



Economic Development

AFFORDABLE HOUSING NOTICE OF FUNDING AVAILABILITY

Applications must be received no later than:

July 16, 2021 by 5:00 p.m. (PDT)

Deliver applications electronically to:

MHardman@san Diego.gov

ATTN: Monica Hardman, Deputy Director

Economic Development Department

1200 3rd Avenue, Ste. 1400

San Diego, CA 92101

(619) 236-6700

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1. INTRODUCTION

The City of San Diego ("City") has received your submittal in response to its December 8, 2020 Request for Qualifications for Affordable Housing Developers and NOFA Application Guidelines ("RFQ"). Your Statement of Qualifications submittal passed the RFQ "Pass/Fail" criteria. As described in the RFQ, the City is sending this Notice of Funding Availability ("NOFA"), exclusively to the pre-qualified RFQ applicants, announcing the availability of funds for the purpose of developing affordable housing in the City of San Diego.

The initial amount of NOFA funding currently available to the City is \$33.2 million. The City anticipates between \$2 - \$12 million in additional funding to become available during application and review time period for this NOFA. The City will add any additional funding available during the NOFA application and review time period to its total funding available for this NOFA.

Of the currently available NOFA funding, \$17 million is from the City's Low and Moderate Income Housing Asset Fund ("LMIHAF"). The anticipated \$2-12 million will also be from the LMIHAF. The LMIHAF is eligible to support the new construction of multifamily affordable rental housing to individuals and families, and paying rents applicable to households earning between 30% and 60% of the Area Median Income ("AMI") or less, as defined pursuant to California Redevelopment Law ("CRL"). The \$5.5 million of currently available NOFA funding is derived from the State Permanent Local Housing Allocation ("PLHA") funds, and will support transitional, new construction or acquisition and rehabilitation, providing affordable rental units for persons experiencing, or at risk of, homelessness and with household incomes at or below 60% AMI. The remaining \$10.7 million of currently available NOFA funding is Community Development Block Grant ("CDBG"), and will support acquisition and housing rehabilitation of affordable rental housing for low and moderate income individuals and families earning less than 80% AMI.

It is the intent of the City that as the NOFA funds are replenished periodically, there will be several NOFA rounds to follow over the next 24 to 36 months.

Each funding source identified above has distinct allowable uses and requirements. The overview of those uses and requirements as described in this NOFA is not intended to be comprehensive. Applicants should be aware of the applicable uses and requirements prior to submittal and developers that are awarded funds shall comply with all local, state, and federal laws and regulations applicable to the funding.

Purpose of Notice of Funding Availability ("NOFA"):

The City's available funding under this NOFA is accordance with the City's 2018 Affordable Housing Master Plan Update ("AHMP"), the City's award of the State PLHA funds, the Consolidated Plan for Fiscal Years 2020 to 2024 and the FY 2022 Annual Action Plan. The

available funding will support, as applicable to the funding source, either new construction or the acquisition and rehabilitation of housing that will provide long-term affordability (55 years or longer) to individuals and families. This NOFA is intended for current pipeline projects that will promptly create affordable units and is intended to represent gap financing at below market interest rates in order to leverage the City’s investment between the projected total development costs and other available funding sources. Other available funding sources may include, but are not limited to: private bank loans, low-income housing tax credits, owner equity, Multi-Family Housing Program/Affordable Housing Program (MHP and AHP respectively), other Federal, State and local funding, grants, and other public and private sources of funds.

Applicants are responsible for reviewing and becoming familiar with all contents and requirements of this NOFA.

2. APPLICATION TIMELINE

Applications will be accepted upon publication of this NOFA after submission of a complete NOFA application and all required materials. The table below highlights key milestones for this NOFA and the anticipated schedule. The City may change dates at its sole discretion and issue addenda to reflect changes.

Action	Date
Issuance of NOFA	May 7, 2021
Notify to attend Pre-submittal Meeting	May 19, 2021
Pre-submittal Meeting (non-mandatory)	May 21, 2021
Questions and Comments Due	June 18, 2021
Applications Accepted anytime up to Due Date and Closing Time (Closing Date)	July 16, 2021 at 5:00pm
Application Review	July-August 2021
Interviews of Shortlisted Teams	July-August 2021
Notice to Successful Applicants	August-September 2021
City OPA or CDBG Loan Agreement Finalizing	Beginning in August 2021
City Council Consideration	October – December 2021

A non-mandatory, pre-submittal conference is scheduled for May 21, 2021, at 10:00 a.m. The pre-submittal meeting will be held electronically via Microsoft Teams or Zoom. This conference will provide an opportunity for the City to discuss aspects of the NOFA and the selection process, as well as respond to questions. Prospective applicants, their representatives and primary team members are strongly encouraged to attend. In order to join the pre-submittal conference, a notification must be sent to Monica Hardman via email no later than 5:00 pm on Wednesday, May 19, 2021. The notification must include names,

employers and email addresses of all individuals joining the pre-submittal conference. The conference line access information will be sent to those that send a timely notification.

3. PROJECT GOALS – CITY OBJECTIVES

The City seeks to incentivize the production and increase the supply of affordable multifamily housing, remove barriers to housing at all income levels (especially lower, very-low, and extremely-low income households, and homeless persons or those at risk of homelessness), and to participate financially in the most expeditious creation of affordable housing by providing local gap financing to be used as leverage for additional funding sources.

The issuance of this NOFA serves the objective of reaching the broadest array of qualified developers, benefiting underserved residents, while encouraging transparency and competitiveness.

In an effort to ensure inclusion of smaller and emerging development partners, 25% of rolling three-year NOFA funds will be set aside and made available for projects consisting of 40 or less units. The City reserves the right to redirect funding to other eligible projects if they do not receive enough eligible proposals to expend the set aside.

City Goals and Objectives

This NOFA will assist in implementing the following City goals and objectives of the AHMP, the PHLA, the Consolidated Plan, and the General Plan Housing Element:

- Increase and preserve the City of San Diego’s affordable housing stock for households at or below 80% of area median income;
- Assist persons experiencing or at risk of homelessness;
- Facilitate housing affordability, particularly for lower- income households;
- Maximize quality unit production with limited resources;
- Leverage City resources with other funding sources to provide affordable housing;
- Effective, efficient use of City housing funds while optimizing unit production for lower-income households;
- Produce permanent housing for persons experiencing or at risk of homelessness;
- Revitalize neighborhoods and provide catalyst for neighborhood improvements;
- Invest in neighborhood amenities, provide positive economic impacts;
- Activate streets and contribute to neighborhood revitalization;
- Provide environmental sustainability and resource efficiency;
- Increase and preserve affordable rental housing to improve access to housing opportunities that reflect community needs, included but not limited to, opportunities in close proximity to transit, employment, and community services;

- Continue to implement current incentive programs that have helped spark housing projects that work for all income levels, especially lower-income, and that assist to meet the City's Regional Housing Needs Allocation ("RHNA") goals and to meet the demand of job growth in the region;
- Focus housing construction in multi-family and mixed-use commercial areas served by transit in Transit Priority Areas (TPA);
- Assist with the growth and experience of minority-owned, women-owned and small and emerging local development firms.

4. APPLICANT ELIGIBILITY

Pre- Qualified Applicants Eligible

The City is seeking applications for funding of proposed projects from affordable housing developers that provided submittals to the City's December 8, 2020 Request for Qualifications ("RFQ") and have passed the RFQ requirements. The passing RFQ applicants will have demonstrated the financial capability and experience in designing, building, and managing affordable multifamily housing employing various public and private funding sources.

Through the RFQ the City also encouraged new and emerging developers, property owners or interested parties to submit as a party interested in partnering with more highly experienced developers and the City placed these firms on its RFQ list of such firms. Applicants who wish to assist with the growth and experience of minority-owned, women-owned and small and emerging local development firms are encouraged to review the City's RFQ list of these emerging developers for potential addition to their NOFA application team, or include other developer-chosen minority-owned, women-owned and small and emerging local development firms. The evaluation criteria includes extra scoring for applications that include any of these types of firms.

Any applicants applying for the available CDBG funds through this NOFA should be aware that the entity entering into an agreement to receive CDBG funds is required to be a public or private nonprofit agency, authority or organization.

NOFA Applicant Requirements

- Applicant's development team must have passed the City's December 8, 2020 RFQ requirements;
- Demonstrate the capacity and willingness to work cooperatively with the community in the design and development of the project, as well as the long-term management of the project;
- Demonstrate knowledge of the impacted community and plans to gain support from

- community organizations;
- Demonstrate familiarity of the unique attributes and opportunities of the project's neighborhood;
- Demonstrate support and intention to include firms with local expertise and opportunities to participate in the development process; and
- If applying for CDBG funds, provide the following with NOFA response:
 - Applicant's DUNS number; and
 - Most recent audited financial statements and/or single audit for nonprofit developers.

5. PROJECT ELIGIBILITY

Through this NOFA, the City is seeking applications from the pre-qualified RFQ Applicants for the funding and construction of mixed-income projects located within the City of San Diego, that include affordable or a mix of affordable and market rate units; however, only the affordable housing portion of the project can be eligible for funding under this NOFA.

This NOFA is only intended to finance a portion of the local funding gap. The City seeks to leverage its limited funding resources to provide the largest number of affordable multifamily units. It is currently estimated that the City's NOFA will provide no more than \$100,000 per unit, prioritizing projects needing less funding per unit, and may elect to place a cap on the total amount awarded per project based upon demand and available funds.

A. Project Factors

To be considered for funding under this NOFA, applications must demonstrate:

- Consistency with applicable NOFA goals and objectives;
- Housing units will remain affordable through deed restrictions and covenants for a minimum of 55 years;
- Site control through fee title, an option to purchase, a purchase and sales contract, a lease agreement, or other site control documents;
- Provide for expedited deployment of NOFA funds and demonstrate achievement of occupancy within three years or less (by providing schedule milestones and narrative describing schedule feasibility of obtaining project entitlements, permitting, financing, and construction);
- Include payment of wages for the entire project in compliance with Federal Davis Bacon and State prevailing wage laws
- Demonstrate leverage and/or inclusion of other capital resources, and providing pro forma with reasonable costs;
- Be soundly underwritten in order to establish ability to compete in securing competitive funding sources;

The following factors, while not eligibility criteria, are City preferences and strongly encouraged to maximize scoring:

- Be located near transit, employment centers, and/or services that are convenient for the target population;
- Include building(s) that incorporates energy sustainable building practices and materials; and/or that certifies for LEED Silver or above, or Green Point Rating;
- Enhance the neighborhood setting;
- Strive to achieve the maximum development density allowed;
- Incorporate community spaces, amenities, and services for the target population.

B. City Funding Source Summary Requirements and Eligible Uses

The following table summarizes the major categories of eligible uses for each of the City funding sources available with this NOFA. Please see further below for more detailed descriptions of funding source requirements and eligible uses.

USES	LMIHAF	PLHA	CDBG
New construction	X	X	
Acquisition		X	X
Rehabilitation		X	X
Demo/Site Clearance (includes Environmental)	X		X
Relocation during rehabilitation			X
Site Improvements	X	X	X
Removal of Lead-based Paint/hazardous materials		X	X

1. New Construction - LMIHAF Requests

The City has \$17M of Low and Moderate Income Housing Asset Funds (“LMIHAF”) available for this NOFA. Senate Bill 341 (SB 341), enacted on October 13, 2013, and included in California Health and Safety Code section 34176.1(a)(3), requires that the LMIHAF be expended for the development of housing affordable to, and occupied by, households earning 80 percent or less of area median income (AMI) pursuant to California Community Redevelopment Law (“CRL”) rent and income requirements. Applications for LMIHAF must reflect CRL requirements, be for new construction, and must provide the following 55-year rental affordability levels:

- **At least 30 percent** of the housing units affordable to and occupied by households earning 30 percent or less of AMI per CRL definitions; and
- **Not more than 20 percent** of the housing units affordable to and occupied by households earning between 60 percent and 80 percent of AMI per CRL definitions. Note, CRL definitions provide that 80% AMI households 60% AMI households rents.

2. Transitional, New Construction or Acquisition/Rehabilitation - PLHA Requests

The City has received an award of \$5.7 million annually for five years, from the State's Permanent Local Housing Allocation ("PLHA") program. The City's PLHA application plan includes the funding of transitional housing or permanent supportive housing for homeless persons or those at risk of homelessness. Applications for this NOFA round for PLHA funds can be new construction, acquisition or rehabilitation, and must provide the following:

- o 55-year affordability for 60 percent AMI or less households, pursuant to PLHA definitions and requirements; and
- o Provide supportive housing for homeless or those at risk of homelessness.

3. In Support of Acquisition, Site Improvements, Rehabilitation - CDBG Requests

The City has allocated \$10.7 million of CDBG funds to this NOFA. A CDBG Loan Agreement, in substantially the form of NOFA Exhibit 8, is to be executed between the City and applicant, if awarded. The CDBG Loan Agreement will provide for 55-year affordability for 80 percent AMI or less households pursuant to HUD CDBG definitions and requirements. Eligible CDBG housing activities include the following:

CDBG Eligible Housing Activities	"Category" eligible Activity falls under
Acquisition/disposition	To Support Construction/Housing Rehab
Demo/Site Clearance (includes Environmental)	To Support Construction/Housing Rehab
Relocation of current tenants while site is under rehab construction	To Support Construction/Housing Rehab
Site Improvements for: infrastructure (water/sewer lines to proposed site), landscaping, and sidewalk/Americans with Disabilities Act (ADA) to site	To Support Construction/Housing Rehab
Rehabilitation of housing/buildings and removal of lead-based paint/hazardous materials	Housing Rehab

CDBG eligible Rehabilitation costs include: labor and materials (Davis-Bacon wages); replacement of principal fixtures and components of existing structures; water and sewer connections; installation of security devices, including smoke detectors; conservation costs for water and energy efficiency; landscaping; sidewalks; exterior and interior ADA improvements; garages; and driveways when accompanied with other rehabilitation needed on the property; and evaluating and treating lead-based paint.

The number of housing units on the lot may not be increased, however, the number of rooms in a unit may be increased or decreased. The number of housing units on the lot may be decreased to reduce density but may trigger 24 CFR Part 42, subpart C (Relocation).

When applying CDBG funds to a multi-family housing project for rehabilitation of a site, the scope of work must include bringing the property up to Uniform Building Code and standards and must meet the U.S. Housing and Urban Development (HUD) National Objective [Code: Low-Moderate Housing (LMH) -24 CFR 570.208(a)(3)] and all other applicable requirements in connection with use of CDBG funds. CDBG funds may be used for the acquisition/disposition of a multi-family housing property for the purpose of rehabilitating the site. The priority will be the elimination of health and safety hazards. Activities that support the acquisition such as site clearance and/or demolition are eligible. Additionally, site improvement activities listed above, are eligible as part of the rehabilitation of the project site. All proposed activities must comply with all applicable Federal Regulations in 24 CFR Part 570.

When using CDBG funds for a project, all acquisition of real property, rehabilitation, demolition, conversions, permanent easements requiring relocation of families, individuals, businesses, nonprofits, or farms are to be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA). If CDBG funds are used for any part of the project, CDBG subrecipients must comply with the URA, even if local or other non-CDBG funds are used to pay the acquisition costs. URA requirements apply to all phases of a planned or intended project.

The requirements for Section 3 of the Housing and Urban Development Act of 1968, as amended (Section 3) will apply to all projects using CDBG funding through this NOFA, and shall apply to all subcontractors for the project receiving in excess of \$100,000. Section 3 is intended to ensure that when employment or contracting opportunities generated from federally funded projects necessitates the employment of additional persons, or when contract work is awarded, preference must be given to low- and very low-income persons or business concerns residing or doing business in the community where the project is located. For projects subject to Section 3 requirements, Section 3 certification forms will be required to be submitted by subrecipients, and by any subcontractors hired to complete project activities.

Conflict of interest in the implementation of the project shall be avoided. The appearance of a conflict of interest is created by the selection, recommendation, or specification of a product, supplier or subcontractor with whom the representative of the nonprofit has a direct or indirect financial, organizational or family interest or relationship.

CDBG requires that only after award of CDBG funds, that the developer, as the CDBG subrecipient, use the required competitive procurement process to select all general contractors, contractors and subcontractors and that all such contracted parties follow a free

and open competitive process in securing all project-related goods and services, document the procurement activities and decisions, observe special rules for particular types of purchases (small purchases, competitive sealed bids, competitive proposals, and sole source procurement), properly bond and insure work involving large construction contracts or subcontracts, and contract with minority- or women-owned businesses to the maximum extent feasible. Awards must be made to the bidder whose bid is determined to be the lowest and most responsive to the solicitation, after price and other factors have been evaluated.

As detailed in Council Policy 700-02, CDBG funds are subject to reprogramming by the City if an activity or project is no longer feasible or the funds remain unexpended within twenty-four (24) months the date of the CDBG Loan Agreement.

Additional details of recipient requirements for use of CDBG funding are provided in Exhibit 8 Draft CDBG Loan Agreement. The basic program regulations, government management, and financial systems for the CDBG Program are contained in Title 24 of the Code of Federal Regulations (CFR), Part 200 of Title 2 of the CFR. The information is provided is not intended to be a comprehensive reflection of requirements related to use of CDBG funds. Applicants using CDBG funds shall comply with all federal laws and regulations applicable to use of the funding, including those described in 2 C.F.R. Part 200 and 24 C.F.R § 570.

4. Affordable Income and Rent Definitions and Monitoring

Applicants should be aware that SB 341 and CRL dictate the affordable income and rent definitions, which are less than State TCAC income and rents. Accordingly, applicants' project underwriting must reflect CRL requirements. Attachment A - CRL Incomes and Rents Chart and Attachment B - HUD CDBG Incomes and Rents Chart are attached for examples of the differences between incomes and rents as defined by CRL for the LMIHAF, as defined by the state tax credits program applicable to PLHA funds, and as defined by HUD applicable to CDBG funds.

Any future OPA or CDBG Loan Agreement with the City is subject to ongoing monitoring during the 55-year affordability term. Prior to City loan closing, developers or managers of the housing will be required to enter into a reporting and monitoring agreement. In accordance with that agreement, developer or manager shall pay customary monitoring fees and shall submit annual reports for each rental unit. The current monitoring fee is \$150 per monitored affordable unit on an annual basis. The City reserves the right to revise the annual monitoring fee annually based on costs for monitoring functions.

6. EVALUATION CRITERIA

A. Threshold Evaluation Criteria

The City will evaluate applications based on project eligibility for funding sources requested by applicant, prior local public loan compliance, San Diego City Council adopted Affordable

Housing Master Plan, Permanent Local Housing Allocation Plan project goals and housing priorities, CDBG eligibility and national objectives, project and cost feasibility, and industry standards.

The City is considering or evaluating applications that meet all of the following requirements:

- 1) Applications must be responsive to the requirements of the NOFA and contain all required elements and forms;
- 2) At least one team principal from the lead development entity must have passed the City's December 8, 2020 RFQ requirements.

B. Evaluation Criteria

The following criteria is used for initial scoring of applications to this NOFA and in determining an Applicant interview list:

- 1) Feasibility, including Pro-forma (50%);
- 2) Project Approach and Concept (25%);
- 3) Community Support and Benefits (15%); and
- 4) Teaming with Emerging Developers (10%)

1. Financial Feasibility and Pro Forma

Likelihood of the Applicant and the proposed project meeting the City's objectives in an expedient manner, as indicated by:

- 1) Amount of NOFA funding request, and request is \$100,000 per unit or less;
- 2) City funding source request conforms with funding source eligible uses;
- 3) Overall project proforma, including transparency of project underwriting and feasibility of proforma assumptions;
- 4) Competitive project proforma, including reasonable cost, operating income/expense, and underwriting assumptions that will be able to compete for proposed funding sources;
- 5) Leveraged project financing plan that includes a variety of public and private capital funding sources;
- 6) Cash flow projections demonstrating that the proposed project, once operational, will meet all debt service or other operational expense obligations for a minimum period of 20 years.

The City reserves the right to cap the total amount awarded to any one development, to be determined based upon demand and the available funds.

2. Project Approach and Concept

Application is consistent with the community plan, and the City's NOFA Goals and Objectives, as indicated by:

- 1) Possessing complete project entitlements, or timeline and probability of obtaining necessary approvals based on the proposed project's design and regulatory constraints;
- 2) Overall project concepts, layout, extent of neighborhood enhancement, provision of green building or sustainable elements and green certification;
- 3) Number of affordable units, AMI levels, target populations, transitional or supportive services plans;
- 4) Includes provision of supportive housing units;
- 5) Evidence of site control;
- 6) Extent to which project meets or maximizes base density;
- 7) Location near transit, within Transit Priority Area, near amenities, neighborhood services;
- 8) Location within federally designated San Diego Promise Zone and Opportunity Zone which spans some of the City's most economically disadvantaged neighborhoods including Barrio Logan, Logan Heights, Southeastern, Encanto, and parts of the East Village;
- 9) Project readiness, including, but not limited to, entitlements and permits and overall project schedule for delivery of affordable units within three years.

3. Community Support and Benefits

Future benefits to the community as demonstrated by:

- 1) Agreement to comply with the City's Equal Employment Opportunity Program and commitment to make meaningful and wide-range sub-contracting and employment opportunities available to all interested and qualified firms and individuals on this project, including local firms, sub-contracting opportunities, and local participation on the development team;
- 2) Demonstrated support and intention to include firms with local expertise and opportunities to participate in the development process;
- 3) Other community benefits based on proposed project uses;
- 4) Community outreach plan to solicit neighborhood input.

4. Teaming with Emerging Developers

Application includes any small or emerging development team partners from either the City's RFQ list of such firms or developer's selected firm that would be considered small or emerging according to City's RFQ requirements.

7. SELECTION PROCESS

The City will review and evaluate only complete and responsive applications from RFQ pre-qualified Applicants. Applications from Applicants that were not pre-qualified through the RFQ, or that do not comply with the City's NOFA goals will not be considered.

Incomplete applications will not be considered. All application materials must be complete and included with the application, including the required applicable NOFA exhibits.

A City staff evaluation panel assisted by affordable housing industry and subject matter experts, will review, evaluate and recommend a short-list of Applicants for selection from the applications received based upon information contained in each application. The City may request additional information to complete its review and intends to hold virtual interviews with short listed applicants. Short-listed Applicants will be given at least one week notice of virtual interview dates.

The City reserves the right to deploy funds from this NOFA, at its sole discretion and evaluation of qualified projects.

Any funding recommendation will be presented to the San Diego City Council for approval of funding. It is expected that once selected, the applicant will provide a comprehensive presentation of its proposed project to any discretionary body or for any noticed public meeting.

8. APPLICATION INSTRUCTIONS

Each Applicant is required to submit an application clearly addressing all the requirements outlined in this NOFA. Applications will be accepted upon publication of this NOFA after submission of the following material by providing **one (1) "high quality" digital PDF file** containing the Application information, and completed exhibits listed below.

The items listed below in this Section 8 are required elements of a responsive proposal:

A. Exhibit 5 - NOFA Application

As requested in Exhibit 5 NOFA Application form, the following information must be included in the form:

- 1) NOFA Funding Request
- 2) Development Team
- 3) Project Description
- 4) Project Narrative
- 5) Site Information
- 6) Project Schedule Summary
- 7) Applicant Certification

B. Exhibit 6 – Pro forma Template

Applicants must include Exhibit 6 Pro forma Template with all sections applicable to the project and financing completed.

C. Exhibit 7 - Draft Owner Participation Agreement

Applicants must submit approval of the Draft form Owner Participation Agreement (“OPA”) provided as Exhibit 7, or, if Applicant will be seeking to proposed changes, Applicant must submit all proposed changes , in redline format,. The Draft OPA contains the City’s standard requirements and provisions for City funding of affordable housing developments, including several terms required under current City policies, and under federal, state, and local laws. The OPA standard provisions conform with LMIHAF, and PLHA fund expenditure requirements and provide security and reduced City risk for the provision of public funding for affordable housing development. Accordingly, the City rarely deviates from the standard OPA language related to several key terms. If there are any proposed redlined OPA edits, they should be minor and include justification for the need for the change for the City’s legal and management consideration, before presentation for final City Council consideration, should the Applicant be recommended for this NOFA funding. Redlines do not need to include project details at this time, but should include any proposed changes to the OPA requirements and provisions.

D. Exhibit 8 - Draft CDBG Loan Agreement

ONLY IF applying for CDBG funding, Applicants must submit approval of Exhibit 8 Draft form CDBG Loan Agreement (“CDBG Loan Agreement”). The draft CDBG Loan Agreement contains the City’s standard requirements and provisions for use of CDBG funding for affordable housing. This document conforms with federal CDBG expenditure requirements and provides security and reduced City risk for the provision of CDBG funds for affordable housing development. This document is non-negotiable other than the project specific scope of work, schedule, and the budget narratives and allocation and applicants must submit their acceptance of the CDBG Loan Agreement terms, requirements and provisions.

E. Other Application Supporting Materials

The following items are required to be submitted with the NOFA application:

- 1) Cover Letter
- 2) Development Schedule
- 3) Photos
- 4) Graphic Illustrations and Elevations
- 5) Board of Directors, if applicable
- 6) Community Outreach Plan
- 7) Community Support
- 8) Applicants applying for CDBG funds must provide the following:
 - a. Draft (or example) CDBG Agreement Acceptance
 - b. DUNS Number
 - c. Developer’s most recent audited financial statements and/or single audit for nonprofit developers

F. Other Exhibits – Only Substantial Changes from RFQ Submittal

Please note: Application Exhibits 1, 2, 3, and 4 are only required to be submitted with the application if any material changes have occurred to the Development Team’s information that was submitted with the RFQ response, or the members of the Development Team responsible for development or financing have changed since the RFQ response.

Required only if substantial changes from RFQ submittal:

Exhibit 1 - Financing Relationships, Litigation and Bankruptcy

Exhibit 2 – Disclosure Statement

Exhibit 3 – Equal Opportunity – Work Force Report

Exhibit 4 – Project Financing History

9. REQUEST FOR INFORMATION AND QUESTIONS

Due to COVID-19, in-person questions and requests for information will not be accepted and must be submitted electronically. All requests for clarifications, changes, exceptions, or deviations to or from the terms and conditions set forth in this NOFA must be submitted electronically via email to Monica Hardman, Deputy Director, Economic Development at mhardman@sandiego.gov. Any substantive changes in the application requirements by City, if any, may be made and issued in the form of addenda. Such addenda, if any, will be posted on the Economic Development Department page on the City’s website. All questions and answers will be posted on the same page of the City’s website and will be updated as necessary.

To ensure fairness and avoid misunderstandings, all communications must be in written format and addressed only to the individual set forth above. Any verbal communications will not be considered or responded to. Written communications must be submitted via e-mail to the address provided above.

No additional information, whether written or oral, of any type will be accepted or considered after the application deadline for any reason. It is the Applicant’s responsibility to ensure that applications are complete, accurate and clearly understandable in all respects.

10. GENERAL

A. Additional Information from Applicants

The City reserves the right to request information from any Applicant to clarify submitted information.

B. City's Rights to this Solicitation

This NOFA does not create any legal rights or obligations between the City and any Applicant and does not include an obligation to proceed with negotiations. It is intended that any and all legal rights and obligations between the City and an Applicant will come into existence if and only when a definitive agreement is signed and delivered by both parties. The City accepts no financial responsibility for any cost incurred by the Applicant during the solicitation process. Applicants to this NOFA shall bear all expenses in connection with their applications and responses. All Applications become the property of the City and may be used in any way deemed appropriate.

C. Incurred Costs

Each Development Team is solely and fully responsible for all costs associated with submitting its applications package in response to this NOFA. The City is not responsible for any costs incurred in the preparation, submission, or both, of the NOFA application.

D. Addenda

The City may issue addenda to this NOFA as necessary. All addenda are incorporated into this NOFA. Each Applicant is responsible for determining whether addenda has been issued prior to an application submission. Failure to respond to or properly address addenda may result in rejection of the application.

E. Public Records

By submitting an application, the Applicant acknowledges that any information submitted in application to this NOFA is a public record subject to disclosure unless the City determines that a specific exemption in the California Public Records Act (CPRA) applies. If the Applicant submits information clearly marked confidential or proprietary, the City may protect such information and treat it with confidentiality to the extent permitted by law. However, it will be the responsibility of the Applicant to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the CPRA should the City choose to withhold such information. General references to sections of the CPRA will not suffice. Rather, the Applicant must provide a specific and detailed legal basis, including applicable case law, that clearly establishes the requested information is exempt from the disclosure under the CPRA. If the Applicant does not provide a specific and detailed legal basis for requesting the City to withhold Applicant's confidential or proprietary information at the time of application submittal, City will release the information as required by the CPRA and Applicant will hold the City, its elected officials, officers, and employees harmless for release of this information. It will be the Applicant's obligation to defend, at Applicant's expense, any legal actions or challenges seeking to obtain from the City any information requested under the CPRA withheld by the City at the Applicant's request. Furthermore, the Applicant shall indemnify and hold harmless the City, its elected officials, officers, and employees from and against any claim or liability, and defend any action brought against the City, resulting from the City's refusal to release information requested under the CPRA which

was withheld at Applicant's request. Nothing in the agreement resulting from the application creates any obligation on the part of the City to notify the Applicant or obtain the Applicant's approval or consent before releasing information subject to disclosure under the CPRA.

F. City's Right to Modify and Withdraw NOFA and Reject All Applications

The City reserves the rights to modify and withdraw the solicitation, and to reject all NOFA applications for any legally permissible reasons without indicating the reasons. The City makes no representation that any agreement will be awarded to any Applicant. Additionally, the City expressly reserves the right to postpone opening applications to this solicitation for its own convenience or waive any informality or irregularity in the applications received.

G. Non-Discrimination Notice

The selected Applicant, and each of its subcontractors, shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; San Diego Municipal Code sections 22.2701 through 22.2707, and any other applicable federal and state laws and regulations hereinafter enacted. The selected firm shall not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, sexual orientation, medical condition, or place of birth. The selected Applicant shall cause the above provisions to be inserted in all subcontracts for any work covered by the contract so that such provisions will be binding upon each subcontractor, if used.

It is the policy of the City not to discriminate against the disabled in employment or provision of services. The information contained in this NOFA will be made available in alternative formats to disabled persons upon request. It is the policy of the City to encourage equal opportunity in its contracts and leases. The City endeavors to do business with firms sharing the City's commitment to equal opportunity and will not do business with any firm that discriminates based on race, religion, color, ancestry, age, gender, gender expression, gender identity, sexual orientation, disability, medical condition or place of birth.

In addition to the foregoing, every person or organization awarded a contract by the City must acknowledge and agree to comply with Council Policy 100-04, adopted by Resolution No. R-282153, relating to the federally mandated Americans with Disabilities Act (ADA). Applicants will be individually responsible for their own ADA programs.

H. Protests

The City's protest procedures for this NOFA are set forth in Municipal Code section 22.3017.

I. Insurance

The Applicant(s) selected at the conclusion of the NOFA stage will be required to provide evidence of public liability and property damage insurance with limits of not less than \$5 million for injury to, or death of, persons and/or property damage arising out of a single

accident or occurrence, insuring against all liability the City, their agents, officers, and employees, arising out of, or in connection with, the performance of work under contract with the City. In addition, the selected Development Team will be required to provide evidence of automobile insurance and Workers' Compensation Insurance. The insurance shall be provided at the sole cost and expense of the firm selected unless the requirement is modified or waived by the City. Additionally, Applicant must meet, and provide evidence of, all City standard insurance requirements in connection with any loan agreement resulting from this NOFA.

J. Confidential Solicitation

Unless legally required to do so, the City will not share details of individual applications to this solicitation with competing Applicants during the evaluation and selection process. After the selection process ends and prior to legislative action on the funding agreement, all solicitations become public information (except portions otherwise deemed confidential as noted above).

Additionally, the Applicant shall not attempt to influence the decision process by lobbying or otherwise influencing decision makers, be it elected officials, City officials or staff, or any other member of the decision-making body. By submitting an application to this NOFA, the Applicants agrees to keep their application confidential and not engage in any activity in an attempt to influence the decision outside of the process outlined in the NOFA, as may be amended from time to time.

K. News Releases/Public Comment

The Applicants agree that, during the NOFA process and if selected, the City will review and approve all news releases and other public comment pertaining to this solicitation, subsequent agreement(s), or both, prior to release. All news releases will be submitted in writing to the City project manager for the solicitation. No news releases or public comment pertaining to this NOFA, the applications and responses, and subsequent agreement(s) shall be released or made public without the prior approval of the City.

L. Indemnification

The Applicants agree, if selected, to indemnify and hold harmless the City and all officers, agents and employees of each entity from any and all liability, claims, costs (including reasonable attorneys' fees), demands, damages, expenses, and causes of action.

M. Examination of Solicitation

The Applicants understand that the information provided herein is intended solely to assist each Applicant in application preparation. To the best of the City's knowledge, the information provided is accurate. However, the City does not warrant such accuracy, and any errors or omissions subsequently will not invalidate this solicitation. Further, by submitting an application to this solicitation, the Applicants represent that the NOFA has been

thoroughly examined and is familiar with the work required in the solicitation and is capable of performing quality work and achieving the objectives of the City.

The date and time of application submittal is fixed, and extensions will not be granted. All applications received after the deadline shown will be rejected and will not receive further consideration. Copies sent by fax will not be accepted.

N. Environmental Review and Assessment

Prior to the City's funding commitment, projects must be assessed in accordance with the California Environmental Quality Act (CEQA) and for any CDBG funding, an assessment is required in accordance with the National Environmental Policy Act of 1969, as amended (NEPA).

11. EXHIBITS - REQUIRED APPLICATION FORMS

The following Exhibits are attached, and as detailed in Section 8, Exhibits 5 through 7 must accompany all applications. Exhibits 1, 2, 3 and 4 are only necessary if there are any substantial changes since the applicant's RFQ submittal. Exhibit 8 must be included only if Applicant is applying for CDBG funds through this NOFA.

A. Required only if substantial changes from RFQ submittal:

- Exhibit 1 - Financing Relationships, Litigation and Bankruptcy
- Exhibit 2 - Disclosure Statement
- Exhibit 3 - Equal Opportunity - Work Force Report
- Exhibit 4 - Project Financing History

B. Required for ALL APPLICATIONS:

- Exhibit 5 - NOFA Application
- Exhibit 6 - Pro forma Template
- Exhibit 7 - Consent to Draft Owner Participation Agreement or Proposed Redlines
(Exhibit expected to be available on the NOFA website within 3 business days of NOFA issuance.)

C. Required Only If Applying for CDBG Funds:

- Exhibit 8 - Consent to Draft CDBG Agreement
(Exhibit expected to be available on the NOFA website within 10 business days of NOFA issuance.)

12. INFORMATIONAL ATTACHMENTS

The following documents are included on the City's RFQ/NOFA website for the applicant's information during application preparation:

Attachment A –CRL Incomes and Rents Chart

Attachment B – HUD CDBG Incomes and Rents Chart *(2021 update anticipated to be available on NOFA website within 10 business days of NOFA issuance)*

Attachment C – City’s Affordable Housing Master Plan available at:

<http://civicsd.com/wp-content/uploads/2019/05/Affordable-Housing-Master-Plan.pdf>