SAHT Multifamily Program

Tenant Protections Policy

Resident Protections Policy Statement

For Resident Leases of San Antonio Housing Trust owned, partnered, or otherwise financially assisted developments, the property owner/manager (the "Owner") shall follow provisions in this policy and in the **Lease Addendum (Exhibit A)**. This lease addendum shall be incorporated into all tenant/resident ("Tenant") leases at the property and shall be executed by the property management or owner's designee and the Tenant. A copy of the lease and lease addendum shall be provided to the Tenant in the language in which the lease was negotiated. The San Antonio Housing Trust entity shall ensure any agreements with the Owner recognize that all tenants are protected as third-party beneficiaries of our agreements and San Antonio Housing Trust may enforce all resident policy and lease addendum provisions during the partnership or affordability period.

Resident Selection Policies

Property Manager's Written Procedures

For San Antonio Housing Trust owned, partnered, or otherwise financially assisted developments, the Owner must have written tenant/resident selection policies and procedures that are consistent with the purpose of providing residential units to low-income Tenants as identified in the legal agreements with the San Antonio Housing Trust. Written Tenant selection policies and procedures shall also be considered reasonable and comply with applicable eligibility requirements. Tenant selection policies and procedures shall be posted online, in the leasing office, or in another easily and publicly accessible location. These policies and procedures must be provided to Tenant applicants upon inquiry or request and shall be available to the public upon request.

Source of Income Protection

Lease Applicants shall not be denied based the ability to rent a residential unit based solely on the renter's source of income such as Section 8 Housing Choice Vouchers, Section 8 Veterans Affairs Supportive Housing, other rental vouchers, child support, spousal maintenance, social security and supplemental security income, retirement income, emergency assistance or other public or legal forms of income.

Lease Applicant Denials

Eviction history shall not be considered in reviewing lease applications, if eviction proceedings resulted in a dismissal or judgment for the applicant. Further eviction history shall not be considered in reviewing lease applications if:

- an eviction was settled with no judgement more than 12 months before a submitted Tenant application; or

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- judgement against an applicant was more than 36 months before application.

Non-payment of rent evictions from the date of the 1st City of San Antonio's Declaration of Public Heath regarding COVID-19 on March 13, 2020 through the end of the Declaration of Public Health Emergency shall not be considered in reviewing lease applications.

Applicants shall not be denied solely based on insufficient rental or credit history.

Applicants shall not be denied solely if Household income is less than three times the Tenants share of the rent without providing an opportunity for applicant to demonstrate a history of successful rent payment at the assigned amount.

Fair Housing Marketing

For San Antonio Housing Trust owned, partnered, or otherwise financially assisted multifamily developments, the Owner must use affirmative fair housing marketing practices in soliciting tenants in determining eligibility and concluding all transactions. Each property owner must affirmatively further fair housing as required by 24 CFR 92.351 including:

- Advertising for vacant units with the equal housing opportunity logo and/or statement,
- Soliciting applications from persons in the housing market who are least likely to apply,
- Providing listing of unit vacancies *eligible* for Section 8 program through GoSection8.com, City of San Antonio PLACE, or other such listing services. If Owner maintains a website, their website will state that they accept Section 8 vouchers, and
- Maintaining all rental roll records and records of Fair Housing Marketing actions for review by SAHT staff.

Owner may complete and submit the most recent HUD approved Affirmative Marketing Plan ***(Exhibit B)*** If found to be non-compliant with this section, the SAHT may issue corrective actions including requiring more extensive outreach efforts to achieve the occupancy goals or other penalties/sanctions.

Non-Discrimination Ordinance

For San Antonio Housing Trust owned, partnered, or otherwise financially assisted developments, the Owner must comply with the City of San Antonio's Non-Discrimination Ordinance ***(Exhibit C).***

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Attachment A

Lease Addendum

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San Antonio Housing Trust Lease Addendum

Tenant's Right to Access Tenant Files
The Owner agrees that a Tenant is entitled to review and copy any of the following records if requested within 3 business days of the request:

1. Rental application, the Lease Agreement, and/or addendums;
2. Account of tenant payments and charges;
3. Documents related to the Owner's reasoning for terminating or non-renewal of tenancy.

Owner may redact documents if the Owner reasonably believes that redaction is necessary to protect the health and safety of staff or other residents and may redact if redactions are required by law. The Owner may not redact any document signed by the Tenant.

Repairs, Remedies, and Right to Live in a Healthy Unit
The Owner may charge Tenant for repairs made to the unit if the necessary repair was caused by the Tenant or guest of the Tenant and does not result from normal wear and tear; and prior to making the repair, the Owner gives the Tenant written notice that includes the estimated costs.

At the Tenant's request, the Owner must provide Tenant with an invoice for the cost of the repairs that are made to the Tenant's unit or otherwise charged to the Tenant.

Tenant has a right to dispute the scope of work and/or cost of the repair, the Owner must provide reasonable evidence that the required scope of work is necessary, and the cost of the repair is reasonable. This may be evidenced by receiving a minimum of two contractor/vendor bids and documenting the selection of the lowest and qualified bidder.

If a payment plan for the necessary repairs is charged to the Tenant, payment of which shall not be applied to nor supersede rental payment.

Failure to comply with agreed upon payment plan for repairs shall not constitute grounds for termination or non-renewal. Failure to pay for alleged property damage shall not constitute grounds for termination or non-renewal.

If Tenant fails to pay the cost of repairs with agreed upon payment plan, the Owner may either withhold a portion of or all of the Tenant's security deposit upon move-out or file suit for damages in a court of competent jurisdiction. Owner agrees that its repair damages are limited to actual documented damages.

If the Owner files a lawsuit to recover repair damage, the Owner may seek reasonable attorney's fees and courts costs; and Tenant may take up to 30 days from the date the judgment is entered to pay the damages awarded by the court.

This section does not apply to a lawsuit to evict for drug activity, serious and violent criminal activity, or other serious criminal activity.

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Owner shall address and remediate hazardous health conditions, including but not limited to mold in indoor areas, within seven (7) days from the confirmation of the condition by the Owner. If Owner is unable to resolve the issue within the (7) day period due to contractor and vendor availability, Owner agrees to provide temporary accommodations in accordance with temporary relocation assistance provisions, under Tenant's Right to Relocation Assistance, in until such time as the hazardous health conditions have been remediated by a professional and qualified entity. Any condition causing an imminent threat or danger to the occupants shall result in the Owner providing immediate temporary accommodations within 24 hours, in accordance with relocation assistance provisions.

Tenant's Right to Relocation Assistance

Temporary Relocation - Unless the Tenant intentionally damages the unit to the degree that the Tenant must involuntarily vacate the unit for a period of less than 12 months shall be considered temporary. In this case the Owner agrees to provide rental assistance to Tenant for up to 12 months. Rental Assistance shall include actual moving expenses such as movers and material costs, utility connection fees, non-refundable deposits, application fees, storage, and increases in rent at a comparable unit during the relocation period. The comparable dwelling shall be representative of, and equal to, or better than, the displacement dwelling.

Permanent Relocation - The Owner agrees a permanently displaced Low Income Tenant, displaced 12 months or longer, is provided payment in the amount necessary to enable the Tenant to lease or rent a comparable dwelling, as set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies of 1970 ("URA"). Tenants shall be eligible for a rental assistance payment to supplement the costs of leasing a comparable replacement dwelling. Rental assistance payment is based on the difference, if any, between the cost of the monthly rent and utilities of the displacement dwelling and a comparable decent, safe, and sanitary replacement dwelling including all reasonable out-of-pocket expenses as described above. The URA provides an amount that enables Tenants to rent a comparable replacement dwelling for up to 42 months, in a payment currently up to $7,200.

Tenant's Right to Return

If the Tenant is temporarily relocated because of renovations or repairs at the Property, Owner agrees to provide the Tenant the opportunity to return to their original unit or a comparable unit at the same property at their existing lease rate. A comparable unit shall be representative of, and equal to, or better than, the displacement dwelling including the same number of bedrooms and equivalent square footage. The Tenant's right to return lasts for one year from the date of completion of the renovations or repairs to the Tenant's unit or the permanent relocations policy is triggered.

Right to Personal Property

Owner shall not take, hold, or sell personal property of the Tenant or household members without written notice to the Tenant and a court decision on the rights of the parties except when the property remains in the unit after the Tenant has moved out of the unit and the property is disposed of in accordance with State law.

Right to an Eviction Process

Owner shall not evict a Tenant or household members without instituting a civil court proceeding in which the Tenant is provided the opportunity to present a defense or before a court decision on the

Proposed

rights of the parties. Owners shall provide a bilingual City of San Antonio Notice of Tenant Rights with any issued Notice to Vacate.

Grounds for Termination

Owner may not terminate the tenancy or refuse to renew the lease of a Tenant except for:

- Serious or repeated violations of the terms and conditions of the Lease Agreement (e.g., failure to pay rent, or criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents); or
- Violations of applicable Federal, State, or local laws; or
- Completion of tenancy period for transitional housing; or
- Temporary or permanent uninhabitability of the Property, except where such uninhabitability is caused by the actions or inactions of the Owner. Termination or non-renewal because of uninhabitability caused by the actions or inactions of Owner shall trigger the Relocation provisions as cited above.

30-Day Notification of Termination or Non-Renewal

To terminate or non-renewal of the lease, Owner shall serve written notice upon the Tenant specifying the grounds for the termination or nonrenewal at least 30 days before the effective date of the termination or nonrenewal, unless either is based on serious violent criminal activity that poses an immediate threat to the safety of staff or other residents or a 30-Day Notice to Vacate has been issued more than twice during the preceding 6-month period. The *Notice to Terminate or Non-renewal* shall be served on the Tenant by either: (1) both first class mail and either certified or registered mail; or (2) by personal delivery to the Tenant or a household member eighteen years or older.

10-Day Notice of Opportunity to Discuss

The Owner shall provide written *Notice of Opportunity to Discuss* with the 30-Day Notice of Termination or Nonrenewal to inform Tenant of their right to discuss the proposed termination or non-renewal of tenancy. The *Notice of Opportunity to Discuss* shall be served on the Tenant by either: (1) both first class mail and either certified or registered mail; or (2) by personal delivery to the Tenant or a household member eighteen years or older.

- The *Notice of Opportunity to Discuss* must give Tenant at least ten days from the date of the notice to request a meeting with the Owner.
- If the Tenant makes a timely request, the Owner agrees to meet with the Tenant and to discuss the proposed termination or nonrenewal and provide Tenant with an opportunity to cure the alleged non-payment or other breaches.
- If the Tenant fails to make a timely request for a meeting, the ten-day opportunity to cure period begins on the date the notice to terminate or nonrenewal was received by the Tenant.
- Owner shall provide Tenant with the opportunity to enter into a financial payment plan if the Notice of Termination or Non-Renewal is due to alleged non-payment of rent. Owner shall ensure the application of monies to cure late rent apply to outstanding rent before being applied to late payments. Owner shall also accept digital payments as well as cashier's check and money order payments.

3-Day Notice to Vacate

The Owner shall give the Tenant at least three days written notice to vacate the premises, if the dispute is not resolved and the Tenant does not vacate the premises by the effective date of the termination as

Proposed

set forth in the notice of lease termination. If the Tenant does not vacate the premises by the end of the third day, Owner may then proceed to obtain possession by a forcible entry and detainer lawsuit in the appropriate Justice of the Peace court. The 3 Day Notice to Vacate shall be served on the Tenant by either: (1) both first class mail and either certified or registered mail; or (2) by personal delivery to the Tenant or a household member eighteen years or older.

Failure to Provide Notice

Except for a termination based on serious violent criminal activity that poses an immediate threat to the safety of staff or other residents for which a 30-day notice is not required, or where a 30-Day Notice to Vacate has been issued more than twice during the preceding 6-month period, the Owner agrees that providing the 30-day Notice of Termination, 10-Day Notice of Opportunity to Discuss, and 3-day Notice to Vacate as described above are conditions precedent to filing a forcible entry and detainer lawsuit.

The Owner agrees that it is the burden of the Owner to show, as an element of its eviction case, that all applicable notice procedures were followed, and that termination of tenancy is not effective unless notice procedure is followed correctly. The Owner waives the right to appeal to a dismissal of the forcible entry and detainer lawsuit for a failure to comply with the notice procedures.

Entry into Unit

Owner, Owner's representative, or maintenance staff may enter the unit during reasonable times for any reasonable business purposes after providing to the Tenant at least twenty-four- (24) hours' notice, a reasonable window of time for entry, except:

- If Tenant agrees in writing that the Owner may enter the unit without 24-hours' notice if Owner is entering for purposes of making a repair request by Tenant; or
- If the Owner believes, in good faith, that an emergency condition exists that creates an imminent danger to the Tenant, a member of the Tenant's household, or another unit on the property.

If a Tenant or a member of the Tenant's household who is 18 years of age or older is not present in the unit at the time of entry, the Owner must provide written documentation in the unit that states the purpose of entry, the time of entry, and who entered. The Owner also agrees to avoid entering the unit so frequently as to seriously disturb the Tenant's peaceful enjoyment of the unit. If the Owner violates the provision, owner is in default of the lease and may terminate lease.

This section does not require the Owner to provide specific notice before entering the Tenant's unit to post any notice including a Notice to Vacate, as authorized by the Texas Property Code or notice to cure a default.

Right to Organize

Owner agrees each tenant may conduct activities on the Property related to establishing or operating a tenant organization, including hosting a tenant organizer at the property.

- If requested, the Owner agrees to meet with Tenant and a member of a tenant organization during regular business hours to discuss matters related to the Tenant's unit or the Property as a whole.
- The Owner may not retaliate against a Tenant or Tenant's guests because the Tenant or the Tenant's guest established, attempted to establish, or participated in a tenant organization. Such

Proposed

retaliatory behavior may include but is not limited to utility shutoff, towing, lockouts, and unlawful entry into unit.

- If the Tenant accesses common areas for tenant organization activities, the Owner may not impose fees or rules that are not applicable to a tenant who accesses a common area for activities that do not include tenant organization activities.

Other Tenant and Owner Policies

The Tenant understands that the unit leased under the Lease Agreement has received subsidies or financial consideration from the San Antonio Housing Trust and that, as a condition of these subsidies or financial consideration, the Tenant is required and hereby agrees to provide Owner with any information and sign such releases which are necessary to allow Owner to verify the Tenant's income and otherwise comply with San Antonio Housing Trust policies.

The Tenant agrees to provide Owner accurate and complete information regarding the Tenant's income and to do so by the date specified in Owner's request. The Tenant understands that the intentional failure to supply accurate and complete information regarding Tenant's income shall constitute a serious lease violation. All Tenant files shall be available for inspection by all applicable federal, state, and local agencies, including the San Antonio Housing Trust. The Tenant hereby consents to release of all such information by Owner to governmental agencies, including the San Antonio Housing Trust.

Owner agrees to provide Tenant a copy of the Lease Agreement and Addendums in the language in which the lease was negotiated. Owner also agrees to provide Tenant a copy of any other rules or policies issued by Owner that govern the Tenant’s conduct at the Property.

Owner agrees to attach a copy of the Lease Agreement and all Lease Addendums to any petition filed in an eviction proceeding against the Tenant. Owner agrees that Owner’s failure to provide a copy of the leases or any addendum to the Tenant or to the Court shall be cause for dismissal without prejudice of any eviction lawsuit filed by the Owner.

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Attachment B

HUD Affirmative Fair Housing
Marketing Plan

Proposed

Note to all applicants/respondents: This form was developed with Nuance, the official HUD software for the creation of HUD forms. HUD has made available instructions for downloading a free installation of a Nuance reader that allows the user to fill-in and save this form in Nuance. Please see http://portal.hud.gov/hudportal/documents/huddoc?id=nuancereaderinstall.pdf for the instructions. Using Nuance software is the only means of completing this form.

Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity

OMB Approval No. 2529-0013
(exp.12/31/2016)

1a. Project Name & Address (including City, County, State & Zip Code)

1b. Project Contract Number

1c. No. of Units

1d. Census Tract

1e. Housing/Expanded Housing Market Area

Housing Market Area:
Expanded Housing Market Area:

1f. Managing Agent Name, Address (including City, County, State & Zip Code), Telephone Number & Email Address

1g. Application/Owner/Developer Name, Address (including City, County, State & Zip Code), Telephone Number & Email Address

1h. Entity Responsible for Marketing (check all that apply)

☐ Owner ☐ Agent ☐ Other (specify)

Position, Name (if known), Address (including City, County, State & Zip Code), Telephone Number & Email Address

1i. To whom should approval and other correspondence concerning this AFHMP be sent? Indicate Name, Address (including City, State & Zip Code), Telephone Number & E-Mail Address.

2a. Affirmative Fair Housing Marketing Plan

Plan Type Please Select Plan Type

Date of the First Approved AFHMP:

Reason(s) for current update:

2b. HUD-Approved Occupancy of the Project (check all that apply)

☐ Elderly ☐ Family ☐ Mixed (Elderly/Disabled) ☐ Disabled

2c. Date of Initial Occupancy

2d. Advertising Start Date

Advertising must begin *at least* 90 days prior to initial or renewed occupancy for new construction and substantial rehabilitation projects.

Date advertising began or will begin

For existing projects, select below the reason advertising will be used:

To fill existing unit vacancies ☐

To place applicants on a waiting list ☐ (which currently has ☐ individuals)

To reopen a closed waiting list ☐ (which currently has ☐ individuals)

3a. Demographics of Project and Housing Market Area
Complete and submit Worksheet 1.

3b. Targeted Marketing Activity

Based on your completed Worksheet 1, indicate which demographic group(s) in the housing market area is/are *least* likely to apply for the housing without special outreach efforts. (check all that apply)

☐ White ☐ American Indian or Alaska Native ☐ Asian ☐ Black or African American
☐ Native Hawaiian or Other Pacific Islander ☐ Hispanic or Latino ☐ Persons with Disabilities

☐ Families with Children ☐ Other ethnic group, religion, etc. (specify)

4a. **Residency Preference**

Is the owner requesting a residency preference? If yes, complete questions 1 through 5. Please Select Yes or No
If no, proceed to Block 4b.

(1) Type Please Select Type

(2) Is the residency preference area:
The same as the AFHMP housing/expanded housing market area as identified in Block 1e? Please Select Yes or No

The same as the residency preference area of the local PHA in whose jurisdiction the project is located? Please Select Yes or No

(3) What is the geographic area for the residency preference?

(4) What is the reason for having a residency preference?

(5) How do you plan to periodically evaluate your residency preference to ensure that it is in accordance with the non-discrimination and equal opportunity requirements in 24 CFR 5.105(a)?

Complete and submit Worksheet 2 when requesting a residency preference (see also 24 CFR 5.655(c)(1)) for residency preference requirements. The requirements in 24 CFR 5.655(c)(1) will be used by HUD as guidelines for evaluating residency preferences consistent with the applicable HUD program requirements. See also HUD Occupancy Handbook (4350.3) Chapter 4, Section 4.6 for additional guidance on preferences.

4b. **Proposed Marketing Activities: Community Contacts**
Complete and submit Worksheet 3 to describe your use of community contacts to market the project to those least likely to apply.

4c. **Proposed Marketing Activities: Methods of Advertising**
Complete and submit Worksheet 4 to describe your proposed methods of advertising that will be used to market to those least likely to apply. Attach copies of advertisements, radio and television scripts, Internet advertisements, websites, and brochures, etc.

5a. Fair Housing Poster

The Fair Housing Poster must be prominently displayed in all offices in which sale or rental activity takes place (24 CFR 200.620(e)). Check below all locations where the Poster will be displayed.

☐ Rental Office ☐ Real Estate Office ☐ Model Unit ☐ Other (specify)

5b. Affirmative Fair Housing Marketing Plan

The AFHMP must be available for public inspection at the sales or rental office (24 CFR 200.625). Check below all locations where the AFHMP will be made available.

☐ Rental Office ☐ Real Estate Office ☐ Model Unit ☐ Other (specify)

5c. Project Site Sign

Project Site Signs, if any, must display in a conspicuous position the HUD approved Equal Housing Opportunity logo, slogan, or statement (24 CFR 200.620(f)). Check below all locations where the Project Site Sign will be displayed. Please submit photos of Project signs.

☐ Rental Office ☐ Real Estate Office ☐ Model Unit ☐ Entrance to Project ☐ Other (specify)

The size of the Project Site Sign will be ____ x ____

The Equal Housing Opportunity logo or slogan or statement will be ____ x ____

6. Evaluation of Marketing Activities

Explain the evaluation process you will use to determine whether your marketing activities have been successful in attracting individuals least likely to apply, how often you will make this determination, and how you will make decisions about future marketing based on the evaluation process.

7a. **Marketing Staff**

What staff positions are/will be responsible for affirmative marketing?

7b. **Staff Training and Assessment: AFHMP**

(1) Has staff been trained on the AFHMP? Please Select Yes or No

(2) Has staff been instructed in writing and orally on non-discrimination and fair housing policies as required by 24 CFR 200.620(c)? Please Select Yes or No

(3) If yes, who provides instruction on the AFHMP and Fair Housing Act, and how frequently?

(4) Do you periodically assess staff skills on the use of the AFHMP and the application of the Fair Housing Act? Please Select Yes or No

(5) If yes, how and how often?

7c. **Tenant Selection Training/Staff**

(1) Has staff been trained on tenant selection in accordance with the project's occupancy policy, including any residency preferences? Please Select Yes or No

(2) What staff positions are/will be responsible for tenant selection?

7d. **Staff Instruction/Training:**

Describe AFHM/Fair Housing Act staff training, already provided or to be provided, to whom it was/will be provided, content of training, and the dates of past and anticipated training. Please include copies of any AFHM/Fair Housing staff training materials.

8. Additional Considerations Is there anything else you would like to tell us about your AFHMP to help ensure that your program is marketed to those least likely to apply for housing in your project? Please attach additional sheets, as needed.

9. Review and Update

By signing this form, the applicant/respondent agrees to implement its AFHMP, and to review and update its AFHMP in accordance with the instructions to item 9 of this form in order to ensure continued compliance with HUD's Affirmative Fair Housing Marketing Regulations (see 24 CFR Part 200, Subpart M). I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (See 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

Signature of person submitting this Plan & Date of Submission (mm/dd/yyyy)

Name (type or print)

Title & Name of Company

For HUD-Office of Housing Use Only

Reviewing Official:

Signature & Date (mm/dd/yyyy)

Name (type or print)

Title

For HUD-Office of Fair Housing and Equal Opportunity Use Only

☐ Approval ☐ Disapproval

Signature & Date (mm/dd/yyyy)

Name (type or print)

Title

Public reporting burden for this collection of information is estimated to average six (6) hours per initial response, and four (4) hours for updated plans, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number.

Purpose of Form: All applicants for participation in FHA subsidized and unsubsidized multifamily housing programs with five or more units (see 24 CFR 200.615) must complete this Affirmative Fair Housing Marketing Plan (AFHMP) form as specified in 24 CFR 200.625, and in accordance with the requirements in 24 CFR 200.620. The purpose of this AFHMP is to help applicants offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability. The AFHMP helps owners/agents (respondents) effectively market the availability of housing opportunities to individuals of both minority and non-minority groups that are least likely to apply for occupancy. Affirmative fair housing marketing and planning should be part of all new construction, substantial rehabilitation, and existing project marketing and advertising activities.

An AFHM program, as specified in this Plan, shall be in effect for each multifamily project throughout the life of the mortgage (24 CFR 200.620(a)). The AFHMP, once approved by HUD, must be made available for public inspection at the sales or rental offices of the respondent (24 CFR 200.625) and may not be revised without HUD approval. This form contains no questions of a confidential nature.

Applicability: The form and worksheets must be completed and submitted by all FHA subsidized and unsubsidized multifamily housing program applicants.

INSTRUCTIONS:
Send completed form and worksheets to your local HUD Office, Attention: Director, Office of Housing

Part 1: Applicant/Respondent and Project Identification. Blocks 1a, 1b, 1c, 1g, 1h, and 1i are self-explanatory.

Block 1d- Respondents may obtain the Census tract number from the U.S. Census Bureau (http://factfinder2.census.gov/main.html) when completing Worksheet One.

Block 1e- Respondents should identify both the housing market area and the expanded housing market area for their multifamily housing projects. Use abbreviations if necessary. A **housing market area** is the area from which a multifamily housing project owner/agent may reasonably expect to draw a substantial number of its tenants. This could be a county or Metropolitan Division. The U.S. Census Bureau provides a range of levels to draw from.

An **expanded housing market area** is a larger geographic area, such as a Metropolitan Division or a Metropolitan Statistical Area, which may provide additional demographic diversity in terms of race, color, national origin, religion, sex, familial status, or disability.

Block 1f- The applicant should complete this block only if a Managing Agent (the agent cannot be the applicant) is implementing the AFHMP.

Part 2: Type of AFHMP

Block 2a- Respondents should indicate the status of the AFHMP, i.e., initial or updated, as well as the date of the first approved AFHMP. Respondents should also provide the reason (s) for the current update, whether the update is based on the five-year review or due to significant changes in project or local demographics (See instructions for Part 9).

Block 2b- Respondents should identify all groups HUD has approved for occupancy in the subject project, in accordance with the contract, grant, etc.

Block 2c- Respondents should specify the date the project was/will be first occupied.

Block 2d- For new construction and substantial rehabilitation projects, advertising must begin at least 90 days prior to initial occupancy. In the case of existing projects, respondents should indicate whether the advertising will be used to fill existing vacancies, to place individuals on the project's waiting list, or to re-open a closed waiting list. Please indicate how many people are on the waiting list when advertising begins.

Part 3 Demographics and Marketing Area.
"Least likely to apply" means that there is an identifiable presence of a specific demographic group in the housing market area, but members of that group are not likely to apply for the housing without targeted outreach, including marketing materials in other languages for limited English proficient individuals, and alternative formats for persons with disabilities. Reasons for not applying may include, but are not limited to, insufficient information about housing opportunities, language barriers, or transportation impediments.

Block 3a - Using Worksheet 1, the respondent should indicate the demographic composition of the project's residents, current project applicant data, census tract, housing market area, and expanded housing market area. The applicable housing market area and expanded housing market area should be indicated in Block 1e. Compare groups within rows/across columns on Worksheet 1 to identify any under-represented group(s) relative to the surrounding housing market area and expanded housing market area, i.e., those group(s) "least likely to apply" for the housing without targeted outreach and marketing. If there is a particular group or subgroup with members of a protected class that has an identifiable presence in the housing market area, but is not included in Worksheet 1, please specify under "Other."

Respondents should use the most current demographic data from the U.S. Census or another official source such as a local government planning office. Please indicate the source of your data in Part 8 of this form.

Block 3b - Using the information from the completed Worksheet 1, respondents should identify the demographic group(s) least likely to apply for the housing without special outreach efforts by checking all that apply.

Part 4 - Marketing Program and Residency Preference (if any).
Block 4a - A residency preference is a preference for admission of persons who reside or work in a specified geographic area (see 24 CFR 5.655(c)(1)(ii)). Respondents should indicate whether a residency preference is being utilized, and if so, respondents should specify if it is new, revised, or continuing. If a respondent wishes to utilize a residency preference, it must state the preference area (and provide a map delineating the precise area) and state the reason for having such a preference. The respondent must ensure that the preference is in accordance with the non-discrimination and equal opportunity requirements in 24 CFR 5.105(a) (see 24 CFR 5.655(c)(1)).

Respondents should use Worksheet 2 to show how the percentage of the eligible population living or working in the residency preference area compares to that of residents of the project, project applicant data, census tract, housing market area, and expanded housing market area. The percentages would be the same as shown on completed Worksheet 1.

Block 4b - Using Worksheet 3, respondents should describe their use of community contacts to help market the project to those least likely to apply. This table should include the name of a contact person, his/her address, telephone number, previous experience working with the target population(s), the approximate date contact was/will be initiated, and the specific role the community contact will play in assisting with affirmative fair housing marketing or outreach.

Block 4c - Using Worksheet 4, respondents should describe their proposed method(s) of advertising to market to those least likely to apply. This table should identify each media option, the reason for choosing this media, and the language of the advertisement. Alternative format(s) that will be used to reach persons with disabilities, and logo(s) that will appear on the various materials (as well as their size) should be described. **Please attach a copy of the advertising or marketing material.**

Part 5 – Availability of the Fair Housing Poster, AFHMP, and Project Site Sign.

Block 5a - The Fair Housing Poster must be prominently displayed in all offices in which sale or rental activity takes place (24 CFR 200.620(e)). Respondents should indicate all locations where the Fair Housing Poster will be displayed.

Block 5b -The AFHMP must be available for public inspection at the sales or rental office (24 CFR 200.625). Check all of the locations where the AFHMP will be available.

Block 5c -The Project Site Sign must display in a conspicuous position the HUD-approved Equal Housing Opportunity logo, slogan, or statement (24 CFR 200.620(f)). Respondents should indicate where the Project Site Sign will be displayed, as well as the size of the Sign and the size of the logo, slogan, or statement. **Please submit photographs of project site signs.**

Part 6 - Evaluation of Marketing Activities.

Respondents should explain the evaluation process to be used to determine if they have been successful in attracting those individuals identified as least likely to apply. Respondents should also explain how they will make decisions about future marketing activities based on the evaluations.

Part 7- Marketing Staff and Training.
Block 7a -Respondents should identify staff positions that are/will be responsible for affirmative marketing.

Block 7b - Respondents should indicate whether staff has been trained on the AFHMP and Fair Housing Act.
Please indicate who provides the training and how frequently. In addition, respondents should specify whether they periodically assess staff members' skills in using the AFHMP and in applying the Fair Housing Act. They should state how often they assess employee skills and how they conduct the assessment.

Block 7c - Respondents should indicate whether staff has been trained on tenant selection in accordance with the project's occupancy policy, including residency preferences (if any). Respondents should also identify those staff positions that are/will be responsible for tenant selection.

Block 7d - Respondents should include copies of any written materials related to staff training, and identify the dates of past and anticipated training.

Part 8 - Additional Considerations.

Respondents should describe their efforts not previously mentioned that were/are planned to attract those individuals least likely to apply for the subject housing.

Part 9 - Review and Update.

By signing the respondent assumes responsibility for implementing the AFHMP. Respondents must review their AFHMP every five years or when the local Community Development jurisdiction's Consolidated Plan is updated, or when there are significant changes in the demographics of the project or the local housing market area. When reviewing the plan, the respondent should consider the current demographics of the housing market area to determine if there have been demographic changes in the population in terms of race, color, national origin, religion, sex, familial status, or disability. The respondent will then determine if the population least to likely to apply for the housing is still the population identified in the AFHMP, whether the advertising and publicity cited in the current AFHMP are still appropriate, or whether advertising sources should be modified or expanded. Even if the demographics of the housing market area have not changed, the respondent should determine if the outreach currently being performed is reaching those it is intended to reach as measured by project occupancy and applicant data. If not, the AFHMP should be updated. The revised AFHMP must be submitted to HUD for approval. HUD may review whether the affirmative marketing is actually being performed in accordance with the AFHMP. If based on their review, respondents determine the AFHMP does not need to be revised, they should maintain a file documenting what was reviewed, what was found as a result of the review, and why no changes were required. HUD may review this documentation.

Notification of Intent to Begin Marketing.
No later than 90 days prior to the initiation of rental marketing activities, the respondent must submit notification of intent to begin marketing. The notification is required by the AFHMP Compliance Regulations (24 CFR 108.15). The Notification is submitted to the Office of Housing in the HUD Office servicing the locality in which the proposed housing will be located. Upon receipt of the Notification of Intent to Begin Marketing from the applicant, the monitoring office will review any previously approved plan and may schedule a pre-occupancy conference. Such conference will be held prior to initiation of sales/rental marketing activities. At this conference, the previously approved AFHMP will be reviewed with the applicant to determine if the plan, and/or its proposed implementation, requires modification prior to initiation of marketing in order to achieve the objectives of the AFHM regulation and the plan.

OMB approval of the AFHMP includes approval of this notification procedure as part of the AFHMP. The burden hours for such notification are included in the total designated for this AFHMP form.

Worksheet 1: Determining Demographic Groups Least Likely to Apply for Housing Opportunities
(See AFHMP, Block 3b)

In the respective columns below, indicate the percentage of demographic groups among the project's residents, current project applicant data, census tract, housing market area, and expanded housing market area (See instructions to Block 1e). If you are a new construction or substantial rehabilitation project and do not have residents or project applicant data, only report information for census tract, housing market area, and expanded market area. The purpose of this information is to identify any under-representation of certain demographic groups in terms of race, color, national origin, religion, sex, familial status, or disability. If there is significant under-representation of any demographic group among project residents or current applicants in relation to the housing/expanded housing market area, then targeted outreach and marketing should be directed towards these individuals least likely to apply. Please indicate under-represented groups in Block 3b of the AFHMP. **Please attach maps showing both the housing market area and the expanded housing market area**.

Demographic Characteristics	Project's Residents	Project's Applicant Data	Census Tract	Housing Market Area	Expanded Housing Market Area
% White					
% Black or African American					
% Hispanic or Latino					
% Asian					
% American Indian or Alaskan Native					
% Native Hawaiian or Pacific Islander					
%Persons with Disabilities					
% Families with Children under the age of 18					
Other (specify)					

Worksheet 2: Establishing a Residency Preference Area (See AFHMP, Block 4a)

Complete this Worksheet if you wish to continue, revise, or add a residency preference, which is a preference for admission of persons who reside or work in a specified geographic area (see 24 CFR 5.655(c)(1)(ii)). If a residency preference is utilized, the preference must be in accordance with the non-discrimination and equal opportunity requirements contained in 24 CFR 5.105(a). This Worksheet will help show how the percentage of the population in the residency preference area compares to the demographics of the project 's residents, applicant data, census tract, housing market area, and expanded housing market area. **Please attach a map clearly delineating the residency preference geographical area.**

Demographic Characteristics	**Project's Residents** (as determined in Worksheet 1)	**Project's Applicant Data** (as determined in Worksheet 1)	**Census Tract** (as determined in Worksheet 1)	**Housing Market Area** (as determined in Worksheet 1)	**Expanded Housing Market Area** (as determined in Worksheet 1)	**Residency Preference Area** (if applicable)
% White						
% Black or African American						
% Hispanic or Latino						
% Asian						
% American Indian or Alaskan Native						
% Native Hawaiian or Pacific Islander						
% Persons with Disabilities						
% Families with Children under the age of 18						
Other (specify)						

Worksheet 3: Proposed Marketing Activities –Community Contacts (See AFHMP, Block 4b)

For each targeted marketing population designated as least likely to apply in Block 3b, identify at least one community contact organization you will use to facilitate outreach to the particular population group. This could be a social service agency, religious body, advocacy group, community center, etc. State the names of contact persons, their addresses, their telephone numbers, their previous experience working with the target population, the approximate date contact was/will be initiated, and the specific role they will play in assisting with the affirmative fair housing marketing. Please attach additional pages if necessary.

Targeted Population(s)	**Community Contact(s), including required information noted above.**

Worksheet 4: Proposed Marketing Activities – Methods of Advertising (See AFHMP, Block 4c)

Complete the following table by identifying your targeted marketing population(s), as indicated in Block 3b, as well as the methods of advertising that will be used to market to that population. For each targeted population, state the means of advertising that you will use as applicable to that group and the reason for choosing this media. In each block, in addition to specifying the media that will be used (e.g., name of newspaper, television station, website, location of bulletin board, etc.) state any language(s) in which the material will be provided, identify any alternative format(s) to be used (e.g. Braille, large print, etc.), and specify the logo(s) (as well as size) that will appear on the various materials. Attach additional pages, if necessary, for further explanation. Please attach a copy of the advertising or marketing material.

Targeted Population(s)→ Methods of Advertising ↓	**Targeted Population:**	**Targeted Population:**	**Targeted Population:**
Newspaper(s)			
Radio Station(s)			
TV Station(s)			
Electronic Media			
Bulletin Boards			
Brochures, Notices, Flyers			
Other (specify)			

Attachment C

City of San Antonio
Non-Discrimination Ordinance

Proposed

LOH
09/05/13
Item #4

AN ORDINANCE 2013-09-05-0577

ADOPTING A CONSOLIDATED NON-DISCRIMINATION POLICY WITH EXPANDED PROTECTIONS; ESTABLISHING AND AMENDING CERTAIN SECTIONS OF THE CITY CODE; ADOPTING A NON-DISCRIMINATION STATEMENT AS REQUIRED UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND RELATED STATUTES; AND PROVIDING FOR PENALTIES AND DIRECTING PUBLICATION.

* * * * *

WHEREAS, the City of San Antonio has adopted separate non-discrimination policies and practices over the years; and

WHEREAS, the city now desires to provide for and adopt a comprehensive and expanded non-discrimination policy with revisions to outdated terminology; and

WHEREAS, Part II of the City Code, Chapter 2, *Administration,* Article IX, Section 2-529 prohibits discrimination by the city when appointing members to boards and commissions and also prohibits discrimination by these appointed officials in their public positions; and

WHEREAS, for city employees, City Code, Chapter 2, *Administration,* Article IV, Divisions 1 through 3, among other things, prohibit discrimination by the city in the hiring and promotion of city employees, and provide a means for complaint, investigation and redress; and

WHEREAS, City Code, Chapter 9, *Community Relations,* Article II, Section 9-19 prohibits discrimination by private parties with regard to places of public accommodation; and

WHEREAS, City Code, Chapter 9, *Community Relations,* Article III, *Discriminatory Housing Practices* and Ordinance No. 2009-05-14-0385 prohibit discrimination in housing; and

WHEREAS, the city desires to consolidate the existing Code sections and adopted Ordinance sections that govern discriminatory housing practices so that the public may more easily locate them; and

WHEREAS, the city has administratively issued a *Title VI and Related Statutes Non-discrimination Statement* to the TxDOT Civil Rights Division, which the City Council now desires to adopt, and also includes associated non-discrimination language within city contracts; and

WHEREAS, City Code, Chapter 2, *Administration,* Article I, Section 2-8(a), adopted in 1989, prohibited discrimination in the award of subcontracts, but was superseded by a *Commercial Non-discrimination Policy* on June 17, 2010 with language that also must be included in all contracts to which SBEDA Ordinance No. 2010-06-17-0531 applies; and

WHEREAS, the city desires that contracts contain language that requires compliance with the protections afforded by a comprehensive, expanded non-discrimination policy; and

WHEREAS, the request for consideration of this issue by the full City Council was brought forward by a City Council Request memorandum, signed by five members of the Council, and has been considered at open City Council Governance Committee and "B" Session meetings; **NOW THEREFORE:**

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

SECTION 1. City Council adopts a consolidated Non-Discrimination Policy, which expands protections and revises outdated terminology, to be included in Chapter 2, *Administration*, and establishes **Article X** which shall be entitled ***Non-Discrimination Policies*** as follows:

CHAPTER 2 – ADMINISTRATION.

ARTICLE X. - Non-Discrimination Policies.

DIVISION 1 – Generally.

Sec. 2-543-549. – Reserved.

Sec. 2-550. – Non-Discrimination Policy.

(a) It shall be the general policy of the City of San Antonio to prohibit discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, as set forth in the Divisions following, unless exempted by state or federal law or as otherwise indicated.

(b) A religious corporation, association, society or educational institution or an educational organization operated, supervised or controlled in whole or in substantial part by a religious corporation, association or society does not violate the non-discrimination policy by limiting employment or giving a preference in employment to members of the same religion, as determined solely by the religious corporation, association, or institution.

(c) Nothing in this Ordinance shall be construed as supporting or advocating any particular lifestyle or religious view. To the contrary, it is the intention of this Ordinance that all persons be treated fairly and equally and it is the express intent of this Ordinance to guarantee to all of our citizens fair and equal treatment under the law.

(d) Nothing herein shall be construed as requiring any person or organization to support or advocate any particular lifestyle or religious view, or advance any particular message or idea.

Sec. 2-551. – Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning in Divisions below:

Age means an individual at least 40 years of age.

Disability means a mental or physical impairment that substantially limits at least one major life activity, a record of the impairment, or being regarded as having the impairment. This term does not include the current, illegal use of or addiction to a controlled substance as defined under state and federal law.

Gender identity means a gender-related identity, appearance, expression or behavior of an individual, regardless of the individual's assigned sex at birth.

Religion means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that the employer is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

Sex includes both sex, the biological differences between men and women, and gender; and encompasses sexual orientation and gender identity.

Sexual orientation means an individual's real orientation or orientation perceived by another as heterosexual, homosexual, bisexual or asexual.

Veteran status means a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable, as specified in 38 U.S.C. 101(2). "Active service" includes full-time Federal service in the National Guard or a Reserve component.

Sec. 2-552. – Appointed Officials, Boards and Commissions.

(a) **Appointments to Boards and Commissions.**
When making appointments to boards and commissions, the city shall not discriminate on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, veteran status, age or disability.

(b) **Discrimination by Appointed Officials – Malfeasance.**

(1) No appointed official or member of a board or commission shall engage in discrimination against any person, group of persons, or organization on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, while acting in their official capacity while in such public position.

(2) Violation of this standard shall be considered malfeasance in office, and the City Council shall be authorized to take action as provided by law to remove the offending person from office.

Sec. 2-553. – Reserved.

DIVISION 2 – CITY OF SAN ANTONIO EQUAL EMPLOYMENT OPPORTUNITY.

Sec. 2-554. - Policy.

(a) The city will maintain a policy of equal employment opportunity. No city employee or applicant for employment with the city will be denied employment or promotion because of race, color, religion, disability, sex, sexual orientation, gender identity, veteran status, age or national origin. Fair and impartial treatment will be extended to all city employees and applicants for employment with the city.

Sec. 2-555. - Establishment of program.

There is hereby established a city equal employment opportunity program.

Sec. 2-556. - Division of equal employment opportunity, created, duties.

(a) There is hereby created a division of equal employment opportunity which shall be directly responsible to the city manager or designee.

(b) The division will administer and monitor the established equal employment opportunity program in accordance with existing federal, state, and city laws.

(c) The division will initiate investigations into any alleged discriminatory practices within the city.

Sec. 2-557. - Duties of division generally.

(a) The equal employment opportunity division will be responsible for the implementation of this program.

(b) The equal employment opportunity division will work closely with all city departments to provide city employees and applicants for employment with the city with an opportunity to express complaints of discrimination based on race, color, religion, disability, sex, sexual orientation, gender identity, veteran status, age or national origin.

(c) The equal employment opportunity division will also work with the city training officer to orientate city employees to the functions of the program. Counseling will be provided to all city employees and applicants for employment with the city.

Sec. 2-558. - Complaints, procedure.

(a) City employees may register complaints of discrimination with the city equal employment division, and complaints will be given prompt consideration. An investigation to determine the cause for the complaint will be conducted and findings will be acted upon without undue delay.

(b) All complaints will be investigated by the equal employment opportunity division and findings submitted to the city manager or designee without undue delay. Findings also will be relayed to the complainant and other persons officially involved. If it is determined that a violation has been committed, the situation will be corrected without undue delay.

(c) Discrimination complaints will be submitted in writing to the equal employment opportunity division. The equal employment opportunity division will be available to assist in aiding city employees who may lack the skill to submit the written report.

(d) An interview with the equal employment opportunity division will be scheduled to verify the following:

When the alleged violation occurred.
Against whom the alleged discrimination was registered.
Location of the alleged offense.
Person allegedly discriminated against.
Nature of the alleged offense.
Names of all persons and witnesses involved.
Remedy sought by the complainant.

Sec. 2-559. - Unwarranted complaints; procedure.

If the complaint is found to be unwarranted, the complainant will be notified of such. The city manager or designee may conduct further investigation, confirm or deny the original decision. If there are legal questions involved, the complaint will be sent to the city legal department for review.

Secs. 2-560—2-570. - Reserved.

DIVISION 3. – OFFICE OF EMPLOYEE RELATIONS, EQUAL EMPLOYMENT OPPORTUNITY DIVISION.

Sec. 2-571. - Policy.

The city will maintain a policy of equal employment opportunity. No city employee or applicant for employment with the city will be denied employment or promotion because of race, color, religion, disability, sex, sexual orientation, gender identity, veteran status,

age or national origin. Fair and impartial treatment will be extended to all city employees and applicants for employment with the city.

Sec. 2-572. - Functions.

The office of employee relations, under the direction of the city manager or designee will be responsible for the following functions:

(1) Equal employment opportunity division:

a. Implements and monitors an equal employment opportunity program in accordance with the guidelines established by federal legislation;

b. Works closely with city departments to ensure that city employees and applicants for employment with the city have an opportunity to express complaints of discrimination based on race, color, religion, disability, sex, sexual orientation, gender identity, veteran status, age or national origin. A complaint filed with the equal employment opportunity office will prompt immediate investigations with findings reported to the city manager's designee. Findings also will be relayed to the complainant and other persons officially involved. When it is determined that a violation has occurred, the corrective action will be taken without undue delay and will be monitored to ensure compliance;

c. Provides counseling as to fair employment practice provisions of law to city employees, applicants for employment with the city, and supervisors of all levels of management. Assists the city training officer, as required, to acquaint city employees with the equal employment opportunity program;

d. Insures that assistance is available to aid city employees who may lack the skill to submit a written complaint;

e. Is responsible to establish an interview technique and checklist to assure a thorough and complete investigation of all written complaints.

Sec. 2-573. - Applicability of equal employment opportunity program.

The following provisions of this division are also applicable to the equal employment opportunity program:

(1) The director of the department in which the complaint arose will cooperate and require all city employees of the department to cooperate with the equal employment opportunity officer investigating the complaint. All city employees having any knowledge of the complaint shall furnish statements of testimony under oath without a pledge of confidence.

(2) If the complaint is found to be unwarranted, the complainant will be notified of such. The city manager's designee may conduct further investigation, and confirm or deny the original decision. If there are legal questions involved, the complaint will be sent to the city's legal department for review.

(3) Equal employment opportunity division employees, complainants, equal employment opportunity counselors, individuals providing information regarding complaints, shall not be harassed, intimidated, reprised, or retaliated against in any way preceding, during or upon completion of any equal employment opportunity investigation.

(4) Nothing in this division will be construed to lessen a supervisor's obligation to supervise those under him/her nor will it be construed to permit an employee of the city to act in a disrespectful manner prejudicial to good order.

Secs. 2-574—2-590. - Reserved.

DIVISION 4. – AFFIRMATIVE ACTION.

Sec. 2-591. - Plan adopted.

A copy of the most recently adopted affirmative action plan is available in the Office of the City Clerk and is incorporated by reference as if set forth at length herein. This affirmative action plan supersedes all previous plans and modifications to such plans.

DIVISION 5 – PLACES OF PUBLIC ACCOMMODATION.

Sec. 2-592. - Discrimination prohibited; policy.

It shall be unlawful for any person, or any employee or agent thereof within the city, to discriminate against, withhold from or deny any person, because of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, any of the advantages, facilities or services offered to the general public by a place of public accommodation.

Sec. 2-593. - Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hotel and motel shall include every establishment offering lodging to transient guests for compensation, but such terms shall not apply to any such establishment if the majority of occupants therein are permanent residents.

Place of public accommodation shall include every business within the city, whether wholesale or retail, which is open to the general public and offers, for compensation, any product, service or facility. The term place of public accommodation shall include, but not be

limited to, all taverns, hotels, motels, apartment hotels, apartment houses with four (4) or more tenant units, restaurants or any place where food or beverages are sold, retail and wholesale establishments, hospitals, theaters, motion picture houses, museums, bowling alleys, golf courses and all public conveyances, as well as the stations or terminals thereof.

Restaurant shall include every cafe, cafeteria, coffee shop, sandwich shop, snack bar, supper club, soda fountain, soft drink or ice cream parlor, luncheonette, or other similar establishment, which offers food or beverages for purchase and consumption on the premises, but shall not include places at which intoxicating beverages are sold otherwise than as an accompaniment to meals.

Theater shall include every place, whether indoors or out-of-doors, at which any theatrical performance, moving picture show, musical concert or recital, dramatic reading or monologue, circus, carnival, or other like entertainment or amusement is offered for compensation.

Sec. 2-594. - Exemptions.

This Division shall not, however, apply to any hotel, motel, restaurant or theater operated by a bona fide private club not conducted for the purpose of evading this Division when the accommodations, advantages, facilities and services are restricted to the members of such club and their guests; nor to any bona fide social, fraternal, educational, civic, political or religious organization, when the profits of such accommodations, advantages, facilities and services, above reasonable and necessary expenses, are solely for the benefit or mission of such organization.

Nothing in Division 5 will be construed as allowing any person to enter any sex-segregated space for any unlawful purpose.

Sec. 2-595. - Effect on civil remedies now available.

This Division shall neither add to nor detract from any civil remedies now available to persons subject to unlawful discrimination.

Secs. 2-596 —2-620. - Reserved.

DIVISION 6. – DISCRIMINATORY HOUSING PRACTICES.

Subdivision I – Declaration of Policy, Purpose and Authority.

Sec. 2-621. –Policy.

It is the policy of the city, through fair, orderly and lawful procedures, to promote the opportunity for each person to obtain housing without regard to race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, familial status, national origin or age. This policy is grounded upon a recognition of the right of every person to have access to adequate housing of the person's own choice, and that the denial of this right because of

race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, familial status, national origin or age is detrimental to the health, safety, and welfare of the inhabitants of the City and constitutes an unjust deprivation of rights, which is within the power and proper responsibility of government to prevent.

Sec. 2-622. - Purpose.

The purposes of this Division are:

(a) To provide for fair housing practices in the City,

(b) To create a procedure for investigating and settling complaints of discriminatory housing practices, and

(c) To provide rights and remedies substantially equivalent to those granted under state and federal law.

Sec. 2-623. - Authority.

This Division is enacted pursuant to authority explicitly granted municipalities by the Texas Constitution Art. XI., Section 5; Texas Local Government Code Chapter 51 - Subchapter E, Chapter 54 and Sec. 214.903; and Texas Property Code Chapter 301.

Subdivision II – Definitions.

Sec. 2-624. - Definitions.

The following definitions apply to words used in this Division.

(a) *Accessible* means that area of a housing accommodation that can be approached, entered and used by a person with a physical disability.

(b) *Accessible route* means a continuous unobstructed path connecting accessible elements and spaces in a housing accommodation that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by a person with other disabilities.

(c) *Aggrieved Person* includes any person who:

(1) Claims to have been injured by a discriminatory housing practice, or

(2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

(d) *Complainant* means a person who lodges or files a written complaint with the Fair Housing Office.

(e) *Conciliation* means the attempted resolution of issues raised by a complainant or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the respondent, and the Fair Housing Office.

(f) *Conciliation agreement* means a written agreement setting forth the resolution of the issues in conciliation.

(g) *Disability* means:

(1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(2) a record of such an impairment; or

(3) being regarded as having such an impairment.

This term does not include the current, illegal use of or addiction to a controlled substance as defined under state and federal law.

(h) *Discriminatory housing practice* means an act prohibited by this Division.

(i) *Dwelling* means:

(1) any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; and,

(2) any vacant land that is offered for sale or lease for the construction or location of a building, structure or part of a building or structure described in paragraph (a) of this definition.

(j) *Fair Housing Office* means the city office designated by the city manager to take complaints in violation of this Division and to assist in conciliation.

(k) *Familial status* means the status of a person resulting from being:

(1) pregnant;

(2) domiciled with an individual younger than 18 years of age in regard to whom the person:

(A) is the parent or legal guardian; or,

(B) has the written permission of the parent or legal guardian for domicile with the individual; or,

(3) in the process of securing legal custody of an individual who is younger than 18 years of age.

(l) *Family* includes a single individual.

(m) *Major life activities* means functions such as, but not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(n) *Person* means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

(o) *Residence* does not include a hotel, motel, or similar public accommodation where occupancy is available exclusively on a temporary, day-to-day basis.

(p) *Respondent* means:

(1) The person accused of a violation of this Division in a complaint of a discriminatory housing practice; and

(2) Any person identified as an additional or substitute respondent.

(q) *To rent* includes to lease, sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

Subdivision III - Prohibitions against Discrimination

Sec. 2-625. - Sale or rental.

(a) A person may not refuse to sell or rent a dwelling to a person who has made a bona fide offer; refuse to negotiate for the sale or rental of a dwelling; or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, familial status, national origin or age.

(b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in providing services or facilities in connection with the sale or rental, because of race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, familial status, national origin or age.

Sec. 2-626. – False Representation; Inspection.

A person may not represent to any person because of race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, familial status, national origin or age that a dwelling is not available for inspection, sale, or rental when the dwelling is in fact so available.

Sec. 2-627. - Entry into neighborhood.

A person may not, for profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, familial status, national origin or age.

Sec. 2-628. - Disability.

(a) A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to a buyer or renter because of a disability of:

(1) That buyer or renter;

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

(3) Any person associated with that buyer or renter.

(b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of:

(1) That person;

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

(3) Any person associated with that person.

(c) For purposes of this Section only, discrimination includes:

(1) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling, including public and common use areas.

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:

(A) The public use and common use portions of such dwellings are readily accessible to and usable by persons with disabilities;

(B) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons in wheelchairs; and

(C) All premises within such dwellings contain the following features of adaptive design:

(i) An accessible route into and through the dwelling;

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) Reinforcements in bathroom walls to allow later installation of grab bars; and,

(iv) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(d) Compliance with the appropriate requirements of the American National Standard Institute for buildings and facilities providing accessibility and usability for persons with physical disabilities, commonly cited as "ANSI A 117.1," suffices to satisfy the requirements of Subsection (c)(3)(C) of this Section.

(e) As used in this Subsection, the term "covered multi-family dwellings" means:

(1) Buildings consisting of four (4) or more units if the buildings have one or more elevators; and

(2) Ground floor units in other buildings consisting of four (4) or more units.

(f) Nothing in this Subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Sec. 2-629. - Publication.

A person may not make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, or familial status, national origin or age, or an intention to make such a preference, limitation, or discrimination.

Sec. 2-630. - Residential real estate related transaction.

(a) A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, familial status, national origin or age.

(b) In this Section, "residential real estate related transaction" means:

(1) Making or purchasing loans or providing other financial assistance,

(A) To purchase, construct, improve, repair, or maintain a dwelling; or

(B) Secured by residential real estate; or

(2) Selling, brokering, or appraising residential real property.

Sec. 2-631. - Brokerage services.

A person may not deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership, or participation in such an organization, service, or facility because of race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, familial status, national origin or age.

Sec. 2-632. - Interference with exercise of rights unlawful.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his/her having exercised or enjoyed, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this Division, including the giving of testimony or provision of information in aid of investigation or discovery under this Division.

Sec. 2-633. – Consideration of non-discriminatory factors.

Nothing in this Division prohibits:

(a) Consideration of a person's conviction under federal law or the law of any state for the illegal manufacture or distribution of a controlled substance.

(b) A person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, familial status, national origin or age.

Subdivision IV - Exemptions.

Sec. 2-634. - Sales and Rentals Exempted.

(a) Subject to Subsection (b) of this Section, Sections 2-625 through 2-628 of this Division do not apply to:

(1) The sale or rental of a single-family house sold or rented by an owner if:

(A) The owner does not:

(i) Own more than three (3) single-family houses at any one time; and

(ii) Own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three (3) single-family houses at any one time; and

(B) The house is, or was sold or rented without:

(i) The use of the sales or rental facilities or services of a real estate broker, agent, or salesman licensed under applicable state law or of an employee or agent of a licensed broker, agent, or salesman, or the facilities or services of the owner of a dwelling designed or intended for occupancy by five or more families; and

(ii) The publication, posting, or mailing of a notice, statement or advertisement prohibited by Section 2-629 of this Division; or

(2) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

(b) The exemption set forth in (a)(1) of this Section applies only to one sale or rental within a 24-month period if the owner did not reside in the house at the time of sale or rental or was not the most recent resident of the house prior to the sale or rental.

Sec. 2-635. - Religious Organizations and Private Clubs Exempted.

(a) This Division does not prohibit a religious organization, association, or society, or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from:

(1) Limiting the sale, rental, or occupy dwellings that it owns or operates for other than a commercial purpose to persons of the same religion; or

(2) Giving preference for such dwellings to persons of the same religion, unless membership in the religion is restricted because of race, color or national origin.

(b) This Division does not prohibit a private club not in fact open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members.

Sec. 2-636. - Housing for Elderly Exempted.

(a) The provisions of this Division relating to familial status do not apply to housing for older persons.

(b) In this Section "housing for older persons" means housing:

(1) That the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons under a federal or state program;

(2) Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

(3) Intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit as determined by the Secretary of the United States Department of Housing and Urban Development. To the extent that such a determination falls within the jurisdiction of the United States Department of Housing and Urban Development, the following factors at minimum must be present for the dwelling(s) to qualify for the exemption:

(A) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is

necessary to provide important housing opportunities for older persons; and,

(B) That at least eighty (80) percent of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and,

(C) The publication of, and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

Sec. 2-637. - Appraisal Exemption.

This Division does not prohibit a person engaged in the business of furnishing appraisals of residential real property from taking into consideration factors other than race, color, religion, sex, sexual orientation, gender identity, veteran status, disability, familial status, national origin or age.

Sec. 2-638. - Effect on other law.

This Section and Division do not affect a requirement of nondiscrimination in any other local, state or federal law.

Subdivision V – Enforcement

Sec. 2-639. - Complaints.

The Fair Housing Office shall upon receipt of a written complaint under oath, made by an aggrieved person charging a violation of any provision of the prohibitive sections of this Division, make a prompt and full investigation of the complaint. If after such investigation, the Fair Housing Office determines that a violation has occurred it shall attempt to eliminate the discriminatory housing practices by conciliation and persuasion. If the Fair Housing Office fails in the conciliation proceedings, it shall forward all papers, including the written complaint, investigation, record of conciliation proceedings, factual findings and its recommendation to the city attorney and/or the U.S. Department of Housing and Urban Development for further prosecution. The complaint, investigation and conciliation proceedings shall be confidential records and proceedings of the Fair Housing Office shall not be made public except upon the authority of the city council. The city attorney shall review the proceedings and shall take appropriate legal action if it is deemed appropriate.

(a) In any proceeding brought pursuant to this Section, the burden of proof shall be on the complainant;

(b) A complaint provided for in this Division shall be filed within thirty (30) days after the alleged discriminatory housing practice occurred. Complaints shall state the

facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Fair Housing Office, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be signed.

DIVISION 7. TITLE VI COMPLIANCE.

Sec. 2-640. – Policy.

It is the policy of the City of San Antonio, Texas as a recipient of Federal financial assistance and under Title VI of the Civil Rights Act of 1964, and related statutes, to ensure that no person shall on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment per 42 U.S.C. Section 2000d-3), color, national origin, sex, sexual orientation, gender identity, veteran status, age, or disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination or retaliation under any federally or non-federally funded city programs or activities administered by the city or its contractors.

Sec. 2-641. – Complaint Procedures.

The complaint procedures for Title VI transportation related programs, projects or activities known as *Methods of Administration* (MOA) can be found on the City of San Antonio's website.

SECTION 2. Chapter 2, *Administration*, Article IV. *Equal Opportunity and Employee Relations*, Division 1. *Generally,* Division 2. *Office of Employee Relations*, and Division 3. *Affirmative Action*, of the City Code of San Antonio, Texas, are hereby amended as provided in SECTION 1 of this Ordinance, and codified as Divisions 2 through 4 in Article X. *Non-Discrimination Policies* of Chapter 2.

The balance of the text in Chapter 2, *Administration*, Article IV. *Equal Opportunity and Employee Relations*, Division 2. *Office of Employee Relations,* of the City Code of San Antonio, Texas, shall remain and be reformatted and renumbered to conform to the existing Code, except for the following language which shall be amended by adding language that is underlined (added) and deleting language that is stricken (~~deleted~~), to read as follows:

DIVISION 3. OFFICE OF EMPLOYEE RELATIONS, LABOR RELATIONS DIVISION

Sec. 2-124 -Functions.

The office of employee relations, under the direction of the director of employee relations, will be established within the office of the city manager and will be responsible for the following functions ~~as specified by division~~:

SECTION 3. Sections 9-36 through 9-53 of Ordinance No. 2009-05-14-0385 and Section 9-46 of Chapter 9, *Community Relations,* Article III, *Discriminatory Housing Practices* of the City Code are consolidated and adopted in their amended form as set forth in SECTION 1 of this Ordinance.

SECTION 4. All sections of Chapter 9, *Community Relations,* Article II, *Places of Public Accommodation,* of the City Code are hereby amended and codified as provided in Section 1 of this Ordinance which shall, with the actions adopted in SECTION 3 of this Ordinance, reserve all of Chapter 9 for future legislation.

SECTION 5. Chapter 2, Article I, Section 2-9 is hereby amended and codified as Chapter 2, *Administration,* Article X, *Non-Discrimination Policies,* Section 2-552 as indicated in SECTION 1 of this Ordinance.

SECTION 6. City Council also amends Chapter 2, Article IX, *Boards and Commissions Rules,* Sec. 2-529(c) of the City Code to conform to the general policy established by this Ordinance as follows:

Sec. 2-529. - Membership.

(c) When making appointments to boards and commissions, the city shall not discriminate on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, veteran status, age or disability.

SECTION 7. All City of San Antonio contracts, exclusive of (i) the contracts exempted from the scope and application of SBEDA Ordinance No. 2010-06-17-0531; (ii) contracts for the city's sale of real property, and documents incidental thereto; and (iii) agreements with governmental entities, shall contain the following:

> **Non-Discrimination. As a party to this contract, [Contractor or Vendor] understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.**

The above contract clause shall be in addition to the *Commercial Non-Discrimination Policy* language that is added to all contracts governed by the SBEDA Ordinance No. 2010-06-17-0531, if applicable.

SECTION 8. This Ordinance shall control over any prior ordinance provisions or policies in conflict herewith. Ordinance No. 80613 is repealed.

SECTION 9. If any section, paragraph, sentence, clause, phrase or word of this Ordinance or Chapter 2, *Administration,* Article X., *Non-Discrimination Policies*, or the application thereof, to any person or circumstance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, invalid or void, such holding shall not affect the remainder of this Article or the application of any other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, all the provisions of this Ordinance are hereby declared to be severable.

SECTION 10. Discriminatory practices in the provision of public accommodations and housing shall be a Class C misdemeanor and, upon conviction, shall be punishable in accordance with Chapter 1, Section 1-5 of the City Code. The penalties contained herein are non-exclusive and the city shall have any and all remedies to which it may be entitled in law or in equity. The exercise of any penalty or remedy by the city shall not be deemed as a waiver of any other remedy to which the city may be entitled.

Prior to filing a case for discriminatory practices in the provision of public accommodations and housing, the city may attempt to eliminate the discriminatory practice by pretrial diversion or conciliation.

SECTION 11. The Office of the City Clerk is directed to publish notice of the penalties prescribed by this Ordinance in a publication of general circulation and to update the City Code in accordance with this Ordinance.

SECTION 12. This Ordinance shall be effective immediately upon receipt of eight affirmative votes or otherwise ten days after passage by City Council.

SECTION 13. The penalties provided for in Chapter 2, *Administration,* Article X, *Non-Discrimination Policies* shall be effective five days after publication by the Office of the City Clerk.

PASSED AND APPROVED this 5th day of September, 2013.

M A Y O R
Julián Castro

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Michael D. Bernard, City Attorney