the performance and discharge of the Obligations for the benefit of AHFC.

**Section 16 Demographic Report:** The report required to be filed with the AHFC in the form set forth in an attachment to the Statement of Work and by this reference incorporated in it or as otherwise required by AHFC which sets forth the racial, ethnic, income and gender data on

Borrower's participants sufficient to report to HUD on the extent to which these categories of persons have participated in, or benefited from, the activities under the Loan Agreement, the Program Guidelines and the Statement of Work.

**Section 17 Disposition:** Any sale, lease (except as permitted under the Security Agreements), exchange, assignment, conveyance, transfer, trade, or other disposition of all or any portion of the Mortgaged Property (or any interest therein) or all or any part of the beneficial ownership interest in Borrower (if Borrower is a corporation, partnership, general partnership, limited partnership, joint venture, trust, or other type of business association or legal entity).

**Section 18 Eligible Household:** A "low- and moderate-income household" or a "low- and moderate-income person" as defined at 24 C.F.R. §570.3.

**Section 19 Environmental Law:** Any federal, state, or local law, statute, ordinance, or regulation, whether now or hereafter in effect, pertaining to health, industrial hygiene, or the environmental conditions on, under, or about the Mortgaged Property, including without limitation, the following, as now or hereafter amended: Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601 et seq.; Resource, Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq. as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Pub. L. 99-499, 100 Stat. 1613; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. § 1101 et seq.; Clean Water Act ("CWA"), 33 U.S.C. § 1251 et seq.; Clean Air Act ("CAA"), 42 U.S.C. § 7401 et seq.; Federal Water Pollution Control Act ("FWPCA"), 33 U.S.C. § 1251 et seq.; and any corresponding state laws or ordinances including but not limited to the Texas Water Code ("TWC") § 26.001 et seq.; Texas Health & Safety Code ("THSC") § 361.001 et seq.; Texas Solid Waste Disposal Act, Tex. Rev. Civ. Stat. Ann. art. 4477-7; and regulations, rules, guidelines, or standards promulgated pursuant to such laws, statutes and regulations, as such statutes, regulations, rules, guidelines, and standards are amended from time to time. The terms "release," "removal," "environment," and "disposal" shall have the meanings given such terms in CERCLA, and the term "disposal" shall also have the meaning given it in RCRA; provided that in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment, and provided further that to the extent the laws of the State of Texas establish a meaning for "release," "removal," "environment," or "disposal," which is broader than that specified in either CERCLA and RCRA, such broader meaning shall apply.

**Section 20 Event of Default:** Any happening or occurrence described as an "Event of Default" in the Loan Agreement.

**Section 21 Fixtures:** All materials, supplies, equipment, systems, apparatus, and other items now owned or hereafter acquired by Borrower and now or hereafter attached to, or installed in any of the Improvements or the Land, which are now owned or hereafter acquired by Borrower and are now or hereafter attached to the Land or the Improvements, and including but not limited to any and all partitions, dynamos, window screens and shades, draperies, rugs and other floor coverings, awnings, motors, engines, boilers, furnaces, pipes, cleaning, call and sprinkler systems, fire extinguishing apparatus and equipment, water tanks, swimming pools, heating, ventilating, refrigeration, plumbing, laundry, lighting, generating, cleaning, waste disposal, transportation (of people or things, including but not limited to, stairways, elevators, escalators, and conveyors), incinerating, air conditioning and

air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and lighting, traffic control, waste disposal, raw and potable water, gas, electrical, storm and sanitary sewer, telephone and cable television facilities, and all other utilities whether or not situated in easements, together with all accessions, appurtenances, replacements, betterments, and substitutions for any of the foregoing and the proceeds thereof.

**Section 22 Government Authority:** Any and all applicable courts, boards, agencies, corporations, commissions, offices, or authorities of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise), whether now or hereafter in existence.

**Section 23 Hazardous Substance:** Any substance, product, waste, or other material which is or becomes listed, regulated, or addressed as being a toxic, hazardous, polluting, or similarly harmful substance under any Environmental Law, including without limitation: (i) any substance included within the definition of "hazardous waste" pursuant to Section 1004 of RCRA; (ii) any substance included within the definition of "hazardous substance" pursuant to Section 101 of CERCLA; (iii) any substance included within (a) the definition of "regulated substance" pursuant to Section 26.342(11) of TWC; or (b) the definition of "hazardous substance" pursuant to Section 361.003(11) of THSC; (iv) asbestos; (v) polychlorinated biphenyls; (vi) petroleum products; (vii) underground storage tanks, whether empty, filled or partially filled with any substance; (viii) any radioactive materials, urea formaldehyde foam insulation or radon; (ix) any substance included within the definition of "waste" pursuant to Section 30.003(b) of TWC or "pollutant" pursuant to Section 26.001(13) of TWC; and (x) any other chemical, material or substance, the exposure to which is prohibited, limited or regulated by any Governmental Authority on the basis that such chemical, material or substance is toxic, hazardous or harmful to human health or the environment.

**Section 24 HUD:** The United States Department of Housing and Urban Development.

**Section 25 Impositions:** (i) All real estate and personal property taxes, charges, assessments, standby fees, excises, and levies and any interest, costs, or penalties with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which at any time prior to or after the execution hereof may be assessed, levied, or imposed upon any property, real, personal or mixed, or upon the Mortgaged Property or the ownership, use, occupancy, or enjoyment thereof, or any portion thereof, or the sidewalks, streets, or alleyways adjacent thereto; (ii) any charges, fees, license payments, or other sums payable for or under any easement, license, or agreement maintained for the benefit of the Mortgaged Property; (iii) water, gas, sewer, electricity, and other utility charges and fees relating to the Mortgaged Property; and (iv) assessments and charges arising under any subdivision, condominium, planned unit development, or other declarations, restrictions, regimes, or agreements affecting the Mortgaged Property.

**Section 26 Improvements:** Any and all buildings, covered garages, air conditioning towers, open parking areas, structures and other improvements of any kind or nature, and any and all additions, alterations, betterments or appurtenances thereto, now or at any time hereafter situated, placed, or constructed upon the Land or any part thereof; including, without limitation, the construction by Borrower of the improvements described in the Statement of Work.

**Section 27 Indebtedness:** (i) The principal of, interest on, or other sums evidenced by the Note or other Loan Documents, adjusted by such credits or forgiveness of amounts otherwise due as

allowed in the Note or the other Loan Documents; (ii) any other amounts, payments, or premiums payable under the Loan Documents; (iii) such additional or future sums (whether or not obligatory), with interest thereon, as may hereafter be borrowed or advanced from AHFC, its successors or assigns, by the then record owner of the Mortgaged Property, when evidenced by a promissory note which, by its terms, is secured by the Security Agreements (it being contemplated by Borrower and AHFC that such future indebtedness may be incurred); (iv) the Liquidated Damages; and (v) any and all other indebtedness, obligations, and liabilities of any kind or character of Borrower to AHFC, now or hereafter existing, absolute or contingent, due or not due, arising by operation of law or otherwise, or direct or indirect, primary or secondary, joint, several, joint and several, fixed or contingent, secured or unsecured by additional or different security or securities, including indebtedness, obligations, and liabilities to AHFC by Borrower as a member of any partnership, joint venture, trust or other type of business association, or other group, and whether incurred by Borrower as principal, surety, endorser, guarantor, accommodation party or otherwise, and any and all renewals, modifications, amendments, restatements, rearrangements, consolidations, substitutions, replacements, enlargements, and extensions thereof, it being contemplated by Borrower and AHFC that Borrower may hereafter become indebted to AHFC in further sum or sums. Notwithstanding the foregoing provisions of this definition, the Security Agreements shall not secure any such other loan, advance, debt, obligation or liability with respect to which AHFC is by applicable law prohibited from obtaining a lien on real estate, nor shall this definition operate or be effective to constitute or require any assumption or payment by any person, in any way, of any debt or obligation of any other person to the extent that the same would violate or exceed the limit provided in any applicable usury or other law.

**Section 28 Insurance Requirement:** The insurance coverages required to be maintained on the Mortgaged Property in an amount equal to the sum of (a) the amount of the Loan, plus (b) the amount of the Superior Loan, and described in **Exhibit "C"** which is attached to the Loan Agreement and by this reference incorporated in it.

**Section 29 Land:** All that certain real property or interest therein situated in the County of Travis, Texas, more particularly described in the Deed of Trust, together with all right, title, interest, and privileges of Borrower in and to (i) all streets, ways, roads, alleys, easements, rights-of-way, licenses, rights of ingress and egress, vehicle parking rights and public places, existing or proposed, abutting, adjacent, used in connection with or pertaining to such real property or the improvements thereon; (ii) any strips or gores of real property between such real property and abutting or adjacent properties; (iii) all water and water rights, timber and crops pertaining to such real estate; and (iv) all appurtenances and all reversions and remainders in or to such real property.

**Section 30 Leases:** Any and all leases, master leases, subleases, licenses, concessions, or other agreements (whether written or oral, or now or hereafter in effect) which grant to third parties a possessory interest in and to, or the right to use or occupy, all or any part of the Mortgaged Property, together with all security and other deposits or payments made in connection therewith.

**Section 31 Legal Requirements:** (i) Any and all present and future judicial decisions, statutes (including Architectural Barrier Laws, Environmental Laws and HUD Law), rulings, rules, regulations, permits, certificates, or ordinances (including City of Austin Ordinances) of any Governmental Authority in any way applicable to Borrower, any Signatory Party or the Mortgaged Property, including, without limiting the generality of the foregoing, the ownership, use, occupancy, possession, operation, maintenance, construction, alteration, repair, or reconstruction thereof, (ii)

any and all covenants, conditions, and restrictions contained in any deeds, other forms of conveyance, or in any other instruments of any nature that relate in any way or are applicable to the Mortgaged Property or the ownership, use, or occupancy thereof, (iii) Borrower's presently or subsequently effective bylaws and articles of incorporation, operating agreement and articles of organization or partnership, limited partnership, joint venture, trust, or other form of business association agreement, (iv) any and all Leases, (v) any and all Contracts, (vi) the Federal Requirements, and (vii) any and all leases, other than those described in (iv) above, and other contracts (written or oral), other than those described in (v) above, of any nature that relate in any way to the Mortgaged Property and to which Borrower may be bound, including, without limiting the generality of the foregoing, any lease or other contract pursuant to which Borrower is granted a possessory interest in and to the Land and/or the Improvements. Further, any changes in applicable statutes, rulings, rules, regulations, permitting certificates, or ordinances of any Governmental Authority or the Federal Requirements are automatically incorporated herein without specific reference.

**Section 32 Loan:** An amount equal to the principal sum payable in the Note or so much thereof as may be outstanding from time to time pursuant to the Loan Documents which AHFC agrees to lend to Borrower, and the Borrower hereby agrees to borrow from the AHFC and repay to, or as further described in the Note receive credit from, AHFC or its assigns.

**Section 33 Loan Agreement:** That certain Acquisition and Development Program Loan Agreement, entered into by and between Borrower and AHFC, and dated the Effective Date.

**Section 34 Loan Documents:** The Loan Agreement, the Note, the Security Agreements, the Restrictive Covenant Running with the Land, and any and all other documents now or hereafter executed by Borrower, or any other person or party in connection with the loan evidenced by the Loan Agreement or in connection with the payment of the Indebtedness or the performance or discharge of the Obligations.

**Section 35 Loan Proceeds:** The Loan amounts paid by AHFC to Borrower in accordance with the terms and conditions of the Loan Agreement.

**Section 36 Material Adverse Effect:** Any material and adverse effect on (i) the business condition (financial or otherwise), operations, prospects, results of operations, capitalization, liquidity or any properties of Borrower, taken as a whole, (ii) the value of the Mortgaged Property, (iii) the ability of Borrower (or if Borrower is a partnership, joint venture, or other type of business association, of any of the parties comprising Borrower or of the ground lessor if the estate held by Borrower in the Land is a leasehold estate) to pay and perform the Indebtedness and the Obligations, respectively, or (iv) the validity, enforceability or binding effect of any of the Loan Documents.

**Section 37 Mediation:** A forum in which an impartial Mediator facilitates communication between the parties to promote reconciliation, settlement or understanding among them. At a minimum process shall include: 1) conducting an on-site investigation, if the Mediator deems it necessary, appropriate, by the Mediator for fact gathering purposes, 2) a meeting of all parties for the exchange of points of view, and 3) separate meetings between the Mediator and each party to the dispute for the formulation of resolution alternatives.

**Section 38 Mediator:** A person selected in accordance with the provisions of the Loan Agreement trained in mediation skills. The person selected may also be a person who is trained in the subject matter of the dispute and/or a contract interpretation expert. The parties agree to act in good faith in the selection of the person and to give consideration to qualified individuals nominated by either party. If the parties fail to agree on a person within thirty (30) calendar days of initiation of the Mediation, the Mediator shall be selected by the Travis County Dispute Resolution Center.

**Section 39 Minerals:** All substances in, on, under, or above the Land which are now, or may become in the future, intrinsically valuable (that is, valuable in themselves) and which may be now or in the future enjoyed through extraction or removal from the property, including without limitation, oil, gas, and all other hydrocarbons, coal, lignite, carbon dioxide and all other non-hydrocarbon gases, uranium and all other radioactive substances, and gold, silver, copper, iron and all other metallic substances or ores.

**Section 40 Monitors:** HUD, Trustee and AHFC, and their respective agents, representatives, and employees.

**Section 41 Mortgaged Property:** The Land, Minerals, Fixtures, Improvements, Personality, Contracts, Leases and Rents, and any interest of Borrower now owned or hereafter acquired in and to the Land, Minerals, Fixtures, Improvements, Personality, Contracts, Leases and Rents, together with any and all other security and collateral of any nature whatsoever, now or hereafter given for the repayment of the Indebtedness or the performance and discharge of the Obligations. As used in the Loan Documents, the term "Mortgaged Property" shall be expressly defined as meaning all or, where the context permits or requires, any portion of the above and all or, where the context permits or requires, any interest therein.

**Section 42 Note:** That certain promissory note in such form as is acceptable to the AHFC, dated even date with the Loan Agreement, incorporated herein by reference, executed by Borrower and, if applicable, guaranteed by one or more guarantors, and payable to the order of AHFC in the principal sum of the Loan, bearing interest as therein specified, containing an attorney's fee clause, interest and principal being payable as therein specified, finally maturing as stated in the note, and secured by, among other things, the Security Agreements; and any and all renewals, modifications, amendments, rearrangements, consolidations, reinstatements, enlargements, or extensions of such promissory note or any promissory note or notes given in renewal, substitution or replacement therefor.

**Section 43 Obligations:** Any and all of the covenants, conditions, warranties, representations, and other obligations (other than to repay the Indebtedness) made or undertaken by Borrower, or any other person or party to the Loan Documents, to AHFC, Trustee, or others as set forth in the Loan Documents, and in any deed, lease, sublease, or other form of conveyance, or any other agreement pursuant to which Borrower is granted a possessory interest in the Land.

**Section 44 Performance Report:** The report required to be filed with the AHFC in the form set forth in an attachment to the Statement of Work and by this reference incorporated in it or as otherwise required by AHFC which sets forth Borrower's performance activities under the Loan Agreement, the Program Guidelines and the Statement of Work for the reporting period.

**Section 45 Personalty:** All of the right, title, and interest of Borrower in and to (i) furniture, furnishings, equipment, machinery, goods (including, but not limited to, crops, farm products, timber and timber to be cut, and extracted Minerals); (ii) general intangibles, money, insurance proceeds, accounts, contract and subcontract rights, trademarks, trade names, copyrights, chattel paper, instruments, investment property, letters of credit, inventory; (iii) all cash funds, fees (whether refundable, returnable or reimbursable), deposits or other funds or evidences of cash, credit or indebtedness deposited by or on behalf of Borrower with any Governmental Authority, providers of utility services, public or private, including specifically, but without limitation, all refundable, returnable, or reimbursable tap fees, utility deposits, commitment fees and development costs, any awards, remunerations, reimbursements, settlements, or compensation heretofore made or hereafter to be made by any Governmental Authority pertaining to the Mortgaged Property, including, but not limited to, those for any vacation of, or change of grade in, any streets affecting the Land or Improvements and those for municipal utility district or other utility costs incurred or deposits made in connection with the Land; and (iv) all other personal property of any kind or character as defined in and subject to the provisions of the Commercial Code (Chapter 9 - Secured Transactions); any and all of which are now owned or hereafter acquired by Borrower, and which are now or hereafter situated in, on, or about the Land or the Improvements, and necessary to the complete and proper planning, development, construction, financing, use, occupancy, or operation thereof, or acquired (whether delivered to the Land or stored elsewhere) for use in or on the Land or the Improvements, together with all accessions, replacements, and substitutions thereto or therefor and the proceeds thereof.

**Section 46 Program Guidelines:** The Acquisition and Development Program Loan Guidelines approved by the City of Austin on January 2, 2013, as may be amended from time to time, which describes the program requirements of the Project that is proposed to be financed by proceeds from the Loan.

**Section 47 Project:** The new construction of eleven (11) single family homes with the following addresses anticipated to be 706, 708, 710, 712, 714, 716, 718, 711, 713, 715, and 717 Egger Street, Austin, Travis County, Texas, as described in the Statement of Work.

**Section 48 Receipts:** Any receipt of funds (but not Advances) in connection with the Project.

**Section 49 Rents:** All of the rents, royalties, issues, bonus monies, revenues, income, proceeds, profits, security and other types of deposits (after Borrower acquires title thereto), and other benefits paid or payable by parties to the Leases (other than Borrower) for using, leasing, licensing, possessing, operating from, residing in, selling, or otherwise enjoying all or any portion of the Mortgaged Property.

**Section 50 Restricted Period:** The period beginning on the date a residence constructed under this loan agreement is conveyed to an income eligible buyer, and ending ten (10) years thereafter.

**Section 51 Security Agreements:** The Deed of Trust.

**Section 52 Signatory Party:** Any signatory to any of the Loan Documents that signs on Borrower's behalf that is a corporation, general partnership, limited partnership, limited liability company, joint venture, trust, or other type of business organization.

**Section 53 Statement of Work:** The work required to be completed with respect to the Mortgaged Property which will be funded by the Loan and described in **Exhibit "B"** which is attached to the Loan Agreement and by this reference incorporated in it.

**Section 54 Tax Code:** The U.S. Internal Revenue Code of 1986, as amended, any and all U.S. Department of Treasury Regulations issued pursuant thereto in temporary or final form, and any and all federal, state, county, municipal and city rules and rulings, notices, requirements, statutes, regulations or laws governing or relating to taxes and/or taxation, and any and all successor statutes thereof.

**Section 55 Trustee:** The individual described as Trustee in the Deed of Trust.

**Section 56 U.S.C.:** The United States Code.

**EXHIBIT B**  
**STATEMENT OF WORK AND BUDGET**

**AUSTIN HABITAT FOR HUMANITY, INC.**  
**The Saltillo Pre-Development**  
**\$294,773 – HOME Funds - CDFA #14.239**

- I. Borrower:** Austin Habitat for Humanity, Inc.  
500 West Ben White Boulevard  
Austin, Texas 78704
- II. PROGRAM:** Acquisition and Development Program of the Austin Housing Finance Corporation

**III. PROJECT DESCRIPTION:**

**Purpose of Loan.** The HOME award to Austin Habitat for Humanity, Inc. (hereafter, "Borrower") is provided through a deferred-payment, 0% interest loan in the amount of \$294,773.00 for the purpose of funding pre-development costs that will lead to the development of twenty (20) or more single-family attached homes to be sold to buyers whose total household incomes are at or below 80% of the Median Family Income (MFI) for the Austin-Round Rock-San Marcos, TX Metropolitan Statistical Area. The property upon which the homes are to be developed as a result of this this Loan Agreement is located at 1409 and 1411 East 4th Street, Austin, Travis County, Texas 78702 (the "Property").

**IV. PERFORMANCE REQUIRED:**

- 1. Pre-Development Work on the Property.**
  - Borrower shall engage for professional consulting services in civil engineering, architecture, landscape architecture, and other work necessary that will result in development cost estimates, a site development permit, and approved building plans for the development of no fewer than twenty (20) homes on the property. Borrower agrees that any homes developed on the Property as the result of this Loan Agreement shall comply with the applicable federal HOME regulations found at 24 CFR Part 92 *et seq.*
  - Borrower shall demonstrate to AHFC that the work was performed through submission of documentation as requested by AHFC which may include, but not be limited to, engineering reports, plans, drawings, and cost estimates for development of the property.
- 2. Approved Budget & Eligible Use of Funds.** Funds drawn on this contract shall not exceed \$294,773 and shall be drawn according to the budget as follows:

Sources of Funds	Amounts	Uses of Funds	Amounts
HOME Funds	\$294,773	Soft Costs: Pre-development Costs	\$294,773
TOTAL	\$294,773	TOTAL	\$294,773

## V. OTHER CONDITIONS AND REQUIREMENTS

1. **Progress Payments.** Borrower shall submit its request for payment of expenses by submitting to AHFC an original invoice as described below with copies of documentation supporting the amount of the reimbursement requested. For the work to be performed under the Loan Agreement, such documentation may include, but may not be limited to, copies of:

- Invoices;
- Bills;
- Canceled checks;
- Receipts; and
- Any other documentation that substantiates an eligible expense incurred by the Borrower during the agreement period.

Unless otherwise authorized by AHFC, the frequency of requests for reimbursement shall be limited to no more than once per month until the work is completed or all funds have been expended, whichever is earlier.

### Vendor Invoice Guidelines:

- All invoices must be submitted in English.
  - The invoice must have a unique invoice number that will not be duplicated.
  - The invoice must have a date.
  - The vendor name and address on the invoice must match the City's Vendor database information exactly.
  - The invoice contains a description of the items or services purchased.
  - The invoice must include copies of documentation to support the amount being requested by the Borrower.
2. **AHFC Lien.** A lien will be placed upon the Property to secure the Promissory Note. The release or partial release of lien is dependent upon the sale of homes developed on the property to eligible homebuyers, or other conditions upon which the parties may agree that are not in conflict with 24 CFR 92.200, *et seq.*
  3. **Required Reports, Actions, and Documentation.** Borrower shall submit reports or requests to AHFC according to the following schedule, and other reports or revisions to reports upon request:

Required Reports, Actions, or Documentation Needed	Timeline
<b>Draw Requests/Invoice/Loan Proceeds Disbursement Request</b>	Not more than once monthly until the work to be performed under this Loan Agreement is completed
<b>Audited Financial Statements, Auditor's Opinion and Management Letters</b> (See Section 15.37 of Loan Agreement)	Within 180 calendar days following the end of each Borrower's Fiscal Year (must be provided annually)
<b>Contract Close-Out Package</b>	In such form as may be required by AHFC and within 90 days after the termination of this Loan Agreement, including any extensions granted.

4. **Contract Expiration & Termination.** The work to be performed under this loan agreement shall be completed no later than **August 31, 2024.**

The City of Austin and the Austin Housing Finance Corporation are committed to compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended. Reasonable modifications and equal access to communications will be provided upon request. Please call (512) 974-3100 (voice) or contact Relay Texas at 7-1-1.

The City of Austin and the Austin Housing Finance Corporation do not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs and activities. David Ondich has been designated as the City's ADA/Section 504 Coordinator. Her office is located at 505 Barton Springs Road, Suite 600. If you have any questions or complaints regarding your ADA/Section 504 rights, please call the ADA/Section 504 Coordinator at (512) 974-3256 (voice) or Relay Texas at 7-1-1.

This publication is available in alternative formats. Please call (512) 974-3100 (voice) or contact Relay Texas at 7-1-1 for assistance.

La City of Austin y la Austin Housing Finance Corporation está comprometida a cumplir con los requisitos de la Ley Americanos con Incapacidades (ADA) y con la Sección 504 de la Ley de Rehabilitación de 1973, y sus enmiendas. Bajo petición expresa, se harán las modificaciones que procedan y se proveerá igualdad de acceso a la información. Para asistencia, por favor llame al (512) 974-3100 (voz) o llame a Relay Texas a 7-1-1.

La City of Austin y la Austin Housing Finance Corporation no permite discriminación sobre la base de incapacidad en la admisión o acceso para, o en el tratamiento o empleo, en sus programas y actividades. David Ondich ha sido designada como la Coordinadora de la ADA/ Sección 504 de la Ciudad de Austin. Su oficina está localizada en 505 BARTON SPRINGS ROAD, SUITE 600. Preguntas o motivos de queja sobre sus derechos bajo la ADA/ Sección 504 deben ser dirigidas a la Coordinadora de la ADA/ Sección 504 al (512) 974-3256 (voz) o llame a Relay Texas a 7-1-1.

Esta publicación está disponible en formatos alternativos. Para asistencia, por favor llame al (512) 974-3100 (voz) o llame a Relay Texas a 7-1-1.



City of Austin, Neighborhood Housing and Community Development Office  
 P.O. Box 1088, Austin, Texas 78767  
 (512) 974-3100 Fax (512) 974-3161 [www.cityofaustin.org/housing](http://www.cityofaustin.org/housing)

FY 2016 Area Median Family Income  
 For Travis County, Texas  
 \$77,800 (4-person household) MSA:  
 Austin – Round Rock, TX.

## 2016 HOME Program Income Limits by Household Size Effective Date: June 6, 2016

Median Income Limit	1 Person Household	2 Person Household	3 Person Household	4 Person Household	5 Person Household	6 Person Household	7 Person Household	8 Person Household
20%	10,900	12,450	14,000	15,560	16,800	18,050	19,300	20,550
* 30%	16,350	18,700	21,050	23,350	25,250	27,100	29,000	30,850
(30% MFI is defined by HUD as extremely low-income)								
40%	21,800	24,900	28,000	31,120	33,600	36,100	38,600	41,100
* 50%	27,250	31,150	35,050	38,900	42,050	45,150	48,250	51,350
(50% MFI is defined by HUD as very low income)								
* 60%	32,700	37,380	42,060	46,680	50,460	54,180	57,900	61,620
65%	35,400	40,450	45,000	50,570	54,600	58,650	62,700	66,750
70%	38,100	43,550	49,000	54,460	58,800	63,150	67,550	71,900
* 80%	43,600	49,800	56,050	62,250	67,250	72,250	77,200	82,200
(80% MFI is defined by HUD as low-income)								
100%	54,450	62,250	70,000	77,800	84,000	90,250	96,400	102,700
120%	65,350	74,700	84,000	93,360	100,850	108,300	115,750	123,250
140%	76,250	87,150	98,050	108,920	117,650	126,350	135,050	143,750

\* Income provided by HUD.

Other income limits calculated by NHCD based on the formula used by HUD.

MFI Chart was expanded to include other percentages used by NHCD.

# CPD Income Eligibility Calculator User Manual

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**Version 4.0**

**3/8/2016**

## Document History

Release No.	Date	Revision Description
1.0	11/1/12	Initial Creation
1.1	12/7/12	Inserted language about unearned income of minors and full-time students; inserted language about adult members of household; updated screenshots
1.2	3/28/13	Inserted language about addressing grantee requirements
1.3	3/10/14	Removed purge date
2.0	8/12/2014	Updated document to reflect HUD Exchange website rebranding
3.0	1/26/2016	Provided clarification on 30% income limit and minor edits throughout
4.0	3/8/2016	Added the Emergency Solutions Grants Program (ESG)
4.1	3/29/2016	Minor updates

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# Introduction

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The CPD Income Eligibility Calculator User Manual presents information on using the CPD Income Eligibility Calculator. It contains useful background information, glossary of terms, instructions, and links to additional resources.

The User Manual is organized as follows:

[Section 1: Overview](#)

[Section 2: Using the Calculator](#)

[Section 3: Terms and Definitions](#)

[Section 4: Income Determination Resources](#)

# Section 1: Overview

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## 1.1 INCOME CALCULATOR INTRODUCTION

### 1.1.1 What is the CPD Income Eligibility Calculator?

The CPD Income Eligibility Calculator is an interactive tool that makes determining the income eligibility and assistance amounts for beneficiaries of CPD programs as easy as 1-2-3. Simply enter the requested data and this Calculator will work behind the scenes to generate a summary of results for each beneficiary. You should then print out the summary and include it as part of the beneficiary's file.

The Calculator currently performs income eligibility and assistance amount calculations (as applicable) for the following HUD CPD programs:

- Brownfield Economic Development Initiative (BEDI)
- Community Development Block Grant Program (CDBG)
- CDBG Disaster Recovery Assistance (CDBG-DR)
- Emergency Solutions Grants Program (ESG)
- HOME Investment Partnerships Program (HOME)
- Housing Opportunities for Persons with AIDS (HOPWA)
- Neighborhood Stabilization Program (NSP)
- Section 108 Loan Guarantee Program
- Self-Help Homeownership Opportunity (SHOP)

The CPD Income Eligibility Calculator is a tool designed to assist CPD grantees in their responsibility to accurately calculate and appropriately document their income determinations of CPD program beneficiaries. It is not, and does not provide, online training regarding the rules for determining income (such as whose income to account, etc.) Refer to Section 4: Income Determination Resources for links to a number of resources that are available about the rules for determining income.

The Calculator is a tool to help a grantee calculate income, but it does not *verify* income. The Calculator should not replace the documentation collected by the grantee. The grantee must maintain all documentation and if using the Calculator, it is helpful to print out and maintain the summary documents generated in the Calculator for Annual Income, and as applicable Adjusted Income and Tenant Payments. Record retention will depend upon the CPD program so grantees should be aware of the length of time records must be kept as well as their own state or local laws related to record retention and privacy.

The Calculator is designed to calculate eligibility based on the amount of income that is entered for the beneficiary. Grantees may have specific requirements written into their policies and procedures that are not included or accounted for in the Income Eligibility Calculator (for example, minimum tenant contribution). Therefore, grantees should always review the final calculations produced from this tool and apply their own grantee's requirements if they are more restrictive. If this is the case, a note should be included in the beneficiary's file noting this change.

### 1.1.2 HUD Disclaimer

HUD makes no warranties or representations whatsoever regarding the quality, content, completeness, accuracy, or timeliness of the information and data contained in the CPD Income Eligibility Calculator. Please read through the terms and conditions of use, including the liability and privacy policy.

### 1.1.3 Policy Questions

If you have policy questions about income eligibility and determination, please contact HUD.

- For BEDI, CDBG, CDBG Disaster Recovery Assistance, HOME, and Section 108, contact your local HUD Field Office.
- For ESG, HOPWA, and NSP, submit your question via HUD Exchange Ask A Question and receive answers directly via email.
- For SHOP, contact HUD's Office of Affordable Housing Programs.

### 1.1.4 Technical Issues

If you have technical difficulties using the Income Eligibility Calculator, please contact [info@hudexchange.info](mailto:info@hudexchange.info).

## Section 2: Using the Calculator

### 2.1 REGISTER/LOG IN

Go to: <https://www.hudexchange.info/incomecalculator>

#### 2.1.1 Request an Account

To access the Income Eligibility Calculator, you must create an account and log in to the Calculator each time. Your account will give you access to calculations you have created in the past and allow you to create and save new ones.

**Step 1:** Click on **Register Now** at the right side of the screen.

**Step 2:** Carefully fill in all fields

- Note that all fields are required
- Be sure to create a username and password you will remember

**Step 3:** Click the **Create Account** button. Once you submit your registration information, you will be logged in.

#### 2.1.2 Log In

To log in, simply:

**Step 1:** Enter your username and password.

**Step 2:** Click on **Log In**.

#### 2.1.3 Forget Username or Password

If you forgot your username or password, please use the following instructions:

**Step 1:** Enter your email address in the **Forget Username and Password** box on the Income Eligibility Calculator Sign In page.

**Step 2:** Click on **Get Password**.

**Step 3:** You will receive an email at the address you entered containing your username and new password.

**Step 4:** Follow the log in instructions in the email to access the Calculator.

#### 2.1.3 Change Password

To change your password, please use the following instructions:

**Step 1:** Click on your user name in the upper right of the screen, then click "My Account." Note: you must be logged into the Income Eligibility Calculator in order to change your password.

**Step 2:** On the My Account page, click "Change password" and carefully enter a new password into the fields.

Step 3: Click on **Submit**.

## 2.2 START A NEW CALCULATION

Prior to starting a new calculation, you should have the following items available:

- A printer (or, a writing instrument and a piece of blank paper);
- Any previous income determinations completed for the beneficiary; and
- Documentation of income for all members of the beneficiary's family or household.

Allow yourself at least 15 minutes to complete each applicant's calculation summary. Some calculations may take longer depending upon the experience of the user, the number of household members, the speed of the internet connection, and other factors.

Go to: <https://www.hudexchange.info/incomecalculator>

### 2.2.1 Select a Program

Before getting started, it is best to know the mix of programs that may be funding an activity. You should then identify which CPD program has the most restrictive income determination requirements, and follow that program's path within the Income Eligibility Calculator.

From the Income Calculator Dashboard, select the applicable program.

**CPD Income Eligibility Calculator Dashboard**

Important Note: The calculator is a tool designed to help a user calculate income in accordance with an allowable definition, but it does not verify income. The calculator does not replace the documentation that must be collected and retained by the user. The user must maintain all necessary documentation, which, when using the calculator, will include saving and retaining the summary documents generated by the calculator. The Dashboard feature is designed to allow you to more easily update a beneficiary's income in the future - however it is not a repository for all previous years' income calculations completed in the past. Users must be sure to save and retain summary documents at the time of creation. Record retention requirements depend upon the CPD program; users should be aware of the length of time records must be kept as well as their own state or local laws related to record retention and privacy.

The FY2015 income limits are in effect for all programs within the CPD Income Calculator. The 30 percent income limits for the COBG, HOME, ESG, and HOVWA programs have been calculated based on the definition of Extremely Low-Income Family (ELI) as described in Consolidated Submission for CPD Programs section of 24 CFR part 91.5. Therefore, the ELI Limit is calculated as 30 percent of area median income and may not be the same as the Section 8 ELI Limit for your jurisdiction. The Section 8 Limit is calculated based on the definition of ELI as described in The 2014 Consolidated Appropriations Act, (Section 215 on page 128 Stat 635) which defines ELI as very low-income families whose incomes do not exceed the higher of the Federal poverty level or 30% of area median income.

Select a program and start a new calculation: [Select One](#)

CPD's Calculations

Show **10** entries

Search:

Beneficiary ID	No. of Members	Location	Calculation Type	Calculation Date	Status	Eligibility Status	Delete
51	6	Fort Wayne, IN MSA	Annual		In Progress		<input type="checkbox"/>
67	2	Anderson, IN MSA	Annual		In Progress		<input type="checkbox"/>
885	2	Duluth, MN-WI MSA	Annual		In Progress	Eligible	<input type="checkbox"/>

### 2.2.2 Select a Beneficiary ID

The Income Calculator asks for a "Beneficiary ID" instead of a "Last Name" to help protect the privacy of applicants to CPD programs. The Beneficiary ID you enter should be unique, will be included on the Calculator screens and printouts, and will be the key data element necessary to later find, complete, and/or edit the income determination performed for that beneficiary within the Calculator.

**DO NOT use any personal information to create a Beneficiary ID, including but not limited to names, social security numbers, or addresses.**

Each user is responsible for designing their own method for creating Beneficiary IDs, as well as maintaining and adequately protecting their own auditable records which associate each Beneficiary ID with the individual, family, or household whose income was determined (as appropriate and/or required under the rules of each CPD program.) Printouts from the Calculator for all programs except HOPWA will include both the Beneficiary ID and a blank space in which the Last Name of the associated individual, family, or household can be written or otherwise inserted.

**IMPORTANT NOTE:** Once you create a Beneficiary ID for an individual, family, or household, you cannot edit that Beneficiary ID. If you need to change that Beneficiary ID, you must create a new calculation.

### 2.2.2 Select Member IDs

The Income Calculator asks for "Member IDs" instead of "First Names" to help protect the privacy of applicants to CPD programs. Each Member ID you enter should be unique to an individual within the family or household associated with this Beneficiary ID. Printouts from the Calculator for all programs except HOPWA will include the Member IDs entered, along with a blank space in which the First Name of the associated individual can be written or otherwise inserted.

**DO NOT use any personal information to create Member ID(s), including but not limited to names, social security numbers, or addresses.**

Each user is responsible for designing their own method for creating Member IDs, as well maintaining and adequately protecting their own auditable records which connect Member IDs to the associated individuals within the family or household whose income was determined (as appropriate and/or required under the rules of each CPD program.)

The Income Calculator provides capability for up to 12 members per family or household.

**Note:** Simply leave all checkboxes blank if the member is over the age of 18 years old and does not meet any of the criteria listed on the Beneficiary Member table.

*Example: A 26-year old sibling of the head of household who is living in the household who is also non-disabled and is not a full-time student.*

**IMPORTANT NOTE:** Once you select the number of members, you cannot change the number of members for that Beneficiary. If you need to change the number of members, you must create a new calculation.

## 2.3 ANNUAL INCOME CALCULATION

Prior to calculating income, you should know which CPD program you are using as well as the activity (and for CDBG, NSP, etc. the national objective), or for ESG which component. Each CPD program calculates income a little differently and the rules surrounding the calculation differ depending upon the activity or component. This section is provided in the order of the income calculator, not specifically on the order of how you conduct income eligibility.

### 2.3.1 Income Limits

The 30 percent income limits used for the CDBG, ESG, HOME, and HOPWA programs have been calculated based on the definition of Extremely Low-Income Family (ELI) as described in Consolidated Submission for CPD Programs section of [24 CFR part 91.5](#). Therefore, the ELI Limit is calculated as 30 percent of area median income and may not be the same as the Section 8 ELI Limit for your jurisdiction. The Section 8 Limit is calculated based on the definition of ELI as described in [The 2014 Consolidated Appropriations Act](#), (Section 238 on page 128 Stat 635) which defines ELI as very low-income families whose incomes do not exceed the higher of the Federal poverty level or 30% of area median income.

The remaining income limits (50%, 60%, 80% and for NSP, 120%) are based upon the HUD [income limits](#) are published annually by HUD and are imported into the CPD Income Eligibility Calculator.

For each calculation, the user selects the geographic area (county or metropolitan area), the number of members in the beneficiary household, and the applicable income limit (30%, 50%, 60%, 80%, 120%). The Calculator then applies the

resulting annual income limit to the income determination being performed. Users should print the Income Limit page that is displayed by the Calculator for their files.

For 10 metropolitan statistical areas (MSAs), at the 80% income limit, they have the option to use either the HUD published 80% income limit or what is called an “uncapped income limit” based upon an exception the Secretary of HUD is authorized to provide under the Quality and Work Responsibility Act of 1998. The MSAs affected by this law are the following:

- Orange County, CA PMSA;
- San Francisco, CA PMSA;
- San Jose, CA PMSA;
- Danbury, CT PMSA;
- Stamford-Norwalk, CT PMSA;
- Washington, DC-MD-VA-WV PMSA;
- Bergen-Passaic, NJ PMSA;
- Middlesex-Somerset-Hunterdon, NJ PMSA;
- Nassau-Suffolk, NY PMSA; and
- Westchester County, NY

This law only covers HOME and CDBG programs and the uncapped limits are not provided in the Calculator as they are only an option for the grantee and not required. For further information, please check with your HUD Field Office and see the following website: <http://www.hud.gov/offices/cpd/systems/census/lowmod/uncapped.cfm>.

### 2.3.2 Self Certification of Annual Income by Beneficiary for Programs that Allow This Method

In some cases, activities may choose to use a verifiable self-certification to document the income of beneficiaries in lieu of a full income calculation or for recertification (see section 2.3.3). A verifiable self-certification is based on a Self-Certification of Annual Income by Beneficiary form in which the beneficiary states and signs-off on their income at the time of assistance.

The Self Certification of Annual Income by Beneficiary is a written statement from the beneficiary documenting the definition used to determine Annual (Gross) Income, the number of beneficiary members in the family or household (as applicable based on the activity), and the relevant characteristics of each member for the purposes of income determination. To complete the form, the user selects the definition of income used, fills in the blank fields, and checks

only the boxes that apply to each member. Adult beneficiary members must then sign the form to certify that the information is complete and accurate, and that source documentation will be provided upon request. The form includes space for up to 12 members of a beneficiary. Users should print the Self Certification of Annual Income by Beneficiary form and include the completed form in their beneficiary files. For HOPWA, users must not enter or write any personal information on the printout of the form including but not limited to names, social security numbers, or addresses.

***Using a self-certification approach to income documentation can put the activity at possible risk if a beneficiary is later audited and determined to be over the applicable income limit.***

The following terms are used in the Self-Certification of Annual Income by Beneficiary form. Each of these terms is defined in the Terms & Definitions section.

- Definition of Income: HUD 24 CFR Part 5; IRS 1040; American Community Survey
- Beneficiary ID
- Member IDs
- Head of Household
- Co-Head of Household
- Persons with disabilities
- Fulltime student
- Annual gross income

The user must be aware of when and how to use the calculator to determine the Annual Income of households versus persons within a family. The term "household" is used throughout the ESG, HOME, NSP, and HOPWA, and SHOP portions of the calculator as it is the appropriate term and unit of analysis for income determinations being performed for these housing programs, while persons within a family or family may be the appropriate unit of analysis and term for public services, public facilities or job activities under the CDBG, CDBG Disaster Recovery, Section 108, and BEDI programs. See the terms and definitions for further information.

### 2.3.3 Recertifications & Re-evaluations

Depending upon the CPD program, recertifications and/or re-evaluations of a household's annual income is required.

#### Annual Income Recertification for certain HOME, HOPWA Programs

During an annual income recertification of a family residing in HOME- or HOPWA- assisted rental housing, or receiving HOME tenant-based rental assistance (TBRA) or HOPWA rental assistance, it is necessary to manually exclude from annual income certain increases in the income of a disabled family member. These exclusions apply to annual income increases resulting from the following:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- New employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering Temporary Assistance for Needy Families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least \$500.

These exclusions from annual income are of limited duration. The full amount of increase to a qualified family's annual income is excluded for the cumulative 12-month period beginning on the date the disabled family member is first employed or the family first experiences an increase in annual income attributable to the employment. During the second cumulative 12-month period, the grantee, or project sponsor is required to exclude from annual income 50

percent of any increase in income. The disallowance of increased income of an individual family member who is a person with disabilities is limited to a lifetime 48-month period.

#### **Annual Income Recertifications by Government Programs**

In some cases, activities may choose to use a verifiable recertification from a government program administrator to document the income of beneficiaries. A verifiable recertification is based on a Recertification of Annual Income by Government Programs form in which a government program administrator states and signs-off on the income of the beneficiary at the time of assistance.

The Recertification of Annual Income by Government Programs is a written statement from the administrator of another government program under which the beneficiary receives benefits, and that examines the annual (gross) income of the beneficiary each year. To complete the statement, the administrator must fill in all of the blank fields, confirm that the information about the members of the beneficiary family or household (as applicable based on the activity) matches the program's records, and sign the form. The form includes space for up to 12 members of a household. Users should print the Recertification of Annual Income by Government Programs form and include the completed form in your beneficiary files. For HOPWA, users must not enter or write any personal information on the printout of the form including but not limited to names, social security numbers, or addresses.

*Using a government administrator recertification approach to income documentation can put the activity at possible risk if a beneficiary is later audited and determined to be over the applicable income limit.*

The following terms are used in the Self-Certification of Annual Income by Government Programs form. Each of these terms is defined in the Terms & Definitions section.

- Beneficiary ID
- Member IDs
- Annual gross income

#### **Re-Evaluations of Income Eligibility for the ESG Program**

Under the Emergency Solutions Grants Program (ESG), income eligibility is re-evaluated every three months for homeless prevention and no less than annually for rapid-rehousing assistance. To remain eligible for assistance at re-evaluation, the household must have an annual income that does not exceed 30% of median family income for the area, as determined by HUD.

### **2.3.4 Income Definitions**

#### **Part 5 Annual Income**

Under the Part 5 definition, income sources are either included or excluded as part of Annual Income. The following are typical sources of income:

- Wages/Salaries
- Benefits/Pensions
- Public Assistance
- Other Income

#### *Unearned Income of Minors*

Unearned income that is attributable to a minor (e.g., child support, SSI, TANF payments and other benefits paid on behalf of a minor) is actually part of the relevant adult member's annual income and should be added to that member's income as appropriate. When entering such amounts, it may be helpful to include a note in the Description describing to which minor member the amount is attributable. The Calculator does not include this income in the annual income calculations when it is put under a minor child.

#### *Income of Full-Time Students*

The employment income of full-time students in excess of \$480 is not counted in the annual income calculation.

### *Passbook Rate*

Under the Part 5 definition, a household may have assets with an increased payment-ability, even if its assets do not currently produce income. (For example, a household that owns land that is not rented or otherwise used to produce income.) Rather than require the household to dispose of the property, the rule requires that an "imputed" income be calculated based on a Passbook Rate that is applied to the cash value of all assets.

There are three options for the grantee in setting the rate to be used as its passbook savings rate:

1. Use the same passbook savings rate used by their local public housing authority (PHA);
2. Use the passbook savings rate published by HUD's Office of Multifamily Housing; or

As described in Notice H 2014-15, the Office of Multifamily Housing will publish a passbook savings rate and its effective date through a Housing program notice at least annually (the most current notice is [Notice H 2016-01](#)); or

3. Establish its own passbook savings rate.

If a grantee chooses to establish its own rate in calculating imputed income from assets, then the grantee should review its passbook savings rate at least annually to determine that it is allowable. The grantee may establish a passbook savings rate within 75 basis points (plus or minus .75 percent) of the Savings National Rate in effect at the time the grantee establishes the passbook savings rate, and the passbook savings rate may not be less than 0 percent. The Savings National Rate is a simple average of rates paid by United States (US) depository institutions as calculated by the Federal Deposit Insurance Corporation (FDIC). The FDIC publishes this rate on a weekly basis. Historical and current Savings National Rates can be accessed on the [FDIC website](#).

Please note that for all programs within HUD's Office of Block Grant Assistance (OBGA), CDBG, CDBG-DR, and NSP, the imputed asset calculation is not required, so including the cash value of assets and using the passbook rate will not be displayed in the calculator.

### *Part 5 Assets*

Under the Part 5 definition, assets are categorized as either:

- **Total \$5,000 or Less** - If the total cash value of all the family's assets is \$5,000 or less, the actual income the family receives from assets is the amount that is included in annual income as income from assets.
- **Exceed \$5,000** - When net family assets are more than \$5,000, annual income includes the greater of the following:
  - a. Actual income from assets; or
  - b. A percentage of the value of family assets based upon the current passbook savings rate as established by HUD. This is called imputed income from assets. The passbook rate is currently set at 2%.

To begin this calculation, first add the cash value of all assets. Multiply the total cash value of all assets by .02. The product is the "imputed income" from assets. Then, add the actual income from all assets. The greater of the imputed income from assets or the actual income from assets is included in the calculation of annual income.

The following are typical sources of assets:

- Cash (e.g., checking, savings)
- Equity
- Stocks
- Retirement Accounts
- Pension Funds
- Life Insurance
- Personal Property
- Lump Sums
- Deeds

### IRS Form 1040 Gross Adjusted

When using the IRS Form 1040 definition to determine an applicant's annual income, users must use the most current long form version of IRS Form 1040—the version filed for current year tax reporting purposes. While the online worksheet is a general representation of the IRS Form 1040, it is not updated annually to reflect all changes in the Income and Deductions line items each tax year. The user is advised to consult the IRS Web site at [irs.gov](http://irs.gov) for the most current version of and the instructions for this form. Income or Deduction items included in the most current IRS Form 1040, but not specifically reflected below, may be accommodated using the "Other Income" and "Other Deductions" line items below.

#### *Income Line Items Provided for the IRS*

- Wages, salaries, tips, etc.
- Overtime/bonus pay
- Raises/COLAs
- Taxable interest
- Ordinary dividends
- Taxable refunds, credits, or offsets of state and local income taxes
- Alimony received
- Business income or (loss)
- Capital gain or (loss)
- Other gains or (losses)
- Taxable amount of IRA distributions
- Taxable amount of Pensions and annuities
- Rentals, real estate, royalties, partnerships, S corporations, trusts, etc.
- Farm income or (loss)
- Unemployment compensation
- Taxable amount of Social security benefits
- Other income (if any)

#### *Deduction Line Items Provided for the IRS*

- Educator expenses
- Certain business expenses of reservists, performing artists, and fee-basis government officials
- Health savings account deduction
- Moving expenses
- Deductible part of self-employment tax
- Self-employed SEP, SIMPLE, and qualified plans
- Self-employed health insurance deduction
- Penalty on early withdrawal of savings
- Alimony paid
- IRA deduction
- Student loan interest deduction
- Tuition and fees
- Domestic production activities deduction
- Other Deductions (if any)

### American Community Survey

When using the American Community Survey definition to determine an applicant's annual income, users must use the most current version of the American Community Survey. The user is advised to consult the U.S. [Census website](http://census.gov) for the most current version of and the instructions for the ACS form. Income or Deduction items included in the most current ACS Form, but not specifically reflected below, may be accommodated using the "Other Income" and "Other Deductions" line items below.

- Wages, salary, commissions, bonuses, or tips from all jobs. Report amount before deductions for taxes, bonds, dues, or other items.

- Self-employment income from own nonfarm businesses or farm businesses, including proprietorships and partnerships. Report NET income after business expenses.
- Interest, dividends, net rental income, royalty income, or income from estates and trusts. Report even small amounts credited to an account.
- Social Security or Railroad Retirement.
- Supplemental Security Income (SSI).
- Any public assistance or welfare payments from the state or local welfare office.
- Retirement, survivor, or disability pensions. Do NOT include Social Security.
- Any other sources of income received regularly such as Veterans' (VA) payments, unemployment compensation, child support or alimony. Do NOT include lump sum payments such as money from an inheritance or the sale of a home.

## 2.4 ADJUSTED INCOME CALCULATION

The second section of the income calculator is on how to determine adjusted income. This section is not used by all CPD programs.

The adjusted income calculation is used to determine ability to pay for rent and utilities, by first deducting from annual income a set of deductions. For example, adjusted income is used to determine the rent for a tenant in a HOME-only assisted rental unit whose income increases above 80 percent of the area median or when coupled with the final part of the calculator, rental assistance, the tenant payment depending the model chosen by the grantee.

Adjusted income is derived by subtracting any of five deductions (allowances) that apply to the household from the household's annual (gross) income. The deductions must be applied whenever adjusted income is calculated for eligible households.

A household's eligibility for adjustments to annual (gross) income depends in part on whether the household qualifies as an elderly household, a disabled household, or a non-elderly, non-disabled household. While defined at 24 CFR 5.611, deductions are applied to eligible households regardless of the definition of annual (gross) income that was initially used to determine their eligibility.

### 2.4.1 Deductions

#### Elderly or Disabled Household Deductions

A household that meets the definition of an elderly or disabled household is entitled to a deduction of \$400 per household.

#### Dependent Deductions

For each household dependent, deduct \$480 from a household's annual (gross) income when calculating adjusted income. A dependent is defined as any household member who is not the head, co-head, or spouse, but is under the age of 18 years (note that the calculator uses only the terms head or co-head); or disabled (of any age); or a full-time student (of any age).

#### Child Care Expenses Deductions

Reasonable child care expenses for the care of a child age 12 or under may be deducted from annual (gross) income if they enable one or more adult family member to seek employment actively, be gainfully employed, or further his/her education; and if the expenses are not reimbursed.

Reasonable child care expenses for the care of a child age 12 or under may be deducted from annual income if the child care (1) enables an adult family member to seek employment actively, be gainfully employed, or further his/her education; and (2) expenses are not paid to a member of the household and are not reimbursed. The amount of the deduction is unlimited, but the child care expenses must be reasonable (i.e., typical for the area, age of child, etc.).

However, if a full-time student has child care expenses related to employment, these expenses are limited to \$480, as the employment income of full-time students in excess of \$480 is not counted in the annual income calculation.

### **Medical Expenses Deductions**

Elderly or disabled households that have no disability assistance expenses may claim as a deduction medical expenses that are in excess of three percent of their annual (gross) income, so long as they are not already being reimbursed by insurance or through another entity. Medical expenses that may be considered include all medical expenses anticipated to be incurred during the coming year that are not covered by insurance. Although medical expenses are permitted only for elderly or disabled households, once a household qualifies as an elderly or disabled household the medical expenses of all household members are considered.

### **Disability Assistance Expenses Deductions**

Disability assistance expenses can be deducted from a household's annual income to the extent that they exceed three percent of annual income, so long as they are not already being reimbursed by insurance or another entity. Expenses may be deducted if and only if all of the following conditions are met: (1) they are reasonable, (2) they are not reimbursed from another source, (3) they enable a household member to work, (4) they do not exceed the amount of income generated by the person enabled to work, and (5) they are in excess of three percent of annual income.

## **2.4 RENTAL ASSISTANCE CALCULATION**

The final section of the income calculator is on how to determine rental assistance. This section is not used by all CPD programs.

The rental assistance calculation, when coupled with annual and adjusted income, can be used for determining the tenant payment and the amount of assistance applicable to the eligible household in the following situations:

- Tenant and PJ payments under a HOME-funded TBRA program;
- The rent for a tenant if the grantee has a rental housing program in which rents are based on the household's ability to pay; and
- The rent for a tenant receiving HOPWA assistance.

Note: The calculator does not provide rental assistance amounts for ESG rental assistance because the recipient or subrecipient determines the appropriate amount of assistance to provide.

### **2.4.1 Fair Market Rent/Rent Standard**

The rent including applicable utility allowance for unit type and size for the unit typically cannot be above the Fair Market Rent or required rent standard for a jurisdiction when using the certificate program (described below). However, the rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units. Rent must be reasonable to provide HOPWA or HOME rental assistance to house the beneficiary in a unit. Rent reasonableness must be documented for tenant based rental assistance and included in the assisted client's file.

In addition, on a unit-by-unit basis, grantees can have up to 20% of the total TBRA enrollments exceed the FMR/payment standard by 10%. Further, PHAs have the authority to issue a community wide exception on FMR's up to 110% of FMR. If a PHA in the grantee's community has an established rent standard of 110% of FMR, then the grantee may utilize the PHA's established FMR. Additionally, grantees may utilize the rule of an extra 10% for 20% of the units on top of the PHA established FMR. This will allow for a total of 120% for 20% of units and 110% for the remaining units. See HOPWA regulations at 24 CFR 574.320(a)(2) and/or HOME regulations at 24 CFR 92.203.

## 2.4.2 Approved Rent and Utility Allowances

The approved rent will depend upon the program being used (i.e., HOME, HOPWA, etc.) and what is reasonable for the jurisdiction.

The administrator for the rental program should determine what utility allowances should be used. Typically public housing authorities (PHAs) conduct an annual review of utility costs across a number of different properties in its portfolio. The utility allowance is an estimate of the average monthly utility bills (except telephone) for an energy-conscious household. This estimate considers only utilities paid directly by the tenant. If all utilities are included in the rent, there is not a utility allowance.

## 2.4.3 Rent Models

This calculator determines assistance amounts using the HUD-prescribed Section 8 method only.

The **Section 8 Rental Certificate Program** assumes a fixed tenant payment - that is, the tenant's share of housing costs, or total tenant payment (TTP), is calculated by formula. The formula for computing TTP under the Certificate Program requires a tenant to pay the greatest of:

- 30 percent of monthly adjusted income;
- 10 percent of monthly annual (gross) income; or
- Welfare rent (which applies only to welfare recipients in as-paid localities).

Under a HOME TBRA program, the PJ would then pay the difference between the tenant's share - the TTP -- and the approved rent for the unit selected by the tenant.

The **Section 8 Rental Voucher Program** assumes a fixed payment from the grantee toward a unit's rent. The maximum grantee subsidy is calculated first, and then the tenant pays the difference between the grantee subsidy and the approved rent for the unit. Using the Rental Voucher method, a grantee establishes its rent standards by unit size for the TBRA program as a whole (see section above on FMR/Rent Standard), and determines 30 percent of each tenant's monthly adjusted income. The difference between these figures is the maximum amount the grantee will pay toward the rent for the unit selected by the tenant. However, a minimum tenant payment of 10 percent of the tenant's monthly annual (gross) income is required.

HOME PJs may establish their own method for determining the TBRA subsidy. You may wish to print the annual and adjusted income summaries from this calculator for reference when using another methodology.

HOPWA grantees should only use the Section 8 Rental Certificate model.

## 2.5 CALCULATION DASHBOARD

The Calculation Dashboard allows you to start a new calculation, complete a previously started calculation, and review or update a completed calculation. You can also search for a calculation and delete existing calculations. The Dashboard is organized by Program, and each calculation displayed in the dashboard includes the following information:

- Beneficiary ID
- Number of family or household members
- Location – the City and State selected
- Calculation type – Annual, Adjusted, or TBRA
- Calculation date – the date that the calculation was last updated
- Status – In Progress or Complete

- Eligibility status – Eligible, Ineligible, or Blank if not yet determined


### 2.5.1 Viewing/Editing Previously Started Calculations

Users may make edits to previously started calculations. From the Calculation Dashboard, find the Calculation and click on the Beneficiary ID.

The calculator stores all data previously entered into the Calculation. The user is required to re-confirm the data by clicking Continue on each screen. You may click on the headings on the left sidebar to skip to various sections of the calculation.

Note the browser back button and previous button on the screen are not always the same due to the various flows for each Program. The browser back button goes to the previous page. The Previous button goes back to the last page from which the user came.

Note new income limits come out each year, typically in the first quarter. If you are in the process of income qualifying a beneficiary, once the income limits are updated in the system, you have to use the new income limits.


**CPD Income Eligibility Calculator**  
 Dashboard

User Manual Page

Important Note: The calculator is a tool designed to help a user calculate income in accordance with an allowable definition, but it does not verify income. The calculator does not replace the documentation that must be collected and retained by the user. The user must maintain all necessary documentation, which, when using the calculator, will include saving and retaining the summary documents generated by the calculator. The Dashboard feature is designed to allow you to more easily update a beneficiary's income in the future - however it is not a repository for all previous years' income calculations completed in the past. Users must be sure to save and retain summary documents at the time of creation. Record retention requirements depend upon the CPD program; users should be aware of the length of time records must be kept as well as their own state or local laws related to record retention and privacy.

The FY2015 income limits are in effect for all programs within the CPD Income Calculator. The 30 percent income limits for the CDBG, HOME, ESG, and HOPWA programs have been calculated based on the definition of Extremely Low-Income Family (ELI) as described in Consolidated Submission for CPD Programs section of 24 CFR part 91.5. Therefore, the ELI Limit is calculated as 30 percent of area median income and may not be the same as the Section 8 ELI Limit for your jurisdiction. The Section 8 Limit is calculated based on the definition of ELI as described in The 2014 Consolidated Appropriations Act, (Section 238 on page 128 Stat 635) which defines ELI as very low-income families whose incomes do not exceed the higher of the Federal poverty level or 30% of area median income.

Select a program and start a new calculation: Select One ▼ Page

CDBG Calculations File Calculation

Show 10 entries Search:

Beneficiary ID	No. of Members	Location	Calculation Type	Calculation Date	Status	Eligibility Status	Delete
51	6	Ford Wayne, IN MSA	Annual		In Progress		[X]
67	2	Anderson, IN MSA	Annual		In Progress		[X]
1045	2	Duuth, MN-WI MSA	Annual		In Progress	Eligible	[X]

## Section 3: Terms and Definitions

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A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

### A

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**ACTUAL INCOME FROM ASSETS:** Income derived from assets to which family members have access.

1. Assets are items of value that may be turned into cash. A savings account is a cash asset. The bank pays interest on the asset. The interest is the income from that asset. There are also assets that do not earn interest such as a quantity of money under a mattress: it is a thing of value that could be used to the benefit of its owner, but is not producing income. Some belongings of value are not considered assets. Necessary personal property is not counted as an asset.
2. The calculation to determine the amount of income from assets to include in annual income considers both of the following:
  - a. The total cash value of the family's assets; and
  - b. The amount of income those assets are earning or could earn.

**ACS:** See AMERICAN COMMUNITY SURVEY.

**ADJUSTED GROSS INCOME:** Annual income (as determined by the owner) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions. In determining adjusted income, the owner must deduct the following amounts from annual income:

1. \$480 for each dependent;
2. \$400 for any elderly family or disabled family;
3. The sum of the following, to the extent the sum exceeds 3% of annual income: a. Unreimbursed reasonable medical expenses of any elderly family or disabled family; and b. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus; and
4. Any reasonable child care expenses necessary to enable the family member to be employed or to further his or her education.[24 CFR 5.611]

**ADJUSTED INCOME:** See ADJUSTED GROSS INCOME.

**ADULT:** An individual who is 18 years of age or older or a minor under the age of 18 who has been emancipated to act on his/her own behalf, including the ability to execute a contract or lease.

**ALIMONY:** An allowance made to one spouse by the other for support pending or after legal separation or divorce.

**AMERICAN COMMUNITY SURVEY (ACS):** A nationwide survey designed to provide communities with a fresh look at how they are changing. It is a critical element in the Census Bureau's reengineered 2010 census plan. The ACS

collects information such as age, race, income, commute time to work, home value, veteran status, and other important data from U.S. households.

**ANNUAL INCOME:** All amounts, monetary or not, which: 1. Go to, or on behalf of, the family head or spouse [or co-head] (even if temporarily absent) or to any other family member; or 2. Are anticipated to be received from a source outside the family during the 12-month period following eligibility; and 3. Which are not specifically excluded [by regulation]. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access. [24 CFR 5.609]

The HOME Program allows the use of two income definitions for the purpose of determining applicant eligibility:

- Annual income as defined in the Code of Federal Regulations (24 CFR 5.609);
- Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual federal annual income tax purposes.

The definitions are collectively referred to as "annual income" and are also used in the Community Development Block Grant (CDBG) Program and also the American Community Survey (ACS) is also an eligible definition.

**ANNUITIES:** The sum of money payable yearly or at other regular intervals.

**ANTICIPATED ANNUAL INCOME:** Gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period.

**APPROVED RENT:** Rent requirement as set by HUD that meet one of the following requirements:

1. The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD provides the HOME rent limits which include average occupancy per unit and adjusted income assumptions. However, if the rent determined under this paragraph is higher than the applicable rent under 24 CFR 92.252(a), then the maximum rent for units under this paragraph is that calculated under 24 CFR 92.252(a).
2. The rent does not exceed 30 percent of the family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.

The Fair Market Rents for unit sizes larger than 4 bedrooms are calculated by adding 15 percent to the 4 bedroom FMR for each extra bedroom.

**ASSETS:** Items of value that may be turned into cash. Some assets may earn interest, such as savings accounts. Other assets, such as cash, do not earn interest. Some belongings of value are not considered assets. Necessary personal property is not counted as an asset.

## B

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**BROWNFIELDS ECONOMIC DEVELOPMENT INITIATIVE (BEDI):** The Brownfields Economic Development Initiative (BEDI) is a key competitive grant program that HUD administers to stimulate and promote economic and community development. BEDI is designed to assist cities with the redevelopment of abandoned, idled and underused industrial and commercial facilities where expansion and redevelopment is burdened by real or potential environmental contamination.

**BEDI:** See BROWNFIELDS ECONOMIC DEVELOPMENT INITIATIVE.

**BENEFICIARY:** A family, household, or individual whose income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger households or families. However, HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low household or family incomes.

**BENEFICIARY ID:** The CPD Income Eligibility Calculator asks for a "Beneficiary ID" instead of a "Last Name" to help protect the privacy of applicants to CPD programs. The Beneficiary ID you enter should be unique, will be included on the Calculator screens and printouts, and will be the key data element necessary to later find, complete, and/or edit the income determination performed for that beneficiary within the Calculator. DO NOT use any personal information to create a Beneficiary ID, including but not limited to names, social security numbers, or addresses.

**BENEFITS:** Government benefits such as Social Security Benefits, Veterans Administration Benefits, and Unemployment Benefits.

**BONUS PAY:** Compensation over and above the amount of pay specified as a base salary or hourly rate of pay.

**BUSINESS INCOME OR LOSS:** Business income is income received from the sale of products or services. For example, fees received by a professional person are considered business income. Rents received by a person in the real estate business are business income. Payments received in the form of property or services must be included in income at their fair market value.

## C

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**CAPITAL GAIN OR LOSS:** Everything an individual owns and uses for personal or investment purposes is a capital asset. Examples include a home, household furnishings, and stocks or bonds held in a personal account. When a capital asset is sold, the difference between the basis in the asset and the amount it is sold for is a capital gain or a capital loss. Generally an asset's basis is its cost.

- If you sell the asset for more than your basis it is a capital gain.
- If you sell the asset for less than your basis it is a capital loss.

Capital gains and losses are classified as long-term or short-term. If the asset is held for more than one year before disposed of, the capital gain or loss is long-term. If it is held one year or less, the capital gain or loss is short-term.

**CASH:** Money in coins or notes, as distinct from checks, money orders, or credit. Cash is either handled individually outside of a bank account or within a bank account such as checking or savings.

**CDBG:** See COMMUNITY DEVELOPMENT BLOCK GRANT.

**CDBG DISASTER RECOVERY ASSISTANCE:** Title XII of Division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-005, approved February 17, 2009) appropriates \$1 billion to carry out the CDBG program under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.) (HCDA) on an expedited basis. These funds will be distributed to grantees that received CDBG funding in Fiscal Year (FY) 2008 in accordance with the provisions of 42 U.S.C. 5306. The grant program under Title XII is commonly referred to as the CDBG Recovery (CDBG-R) program.

**CHILDCARE EXPENSES:** See ADJUSTED GROSS INCOME.

**CHILD SUPPORT:** Court-ordered payments, typically made by a noncustodial divorced parent, to support one's minor child or children.

**CODE OF FEDERAL REGULATIONS (CFR):** The Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into 50 titles that represent broad areas subject to federal regulation. Each volume of the CFR is updated once each calendar year and is issued on a quarterly basis.

**CO-HEAD OF HOUSEHOLD:** An adult member of the family who is treated the same as a head of the household for purposes of determining income eligibility.

**COLA:** See COST OF LIVING ADJUSTMENT (COLA).

**COMMISSIONS:** A fee paid to an agent or employee for transacting a piece of business or performing a service; especially, a percentage of the money received from a total paid to the agent responsible for the business.

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG):** Created under the Housing and Community Development Act of 1974, this program provides grant funds to local and state governments to develop viable urban communities by providing decent housing with a suitable living environment and expanding economic opportunities to assist low- and moderate-income residents. CDBG replaced several categorical grant programs, such as the Model Cities program, the Urban Renewal program, and the Housing Rehabilitation Loan and Grant program.

**COMMUNITY PLANNING AND DEVELOPMENT (CPD):** HUD's Office of Community Planning and Development seeks to develop viable communities by promoting integrated approaches that provide decent housing, a suitable living environment, and expand economic opportunities for low- and moderate-income persons. The primary means toward this end is the development of partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations.

**COST OF LIVING ADJUSTMENT (COLA):** Employment contracts, pension benefits, and government entitlements (such as Social Security) can be tied to a cost-of-living index, typically to the Consumer Price Index (CPI). A Cost of Living Allowance (COLA) adjusts salaries based on changes in a cost-of-living index. Salaries are typically adjusted annually. They may also be tied to a cost-of-living index that varies by geographic location if the employee moves.

**CPD:** See COMMUNITY PLANNING AND DEVELOPMENT.

**CURRENT CASH VALUE OF ASSETS:** Income derived from assets to which family members have access. Assets are items of value that may be turned into cash. A savings account is a cash asset. The bank pays interest on the asset. The interest is the income from that asset. There are also assets that do not earn interest such as a quantity of money under a mattress: it is a thing of value that could be used to the benefit of its owner, but is not producing income. Some belongings of value are not considered assets. Necessary personal property is not counted as an asset.

## D

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**DEDUCTIONS:** Amounts subtracted or withheld from your gross income. Some deductions, such as taxes, are required by law. Others are elective. See ADJUSTED INCOME.

**DEEDS:** A signed and usually sealed instrument containing some legal transfer, bargain, or contract.

**DEMOLITION:** Structures taken down and removed.

**DEPENDENTS:** A member of the family other than the head, spouse, or co-head, who is under 18 years of age or is a person with disabilities or a full-time student. Also, a foster child, a foster adult, or a live-in aide may never be a dependent regardless of age or disability.

**DISABILITIES:** Also known as "Disabled Family or Disabled Household". Disabled household means a household composed of:

1. One or more persons at least one of whom is an adult (18 years or older) who has a disability;
2. Two or more persons with disabilities living together, or one or more such persons living with another person who is determined by HUD, based upon a certification from an appropriate professional (e.g., a rehabilitation counselor, social worker, or licensed physician) to be important to their care or wellbeing; or
3. The surviving member or members of any household described in paragraph (1) of this definition who were living in a unit assisted under this part with the deceased member of the household at the time of his or her death. [24 CFR 891.305]

**DISABILITY EXPENSES:** See ADJUSTED GROSS INCOME.

**DIVIDENDS:** An individual share of something distributed: as 1. A share in a pro rata distribution (as of profits) to stockholders, 2. A share of surplus allocated to a policyholder in a participating insurance policy.

**DOMESTIC PRODUCTION ACTIVITIES:** Businesses with "qualified production activities" can take a tax deduction of 3% from net income. This is a tax break pure and simple. The more complicated the business, the more complicated the math for calculating the Domestic Production Activities Deduction. In a nutshell, businesses engaged in manufacturing and other qualified production activities will need to implement cost accounting mechanisms to make sure their tax deduction is accurately calculated.

## E

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**EDUCATOR EXPENSES:** Expenses incurred by eligible educators for books, supplies, computer equipment, and supplementary materials used in the classroom. See IRS.gov for more details.

**ELDERLY FAMILY/HOUSEHOLD:** 1. Families of two or more persons, the head of which (or his or her spouse) is 62 years of age or older; 2. The surviving member or members of a family described in paragraph (1) living in a unit assisted under 24 CFR part 891, subpart E (Section 202 loans) with the deceased member of the family at the time of his or her death; 3. A single person who is 62 years of age or older. 4. Two or more elderly persons living together, or one or more such persons living with another person who is determined by HUD, based upon a licensed physician's certificate provided by the family, to be essential to their care or well-being. [24 CFR 891.505].

**EMERGENCY SOLUTIONS GRANTS PROGRAM:** The HEARTH Act revised the Emergency Shelter Grants Program to create the Emergency Solutions Grants (ESG) Program. The ESG Program provides funding to: (1) improve the number and quality of emergency shelters for homeless individuals and families; (2) help operate these shelters; (3) provide essential social services to shelter residents; and (4) prevent families and individuals from becoming homeless.

**EQUITY:** The money value of a property or of an interest in a property in excess of claims or liens against it.

**ESTATES:** the assets and liabilities left by a person at death.

**EXCLUSIONS:** When determining Annual Income, these are certain types of income and asset sources that are “excluded” from the calculation. Exclusions will depend upon the income definition.

## F

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**FAIR MARKET RENT (FMR):** Primarily used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, and to serve as a rent ceiling in the HOME or HOPWA rental assistance program where the certificate model is used.

**FAMILY:** One or more persons related by blood, marriage or adoption.

**FARM INCOME OR LOSS:** Farm income and expenses includes the amounts realized from the sales, and the expenses incurred in the business of farming, including cultivating operating or managing a farm for profit, either as an owner or a tenant. A farm includes livestock, dairy, poultry, fish, fruit and truck farms. It also includes plantations, ranches, ranges and orchards. If your deductible farm expenses are more than your farm income, you have a loss from the operation of your farm. See IRS.gov for more details.

**FMR:** See FAIR MARKET RENT.

**FOSTER ADULT:** A foster adult is usually an adult with a disability who is unrelated to the family and who is unable to live alone.

**FOSTER CHILD:** Children that are in the legal guardianship or custody of a State, county, or private adoption or foster care agency, yet are cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

**FULLTIME STUDENT:** A person who is attending school or vocational training on a full-time basis [24 CFR 5.603].

## G

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**GROSS ANNUAL INCOME:** The total income, before taxes and other deductions, received by all members of the tenant's household. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments and such other income items as the Secretary considers appropriate. This is the same term as Annual Income.

## H

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**HEAD OF HOUSEHOLD:** The adult member of the family who is the head of the household for purposes of determining income eligibility [24 CFR 5.504].

**HEALTH SAVINGS ACCOUNT:** An account that allows individuals to pay for current health expenses and save for future qualified medical and retiree health expenses on a tax free basis, with some state exceptions.

**HEARTH ACT:** The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009. The HEARTH Act amends and reauthorizes the McKinney-Vento Homeless Assistance Act, including the Emergency Solutions Grants Program (ESG).

**HOME (HOME INVESTMENT PARTNERSHIPS PROGRAM):** Provides formula grants to states and localities that communities use — often in partnership with local nonprofit groups — to fund a wide range of activities that build, buy, and/or rehabilitate affordable housing for rent or homeownership, or to provide direct rental assistance to low-income people.

**HOME AFFORDABILITY PERIOD:** Affordability refers to the requirements of the HOME Program that relate to the cost of housing both at initial occupancy and over established timeframes, as prescribed in the HOME regulations. Affordability requirements vary depending on the nature of the HOME-assisted activity (i.e., homeownership or rental housing).

**HOPWA:** See HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS.

**HOUSEHOLD:** All the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

**HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA):** Provides housing assistance and supportive services to low-income people with HIV/AIDS and their families. HOPWA funds may also be used for case management, mental health services, housing information, nutritional services, transportation, substance abuse treatment, employment services, and other supportive services.

**HUD METRO FMR AREA:** Indicates that only a portion of the OMB-defined core-based statistical area (CBSA) is in the area to which the income limits or FMRs apply. HUD is required by OMB to alter the name of metropolitan geographic entities it derives from the CBSAs when the geography is not the same as that established by OMB.

## I

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**IL:** See INCOME LIMIT.

**IMPUTED INCOME FROM ASSETS:** See Technical Guide for Determining Income and Allowances Under the HOME Program.

**INCLUSIONS:** When determining Annual Income, these are certain types of income and asset sources that are "included" in the calculation.

**INCOME DETERMINATION:** Determination of income which includes all amounts, monetary or not, including the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, compensation for personal services, and more.

**INCOME LIMIT:** Determines the eligibility of applicants for HUD's assisted housing programs.

**INDIVIDUAL RETIREMENT ACCOUNT:** A personal savings plan that offers tax advantages to those who set aside money for retirement. Depending on the individual's circumstances, contributions to the IRA may be deductible in

whole or in part. Generally, amounts in an IRA, including earnings and gains, are not taxed until distributed to the individual.

**INTEREST:** A charge for borrowed money generally a percentage of the amount borrowed or an amount earned as a result of cash held by a lending institution such as in a checking or savings account.

**INTERNAL REVENUE SERVICE:** The Internal Revenue Service (IRS) is a federal government agency responsible for tax collection and tax law enforcement.

**IRA:** See INDIVIDUAL RETIREMENT ACCOUNT.

**IRS:** See INTERNAL REVENUE SERVICE.

**IRS 1040 ADJUSTED GROSS INCOME:** One of the definitions of Annual Income. Adjusted Gross Income is defined as gross income minus adjustments to income. Refer to the latest federal income tax return.

**IRS FORM 1040:** Form used under the IRS 1040 Adjusted Gross Income definition.

## J

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## K

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## L

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**LIFE INSURANCE:** Insurance providing for payment of a stipulated sum to a designated beneficiary upon death of the insured.

**LIHTC:** See LOW-INCOME HOUSING TAX CREDIT.

**LOW-INCOME HOUSING TAX CREDIT (LIHTC):** A tax incentive intended to increase the availability of low-income housing. The program provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects.

**LOW/MOD – HOUSING:** One of the Community Development Block Grant (CDBG) national objectives for housing activities.

**LOW/MOD – JOBS:** One of the Community Development Block Grant (CDBG) national objectives for job activities.

**LOW/MOD - LIMITED CLIENTELE:** One of the Community Development Block Grant (CDBG) national objectives for activities serving limited clientele who are low/moderate income persons.

**LOW/MOD - LIMITED CLIENTELE - PRESUMED BENEFIT:** One of the Community Development Block Grant (CDBG) national objectives for activities serving limited clientele. Examples include senior centers, homeless shelters, etc.

LOW/MOD - AREA BASIS: One of the Community Development Block Grant (CDBG) national objectives for activities serving areas that can be documented as a low/moderate income area.

LUMP SUMS: A complete payment consisting of a single sum of money as opposed to a series of payments.

## M

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MA: See METROPOLITAN AREA.

MEDICAL EXPENSES: See ADJUSTED GROSS INCOME.

MEMBER ID: The CPD Income Eligibility Calculator asks for "Member IDs" instead of "First Names" to help protect the privacy of applicants to CPD programs. Each Member ID you enter should be unique to an individual within the family or household associated with this Beneficiary ID. Printouts from the Calculator for all programs except HOPWA will include the Member IDs entered here along with a blank space in which the First Name of the associated individual can be written or otherwise inserted. DO NOT use any personal information to create Member ID(s), including but not limited to names, social security numbers, or addresses.

METROPOLITAN AREA (MA): A large population nucleus, together with adjacent communities that has a high degree of economic and social integration with that nucleus.

METROPOLITAN STATISTICAL AREA (MSA): An area with at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core, as measured by commuting ties.

MODERATE INCOME: Households whose incomes are between 81 percent and 95 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families. HUD may establish income ceilings higher or lower than 95 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction costs, fair market rents, or unusually high or low family incomes.

MOVING EXPENSES: Expenses due to a change in job or business location, or starting a new job or business. See IRS.gov for more details.

MSA: See METROPOLITAN STATISTICAL AREA.

## N

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NEIGHBORHOOD STABILIZATION PROGRAM (NSP): Provides emergency assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities. The Neighborhood Stabilization Program (NSP) provides grants to every state and certain local communities to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and stem the decline of house values of neighboring homes. The program is authorized under Title III of the Housing and Economic Recovery Act of 2008.

NET CASH VALUE OF ASSETS: Total cash value of all assets used in calculating Annual Income.

**NET RENTAL INCOME:** The remaining income from rent after all expenses have been deducted.

## O

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**ORDINARY DIVIDENDS:** Ordinary dividends are a result of the trust or estates' investment in a corporation and are paid out of the earnings and profits of the corporation.

**OTHER INCOME:** This section of Annual Income in the Calculator allows for input of any other income source not previously included in the other income categories.

**OVERTIME:** Time in excess of a set limit; working time in excess of a standard day or week.

## P

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**PART 5 ANNUAL INCOME:** Also known as HUD 24 CFR Part 5. One of the definitions of Annual Income. Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period. The rules concerning Section 8 annual income were previously found at 24 CFR Part 813. However, Part 813 was removed from the Federal regulations on October 18, 1996. At the same time, 24 CFR Part 5 was published. Subpart F of Part 5 consolidated the requirements pertaining to income for many of HUD's programs, including Section 8.

**PARTICIPATING JURISDICTION (PJ):** The term given to any state, local government, or consortium of local governments that HUD has designated to administer a HOME Program. HUD designation as a PJ occurs if a state, local government, or consortium meets the funding thresholds, notifies HUD that it intends to participate in the program, and obtains approval by HUD of a Consolidated Plan.

**PARTNERSHIPS:** Arrangement where parties agree to cooperate to advance their mutual interests.

**PASSBOOK RATE:** Interest rate on savings account established periodically by HUD. The Passbook Savings Rate is used to calculate the minimum amount of income from your assets. Either that amount or the amount of income you report for those assets (whichever is greater) are added to your other unearned income and your earned income to calculate your gross non-excluded income.

**PENALTY ON EARLY WITHDRAWAL ON SAVINGS:** Penalty incurred if you withdraw money from a certificate of deposit or other time-deposit savings account prior to your certificate maturing. The penalty is charged by the bank and withheld directly from your proceeds from the certificate.

**PENSION FUNDS:** See PENSIONS.

**PENSIONS:** A fixed sum paid under given conditions to a person following retirement from service or to surviving dependents.

**PERSONAL PROPERTY:** Property other than real property consisting of things temporary or movable.

**PJ:** See PARTICIPATING JURISDICTION.

**PUBLIC ASSISTANCE:** Government aid to needy, aged, or disabled persons and to dependent children.

**PUBLIC FACILITY:** Infrastructure and facilities necessary to support the services and functions provided by the government or public utility companies. These can include Neighborhood facilities including, but not limited to public schools, libraries, recreational facilities, parks, playgrounds; and facilities for persons with special needs such as facilities for the homeless or domestic violence shelters, nursing homes, or group homes for the disabled.

## Q

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## R

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**RAISES:** An increase in wages or salary.

**RECERTIFICATION OF ANNUAL INCOME BY GOVERNMENT PROGRAMS FORM:** The Recertification of Annual Income by Government Programs is a written statement from the administrator of another government program under which the beneficiary receives benefits, and that examines the annual (gross) income of the beneficiary each year.

**REHABILITATION:** The labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs. The term includes where the use of a building is changed to an emergency shelter and the cost of this change and any rehabilitation costs does not exceed 75 percent of the value of the building before the change in use.

**RETIREMENT ACCOUNTS:** A plan for setting aside money to be spent after retirement. Examples include Individual retirement accounts, 401(k), SIMPLE IRAs, and Multiple retirement accounts.

**ROYALTY INCOME:** Payment related to the use of a valuable right. This includes payments for the use of trademarks, trade names, service marks or copyrights, whether or not payment is based on the use made of such property, are ordinarily classified as royalties for federal tax purposes. See IRS.gov for more details.

## S

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**SALARY:** Fixed compensation paid regularly for services.

**S CORPORATIONS:** S corporations are corporations that elect to pass corporate income, losses, deductions and credit through to their shareholders for federal tax purposes. Shareholders of S corporations report the flow-through of income and losses on their personal tax returns and are assessed tax at their individual income tax rates. This allows S corporations to avoid double taxation on the corporate income. S corporations are responsible for tax on certain built-in gains and passive income. See IRS.gov for more details.

**SECTION 108 LOAN GUARANTEE PROGRAM:** Section 108 is the loan guarantee provision of the Community Development Block Grant (CDBG) Program. Section 108 provides communities with a source of financing for economic development, housing rehabilitation, public facilities, and large-scale physical development projects.

**SECTION 8 RENTAL CERTIFICATE MODEL (FIXED TENANT PAYMENT):** The rental assistance model that assumes a fixed tenant payment—the tenant's share of housing costs (Total Tenant Payment [TTP]) is calculated by formula.

The public housing agency (PHA) then pays the difference between the tenant's share and the approved rent for the unit.

**SECTION 8 RENTAL VOUCHER MODEL (FIXED PJ PAYMENT):** The rental assistance model that assumes a fixed PHA payment—the maximum PHA subsidy is calculated and the tenant pays the difference between the PHA subsidy and the approved rent for the unit.

**SELF-CERTIFICATION OF ANNUAL INCOME BY BENEFICIARY FORM:** The Self Certification of Annual Income by Beneficiary is a written statement from the beneficiary documenting the definition used to determine Annual (Gross) Income, the number of beneficiary members in the family or household (as applicable based on the activity), and the relevant characteristics of each member for the purposes of income determination.

**SELF-EMPLOYMENT:** The IRS defines self-employed people who are required to file self-employment Social Security taxes as a sole proprietor that conducts a trade or business; an independent contractor; member of a partnership; or if you are otherwise in business for yourself.

**SELF-HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM (SHOP):** SHOP awards grant funds to eligible national and regional non-profit organizations and consortia to purchase home sites and develop or improve the infrastructure needed to set the stage for sweat equity and volunteer-based homeownership programs for low-income persons and families.

**SHOP:** See SELF-HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM.

**SLUM/BLIGHT – AREA BASIS:** One of the Community Development Block Grant (CDBG) national objectives to indicate an area meets the definition of slum/blight under the regulations.

**SLUM/BLIGHT – SPOT BASIS:** One of the Community Development Block Grant (CDBG) national objectives to indicate a building meets the definition of slum/blight under the regulations.

**SLUM/BLIGHT – URBAN RENEWAL:** One of the Community Development Block Grant (CDBG) national objectives, but used rarely as there are few urban renewal areas.

**SOCIAL SECURITY BENEFITS:** The comprehensive federal program of benefits providing workers and their dependents with retirement income, disability income, and other payments. The Social security tax is used to pay for the program.

**SOURCE DOCUMENTATION:** Original documentation that demonstrates an income or asset source. Examples include wage statements (i.e., pay stubs), Social Security letters, etc.

**STOCKS:** The proprietorship element in a corporation usually divided into shares and represented by transferable certificates.

**STUDENT LOAN INTEREST:** Interest paid on a qualified student loan. See IRS.gov for more details.

**SUPPLEMENTAL SECURITY INCOME (SSI):** See SOCIAL SECURITY BENEFITS.

## T

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**TANF:** See TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.

**TAXABLE INTEREST:** Most interest that you either receive or is credited to your account and that can be withdrawn without penalty is taxable income. Examples of taxable interest are interest on bank accounts, money market

accounts, certificates of deposit, and deposited insurance dividends. Interest on insurance dividends left on deposit with the Department of Veterans Affairs, however, is not taxable. See IRS.gov for more details.

TBRA: See TENANT-BASED RENTAL ASSISTANCE.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF): Under the welfare reform legislation of 1996, (the Personal Responsibility and Work Opportunity Reconciliation Act – PWRORA – Public Law 104-193), TANF replaced the welfare programs known as Aid to Families with Dependent Children (AFDC), the Job Opportunities and Basic Skills Training (JOBS) program and the Emergency Assistance (EA) program. The law ended federal entitlement to assistance and instead created TANF as a block grant that provides States, territories and tribes federal funds each year. These funds cover benefits, administrative expenses, and services targeted to needy families. TANF became effective July 1, 1997, and was reauthorized in February 2006 under the Deficit Reduction Act of 2005.

TENANT-BASED RENTAL ASSISTANCE (TBRA): HUD assists low- and very low-income families in obtaining decent, safe, and sanitary housing in private accommodations by making up the difference between what they can afford and the approved rent for an adequate housing unit. This is also known as either rental assistance or tenant payments.

TIPS: A gift or a sum of money tendered for a service performed or anticipated: gratuity.

TRUSTS: A property interest held by one person for the benefit of another.

TUITION: The price of or payment for instruction.

## U

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UNEMPLOYMENT COMPENSATION: Money that substitutes for wages or salary, paid to recently unemployed workers under a government- or union-run program.

URGENT NEED: One of the Community Development Block Grant (CDBG) national objectives, but used rarely under the program.

U.S. CENSUS BUREAU: Serves as the leading source of quality data about our nation's people and economy.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD): Established in 1965, HUD's mission is to increase homeownership, support community development, and increase access to affordable housing free from discrimination. To fulfill this mission, HUD will embrace high standards of ethics, management and accountability and forge new partnerships — particularly with faith-based and community organizations — that leverage resources and improve HUD's ability to be effective on the community level.

UTILITY ALLOWANCE: PHA or administrator's estimate of the average monthly utility bills (except telephone) for an energy-conscious household. This estimate considers only utilities paid directly by the tenant. If all utilities are included in the rent, there is not a utility allowance. Utility allowances vary by unit type and are listed on the project's rent schedule or HAP contract.

## V

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**VETERANS (VA) PAYMENTS:** Monetary payment or the furnishing of goods or services having a monetary value to or for an eligible veteran, veteran's dependent, or veteran's survivor.

**VERY LOW-INCOME:** Households whose incomes do not exceed 50 percent of the median area income for the area, as determined by HUD, with adjustments for smaller and larger families and for areas with unusually high or low incomes or where needed because of facility, college, or other training facility; prevailing levels of construction costs; or fair market rents.

## W

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**WAGES:** Payment usually of money for labor or services usually according to contract and on an hourly, daily, or piecework basis.

**WELFARE:** See TANF.

## X

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## Y

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## Z

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# Section 4: Income Determination Resources

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Several resources are available to assist in income determination.

## 4.1 REGULATORY CITATIONS

### 4.1.1 CDBG Regulations

- 570.3 – Income Definition
- 570.208 – Entitlements – Low Income Targeting
- 570.483 – States – Low Income Targeting
- 570.506 – Income Documentation

### 4.1.2 HOME Regulations

- 24 CFR 92.2 – Definitions
- 24 CFR 92.203 – Income Determinations and Adjusted Income
- 24 CFR 92.209 – TBRA Eligible Costs and Requirements
- 24 CFR 92.216 – Income Targeting: TBRA and Rental Housing Units
- 24 CFR 92.217 – Income Targeting: Homeownership
- 24 CFR 92.252 – Qualification as Affordable Housing: Rental Housing
- 24 CFR 92.254 – Qualification as Affordable Housing: Homeownership Housing

### 4.1.3 HOPWA Regulations

- 574.3 – Eligible Persons D
- 5.603 – Annual Income Definition
- 5.609 – Annual Income
- 5.611 – Adjusted Income
- 5.617 – Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income

### 4.1.4 NSP Regulations

- See CDBG regulations.

### 4.1.5 ESG Regulations

- 576.2 – Definitions
- 576.401(b) – Re-evaluation Requirements
- 5.609 – Annual Income

## 4.2 TECHNICAL GUIDANCE

### 4.2.1 CDBG Technical Guidance

#### **Guide to National Objectives and Eligible Activities for Entitlement Communities**

This guide provides explanations on national objectives and eligible activities for Entitlement Communities. View the [Guide to National Objectives and Eligible Activities for Entitlement Communities](#).

## **Guide to National Objectives and Eligible Activities for State CDBG Programs**

This guide provides explanations on national objectives and eligible activities for State CDBG Programs. View the [Guide to National Objectives and Eligible Activities for State CDBG Programs](#).

### **4.2.2 HOME Technical Guidance**

#### **Technical Guide for Determining Income and Allowances for the HOME Program**

This self-study guide provides explanations of each of the three definitions of income and a glossary of terms, and describes what sources of income must be included or excluded when conducting income verification. In addition to a description of these basic requirements, the guide provides exercises and case studies to enable readers to test their understanding of the key concepts. View the [Technical Guide for Determining Income and Allowances for the HOME Program](#).

### **4.2.3 NSP Technical Guidance**

#### **Guide to Completing NSP Income Certifications**

This guide is intended for grantees and their partners seeking guidance on calculating annual gross income for the purposes of NSP eligibility determination. Before approving client applications for NSP rental or homeownership assistance, grantees and their partners must determine whether annual gross income is at or below NSP income limits. While there are a range of acceptable methods for collecting and certifying income data, this guide focuses on the methods used in HUD's HOME Investment Partnership Program. An income calculation worksheet, formatted in Excel, is embedded at the end of this document. View the [Guide to Completing NSP Income Certifications](#).

## **4.3 FORMS**

### **4.3.1 IRS Forms**

Visit the [IRS website](#) to see the 1040 form and other information about the IRS 1040.

### **4.3.2 American Community Survey Forms**

Visit the [Census website](#) to see the survey form and other information about the American Community Survey (ACS).

### **4.3.3 HOME Forms**

The following forms are available to HOME participating jurisdictions (PJs); however other grantees may find these resources helpful and could adapt to other programs.

#### **Program Eligibility Release Form**

This form gives authorization for the named organization to obtain information from a third party relative to his/her eligibility in a HOME TBRA, homebuyer, rental rehabilitation, or homeowner rehabilitation program. It may also be used to determine continued eligibility or rent charged in a HOME TBRA program or HOME-assisted rental housing.

- [View Program Eligibility Release Form in PDF](#)
- [View Program Eligibility Release Form in Word](#)

#### **Recertification of Annual Income by Government Programs**

This form is used to certify the amount of funding a household receives through a government program. A government administrator completes this form for the PJ to use when recertifying the income of rental housing tenants.

- [View Recertification of Annual Income by Government Programs in PDF](#)
- [View Recertification of Annual Income by Government Programs in Word](#)

#### **Recertification of Annual Income by Tenant Family**

This form is completed by the tenant family to certify the household size and annual income. The tenant family returns this form to the PJ for use when recertifying the income of rental housing tenants.

- [View Recertification of Annual Income by Tenant Family in PDF](#)
- [View Recertification of Annual Income by Tenant Family in Word](#)

#### **Sample Format for Calculating Adjusted Income**

This form provides a format that can be used to calculate adjusted income for HOME Program purposes.

- [View Sample Format for Calculating Adjusted Income in PDF](#)
- [View Sample Format for Calculating Adjusted Income in Word](#)

#### **Sample Format for Calculating Part 5 Annual Income**

This form provides a format that can be used to assess assets and anticipated income and calculate Part 5 annual income.

- [View Sample Format for Calculating Part 5 Annual Income in PDF](#)
- [View Sample Format for Calculating Part 5 Annual Income in Word](#)

#### **Sample Format for Computing IRS Form 1040 Series Adjusted Gross Income**

This form provides a format that can be used to compute the IRS Form 1040 series adjusted gross income.

- [View Sample Format for Computing IRS Form 1040 Series Adjusted Gross Income in PDF](#)
- [View Sample Format for Computing IRS Form 1040 Series Adjusted Gross Income in Word](#)

#### **Sample Format for Computing Total Tenant Payment and PJ Subsidy: Rental Certificate Model**

This form provides a format that can be used to compute the total payment and PJ subsidy for a rental certificate model. This form is used with the Sample Format for Calculating Part 5 Adjusted Income.

- [View Sample Format for Computing Total Tenant Payment and PJ Subsidy: Rental Certificate Model in PDF](#)
- [View Sample Format for Computing Total Tenant Payment and PJ Subsidy: Rental Certificate Model in Word](#)

#### **Sample Format for Computing Total Tenant Payment and PJ Subsidy: Rental Voucher Model**

This form provides a format that can be used to compute the total payment and PJ subsidy for a rental voucher model. This form is used with the Sample Format for Calculating Part 5 Adjusted Income.

- [View Sample Format for Computing Total Tenant Payment and PJ Subsidy: Rental Voucher Model in PDF](#)
- [View Sample Format for Computing Total Tenant Payment and PJ Subsidy: Rental Voucher Model in Word](#)

#### **Verification of Alimony and Separation**

This form gives authorization for the HOME PJ to verify alimony and separation payments made to all members of the household applying for participation in the HOME Program.

- [View Verification of Alimony and Separation in PDF](#)
- [View Verification of Alimony and Separation in Word](#)

#### **Verification of Assets on Deposit**

This form gives authorization for the HOME PJ to verify assets on deposit for all members of the household applying for participation in the HOME Program.

- [View Verification of Assets on Deposit in PDF](#)
- [View Verification of Assets on Deposit in Word](#)

### **Verification of Child Support Payments**

This form gives authorization for the HOME PJ to verify child support payments made to all members of the household applying for participation in the HOME Program on all or none.

- [View Verification of Child Support Payments in PDF](#)
- [View Verification of Child Support Payments in Word](#)

### **Verification of Employment**

This form gives authorization for the HOME PJ to verify employment income of all the members of the household applying for participation in the HOME Program.

- [View in Verification of Employment in PDF](#)
- [View in Verification of Employment in Word](#)

### **Verification of Income from Military**

This form gives authorization for the HOME PJ to verify military service income of all the members of the household applying for participation in the HOME Program.

- [View Verification of Income from Military in PDF](#)
- [View Verification of Income from Military in Word](#)

### **Verification of Income from Business**

This form gives authorization for the HOME PJ to verify business income of all the members of the household applying for participation in the HOME Program.

- [View Verification of Income from Business in PDF](#)
- [View Verification of Income from Business in Word](#)

### **Verification of Pensions and Annuities**

This form gives authorization for the HOME PJ to verify pension and annuity income of all the members of the household applying for participation in the HOME Program.

- [View Verification of Pensions and Annuities in PDF](#)
- [View Verification of Pensions and Annuities in Word](#)

### **Verification of Public Assistance Program**

This form gives authorization for the HOME PJ to verify public assistance income for all the members of the household applying for participation in the HOME Program.

- [View Verification of Public Assistance Program in PDF](#)
- [View Verification of Public Assistance Program in Word](#)

### **Verification of Recurring Cash Contributions**

This form gives authorization for the HOME PJ to verify recurring cash contributions made to all members of the household applying for participation in the HOME Program.

- [View Verification of Recurring Cash Contributions in PDF](#)
- [View Verification of Recurring Cash Contributions in Word](#)

### **Verification of Social Security Benefits**

This form gives authorization for the HOME PJ to verify Social Security benefit income for all the members of the household applying for participation in the HOME Program.

- [View Verification of Social Security Benefits in PDF](#)
- [View Verification of Social Security Benefits in Word](#)

### **Verification of Unemployment Benefits**

This form gives authorization for the HOME PJ to verify information about unemployment benefits income for all members of the household applying for participation in the HOME Program.

- [View Verification of Unemployment Benefits in PDF](#)
- [View Verification of Unemployment Benefits in Word](#)

### **Verification of Veterans Administrative Benefits**

This form gives authorization for the HOME PJ to verify Veterans Administrative Benefits income for all the members of the household applying for participation in the HOME Program.

- [View Verification of Veterans Administrative Benefits in PDF](#)
- [View Verification of Veterans Administrative Benefits in Word](#)

## **4.3.4 HOPWA Forms**

### **Income Eligibility Calculation Worksheet**

To be eligible for assistance under the HOPWA program, individuals must be at or below 80 percent of area median income (AMI). Project sponsors can use this worksheet to calculate household income and determine eligibility for assistance.

- Download [Income Eligibility Calculation Worksheet \(Excel\)](#)
- View [Income Eligibility Calculation Worksheet \(PDF\)](#)

### **Income & Resident Rent Calculation Worksheet**

With the exception of persons in short-term supported housing, persons receiving rental assistance under the HOPWA program must pay rent. According to the HOPWA regulations, tenants must pay the higher of: (1) 30 percent of the family's monthly adjusted income; (2) 10 percent of the family's monthly gross income; or (3) The portion of any welfare assistance payments specifically designated for housing costs. This worksheet can be used by HOPWA project sponsors to determine the Resident Rent Payment.

- Download [Income & Resident Rent Calculation Worksheet \(Excel\)](#)
- View [Income & Resident Rent Calculation Worksheet \(PDF\)](#)

### **Accepted Forms of Income Verification**

HOPWA program regulations require verification of all income from participant households. This tool provides examples of acceptable forms of income documentation.

- Download [Accepted Forms of Income Verification \(PDF\)](#)
- View [Accepted Forms of Income Verification \(HTML\)](#)

### **Disallowance of Increase in Annual Income (Earned Income Disregard)**

In February 2001, HUD finalized regulations that require housing providers in certain HUD programs to disregard some or all of the earned income for tenants with disabilities. The Earned Income Disregard, as it is commonly called, allows qualified individuals and families receiving housing assistance to keep more of their earned income for a period of up to two years following an increase in employment income. This resource provides guidance on implementing the Earned Income Disregard for the purpose of calculating client income and resident rent payment.

- View [Disallowance of Increase in Annual Income \(Earned Income Disregard\) \(HTML\)](#)

### **Zero-Income Affidavit**

HOPWA program regulations require verification of all income from participating households. This form can be used as documentation when a household has no income.

- View [Zero-Income Affidavit \(HTML\)](#)



### ATTACHMENT 3

## Income Eligibility Requirement Packet & Applicant Affidavit

Applicants must meet income eligibility requirements. An applicant's gross annual income may not exceed 80% of HUD's median family income for the City of Austin, as adjusted for the household size.

The Austin Housing Finance Corporation (AHFC) will calculate annual gross income in accordance with 24 CFR Part 5. The Part 5 income calculation takes into account gross income and assets.

Applicants must complete the Income Eligibility Questionnaire (page 2) and attach all supporting documentation as indicated in the Income Eligibility Documentation Requirements Checklist (page 3). Applicants must also complete the Applicant Affidavit (pages 4 and 5).

Income Eligibility Requirements as of June 6, 2016:

Family Size	Maximum Household Income
1 Person	\$ 43,600
2	\$ 49,800
3	\$ 56,050
4	\$ 62,250
5	\$ 67,250
6	\$ 72,250
7	\$ 77,200
8	\$ 82,200

\* Income amounts are 80% of Median Family Income for the City of Austin.



### Income Eligibility Questionnaire

If any of the answers are "YES," please attach the required documentation indicated by the corresponding number on the Income Eligibility Documentation Checklist (page 3).

1. Has any member of the Household filed tax returns? ☐ Yes ☐ No
2. Is any member of the household employed, have wages, salaries, overtime pay, commissions, fees, tips, bonuses, or other compensation for personal services? ☐ Yes ☐ No
3. Does any member of the household have checking account(s)? ☐ Yes ☐ No
4. Does any member of the household have savings account(s)? ☐ Yes ☐ No
5. Does any member of the household have stocks, bonds, Treasury Bills, CDs, brokerage accounts, or money market accounts? ☐ Yes ☐ No
6. Does any member of the household receive periodic payments from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, or similar types of periodic payments? ☐ Yes ☐ No
7. Does any member of the household receive payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, or severance pay? ☐ Yes ☐ No
8. Does any member of the household receive Welfare Assistance? ☐ Yes ☐ No
9. Does any member of the household receive periodic and determinable allowances (such as child support, spousal support/alimony, or regular contributions or gifts from persons not residing in the household)? ☐ Yes ☐ No
10. Does any member of the household own real estate or other capital investments? ☐ Yes ☐ No
11. Does any member of the household have IRA, Keogh, retirement, or pension fund accounts? ☐ Yes ☐ No
12. Does any member of the household have life insurance policies available before death (whole or universal life insurance)? ☐ Yes ☐ No
13. Does any member of the household have a revocable trust available? ☐ Yes ☐ No
14. Does any member of the household hold personal property as an investment? ☐ Yes ☐ No
15. Has any member of the household received a lump sum payment or in receipt of inheritances, capital gains, lottery winnings, victim's restitution, or insurance settlements? ☐ Yes ☐ No
16. Does any member of the household hold mortgages or deeds of trust? ☐ Yes ☐ No
17. Does any member of the household have any interest or receive payments from Indian trust lands? ☐ Yes ☐ No



## Income Eligibility Documentation Checklist

***PLEASE PROVIDE THE FOLLOWING INFORMATION, FOR ALL HOUSEHOLD MEMBERS, IF APPLICABLE:***

1. Copy of the most recent year's tax return (with W-2s) for all Household Members who filed separately.
2. Copies of paycheck stubs for the most recent 3 months, or other documentation of wages, salary, etc.
3. Copies of the last 6 months of all checking account statements.
4. Copies of the most recent savings account statement.
5. Copies of the most recent brokerage or individual account statements for stocks, bonds, Treasury Bills, certificates of deposits, and money market accounts.
6. Proof of amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. Do not include deferred periodic amounts from SSI and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.
7. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. Do not include lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses.
8. Proof of amount and type of Welfare Assistance.
9. Proof of amount of periodic and determinable allowances, such as child support payments, spousal support/alimony payments, and regular contributions or gifts received from persons not residing in the dwelling.
10. Inventory of Real Estate owned indicating address, value, equity percentage, and proof of indebtedness, if any.
11. Copies of the most recent IRA, Keogh, retirement, and pension fund account statements.
12. Copies of life insurance policies whose funds are available to household member before death (e.g., surrender value or a whole life or universal life policy). Indicate which household member is the beneficiary.
13. Proof of cash value of revocable trusts available to applicant.
14. Value of personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
15. Value of lump sum or one time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and other amounts not intended as periodic payments.
16. Copies of mortgages or deeds of trust held by the applicant.
17. Proof of and amount of interest in Indian trust lands.



## Applicant Affidavit

**WARNING:** Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government.

Property Address: \_\_\_\_\_  
Street Address                      Austin City                      Texas State                      Zip

I/We hereby submit to the Austin Housing Finance Corporation the attached information and documentation required to determine my/my family's eligibility for the home ownership program operated by the Guadalupe Neighborhood Development Corporation using federal funds.

I certify that:

1. the house I am/we are purchasing will be my/our primary residence;
2. neither I nor the Co-Applicant (if any) has owned a home in the past three years;
3. all income eligibility information and documentation is true, correct, and complete; and
4. the following persons listed will be occupying the home after closing:

# in HH	NAME	AGE	RELATIONSHIP	GROSS ANNUAL INCOME
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____

**A certification of zero income must be provided for any members of the household over 18 years old.**

The undersigned agrees to release whatever information the State Attorney General determines to be publicly available. The undersigned agrees to allow the City and/or its designee, financial institutions, and other appropriate institutions to share information contained in this or their file for the purpose of new home ownership eligibility and related business. I understand that any discrepancy, omissions, or false information may disqualify me. If such a discrepancy or omission is discovered after closing, I understand that any financial or program assistance provided by the City of Austin/Austin Housing Finance Corporation may become due and payable.

\_\_\_\_\_  
Applicant (original signature)

\_\_\_\_\_  
date

\_\_\_\_\_  
Co-Applicant (original signature)

\_\_\_\_\_  
date



**The Ten-Year Affordability Period  
&  
The Restrictive Covenant Running With the Land**

I understand that because a certain amount of federal funds were used by Austin Habitat for Humanity, or its affiliates, to acquire and develop this property, the federal government requires that certain restrictions apply to the occupancy or resale of this home for a period of ten (10) years. I understand that during that ten-year period those requirements will be enforced through a legally-binding document called a "Restrictive Covenant Running with the Land." At the time the home is sold to me, I will sign the Restrictive Covenant, and it will be filed in the Official Public Records of the Travis County Clerk's Office.

**I understand that the Restrictive Covenant will require the following:**

- That I must occupy the home as my principal residence during the 10-year period in which the Restrictive Covenant is in effect;
- If I want to sell the Property during that period, I must first offer to sell it back to Austin Habitat for Humanity, Inc. If Austin Habitat for Humanity chooses not to purchase the property, I understand that I must sell it to a family earning an annual household income not exceeding 80% of the area median family income for Travis County, Texas in effect at the time of sale; and
- That if Austin Habitat for Humanity chooses not to purchase my home, and I resell the Property to an income-eligible family during that fifteen-year period, the sales price must be set so that the monthly principal, interest, taxes and insurance to be paid by the subsequent homebuyer cannot exceed 30% of that subsequent homebuyer's annual household income, and the sales price must be set such that I receive at a minimum the investment I put into the Property, including any improvements.



*Austin Habitat for Humanity, or its affiliate organizations, the City of Austin and the Austin Housing Finance Corporation do not discriminate against any applicant based on the information that you provide below or nor will it be used when considering your application. The information that is requested below is a federal requirement when any funds are provided to a project by the U.S. Department of Housing and Urban Development (HUD).*

Demographic Information for Applicant

ETHNICITY

(select one)

- ☐ Hispanic or Latino  
☐ Not Hispanic or Latino

RACE

(please select only one)

- ☐ American Indian or Alaskan Native  
☐ Asian  
☐ Black or African-American  
☐ Native Hawaiian or Other Pacific Islander  
☐ White  
☐ American Indian or Alaskan Native AND White  
☐ Asian AND White  
☐ Black or African-American AND White  
☐ American Indian or Alaskan Native AND Black or African-American  
☐ Other multiple race combinations (please describe):  
\_\_\_\_\_

Gender: ☐ Male ☐ Female  
Disabled: ☐ Yes ☐ No

Demographic Information for Co-Applicant

ETHNICITY

(select one)

- ☐ Hispanic or Latino  
☐ Not Hispanic or Latino

RACE

(please select only one)

- ☐ American Indian or Alaskan Native  
☐ Asian  
☐ Black or African-American  
☐ Native Hawaiian or Other Pacific Islander  
☐ White  
☐ American Indian or Alaskan Native AND White  
☐ Asian AND White  
☐ Black or African-American AND White  
☐ American Indian or Alaskan Native AND Black or African-American  
☐ Other multiple race combinations (please describe):  
\_\_\_\_\_

Gender: ☐ Male ☐ Female  
Disabled: ☐ Yes ☐ No

◆ ◆ ◆ Please return this entire packet to AHFC as an original. ◆ ◆ ◆

**Austin Habitat for Humanity, Inc. (AHFH)**  
**The Satio - 20 Unit New Construction**  
**Homebuyer Closing Checklist (items needed)**

Address: \_\_\_\_\_

Buyer: \_\_\_\_\_

*Please submit to AHFH the items listed below, needed in order to close the sale of the home.*

**Legal Documents**

\_\_\_\_\_ **COPY** of the executed sales contract

- \_\_\_\_\_ **Date Sales Contract Signed**
- \_\_\_\_\_ **Sales Price**
- \_\_\_\_\_ **# of Bedrooms**
- \_\_\_\_\_ **# of People in Household**

\_\_\_\_\_ **COPY** of the Title Commitment

**Client Information**

\_\_\_\_\_ **COPY** of all documents required as indicated by Buyer's responses on page 2 and 3 of the  
Income Eligibility Requirement Package & Applicant Affidavit

\_\_\_\_\_ **ORIGINAL** signed Applicant Affidavit (submit entire Income Eligibility Requirement Package).

\_\_\_\_\_ **ORIGINAL** Buyer-Seller Certification Form/Seller's Voluntary Sale Certification

\_\_\_\_\_ If Homebuyer is currently legally divorced, please provide a **COPY** of the divorce decree.

**House Documents**

\_\_\_\_\_ **COPY** of Appraisal (first two pages)

\_\_\_\_\_ **COPY** of Survey

\_\_\_\_\_ **COPY** of Certificate of Occupancy (CO)

\_\_\_\_\_ **COPY** of Green Builder Certificate

\_\_\_\_\_ Contract/Subcontractor Activity Report Form

\_\_\_\_\_ "Section 3" - Contractor Questionnaire and/or Certification Forms

**Instruction for sending packet:**

\_\_\_\_\_ EMAIL Sherry Cardino once packet is dropped off (note each address delivered)

RETURN THIS DOCUMENT WITH ORIGINAL SIGNATURES TO AHFC, 1000 E. 11<sup>th</sup> ST., AUSTIN, TX 78702



**BUYER'S / SELLER'S CERTIFICATION**  
**REQUIRED WHEN FEDERAL FUNDS ARE USED**  
**TO ACQUIRE PROPERTY, CONSTRUCT A HOUSE,**  
**AND/OR TO PROVIDE HOMEBUYER**  
**ASSISTANCE**



Property Address: \_\_\_\_\_

**Buyer's Statement**

1. I (Buyer) am a private individual who has voluntarily entered into a contract to purchase the property at the address indicated above. Although federal funds are involved, as a private individual, I do not have the authority to invoke either eminent domain or condemnation proceedings to force the sale of this property.
2. I (Buyer) believe the sales price does not exceed the fair market value of the subject property.

As evidenced by my signature below, I attest that the above statements are accurate.

\_\_\_\_\_  
 Buyer

\_\_\_\_\_  
 Co-Buyer

**Seller's Statement**

1. I (Seller) am the owner of the property at the address indicated above. I am selling this property voluntarily and of my own free will. Per the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, I certify that no one was displaced in order to make this property available for sale. Since the Buyer cannot invoke eminent domain or condemnation proceedings to force the sale of this property, and since I am selling this property voluntarily, I understand that I am not eligible for assistance under the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended.
2. I (Seller) certify the property meets one of the following conditions (*check one*):
  - ☐ Is new construction
  - ☐ Is real estate owned by this institution and which was vacant before a contract for sale was accepted.
3. I (Seller) believe the sales price does not exceed the fair market value of the subject property.

As evidenced by my signature below, I attest that the above statements are accurate.

\_\_\_\_\_  
 Seller

\_\_\_\_\_  
 Co-Seller

**WARNING: Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government.**



# City of Austin

## ATTACHMENT 10

Neighborhood Housing and Community Development Department  
P.O. Box 1088, Austin, TX 78767  
(512) 974-3100, Fax: (512) 974-3161  
[www.cityofaustin.org/housing](http://www.cityofaustin.org/housing)

### SECTION 3 BUSINESS QUALIFICATION QUESTIONNAIRE

Project Name: The Saltillo - HOME Project

Project Location Address: 1409 and 1411 East 4<sup>th</sup> Street

City: Austin State: Texas Zip Code: 78702

Select One ☐ Prime Contractor ☐ Subcontractor

Company Full Legal Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

EIN, Tax I.D. or Social Security Number: \_\_\_\_\_

Company DUNS Number: \_\_\_\_\_

#### Authorized Person Completing This Form:

NAME

TITLE

PHONE

1. Is your firm the Prime Contractor for this project? ☐ Yes ☐ No

2. Is your contractual agreement at least \$100,000.00? ☐ Yes ☐ No

If yes, what is the prime contract amount? \$ \_\_\_\_\_

3. Is your firm a sub-contractor for this project? ☐ Yes ☐ No

4. Is your contractual agreement at least \$100,000.00? ☐ Yes ☐ No

If yes, what is the sub contract amount? \$ \_\_\_\_\_

5. Were new employees hired for this project? ☐ Yes ☒ No

6. If so, do they live within the City of Austin city limits? ☐ Yes ☐ No

7. \* Do they meet the 80% income limits? ☐ Yes ☐ No

8. Do they live in public housing? ☐ Yes ☐ No

If the answer is "No" on any of the questions 5, 6, 7 or 8, **STOP**. Sign and date the form.

**\* Use Self-Declaration Form to make Determination**

#### AUTHORIZED PERSON COMPLETING THIS FORM

By my signature, I certify that the foregoing is true and correct.

Authorized Person Signature

Date

*The City of Austin is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

### Section 3 Contractor Certification

The work to be performed for Austin Habitat for Humanity, Inc. or its General Contractor is subject to Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, hereafter called "Section 3."

Section 3 requires that, to the greatest extent feasible, opportunities for training and employment are given to low- or moderate-income *residents* residing in the project area (Travis County) and that a percentage of contracts or subcontracts for work in connection with the project are awarded to "Section 3" *business concerns* located in the project area.

**You or your employees are considered "Section 3" residents if:** 1) residing in Travis County and having an annual total household income at or below **80** percent of the Median Family Income, equal to or less than the amounts shown in the table below; **OR** 2) currently living in public housing.

**Income Limits by Household Size - Effective Date: June 6, 2016**

Number of Persons In Household	1	2	3	4	5	6	7	8
Annual Household Income	43,600	49,800	56,050	62,250	67,250	72,250	77,200	82,200

- A "Section 3" business is a business owned 51% or more by "Section 3" residents.

**After considering the above information, please complete the following:**

This is to certify that \_\_\_\_\_  
(Business Name)

**(check one)**

<input type="checkbox"/>	...is a "Section 3" Business (which means 51 percent or more owned by "Section 3" residents)
<input type="checkbox"/>	...employs "Section 3" residents (which means that 30% of your full-time employees are currently "Section 3" residents, or who were "Section 3" residents within three years of the date of first employment with your business)
<input type="checkbox"/>	...has a commitment to subcontract more than 25% of the dollar amount of all subcontracts to "Section 3" businesses.

Signature

Title

Date



# City of Austin

ATTACHMENT 12

Neighborhood Housing and Community Development Department  
P.O. Box 1088, Austin, TX 78767  
(512) 974-3100, Fax: (512) 974-3161  
[www.cityofaustin.org/housing](http://www.cityofaustin.org/housing)

## SECTION 3 SELF DECLARATION FORM

What is a Section 3 Resident? A Section 3 Resident is 1). A low or very low-income person (at or below 80% MFI), who lives in the City Limits of the City of Austin, or, 2). A resident of public housing

Project Name: The Saltillo - HOME Project

Project Location Address: 1409 and 1411 East 4<sup>th</sup> Street

City: Austin State: Texas Zip Code: 78702

Select One ☐ Prime Contractor ☐ Subcontractor

Company Full Legal Name: \_\_\_\_\_ Phone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

### EMPLOYEE INFORMATION

Employee Name (please print): \_\_\_\_\_ Job Classification (list all if more than one): \_\_\_\_\_ Hourly Rate of Pay: \_\_\_\_\_

Employee Hire Date: \_\_\_\_\_ Ethnicity: \_\_\_\_\_

Employee Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

1. Resident of Public Housing ☐ Yes ☐ No

2. Marital Status – Married? ☐ Yes ☐ No

3. Number of Persons in Household  No. of People

4. Estimated Household Income \$ \_\_\_\_\_ Monthly \$ \_\_\_\_\_ Annual

80% Median Family Income Limits by Household Size - Effective Date: June 6, 2016

Number of Persons in Household	1	2	3	4	5	6	7	8
Annual Household Income	43,600	49,800	56,050	62,250	67,250	72,250	77,200	82,200

### EMPLOYEE AUTHORIZATION

My signature certifies that I ☐ am a Section-3 Resident ☐ am **NOT** a Section-3 Resident within the City of Austin city limits based on the information provided above.

Employee Signature

Date

*The City of Austin is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*



# City of Austin

Neighborhood Housing and Community Development  
P.O. Box 1088, Austin, TX 78767  
(512) 974-3100, Fax: (512) 974-3112  
[www.cityofaustin.org/housing](http://www.cityofaustin.org/housing)

ATTACHMENT 13

## Contractor's Section 3 Monthly Report

Project Name: \_\_\_\_\_

Prime Contractor: \_\_\_\_\_

Subcontractor Name: \_\_\_\_\_

A Section 3-qualified business? ☐ Yes ☐ No

Report for the Calendar Month of: \_\_\_\_\_

Job Category	Total New Hires	White	Black	Hispanic	Native American	Asian/Pacific American	Hasidic Jews
Professionals							
Technicians							
Office/Clerical							
Const. by Trade:							
Trade:							
Trade:							
Trade:							
Trade:							
Trade:							

Please indicate how this business made low-income people and/or public housing residents aware of job opportunities.

- ☐ Local advertising, signs at project site, through community organizations, etc
- ☐ Participated in program that promotes training/employment of Section 3 residents
- ☐ Participated in program that promotes the award of contracts to Section 3 businesses
- ☐ Coordinated with Youthbuild programs
- ☐ Other: \_\_\_\_\_

\_\_\_\_\_  
Company Official's Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\*A Section 3 Resident is a low or very low income person (at or below 80% MFI), who live in the metropolitan area or non- metropolitan county where a HUD-assisted project for housing or community development is located or

\*A resident of public housing

**Required Accessibility/Nondiscrimination Language  
Austin Habitat for Humanity, Inc.  
\$294,773 – HOME Funds**

**Section 504/ADA Language Requirements**

In order to demonstrate compliance with the Americans with Disabilities Act (ADA) and Section 504 notice requirements, the following statements must be added to all public notices, advertisements, program applications, program guidelines, program information brochures or packages, and any other material containing general information that is made available to participants, beneficiaries, applicants, or employees:

BORROWER, and the City of Austin/Austin Housing Finance Corporation do not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs and activities. David Ondich has been designated as the City's Section 504/ADA Coordinator. If you have any questions or complaints regarding your Section 504/ADA rights, please call him at (512) 974-3256 (voice) or 7-1-1 (Relay Texas)

BORROWER, and the City of Austin/Austin Housing Finance Corporation are committed to compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended. Reasonable modifications and equal access to communications will be provided upon request. Please call or Relay Texas at 7-1-1 for assistance.

This publication is available in alternative formats. Please call (512) 974-3110 (voice) or 7-1-1 (Relay Texas) for assistance

When advertising or providing a notice requirement regarding a meeting, the following language needs to be added to the end of the first paragraph above:

For a sign language interpreter, please call (512) 974-3100 (voice) or Relay Texas at 7-1-1 at least 4-5 days in advance.

## EXHIBIT C

### Insurance Requirements

**Agreement:** Acquisition and Development Program Loan Agreement

**Borrower:** Austin Habitat for Humanity, Inc.

**Section 1** Borrower, from the Date until issuance of the Certificate of Occupancy by the City of Austin with respect to the Property, shall carry insurance in the following types and amounts:

- 1.1 Commercial General Liability Coverage with a minimum bodily injury and property damage per occurrence limit of \$500,000 for coverages A & B. The policy shall contain the following provisions and endorsements in favor of the City:
  - 1.1.1 Blanket Contractual liability coverage for liability assumed under this contract;
  - 1.1.2 Products and completed operations coverage;
  - 1.1.3 Independent contractors coverage;
  - 1.1.4 Personal and Advertising injury coverage;
  - 1.1.5 Additional Insured endorsement (Form CG 2010);
  - 1.1.6 Waiver of Subrogation endorsement (Form CG 2404); and
  - 1.1.7 30-Day Notice of Cancellation endorsement (Form CG 0205).
- 1.2 Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a limit of \$500,000 per occurrence for bodily injury and property damage liability. The policy shall contain the following endorsements in favor of the City:
  - 1.2.1 Additional Insured endorsement (Form TE 9901B);
  - 1.2.2 Waiver of Subrogation endorsement (Form TE 2046A); and
  - 1.2.3 30-Day Notice of Cancellation endorsement (Form TE 0202A).
- 1.3 Directors and Officers Insurance with a minimum of not less than \$1,000,000 per claim shall be in place for protection from claims arising out of negligent acts, errors or omissions for directors and officers while acting in their capacities as such. If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of the Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The coverage shall be continuous for the duration of the Agreement and for not less than twenty-four (24) months following the end of the Agreement. Coverage, including renewals, shall have the same retroactive date as the original policy applicable to the

Agreement. The Borrower shall, on at least an annual basis, provide the City with a certificate of insurance as evidence of such insurance.

**Section 2** Borrower shall cause any contractor or subcontractor of Borrower constructing improvements to the Mortgaged Property, from the Date until issuance of the certificate of occupancy by the City of Austin with respect to the Mortgaged Property, to carry insurance in the following types and amounts:

- 2.1 Employers Liability and Workers' Compensation Insurance. Minimum policy limits for Employers' Liability shall be \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. Workers' Compensation coverage shall be consistent with statutory benefits described in the Texas Workers' Compensation Act, section 401. Coverage shall apply to the State of Texas. The policy shall contain the following endorsements in favor of the City:
  - 2.1.1 Waiver of Subrogation (Form WC 420304); and
  - 2.1.2 30-Day Notice of Cancellation (Form WC 420601).
- 2.2 Commercial General Liability Coverage with a minimum bodily injury and property damage per occurrence limit of \$500,000 for coverages A & B. The policy shall contain the following provisions and endorsements in favor of the City:
  - 2.2.1 Blanket Contractual liability coverage for liability assumed under this contract;
  - 2.2.2 Products and completed operations coverage;
  - 2.2.3 Independent contractors coverage;
  - 2.2.4 Personal and Advertising injury coverage;
  - 2.2.5 Additional Insured endorsement (Form CG 2010);
  - 2.2.6 Waiver of Subrogation endorsement (Form CG 2404); and
  - 2.2.7 30-Day Notice of Cancellation endorsement (Form CG 0205).
- 2.3 Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a limit of \$500,000 per occurrence for bodily injury and property damage liability. The policy shall contain the following endorsements in favor of the City:
  - 2.3.1 Additional Insured endorsement (Form TE 9901B);
  - 2.3.2 Waiver of Subrogation endorsement (Form TE 2046A); and
  - 2.3.3 30-Day Notice of Cancellation endorsement (Form TE 0202A).
- 2.4 Builders' Risk Insurance on an all risk physical loss form in the amount of the maximum contractor amount for any improvements made to the Mortgaged Property. Coverage shall commence upon the date any work with respect to such improvements begins and shall continue until the work is complete and a certificate of occupancy is issued with respect to the improvements. The City shall be a mortgagee/loss payee on the policy. If off-site storage is permitted with respect to

the work, coverage shall include transit and storage in an amount sufficient to protect any property being transported or stored.

**Section 3** Borrower, from the date of issuance of the certificate of occupancy by the City of Austin with respect to the Mortgaged Property until termination of the Agreement, shall carry insurance in the following types and amounts for the duration of the Agreement:

- 3.1 Commercial General Liability Coverage with a minimum bodily injury and property damage per occurrence limit of \$500,000 for coverages A & B. The policy shall contain the following provisions:
  - 3.1.1 Blanket Contractual liability coverage for liability assumed under this contract;
  - 3.1.2 Products and completed operations coverage;
  - 3.1.3 Independent contractors coverage;
  - 3.1.4 Personal and Advertising injury coverage;
  - 3.1.5 Additional Insured endorsement in favor of the City (Form CG 2010);
  - 3.1.6 Waiver of Subrogation endorsement in favor of the City (Form CG 2404); and
  - 3.1.7 30-Day Notice of Cancellation endorsement in favor of the City (Form CG 0205).
- 3.2 Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a limit of \$500,000 per occurrence for bodily injury and property damage liability. The policy shall contain the following endorsements in favor of the City:
  - 3.2.1 Additional Insured endorsement (Form TE 9901B);
  - 3.2.2 Waiver of Subrogation endorsement (Form TE 2046A); and
  - 3.2.3 30-Day Notice of Cancellation endorsement (Form TE 0202A).
- 3.3 All risk property coverage including but not limited to fire, wind, hail, theft, vandalism, and malicious mischief for all real and personal property owned and/or acquired by Borrower with respect to the Agreement. The coverage shall be at replacement cost with a 100% coinsurance clause. The City shall be a mortgage/loss payee on the policy As Their Interest May Appear.
- 3.4 Directors and Officers Insurance with a minimum of not less than \$1,000,000 per claim shall be in place for protection from claims arising out of negligent acts, errors or omissions for directors and officers while acting in their capacities as such. If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of the Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The coverage shall be continuous for the duration of the Agreement and for not less than twenty-four (24) months following the end of the Agreement. Coverage, including renewals, shall have the same retroactive date as the original policy applicable to the

**Agreement.** The Borrower shall, on at least an annual basis, provide the City with a certificate of insurance as evidence of such insurance.

**Section 4** If the insurance policies are written for less than the amounts specified in Section 1, Section 2 and Section 3 of these Insurance Requirements, Borrower, or Borrower's contractor or subcontractor as the case may be, shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

**Section 5** Borrower shall provide City at least thirty (30) calendar days written notice of erosion of the aggregate limit below the minimum required combined single limit of coverage.

**Section 6** Borrower shall not acquire any property or commence work under the Agreement until it has obtained all required insurance and until the Risk Management Division of the City has reviewed such insurance coverage.

**Section 7** City prefers that the required insurance be written by a company licensed to do business in the State of Texas at the time the policy is issued. In any event, the company must be rated by A.M. Best at B+ VII or better and reasonably acceptable to City. However, with respect to Employers Liability and Workers' Compensation Insurance, a policy written by the Texas Workers' Compensation Fund is acceptable.

**Section 8** All endorsements, naming the City as additional insured, waivers, notices of cancellation, notices of non-renewal or any other endorsements as well as the Certificate of Insurance shall:

- 8.1 Name the City at the notice address set forth in the Agreement.
- 8.2 Obligate the insurance company to notify the City official named as City contact in the Agreement at its notice address of any non-renewal, cancellation or material change to the policy, at least thirty (30) calendar days before the change or cancellation.

**Section 9** The "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in the Agreement, covering both City, Borrower, shall be considered primary coverage as applicable.

**Section 10** Borrower shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Agreement or the twenty-four month period following completion, in the case of a claims-made policy.

**Section 11** City reserves the right to review this Insurance Requirement during the effective period of the Agreement and to make reasonable adjustments to insurance coverages, and their limits, when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company, as well as that of Borrower.

**Section 12** City shall be entitled, upon request, and without expense to City, to receive copies of the requisite insurance policies and all endorsements thereto and may make any reasonable requests for deletion or 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 on any of such policies).

**Section 13** Actual losses, deductibles and self-insured retentions stated in policies, if any, which are not covered by insurance as required by this Insurance Requirement, are not allowable costs under the Agreement.

**EXHIBIT B  
STATEMENT OF WORK AND BUDGET**

**AUSTIN HABITAT FOR HUMANITY, INC.  
The Saltillo New Construction  
\$294,773 – HOME Funds - CDFA #14.239**

- I. Borrower:** Austin Habitat for Humanity, Inc.  
500 West Ben White Boulevard  
Austin, Texas 78704
- II. PROGRAM:** Acquisition and Development Program of the Austin Housing Finance Corporation

**III. PROJECT DESCRIPTION:**

**Purpose of Loan.** The HOME award to Austin Habitat for Humanity, Inc. (hereafter, "Borrower") is provided through a repayable loan in the amount of \$294,773. Using these funds for pre-development costs, Borrower will construct twenty (20) or more single-family attached homes and sell each home to buyers whose total household incomes are at or below 80% of MFI. The homes covered under this Loan Agreement are located at 1409 and 1411 East 4th Street, Austin, Texas 78702.

**IV. PERFORMANCE REQUIRED:**

**1. Homebuyer Eligibility.**

- **Income Targets.** All homes rehabilitated on the Property shall be sold to families earning 80% of the MFI or below at the time the buyer signs a sales contract to purchase a home constructed under this agreement.
- **Income Determination Process.**
  - **Income Limits.** Borrower shall use the HUD median family income guidelines in effect at the time the purchase contract is signed and shall request the updated HUD income guidelines from AHFC in March of each year. The income limits in effect at the time of this contract amendment are included as **Attachment 1** to the Statement of Work.
  - **Calculation and Documentation Method.** Borrower will calculate annual gross income in accordance with 24 CFR Part 5. The Part 5 income calculation takes into account gross income and assets. The HUD website provides a helpful explanation and an on-line calculator that computes annual gross income using 24 CFR Part 5 at: <https://www.hudexchange.info/incomecalculator>. The printed information from HUD's web site is included as **Attachment 2**.
  - **Timing.** Borrower shall certify that the household is income-eligible at the time the sales contract with the homebuyer is signed.
  - **Affidavit.** As part of the income certification process, Borrower shall require each prospective homebuyer to complete and sign an **Income Eligibility Requirements and Applicant Affidavit** in the form of **Attachment 3**, certifying the accuracy of their annual household income, including the incomes of all individuals who will occupy the home. In addition, it requires the buyers to acknowledge their awareness of the

restrictions that apply both to the purchase of the home and to the resale of the home within the Restricted Affordability Period.

- **Principal Residence.** The homebuyer must intend to reside in the home as his or her principal dwelling within sixty days from the date the home is conveyed to the Eligible Household.
2. **Approved Budget & Eligible Use of Funds.** Funds drawn on this contract shall not exceed \$294,773 and shall be drawn according to the budget as follows:

Sources of Funds	Amounts	Uses of Funds	Amounts
HOME Funds	\$294,773	Construction Hard and Soft Costs	\$294,773
TOTAL	\$294,773	TOTAL	\$294,773

3. **Project Timeline.** In accordance with the regulations governing the use of HOME funds, Borrower shall be available for project meetings with AHFC staff as needed in order to evaluate project progress relative to the Timeline (**Attachment 4**). At every scheduled project meeting, Borrower shall provide a summary of project status and a brief explanation for any delays relative to the Project Timeline.
4. **S.M.A.R.T. Housing.** The homes constructed under this contract must receive S.M.A.R.T. Housing certification and comply with the S.M.A.R.T. housing standards. Borrower must supply to AHFC the letter indicating that the home has received S.M.A.R.T. Housing certification, prior to reimbursing Borrower for any costs related to that Property.
5. **AHFC Lien.** A lien will be placed upon the properties to be constructed under the Loan Agreement. Upon the sale of a home to an eligible homebuyer, AHFC shall release the portion of its lien associated with each home, provided Borrower has met the terms of the Loan Agreement, including having each homebuyer sign a Restrictive Covenant Running with the Land, securing the applicable affordability period and resale obligation.
6. **Homebuyer Closing Process:** At least 7 business days prior to closing on the sale of a home, Borrower shall submit to AHFC all items listed in the **Closing Checklist (Attachment 5)** to this Statement of Work:
1. a copy of the sales contract between Borrower and the property's current owner;
  2. a preliminary copy of the HUD-1 settlement statement. In the event that the final HUD-1 reflects the advance requested exceeds the amount required to close the sale, the difference shall be refunded to AHFC by Borrower no later than 5 business days after closing the sale.
  3. a fully executed **Buyer/Seller Certification Form** in the form of **Attachment 8** to this Statement of Work

Upon receipt of repayment of borrowed funds from closing, AHFC will forward to the title company, or law office handling the transaction, a Partial Release of Lien to be filed for record with the Travis County Clerk's Office, releasing the lien on the property connected to this loan.

7. **Required Reports, Actions, and Documentation.** Borrower shall submit reports or requests to AHFC according to the following schedule, and other reports or revisions to reports upon request:

Required Reports, Actions, or Documentation Needed	Timeline
All items listed on the Homebuyer Closing Checklist (Attachment 5)	At least 7 days prior to closing on the sale of a home constructed under this Agreement
Section 3 Contractor Certification (Attachment 11)	For all contractors and subcontractors within 30 days following the execution of any contracts or subcontracts related to the Project
Section 3 Business Qualification Questionnaire (Attachment 10)	For all contractors and subcontractors within 30 days following the execution of any contracts or subcontracts related to the Project
Section 3 Monthly Reports (Attachment 13)	Monthly until construction completion
Draw Requests/Invoice/Loan Proceeds Disbursement Request	Not more than once monthly until project is completed
Audited Financial Statements, Auditor's Opinion and Management Letters (See Section 15.37 of Loan Agreement)	Within 180 calendar days following the end of each Borrower's Fiscal Year (must be provided annually)
Contract Close-Out Package	In such form as may be required by AHFC and within 90 days after the termination of this Loan Agreement, including any extensions granted.

8. **Accessibility/Nondiscrimination Language Requirements.** As required by the City of Austin, Borrower must include the required **Accessibility/Nondiscrimination Language**, provided in **Attachment 14** of this Statement of Work, in all materials related to the development and sale of the homes acquired under this Agreement. These materials include public notices, advertisements, program applications, program information brochures or packages, and any other material containing general information that is made available to participants, beneficiaries, applicants, or employees.
9. **Contract Expiration & Termination.** All homes to be sold with assistance under this Agreement must be constructed and sold before **October 31, 2023**. AHFC and Borrower shall mutually agree to terminate this Agreement when the properties acquired are conveyed to eligible homebuyers and after Borrower has supplied to AHFC all the necessary documents to close out the contract.
10. **Recapture/Resale Provisions.** The HOME funds provided under this contract will be subject to "resale" rather than "recapture" as defined by 24 CFR 92. The properties rehabilitated and sold under this Loan Agreement, if re-sold during the HOME Affordability Period specified in the Restrictive Covenant (**Exhibit "E"**), must be sold to households earning at or below 80 percent MFI at the time a sales contract is executed. The sale must also comply with the additional restrictions outlined in the Restrictive Covenant, such that the sales price be set: 1) to provide a fair return to the original homeowner; and 2) to ensure the new buyer's monthly payment for principal, interest, property taxes, and property insurance do not exceed 30% of the buyer's gross household income. As part of the closing process, each homebuyer must sign and file for Record in the Real Property Records of Travis County, Texas, a Restrictive Covenant.

11. **10-Year Restrictive Use Requirement:** In accordance with 24 CFR §570.505, Borrower agrees to enforce through a Restrictive Covenant or other legally binding instrument that the homes to be rehabilitated under this Loan Agreement shall remain affordable to homebuyers with total household incomes at or below 80% of the local MFI for a period of ten (10) years, the HOME Affordability Period. For the purposes of this requirement, said period shall begin on upon the date each property is conveyed to an Eligible Homebuyer and end no earlier than ten (10) years from the date the property is conveyed to the Eligible Homebuyer.

## **ATTACHMENTS**

- 1 – Current HUD Income Limits
- 2 – HUD Income Eligibility Calculator User Manual
- 3 – Income Eligibility Requirements and Applicant Affidavit
- 4 – Project Timeline
- 5 – Closing Checklist for Homebuyers
- 6 – [Not Applicable] – ~~URA Interest to Purchase Letter~~
- 7 – [Not Applicable] – ~~URA Offer to Purchase Letter~~
- 8 – Buyer/Seller Certification Form
- 9 – [Not Applicable] ~~CHDO Homebuyer Project Funds Reconciliation and Proceeds Worksheet~~
- 10 – Section 3 Business Qualification Questionnaire
- 11 – Section 3 Contractor Certification
- 12 – Self Declaration for Sec 3 Eligible Businesses
- 13 – Contractor Section 3 Monthly Report
- 14 – Required Accessibility/Nondiscrimination Language
- 15 – [Not Applicable] – ~~Affirmative Marketing Requirements~~
- 16 – [Not Applicable] – ~~Affirmative Marketing Report~~

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The City of Austin and the Austin Housing Finance Corporation are committed to compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended. Reasonable modifications and equal access to communications will be provided upon request. Please call (512) 974-3100 (voice) or contact Relay Texas at 7-1-1.

The City of Austin and the Austin Housing Finance Corporation do not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs and activities. David Ondich has been designated as the City's ADA/Section 504 Coordinator. Her office is located at 505 Barton Springs Road, Suite 600. If you have any questions or complaints regarding your ADA/Section 504 rights, please call the ADA/Section 504 Coordinator at (512) 974-3256 (voice) or Relay Texas at 7-1-1.

This publication is available in alternative formats. Please call (512) 974-3100 (voice) or contact Relay Texas at 7-1-1 for assistance.

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La City of Austin y la Austin Housing Finance Corporation está comprometida a cumplir con los requisitos de la Ley Americanos con Incapacidades (ADA) y con la Sección 504 de la Ley de Rehabilitación de 1973, y sus enmiendas. Bajo petición expresa, se harán las modificaciones que procedan y se proveerá igualdad de acceso a la información. Para asistencia, por favor llame al (512) 974-3100 (voz) o llame a Relay Texas a 7-1-1.

La City of Austin y la Austin Housing Finance Corporation no permite discriminación sobre la base de incapacidad en la admisión o acceso para, o en el tratamiento o empleo, en sus programas y actividades. David Ondich ha sido designada como la Coordinadora de la ADA/ Sección 504 de la Ciudad de Austin. Su oficina está localizada en 505 BARTON SPRINGS ROAD, SUITE 600. Preguntas o motivos de queja sobre sus derechos bajo la ADA/ Sección 504 deben ser dirigidas a la Coordinadora de la ADA/ Sección 504 al (512) 974-3256 (voz) o llame a Relay Texas a 7-1-1.

Esta publicación está disponible en formatos alternativos. Para asistencia, por favor llame al (512) 974-3100 (voz) o llame a Relay Texas a 7-1-1.

## Promissory Note

Austin Habitat for Humanity, Inc.  
The Saltillo New Construction

**Date:** 7/7/2016, 2016

**Borrower:** AUSTIN HABITAT FOR HUMANITY, INC.

**Borrower's Mailing Address:** 500 West Ben White Boulevard  
Austin, Travis County, Texas 78704

**Lender:** AUSTIN HOUSING FINANCE CORPORATION, a Texas public,  
non-profit corporation organized and operated under Chapter  
394, Texas Local Government Code

**Place for Payment:** 1000 East Eleventh Street, Suite 200  
Austin, Travis County, Texas 78702

**Principal Amount:** \$294,773.00 (TWO HUNDRED NINETY-FOUR THOUSAND  
SEVEN HUNDRED SEVENTY-THREE 00/100 U.S. DOLLARS)

**Annual Interest Rate:** 0 % (zero percent)

**Maturity Date:** The latter of: (i) October 31, 2023, or (ii) the date upon which all  
of the terms of the Acquisition and Development Program Loan  
Agreement dated of even date with this Promissory Note have  
been fulfilled by the Borrower.

**Annual Interest Rate on Matured, Unpaid Amounts:** 10.0% (ten percent)

### Terms of Payment (principal and interest):

Provided Borrower has not violated any of the terms and conditions of the Acquisition and Development Program Loan Agreement dated of even date with this Promissory Note (the "Loan Agreement"), payment of principal and interest shall be deferred. Upon Borrower's completion and sale of each home in accordance with the terms of the Loan Agreement, the Principal Amount will be reduced by \$14,738.65 for each of the twenty (20) homes completed and sold, and Lender will release from the Deed of Trust only those Properties which have been completed and sold in accordance with the Loan Agreement.

If there has been no uncured default on any of the terms and conditions of the Loan Agreement, the outstanding principal balance of this Note shall be forgiven and deemed paid as of the date of completion of all requirements in the Loan Agreement.

If Lender determines that there has been an uncured default of any of the terms and conditions of the Loan Agreement, the outstanding principal and interest owed under this Note will become due and payable according to the terms of the Loan Agreement.

**Security for Payment:**

This Promissory Note is secured by that certain deed of trust dated even date with this Promissory Note, executed by Borrower to ELIZABETH A. SPENCER, trustee (the "Deed of Trust"), which covers the real property described in the Deed of Trust and by this reference incorporated in this Promissory Note.

**Other Security for Payment:**

None.

Borrower promises to pay to the order of Lender the Principal Amount plus interest at the Annual Interest Rate. This Promissory Note is payable at the Place for Payment and according to the Terms of Payment. All unpaid amounts are due by the Maturity Date. After maturity, Borrower promises to pay any unpaid principal balance plus interest at the Annual Interest Rate on Matured, Unpaid Amounts.

If Borrower defaults in the payment of this Promissory Note or in the performance of any obligation in any instrument securing or collateral to this Promissory Note, Lender may declare the unpaid principal balance and earned interest on the Promissory Note immediately due. Borrower and each surety, endorser, and guarantor waive all demand for payment, presentation for payment, notice of intention to accelerate maturity, notice of acceleration of maturity, protest, and notice of protest, to the extent permitted by law.

Borrower also promises to pay reasonable attorney's fees and court and other costs if this Promissory Note is placed in the hands of an attorney to collect or enforce the Promissory Note. These expenses will bear interest from the date of advance at the Annual Interest Rate on Matured, Unpaid Amounts. Borrower will pay Lender these expenses and interest on demand at the Place for Payment. These expenses and interest will become part of the Promissory Note and will be secured by any security for payment.

Borrower may prepay this Promissory Note in any amount at any time before the Maturity Date without penalty or premium. Partial prepayments will be credited to the Principal Amount; installments will continue as scheduled and interest on that prepaid principal will immediately cease to accrue.

Notwithstanding any other provision of this Promissory Note, Lender, with respect to Borrower, may satisfy the debt evidenced by this Promissory Note only by the enforcement of Lender's rights in the Property pursuant to the Deed of Trust, and Borrower will not be liable for a money

judgment in the event of a default under this Promissory Note or the Deed of Trust.

Interest on the debt evidenced by this Promissory Note will not exceed the maximum rate or amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the Principal Amount or, if the Principal Amount has been paid, refunded. On any acceleration or required or permitted prepayment, any excess interest will be canceled automatically as of the acceleration or prepayment or, if the excess interest has already been paid, credited on the Principal Amount or, if the Principal Amount has been paid, refunded. This provision overrides any conflicting provisions in this Promissory Note and all other instruments concerning the debt.

If any installment becomes overdue for more than ten (10) calendar days, at Lender's option a late payment charge of \$75.00 may be charged in order to defray the expense of handling the delinquent payment. The execution and delivery of this Promissory Note are required under a loan agreement of the same date as this Promissory Note. If any provision of this Promissory Note conflicts with any provision of the loan agreement, or security agreement of the same transaction between Lender and Borrower, first the provisions of this Promissory Note, then the loan agreement, then the security agreement will govern to the extent of the conflict.

**IF BORROWER SHALL DEFAULT, BREACH, OR COMMIT AN UNCURED EVENT OF DEFAULT WITH RESPECT TO THE LOAN AGREEMENT THAT IS DATED 7/7, 2016 AND EXECUTED BY BORROWER AND LENDER, THE DEFAULT UNDER THE LOAN AGREEMENT SHALL BE A DEFAULT UNDER THIS PROMISSORY NOTE.**

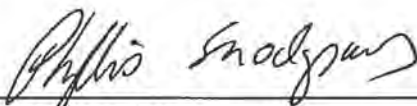
This note will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction.

Each Borrower is responsible for all obligations represented by this Promissory Note.

When the context requires, singular nouns and pronouns include the plural.

**EXECUTED AND DELIVERED** as of the date first above written.

**Borrower:** **AUSTIN HABITAT FOR HUMANITY, INC.**

BY:   
NAME: PHYLLIS SNODGRASS  
TITLE: CEO

**PREPARED IN THE LAW OFFICE OF:**

City of Austin  
Law Department



U.S. Department of Housing and Urban  
Development  
451 Seventh Street, SW  
Washington, DC 20410  
[www.hud.gov](http://www.hud.gov)  
[espanol.hud.gov](http://espanol.hud.gov)

**Environmental Review  
for Activity/Project that is Exempt or  
Categorically Excluded Not Subject to Section 58.5  
Pursuant to 24 CFR 58.34(a) and 58.35(b)**

**Project Information**

**Project Name:** The-Salttillo

**HEROS Number:** 900000010013485

**State / Local Identifier:** 48453

**Project Location:** 1409 East 4th Street, Austin, TX 78702

**Additional Location Information:**

the subject property is located in the central east Austin area, east of Interstate 35, East 6th Street to the north, Cesar Chavez Street to the south, and west of Comal Street. The property is located in the Saltillo Plaza Transit-oriented District (TOD).

**Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:**

HOME funds will be used to fund pre-development costs that will lead to development of 20 or more single-family attached homes to be sold to buyers whose total household incomes are at or below 80% MFI.

**Level of Environmental Review Determination**

**Activity / Project is Exempt per 24 CFR 58.34(a):**

58.34(a)(8)

58.34(a)(8)

**Funding Information**

Grant Number	HUD Program	Program Name	Funding Amount
M-14-MC-48-0500	CPD	HOME Program	\$294,773.00

**Estimated Total HUD Funded Amount:** \$294,773.00

**Estimated Total Project Cost [24 CFR 58.2 (a) (5)]:** \$294,773.00

**Mitigation Measures and Conditions [CFR 1505.2(c)]:**

Summarized below are all mitigation measures adopted by the Responsible Entity to reduce, avoid or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure or Condition	Comments on Completed Measures	Complete
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Preparer Signature: Ellis K. Morgan Date: 6-16-16

Name / Title/ Organization: Ellis Morgan / Financial Consultant / AUSTIN

Responsible Entity Agency Official Signature: David W Potter Date: 6-16-16

Name/ Title: DAVID POTTER, NEIGHBORHOOD DEV PROG. MGR.

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environment Review Record (ERR) for the activity / project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).



# Requisition - City Multi

Page: 1 / 1

Reference Number	Record Date	Requestor	Buyer
RQM 7200 16071900577 1		Sherry Cardino, 974-3153	See Solicitation, 512-974-2500

Line	Quantity	Unit	Comm Code	Commodity Line Description	Unit Price	Extended Amount
1	0.00		90923	Building Construction, Residential (Apartments, etc.)	0.00000	\$294,773.00

VENDOR	SHIP TO	BILL TO
	Nhcd Housing & Comm Developmen, 1000 E. 11TH	Nhcd Housing & Comm Developmen, PO BOX 1088
	Austin, TX, 78702-1945	Austin, TX, 78767

## Extended Description

Line	Fund	Dept	Unit	Objt	Actv	Func	Rept	Tsk Ord	Prog	Prog Per	Amount
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Order Total: \$294,773.00

Authorized Agent for City Manager

Date