



2023 Supportive Housing NOTICE OF FUNDING AVAILABILITY

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TABLE of CONTENTS

Section I	Introduction, Application & Selection Process _____	3 - 7
Section II	Program Description _____ Funds Available Eligible Activities Lending Policies by Project Location Affordability Requirements Loan Terms & Conditions Match Requirements Maximum Loan Amount/Subsidy Limit Exceptions and Other Requirements	7 - 19
Section III	Special Programs: Orange County Housing Authority Project-Based Vouchers _____	19 - 21
Section IV	Application & Threshold Requirements _____ Description of the NOFA Exhibits	21 - 29
Section V	Requirements of Funding _____ Requirements Prior to Funding	30
 APPLICATION		
	Submission Requirements _____	31
	Application Checklist _____	32 - 33
	Exhibits 4.01 – 4.38 _____	34 - 114
 APPLICATION ATTACHMENTS		
A.	2023 Orange County Income & Rent Limits _____	115
B.	Maximum Development Costs and Minimum Square Footage _____	116
C.	Permanent Supportive Housing Guidelines and Definitions _____	117 - 119
D.	Mental Health Services Act Term Sheet _____	120 - 124
E.	Property Management Plan – Guidelines _____	125 - 129
F.	Insurance Requirements _____	130 - 131
G.	Sample Housing and Community Development Commitment Letter _____	132 - 136
H.	Apartment Development Revenue Bond Application _____	137
I.	Relocation Plan Instructions _____	138 - 141
J.	Affordable Housing Opportunity Overlay Zone Eligible Sites _____	142
K.	Loan Closing Checklist _____	143
L.	Monitoring Policy _____	144
M.	Contracting with Minority, Women-Owned and Disadvantaged Business _____	145 - 150
N.	Sample Loan Documents (N1 – N9) _____	151 - 302



**2023 SUPPORTIVE HOUSING
NOTICE OF FUNDING AVAILABILITY
BidSync NOFA 2023-01
March 20, 2023**

SECTION I - INTRODUCTION, APPLICATION & SELECTION PROCESS

This 2023 Supportive Housing Notice of Funding Availability (NOFA) announces the availability of up to \$67.1 million of Federal HOME Investment Partnerships Program (Home), HOME American Rescue Plan Act (HOME-ARPA), Mental Health Services Act (MHSA) and American Rescue Plan Act Coronavirus State and Local Recovery Funds (ARPA-SLFRF), to promote the acquisition, new construction, and acquisition/rehabilitation of Supportive Housing, as defined in Attachment C of this NOFA, affordable for Orange County's extremely low-income households who are experiencing homelessness by providing below market rate financing. The NOFA will also make available up to 210 Housing Choice, Mainstream and/or Veterans Affairs Supportive Housing Project Based Vouchers for extremely low-income households who are homeless, for projects that meet the requirements of this NOFA (regardless of whether or not capital funding is requested under this NOFA). HCD requires that units assisted under this NOFA be filled with tenants who are prioritized through the Coordinated Entry System (CES). Interested and qualified developers who can successfully demonstrate their ability to acquire, build or substantially rehabilitate, and operate Permanent Supportive Housing are encouraged to submit proposals.

To encourage applicants/developers to leverage available funding sources for development of supportive housing. HCD will accept applications based on a tier system:

- Days 1-60 from the release of the 2023 NOFA: Only applications/submissions with existing State Homekey Program funding awards or eligible and applying for State Homekey Program funding under the Homekey Round 3 NOFA will be accepted.
 - Up to 110 housing choice vouchers will be made available. during this 60-day window to ensure the County's resources are used to develop diverse housing options and not be limited to motel rehabilitations/conversions.
- From days 61-90 after the release of the NOFA, HCD will accept applications for developments located in unincorporated Orange County and Urban County Participating Cities.
- From days 91-120 after the release of the NOFA, HCD will accept applications for any developments located in unincorporated Orange County, Urban County Participating Cities and Entitlement Cities, except in the cities of Santa Ana, Anaheim and Garden Grove.
- One-hundred and twenty days after the release of the NOFA, applications for any development eligible under this NOFA throughout the County (except for project-based voucher requests in the cities of Santa Ana, Anaheim, and Garden Grove) will be accepted based on the remaining eligible funding, vouchers and lending policies.

Applications for project-based vouchers will only be accepted for developments located in the Orange County Housing Authority jurisdiction.

Applicants seeking only MHSA or ARPA-SLFRF (and not another source or project-based vouchers) under this NOFA need not comply with the preferences and timeframes above. Those applications will be accepted upon the release of the 2023 NOFA.

On a case-by-case basis and upon release of the 2023 NOFA, HCD may accept applications requesting only additional capital funding for developments previously approved by the Board of Supervisors.

Timeframe	Eligible Development	Eligible Locations
Day 1 – 60 March 20 - May 19	Any development with an existing State Homekey Program funding award or eligible and applying for Homekey Round 3 NOFA	Throughout the County*
Day 61- 90 May 20 – June 18	Any development eligible under this NOFA (except for project-based vouchers requests in the cities of Santa Ana, Anaheim, and Garden Grove)	Unincorporated Orange County, Urban County Participating Cities*
Day 91-120 June 19 – July 18	Any development eligible under this NOFA (except for project-based vouchers requests in the cities of Santa Ana, Anaheim, and Garden Grove)	Unincorporated Orange County, Urban County Participating Cities and Entitlement Cities*
On and after Day 121 July 19	Any development eligible under this NOFA will be accepted based on the remaining eligible funding and lending policies (except for project-based vouchers requests in the cities of Santa Ana, Anaheim, and Garden Grove)	Throughout the County*

* Applications for project-based vouchers will only be accepted for developments located in the Orange County Housing Authority jurisdiction.

The level of the County's financial participation will depend on the location of the development and the source of funds utilized. Applicants are encouraged to design projects that utilize these funds to fill a financial gap in a project's financial feasibility, after other available sources of housing development funds are utilized. Such funds may include bank loans, equity from the sale of low-income housing tax credits, owner equity, sale of tax-exempt bonds, state and federal funding, grants and donations, and other public and private sources of funds.

Funds are available until the NOFA closes, is replaced by a new NOFA, or until all available funds are committed via Board of Supervisors action, whichever occurs first. HCD reserves the right to suspend acceptance of proposals at any time. HCD reserves the right to increase or decrease the amount in this NOFA subsequent to Board of Supervisors approval. Notification of NOFA closure will be provided to interested parties through a posting of a public notice on the HCD website.

1.01 Application Process

The NOFA will be available on the HCD web site at: <https://www.ochcd.org/housing-development/developer/notice-funding-availability>. The NOFA documents are in Word and Excel format. Please note that the application and spreadsheets may have been revised from previous NOFAs. Applicants must use the forms contained in this NOFA.

The NOFA is an open application process. Proposals for funding will be considered on a first-come, first-served basis based on the preference and underwriting criteria set forth in this NOFA. HCD will consider projects based on the applicant's ability to meet the application and threshold requirements set forth herein; the applicant's ability to successfully demonstrate their experience in acquiring, constructing, rehabilitating, and operating affordable housing; the quality of the proposed project; and the need for financial assistance.

Applications must be complete. Incomplete applications may not be processed. However, HCD reserves the right to waive minor technical deficiencies in the application and to request minor, non-substantive corrections or clarifications.

For a submission/application that will trigger the National Environmental Protection Agency (NEPA) process, the Applicant shall pay all actual consultant fees and other fees incurred in connection with the

preparation and finalization of the federally required environmental review process for the proposal. Payment of all fees must be made before the County loan is funded.

Submittals must be complete and organized in accordance with the Application Checklist and shall be submitted electronically during normal business hours (Monday through Friday, 8:00am to 5:00pm). To submit an application, applicants must email a download link to the full and complete application to OCHCD.NOFA@occr.ocgov.com with "2023 NOFA – [Project Name]" in the Subject Line of the email.

If HCD staff cannot download the application using the link provided, the applicant will be notified of a returned application and will need to re-submit their application. This process will ensure that applications are received on a first-come, first-serve basis.

Timeframe for Awards: Applicants should allow a minimum of six (6) months from submission of a complete application to the County for review and approval of such application. Incomplete applications, or substantial changes in submitted applications, may result in delays in review and processing of such applications.

Submission: Upon receipt, HCD staff will review each application for compliance with application, threshold requirements. HCD shall endeavor to review all complete applications for threshold completion within fifteen (15) working days of submission. HCD staff will notify the applicant in writing of any deficiencies in meeting these requirements ("Threshold Requirement Review"). A developer interview may also be scheduled at this time. Applicants will be required to respond to all deficiencies, in writing, within five (5) working days. Except a 30-day written response will be permitted for deficiencies found in the following areas:

- Exhibit 4.13: Audited Financial Statements
- Exhibit 4.21: Current Appraisal

Threshold: Following receipt of the application and the Threshold Requirement Review, as discussed in Section IV – Application & Threshold Requirements, HCD staff will make a recommendation to the Project Review Advisory Panel (PRAP), an advisory group to the Director of HCD (Director), that the project either met the NOFA threshold requirements and may proceed to the underwriting phase or that the project did not meet the NOFA threshold requirements and that the project not be further evaluated by staff. Once both staff and PRAP evaluation is complete, the project, will proceed to the Director for final consideration.

Applicants will be notified as to whether they 1) passed Threshold Requirement Review and that staff will begin the underwriting, or 2) that the applicant has failed the Threshold Requirement Review and that the applicant may re-apply at a later date.

If application has passed Threshold Requirement Review, staff will work with the Applicant and local jurisdiction responsible for completing the California Environmental Quality Act (CEQA) to commence the National Environmental Protection Agency (NEPA) process. The Applicant shall furnish any and all required documentation, reports and studies necessary to complete the Environmental Assessment.

Underwriting: After completion of the Threshold Requirement Review with no objection by the PRAP, staff will underwrite the project and prepare a final funding recommendation to the PRAP. Underwriting will be based on the information provided by the applicant and the results of the developer interview. Staff recommendations regarding the funding and/or voucher request will be presented to PRAP for final consideration, before being presented to the Director.

Board Approval: Following a positive recommendation from the Director, taking into consideration the staff recommendations with no objection from PRAP, the Director will forward the project to the Orange County Board of Supervisors for consideration.

Financing Commitment Letter: If approved by the Board of Supervisors, HCD staff will issue a commitment letter describing the approved project and committing to reserve funds for the approved project for a determinate amount of time not to exceed twenty-four (24) months to allow applicants sufficient time to secure all other proposed project funding ("Financing Commitment Letter"). In the event that an applicant does not secure all project funding within the timeline specified in the Financing

Commitment Letter, HCD reserves the right to extend or withdraw the County funding commitment.

Financial Commitment Letter: When all financial commitments have been secured, HCD will issue a letter that will outline the terms of the loan and conditions precedent to closing. Conditions include the project receiving the other financial commitments from all other identified private, city, state or federal funds, as described in the project application and meeting the program guidelines, as set forth in this NOFA ("Financial Commitment Letter"). The Financial Commitment Letter will allow the developer additional time, as determined by County staff to complete the proposed project. HCD reserves the right to extend or cancel fund reservation if the project is not proceeding satisfactorily toward the proposed activity, as indicated in the submitted Project Timeline found in Exhibit 4.01.

Borrowers will be required to execute a loan agreement, promissory note, deed of trust, regulatory agreement, assignment of leases and other related loan documents, substantially compliant with the HCD approved form loan documents at construction loan closing. Please refer to Attachment N for the HCD form loan documents, which are subject to change based on project specifics and funding source(s).

Disbursement of loan funds will be made in accordance with County of Orange loan documents at acquisition/construction loan closing and/or permanent loan conversion, as applicable, based on previously negotiated deal terms and as approved by the Board of Supervisors. All expenses incurred prior to an HCD Environmental Clearance will not be eligible for reimbursement.

1.02 DISCLOSURES

The developer shall notify HCD within thirty (30) days of substantial changes to the development including but not limited to:

- Changes in the funding sources or amounts that reflect a different financial scenario than represented in the NOFA Application
- Requirements imposed by other financing sources that conflict with this NOFA (i.e. marketing requirements, local preferences and tenant selection procedures or criteria imposed by the financing source)
- Changes to the Ownership/Partnership structure
- Changes in the Development Team including the Property Management Company and/or the General Contractor
- Disclosure of an actual or potential bankruptcy, default or foreclosure
- Misrepresentation of the proposed project

Material changes made to the project's configuration, financial structure or future operation that are subsequent to the submittal of the application and approval by the Board of Supervisors must receive written approval from either the Director, or designee if authorized or by the Board of Supervisors, depending on the nature of the change. Failure to disclose any of the aforementioned events after the loan commitment is made may result in the withdrawal of HCD financial commitment to the project.

Acceptance of a proposal does not constitute a contract and does not obligate HCD to award funds. By the act of submitting a proposal, applicants acknowledge and agree to the terms and conditions of this NOFA and to the accuracy of the information submitted. All proposals become the property of HCD. HCD reserves the right to withdraw this NOFA without prior notice. Applications may be required to be disclosed under the Public Records Act in accordance with the applicable terms of the Public Records Act.

1.03 APPEAL PROCESS

The applicant may appeal funding recommendations by writing to Director, Housing and Community Development, 1501 E. St. Andrew Place, First Floor, Santa Ana, CA 92705.

If the recommendation to deny funds is upheld by the Director, the applicant may make an appeal, in writing, to the HCD Commission at the same address in order to appeal directly to the HCD Commission.

The recommendations made by the Director and the HCD Commission will be based upon the applicant's original submission and the results of the developer interview. Appeals will be limited to addressing the proposal as originally submitted. Applicants may not use the appeal process to introduce new information and/or make changes to the proposal.

1.04 TERMS AND CONDITIONS

The County reserves the right to retain all submitted applications and the applications shall become the property of the County. Applications are subject to disclosure under the Public Records Act. Any Department or Agency of the County shall have the right to use any or all ideas presented in applications submitted in response to this NOFA without any change or limitation. Selection or rejection of an application does not alter these rights.

The County reserves the right to communicate with lenders, providers, cities, grantors and other participants associated with the application to obtain additional clarification on design of program, or organization fiscal and programmatic capacities, and to utilize this information in the evaluation process. The County reserves the right to conduct site visits of an applicant's proposed project site.

The County reserves the right to reject any or all applications received in answer to this NOFA and/or County underwriting guidelines if it is deemed inappropriate or incomplete or is not in the best interest of the County.

The County reserves the right to withdraw this NOFA at any time without prior notice. Further, the County of Orange makes no representation that any funding will be awarded to any applicant responding to this NOFA.

An applicant may not be recommended for funding, regardless of the merits of the application submitted, if it has a history of (a) contract non-compliance with the County, (b) a termination for cause by any other funding source, (c) or disallowed costs with the County or any other funding source.

The County of Orange reserves the right to verify information submitted in the application.

SECTION II - PROGRAM DESCRIPTION

2.01 FUNDS AVAILABLE

Up to \$67.1 million in Federal HOME Investment Partnership Program (HOME), HOME American Rescue Plan Act (HOME-ARPA), Mental Health Services Act (MHSA) and American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds (APRA-SLFRF) will be issued as loans for the acquisition, new construction, and acquisition/rehabilitation of Permanent Supportive Housing, as defined in Attachment C of this NOFA, affordable for Orange County's extremely low-income households who are experiencing homelessness by providing below market rate financing under this NOFA. Funds are available on a first-come, first-serve basis, based on the preference and underwriting criteria set forth in this NOFA, until the NOFA is replaced by a new NOFA, or until funds are committed, whichever occurs first. HCD reserves the right to determine first-come, first-served based on meeting all conditions of the NOFA, in the case of simultaneous receipt of applications. HCD reserves the right to increase or decrease the amount in this NOFA subsequent to Board of Supervisors approval.

MENTAL HEALTH SERVICES ACT (MHSA) FUNDS

MHSA funds are provided to assist in the development of housing for residents experiencing homelessness who have a documented serious mental disorder. This program is intended to provide services that combine prevention services with a full range of integrated services to treat the whole person, with the goal of self-sufficiency through affordable, quality housing. With these goals in mind, in addition to the other terms and conditions set forth within this NOFA, the requirements for MHSA funded units are set forth in **Attachment D**.

CAPITALIZED OPERATING SUBSIDY RESERVE PROGRAM

The County may implement a Capitalized Operating Subsidy Reserve (COSR) Program utilizing Mental Health Services Act (MHSA) funds, if no project-based rental assistance vouchers or other rental subsidies are available through the County and/or participating city, to address operational deficits attributable to restricted MHSA supportive housing units. COSR funding, if approved, will be part of the total financial assistance awarded by the County and subject to any determination of maximum eligible

gap financing to be made available by the County to a proposed supportive housing development. The County will consider COSR funding only for MHSA units within a development, and will provide the funding as a zero interest, forgivable loan over a maximum of twenty (20) years.

2.02 PROGRAM DESCRIPTION

This section provides a description of the underwriting policies and lending practices of HCD, as approved by the Orange County Board of Supervisors for the NOFA. All of the policies and processes outlined in this section are applicable to acquisition/construction and permanent loans.

Acquisition/Construction Loan: HCD will generally make capital funds for acquisition/construction loans available for disbursement on a draw-down or reimbursement basis, upon satisfaction of conditions placed on the loan and in the HCD Financing Commitment letter, closing of the loan and commencement of construction. Disbursement of funds for payment of hard costs during construction will be on a drawdown basis. Disbursement of funds for payment of soft costs during construction will be on a reimbursement basis and requires evidence of prior payment of each soft cost before payment is released.

Permanent Loan: For “take-out” financing, HCD will make funds available to the development after construction has been completed, a Certificate of Occupancy has been issued by the governing jurisdiction and other conditions placed on the loan have been satisfied as set forth herein, and in the HCD Financing Commitment letter. Funds will be available at the conversion to permanent financing of construction loans.

2.03 ELIGIBLE APPLICANTS

Proposals will be accepted from non-profit and for-profit organizations, joint ventures, or partnerships that serve the identified purpose of this NOFA.

2.04 ELIGIBLE ACTIVITIES FOR CONSTRUCTION AND/OR PERMANENT FINANCING

Funds shall be used to support development of supportive rental housing through new construction, acquisition/rehabilitation and also conversion of commercial and light industrial to residential use on a case-by-case basis.

2.05 ELIGIBLE COSTS

Under this NOFA, funds may be used for the following: “hard” costs of construction or rehabilitation of housing, “soft” costs associated with acquisition, financing, and/or rehabilitation. “Soft” costs include marketing costs (not to exceed \$1,500 per unit), appraisals, architectural and engineering fees, individual apartment furnishings, certain common area furnishings (not to exceed \$1,000 per unit), building permit fees, credit reports, developer fees, environmental assessments, impact fees, legal and accounting costs, private lender origination fees, recording fees, surety fees, and title insurance. An overall cost limitation of fourteen percent (14%) of the cost of construction shall apply to builder overhead, profit, and general requirements, excluding builder’s general liability insurance. For purposes of builder overhead and profit, the cost of construction includes site work, structures, prevailing wages, and general requirements. For purposes of general requirements, the cost of construction includes offsite improvements, demolition and site work, structures, and prevailing wages.

Developers are encouraged to provide units that are pre-wired for high technology and Internet access, have ENERGY STAR® rated appliances and use renewable building supplies. For newly constructed or substantially rehabilitated buildings with more than 4 rental units selected or rehabilitated while under a Housing Assistance Payment (HAP) contract after 1/19/2017, broadband infrastructure will be installed, or an exception must be documented and approved by the County (24 C.F.R. § 983.157).

A minimum capitalized operating reserve shall equal the amount required to pay three (3) months of operating expenses and three (3) months of mandatory debt service under stabilized occupancy.

Capitalized replacement reserves for rehabilitation projects shall be based on a capital needs assessment. Minimum annual deposits to replacement reserves shall equal \$250 per unit per annum for new construction and \$300 per unit per annum for rehabilitation. Annual deposits to replacement

reserves shall not exceed \$400 per unit per annum. Exceptions may be considered where required for continued feasibility of projects with short-term rent subsidy commitments, or when required by other funding agencies.

Project expenses may include a developer's fee. See Section 2.11 for more details. NOFA funds may not be used for certain development costs and activities, including: acquisition of property owned by the participating jurisdiction, except for property acquired in anticipation of carrying out a project; emergency housing; additional funding to a HOME-assisted project more than one (1) year after the project's completion; emergency repairs; the commercial side of a mixed use project; and, refinancing of existing debt.

Eligible costs under MHSA funding are included in Attachment D.

2.06 ELIGIBLE PROJECTS

Projects must include a minimum of five (5) units which are assisted under this NOFA and will provide permanent housing restricted to extremely low-income households who are experiencing homelessness. Proposals must include a plan for provision of supportive services appropriate to the needs of the designated population.

Projects including MHSA units in their proposals are required to provide additional evidence of supportive services from the Orange County Health Care Agency. Additional MHSA requirements are found in Attachment D.

2.07 RESIDENCY PREFERENCES

Persons and households that live and/or work in Orange County will be given a preference for occupancy in County assisted units funded under this NOFA. For certain developments, including but not limited to those receiving Federal Project Based Section 8 from the Cities of Anaheim, Garden Grove or Santa Ana, or are subject to special zoning ordinances requiring preference for City residents, further documentation from the applicant will be required demonstrating that residents throughout the County will have equal opportunity at obtaining units in the development.

Where consistent with the California Fair Employment Housing Act and California Senate Bill (SB) 649 (Local governments: affordable housing: local tenant preference) and also where the proposed affordable housing development is funded by the state's low-income housing tax and tax-exempt bond program and County HOME funds, the County will allow local resident occupancy preferences in Urban County Participating Cities. Applicant must submit a letter of compliance from the legal counsel of the local government agency where the development will be located that certifies it has adopted a local tenant preference policy consistent with the requirements of SB 649 and has done so subject to the duty of public agencies to affirmatively further fair housing. The local government compliance letter must confirm that the local government has also created a webpage on its current website containing the ordinance and its supporting materials. Local resident preferences, certified as consistent with state regulations by the local government agency's legal counsel, will be prioritized through the Coordinated Entry System (CES).

Housing vouchers provided by public housing authorities that are not funded through the Continuum of Care, such as Project-Based Vouchers, shall be prioritized by CES in compliance with the administrative plan for the Public Housing Authority (PHA) providing the housing voucher. No local residency occupancy preference will be permitted unless it is specified in the PHA's administrative plan and certified as consistent with state regulations by the local government agency's legal counsel. Prioritization and case conferencing will be used to refer individuals and families who are the most appropriate referral to the available resources.

2.08 REGIONAL HOUSING NEEDS ASSESSMENT ALLOCATION TRANSFERS

The following Regional Housing Needs Assessment (RHNA) allocation transfer policies are applicable to developments applying for capital funding and/or Housing Choice Project Based Vouchers:

- a. Pursue RHNA allocation transfers for developments:

i. For development located in cities which are funded with local revenue (such as General Funds, Housing Successor Agency funds or APRA-SLFRF funds) the County will require acceptance of the transfer of a RHNA allocation from the County to the City on a pro-rata basis of funds to total developments costs. The Developer is responsible for conveying to and obtaining proof of the acquiescence of this policy via approval by the governing board of the jurisdiction in which the project will be located at the time it approves the development. When the County determines that a development meets a County business need, such as serving extremely low-income households, HCD will return to the Board for approval of a waiver of the RHNA transfer policy.

b. Optional RHNA allocation transfer for developments:

i. For developments located in cities funded with regional revenue resources or meeting regional priorities; including, developments with Mental Health Services Act funding, Veterans Administration Supportive Housing vouchers, and Homeless projects.

ii. For developments located in participating cities utilizing Federal Urban County funds; including, Federal HOME Investment Partnership Programs, Community Development Block Grants, and Emergency Solutions Grant funds.

2.08.01 Urban County Participating Cities

The following is a list of Urban County Participating Cities: Brea, Cypress, Dana Point, Laguna Beach, Laguna Hills, Laguna Woods, La Palma, Los Alamitos, Placentia (Metro City), San Juan Capistrano, Seal Beach, Stanton, Villa Park and Yorba Linda (Metro City).

Housing and Community Development (HCD) will accept applications for projects on a first-come first-served basis. HCD reserves the right to suspend acceptance of proposals at any time. Projects located in the unincorporated areas may be eligible for "by-right" development as an eligible site under the Orange County Affordable Housing Opportunity Manual. Refer to Attachment J of this NOFA for information on the Orange County Affordable Housing Opportunity Manual and a list of eligible sites.

2.08.02 Entitlement Cities

The following is a list of Entitlement Cities: Anaheim, Buena Park, Costa Mesa, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, Irvine, La Habra, Laguna Niguel, Lake Forest, Mission Viejo, Newport Beach, Orange, Rancho Santa Margarita, San Clemente, Santa Ana, Tustin, and Westminster.

2.09 OCCUPANCY LIMITS

Developments must meet the County's occupancy limits outlined below and be consistent with the OCHA Administrative Plan, if requesting PBVs. Applicants shall be required to utilize the assumed household size for the purposes of calculating affordable rents for County restricted units.

Unit Size	Maximum Household Size for Occupancy	Assumed Household Size for Rent Calculations
SRO	1	1
Studio	2	1
1-BR	4	1
2-BR	6	2
3-BR	8	4
4-BR	10	6
5-BR	12	8

2.10 AFFORDABILITY REQUIREMENTS

All units assisted with HCD funding through this NOFA will be required to be restricted to households whose income does not exceed Thirty Percent (30%) of Area Median Income (AMI), as adjusted for household size with rents that are affordable to such households. Affordability levels will be enforced through a Regulatory Agreement between the borrower and the County that will be recorded against the property and will run with the land. Restricted units must remain affordable for the remaining life of the project, which is presumed to be a minimum of fifty-five (55) years from the Qualified Project Period. Owners are required to examine tenant incomes annually to ensure that tenants meet the income and occupancy requirements.

2.11 DEVELOPER FEES

Developer fees shall be allowed for Low Income Housing Tax Credit projects as defined by California Tax Credit Allocation Committee regulations adopted February 8, 2023. Allowable developer fees for projects not utilizing Low Income Housing Tax Credits shall be determined on a case-by-case basis. Projects utilizing Project Based Vouchers are also subject to a subsidy layering review pursuant to HUD Administrative Guidelines for Subsidy Layering Review for Project-Based Vouchers, which utilizes a maximum safe harbor of 12% depending on the project type and of the total development cost of the project.

2.12 AFFORDABILITY COVENANT

Restricted units must remain affordable for the remaining life of the project, which is presumed to be a minimum of fifty-five (55) years from the Qualified Project Period. A restrictive covenant will be recorded against the property to ensure affordability during the term of the agreement. Except as approved by HCD, all projects shall be required to agree to maintain the project's affordability for the term of the restrictive covenant, regardless of whether the loan is fully repaid.

The annual reporting requirements will be outlined in the Regulatory Agreement and Declaration of Restrictive Covenants. Projects receiving funds from the County shall report quarterly certifying that they are in compliance with the occupancy and affordability requirements of the Regulatory Agreement.

Program Compliance shall utilize a two-step monitoring process that provides for monitoring of all affordable housing developments financed with funds from the County of Orange. Monitoring of each development will occur in two phases: Phase 1: In-house review of quarterly reports and Phase 2: On-site monitoring visit, which shall include monitoring of tenant files in accordance with the affordability and income restrictions of the restrictive covenant and a Housing Quality Standards (HQS) inspection as well as review of the Affirmative Fair Housing Marketing Plan and Tenant Selection Plan/Resident Selection Criteria.

2.13 SELECTION OF FUNDING SOURCE

The applicant may request that a specific type of funds be used for their project; however, HCD will make the final determination of the type of funds awarded. When determining the type of funds, the following will be considered: (1) the availability of funds, (2) program regulations, (3) the location of the project and (4) the compatibility of the funds with other funding sources.

2.14 LOAN TERMS & CONDITIONS

2.14.01 Acquisition/Construction Loan: Loan funds will be made available for disbursement on a draw-down or reimbursement basis, upon satisfaction of conditions placed on the loan and in the HCD Financing Commitment letter, closing of the loan and commencement of construction. See Attachment N 1- 9 for sample loan documents.

2.14.02 Permanent Loan: Loan funds will be made available at completion of construction, issuance of a Certificate of Occupancy, and conversion to permanent financing. See Attachment N 1- 9 for sample loan documents.

2.14.03 Interest Rate: Loans will bear an interest rate of three percent (3%) simple interest. Interest will be calculated based on a 360-day year and the actual number of days

elapsed. HCD reserves the right to renegotiate this rate for the benefit of the County and the project.

2.14.04 Term: Loans will be for a term of fifty-five (55) years, except as otherwise approved by HCD.

2.14.05 Loan Repayment: The County loan will be typically structured as a residual receipts loan, except as otherwise approved by HCD.

2.14.06 Amortized Loans: HCD reserves the right to require a fully amortizing loan with monthly or annual payments or to defer loan payments, where doing so would provide a benefit to the County and/or the project.

For units assisted under this NOFA that receive Project Based Vouchers through the OCHA, HCD reserves the right to require all or a portion of the increase in Net Operating Income which is generated by these Housing Choice Project Based Vouchers be utilized to fund the cost of providing social services to these residents.

2.14.07 Residual Receipts Loans: The following is the definition of a residual receipts loan, which will be used by the County to underwrite projects:

The loan for the project will be repaid from the Net Operating Income (NOI), if any, from the project as calculated ninety (90) days after the close of each fiscal year. NOI shall mean all of the rental revenue from the residential portion of the project (the "Annual Project Revenue") less (i) operating expenses of the project as approved by the County (the "Annual Operating Expenses") in an annual audit submitted by the developer and approved by the County; (ii) obligated debt service payments on the Project as approved by the County; (iii) scheduled deposits to reserves, as approved by the County; (iv) deferred developer fees, as approved by the County; and (v) partnership management or asset management fees as approved by the County.

Annual Project Revenue shall not include tenant security deposits, capital contributions, insurance or condemnation proceeds, income received for the purpose of completing the project, or funding received for the purpose of social services to the residents.

(i) Exclusions to NOI: It is the policy of the County that the following costs, fees, charges, penalties, judgments and the like shall not be deducted from the Annual Project Revenue by the developer thereby reducing the amount of NOI available to pay the County's loan, including those arising out of: (i) a breach or default of the County's loan or any other mortgage loan on the project, (ii) the fraud, negligence or willful misconduct of developer, (iii) the failure to make timely payments under any loan secured by the project, (iv) the breach or default by developer under any other contract, lease or agreement pertaining to the project; and (v) any other cost, expense, fee or the like which is not first approved by the County. The approved Operating Expenses of the project shall also not include other expenses such as intra-partnership or other internal loans of the operating entity, depreciation, amortization, accrued principal and interest expense on the deferred payment debt and capital improvement expenditures unless approved by the County.

(ii) Repayment of Residual Receipts Loans: An amount equal to fifty percent (50%) of the net cash flow, if any, will be paid to the County and other public agencies (if any) providing residual receipts loans, and fifty percent (50%) to the developer. The 50% of cash flow payable to public agencies shall be shared by agencies in an amount proportional to the loan provided by such agencies.

2.14.08 Security: The loan shall be evidenced by a promissory note and secured by a deed of trust.

2.14.09 Subordination:

Affordability Covenants

Unit affordability levels will be enforced through a Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory Agreement") between the borrower and the County that will generally be recorded against the property in first position recording order and will run with the land, except where a municipal financing authority issuing bond debt and the State of California Department of Housing and Community Development, require their Regulatory Agreement be in senior position.

Security Instruments

Lien priority will be based on amount of financial assistance provided by the County. When calculating the financial assistance provided by the County, it will calculate both the County-contributed capital and value of long-term rental subsidies OCHA is contributing toward the development. Recording order must be negotiated and finalized by the applicant and other non-County funders of the development prior to Board of Supervisors approval to commit funding to the development.

Financial Assistance from Cities

The Security Instruments and Affordability Covenants for financial contributions from cities must be subordinated to the County's security instruments and the Regulatory Agreement. Exceptions may be made where the amount of a city's financial contribution exceeds the amount of financial assistance provided by the County. When calculating both the County-contributed capital and value of long-term rental subsidies OCHA is contributing toward the development.

When applicable, the County will evaluate the value of land donations and fee waivers as part of the City financial assistance to the development. Where the city is a lender and has land use authority, the County may consider allowing their land use restrictive covenant and/or affordable housing agreement to be recorded against the property so long as the use and affordability restrictions are not in conflict with the Regulatory Agreement.

The applicant's financial assumptions must include the County policy regarding its Affordability Requirements and Subordination Policy and must include and disclose this assumption and this policy to other potential funders when seeking additional financing for their development. The County strongly encourages the applicant to notify the County on any issues it encounters with this requirement and policy as soon as possible. Failure to adhere to this policy may result in loss of funding.

2.14.10 Rent Increases: Increases in rent may be allowed annually as determined by increases in the HUD Area Median Income. For developments receiving PBVs from OCHA, increases in rent may be allowed annually at the anniversary date of the Housing Assistance Payment (HAP) Contract. An owner's request for a rent increase must be submitted to the OCHA no less than sixty (60) days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing, pursuant to the OCHA Administrative Plan, Chapter 17.

2.14.10 Monitoring Fees: Unless prohibited by federal, state or local law, borrowers shall pay a loan monitoring fee. Loan monitoring fees will be incorporated into the operating proforma. Current monitoring fees shall include a total initial set-up of \$500 to be included in the Total Development Cost Budget, plus annual fees as follows to be included in the Annual Operating Budget. Housing and Community Development will make the final determination if regulations governing the funding source permit monitoring fees.

Number of Assisted Units *	Annual Loan Monitoring Fee
1 – 40 Units	\$95 per Unit**
41 – 80 Units	\$85 per Unit**
81 + Units	\$75 per Unit**

* Number of assisted beds may be considered on a case-by-case basis when calculating annual loan monitoring fees.

** Fees subject to change.

2.15 MAXIMUM LOAN AMOUNTS/SUBSIDY LIMITS:

The maximum loan/subsidy amounts shall be calculated on the basis of the number of units assisted by the County and shall vary by unit size and location of the proposed development. The maximum subsidy limits are shown below:

Unit Size	Unincorporated Areas and Participating Cities	All Other Cities
0 Bedroom	\$137,500	\$95,000
1 Bedroom	\$137,500	\$100,000
2 Bedroom or larger	\$137,500	\$105,000

In addition, projects utilizing HOME funds shall be subject to the maximum program subsidy limits established by HUD, as updated from time-to-time at 24 CFR Part 92.

2.16 MATCH REQUIREMENT

With the exception of the County Unincorporated Areas, proposals must show financial support from the governing jurisdiction or a plan to secure such support. For projects located in Entitlement Cities as defined in Section 2.08.02 of this NOFA and Urban County Participating Cities as defined in Section 2.08.01 of this NOFA, such support must equal or exceed the amount of the assistance requested from the County and projects must show that they will comply with Residency Preferences in Section 2.07 of this NOFA.

Match for PBV Only Applicants: Developers applying for only PBV must also show evidence of best efforts in securing financial assistance from the governing jurisdiction.

Allowable sources of match shall include the value of land donated to the development under an inclusionary housing requirement, waiver of impact fees, school fees, sanitation district fees, mitigation fees, etc.

A Project located in an Urban County Participating City, as defined in Section 2.08.01 of this NOFA, may request a waiver of the Match requirement if they are able to show proof that the City, in which the project is located, is unable to provide matching funds because they have exhausted all other financial resources including, but not limited to Housing Successor Agency funds, land donation, fee waivers and/or payment of infrastructure costs to the development.

To qualify for the match waiver, a City will be required to make the request for a match waiver on behalf of the developer and will include documentation, satisfactory to the County, to show the dollar amount of housing funds received in the past three years and a complete description of projects awarded affordable housing funds. The request for a match waiver shall include a brief description (number of units, number of affordable units, affordability level and target population, etc.), the dollar amount awarded, and the development status of the project.

2.17 PAYMENT IN LIEU OF TAXES (PILOT)

Development proposals located in cities where there is a requirement for the developer to make a Payment in Lieu of Taxes (PILOT), shall establish an operating reserve to fund the annual cost of such payment. Such reserve shall be funded by the City and the amount of such reserve shall not be counted as a match for County funds.

2.18 MAXIMUM TOTAL DEVELOPMENT COST

It is the goal of the County of Orange to encourage development of affordable permanent supportive housing, which is well designed and located, and has a reasonable development cost, given local market conditions.

Projects shall not exceed cost standards of the Tax Credit Allocation Committee for determination of whether projects are "high cost," using TCAC 4% standards for 4% projects and 9% standards for 9% projects.

2.19 MANAGEMENT AND AFFIRMATIVE MARKETING PLANS

The management plan must include: tenant selection procedures and tenant education procedures, rent collection procedures, a draft lease agreement, grievance procedures, a statement of qualifications of the management entity, the qualifications of on-site staff, maintenance capabilities, and a description of any services to be provided to residents.

The management plan must also demonstrate familiarity with tenant/landlord, fair housing and ADA law. The applicant's attention is called to 24 CFR 92.253, which requires certain tenant and participant protections for all rental housing funded by the HOME Program. This federal regulation is available upon request. Refer to Attachment E for Management Plan.

Project proposals must provide a preliminary affirmative marketing plan, which outlines the marketing strategy of the development and how they will reach their targeted population. Housing developments must be marketed in accordance with the Department of Housing & Urban Development and Fair Housing Affirmative Marketing Procedures. See Attachment E and Exhibit 4.34 for complete details on the requirements for this NOFA.

Draft management plans shall be submitted to the County for review and approval prior to construction loan closing and are subject to final review and approval by the County prior to lease-up.

Compliance with CES policies and procedures as approved by the Continuum of Care Board will be required for all County assisted units. CES Workflow to be included as an Exhibit to the NOFA.

2.20 GOOD NEIGHBOR POLICY

Borrower shall implement good neighbor strategies for developments located in the Unincorporated County. Good neighbor strategies may include but are not limited to community outreach to neighbors and homeowner associations to educate them on the planned use of the development and to ensure that there is no major opposition to the development. Refer to Exhibit 4.34 for Marketing Plan & Good Neighbor Policy requirements.

2.21 PROJECT MANAGEMENT AND INSPECTIONS

The County may coordinate the required pre-construction meeting with the developer, general contractor, sub-contractors and other appropriate parties. One of the purposes of the pre-construction meeting is to outline the procedures for following NEPA mitigation measures, Davis-Bacon and Section 3 requirements, as applicable.

The County will inspect projects prior to and during construction, and throughout the affordability period (or qualified project period) to ensure that the units are in compliance with the requirements outlined in the loan agreement and restrictive covenant. Developer will make reasonable efforts to accommodate the County's coordination of meetings and requests for information.

2.22 DEBARRED AND/OR SUSPENDED CONTRACTORS

Participants must certify, pursuant to 24 CFR Part 24, that they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the present NOFA. The California Contractors State License Board website for checking the status of a license is <https://www2.cslb.ca.gov/onlineservices/CheckLicenseII/checklicense.aspx>. The County requires a valid Unique Entity ID (UEI) number prior to Contract Award. If needed, your agency may obtain one at no cost at SAM.gov. The federal System for Award Management (SAM) identifies those parties excluded

throughout the U.S. Government from receiving Federal contracts or certain subcontracts. (See Exhibit 4.38)

2.23 DAVIS-BACON & PREVAILING WAGE REQUIREMENTS

The rehabilitation or new construction of eight (9) or more units in a CDBG-assisted project, nine (9) or more units in a project assisted with Project-Based Section 8 Vouchers, or twelve (12) or more units in a federal HOME-assisted project triggers the Davis-Bacon Wage Act, which requires the payment of Davis-Bacon wages to laborers and mechanics at a rate not less than the minimum wage specified by the Secretary of Labor. Current Wage Decisions may be found at: <https://sam.gov/content/wage-determinations>. Projects funded only with local resources, such as MHSA and HSA funds, may be exempt from the Davis-Bacon Wage Act. See Exhibit 4.03.01.

As noted in Section 4.03.01 and Exhibit 4.03.01, the County may require confirmation from its counsel on whether state prevailing wage applies to the project. The State of California may also require the inclusion of state prevailing wage requirements as outlined in California Labor Code §1720 and §1770 et seq. HCD will assist the developer in obtaining the appropriate Prevailing Wages from the State Department of Industrial Relations Wage Research Division. This must be done at least forty-five (45) days before project bidding.

2.24 EQUAL EMPLOYMENT OPPORTUNITY

Developer shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable State of California regulations as may now exist or be amended in the future. The developer shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition. Regarding handicapped persons, the developer will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The developer agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The developer agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future. Regarding Americans with disabilities, Developer agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

2.25 FAIR HOUSING

All developments funded under this NOFA are subject to Fair Housing Laws and Requirements. Applicants may be required to provide an attorney's opinion letter stating that the project is in compliance with Fair Housing Laws and Regulations.

2.26 SECTION 3 (EQUAL OPPORTUNITY EMPLOYMENT)

Borrower's, whose County loan amount exceeds \$200,000 of federal funds, must comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3) found at 24 CFR Part 75 Under Section 3, HUD requires economic opportunities be given to residents and businesses in the project area to the greatest extent feasible. All Section 2 covered contracts and sub-contracts shall include the following clause (referred to as the Section 3 Clause. The "Section 3 clause" states as follows:

a. The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC §1701u) ("**Section 3**"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted developments covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, including persons who are recipients of HUD assistance for housing, with a preference for both targeted workers living in the service area or neighborhood of the Development and YouthBuild participants, as defined at 24 CFR Part 75 ("**Section 3 Regulations**").

b. The Parties agree to comply with HUD's Regulations in 24 CFR, Part 75 which implement Section 3. As evidenced by their execution of this Contract, the Parties certify that they are under no contractual or other impediments that would prevent them from complying with the Section 3 Regulations.

c. The Sub-recipient, contractor, and subcontractor agrees to send to each labor organization or representative of workers with which the Sub-recipient, contractor, and subcontractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Sub-recipient, contractor, and subcontractor's commitments under this section of the Contract and will post copies of the notice in conspicuous places at the worksite where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference and shall set forth the following: (i) minimum number and job titles subject to hire, (ii) availability of apprenticeship and training positions, (iii) qualifications for each, (iv) name and location of the person(s) taking applications for each of the positions, and (v) the anticipated date the work shall begin.

d. The Sub-recipient, contractor, and subcontractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in Section 3 Regulations and agrees to take appropriate action, as provided in an applicable provision of the subcontract in this Section 3 clause, upon a finding that the subcontractor violates the regulations in Section 3 Regulations. The Sub-recipient, contractor, and subcontractor will not subcontract with any subcontractor where the Sub-recipient, contractor, and subcontractor has notice or knowledge that the subcontractor has been found in violation of the regulations 24 CFR part 75.

e. The Sub-recipient, contractor, and subcontractor will certify that any vacant employment positions, including training positions, that are filled (1) after a contractor is selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the Sub-recipient, contractor, and subcontractor's obligations under 24 CFR part 75

f. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

2.27 ANNUAL AUDIT REQUIREMENTS

The County's Annual Audit requirements are listed below.

- A. Non-profit applicants are required to submit their most recent IRS Form 990.
- B. Applicants who have expended federal funds in excess of \$750,000 annually are required to submit the most recent two (2) years of Single Audit reports (includes Management Letter) as defined in Section IV.13 of this RFP.
- C. Applicants who are not subject to Single Audit reports are required to submit the most recent two (2) years of audited financial statements.

Audited Financial Statements will include, but not limited to:

- Balance Sheet (Statement of Financial Position) – Including all supporting schedules (i.e. Detailed Aged Payables, Aged Receivables, Notes Payable, etc.)
- Income Statement (Profit and Loss Statement) (Statement of Activity)
- Statement of Cash Flow

- Retained Earnings
- Any footnotes to the statements.

D. Periodically, the County Auditor/Controller may review the Applicant's financial records. The Applicants must agree to allow access to their audited financial records when requested by County, State or Federal Auditor staff.

Failure to submit the required audited financial documents, as it pertains to the applicant, will render the applicant non-responsive and applicant will not move forward in the solicitation process.

2.28 MINORITY BUSINESS ENTERPRISES AND WOMEN-OWNED BUSINESSES AND DISADVANTAGED BUSINESSES

HCD hereby establishes guidelines to affirmatively further contracting opportunities for Minority Business Enterprises (MBE's), Women-owned Business Enterprises (WBE's) and Disadvantaged Business Enterprises (DBEs). These guidelines pertain to applicants under all of HCD programs and they are designed to:

- Promote the employment of disadvantaged businesses by providing increased opportunities to MBE's/WBE's/DBE's for participation in HCD projects.
- Provide HCD with a process for tracking MBE's/WBE's/DBEs.
- Establish and maintain a records system that clearly documents actions taken by Housing and Community Development, and bidding entities (i.e. Contractor), to comply with Executive Orders 11625, 12432, and 12138.
- Provide clear and concise information to Prime Contractors on how to qualify as a MBE's/WBE's/DBEs.

For further instructions for MBE/WBE compliance see Attachment M.

2.29 NON-DISCRIMINATION

Developer agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Developer acknowledges that a violation of this provision shall subject developer to penalties pursuant to Section 1741 of the California Labor Code.

2.30 INDEMNIFICATION

As indicated in the Sample Form Loan Document, see Attachment N.

2.31 COMPLIANCE WITH OTHER REQUIREMENTS

The program regulations identified below are applicable to the corresponding funding sources.

HOME Program (CDFA 14.239) – Federal Register at 24 CFR Part 92

Orange County Housing Successor Agency - California Health and Safety Code 33000 et seq.

Project Based Vouchers - Chapter 17 of the OCHA Administrative Plan and Title 24 of the Code of Federal Regulations

MENTAL HEALTH SERVICES ACT - Welfare and Institutions Code – WIC - Division 5 - Community Mental Health Services Part 3.9 - Sections 5849.1 – 5849.15

In addition to any requirements described elsewhere in this proposal, the following requirements apply to all projects funded with HOME funds:

- Equal Opportunity and Fair Housing (including: Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Equal Opportunity in Housing Executive Orders 11063 and 12259, Age Discrimination Act of 1975, Equal Employment Executive Order 11246); and Affirmative Marketing.
- Handicapped Accessibility (including: Architectural Barriers Act of 1968, Section 504 of the

Rehabilitation Act of 1973), and removal of Physical Barriers: for new construction or substantial rehabilitation of Federally-assisted multifamily rental properties, five percent (5%) of the units (at least one unit) (1) in the project must be accessible to individuals with mobility impairments and an additional two percent (2%) of the units (at least one unit) must be accessible to individuals with sensory impairment).

- Fire Administration Authorization Act of 1992.
- Compliance with the County Affordable Housing Strategy & the Consolidated Plan, both of which can be found in the library on the HCD web site at: <https://www.ochcd.org/resources/library> and all other federal, state or local laws which may govern the use of these funds.

SECTION III - SPECIAL PROGRAMS

3.01 HOUSING CHOICE VOUCHER PROGRAM (SECTION 8 PROJECT BASED VOUCHERS)

Project proposals may request Project-based Vouchers (PBV). Based on the availability of funds, OCHA may provide up to 210 Project-Based Vouchers for new Permanent Supportive Housing units under this NOFA.

The County will select proposals that are solicited by the NOFA or were previously selected based on a NOFA or an RFP competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals, e.g., HOME, and units for which competitively awarded LIHTCs have been provided, where the proposal has been selected in accordance with such program's competitive selection requirements.

Policies that regulate the use of PBV rental assistance in a project are more fully described in Chapter 17 of the OCHA Administrative Plan and Title 24 of the Code of Federal Regulations. A general summary of the PBV program selection process follows. A detailed application and selection information will be provided at the request of interested parties.

Below are additional details pertaining to the use of Project Based Vouchers

Eligible Housing Types:

Existing units, newly constructed units and rehabilitated units.

- Existing housing: Housing units that "substantially comply" with HQS at time of selection
- Newly constructed housing: Housing units that do not exist on the proposal selection date and are developed after the date of selection. Construction must not begin before the execution of the agreement into a housing assistance payments contract (AHAP).
- Rehabilitated housing: Housing units that exist on the proposal selection date, but do not substantially comply with the HQS at that date, and are developed, pursuant to an Agreement between OCHA and owner for use under the PBV program.

Ineligible Units:

Certain special housing types are not eligible for PBV assistance. These include transitional housing, owner-occupied units, shared housing, public housing, Section 202 Housing, Section 236 housing and unit occupied by families who are not eligible for participating in the Section 8 Housing Choice Voucher program. Please see 24 CFR 983.53 and 24 CFR 983.54 for a complete list of ineligible properties.

Vacancy Loss/Damage claims:

OCHA will not make payments to the owner for vacancy loss or damages to the unit.

Rent limits and Rent Reasonableness:

Project Type	Minimum Property Standards
New Construction and Rehabilitation	Fair Housing Act and Section 504 accessibility requirements. Local standards including: Codes, Rehabilitation Standards, Ordinances, and Zoning Ordinances.

New Construction & Substantial Rehabilitation	New construction and substantial rehabilitation (over \$25,000/unit): Cost Effective Energy Conservation Standards (24 CFR Part 39).
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The PBV rent limits shall be based upon the project's characteristics and fair market rent at time of contract execution, and an analysis of "rent reasonableness", based upon a comparison of rents for comparable unassisted units in the local market. Rent to owner plus the allowance for tenant-paid utilities may not exceed the lower of the reasonable rent, or 110 per of the applicable FMR (or any exception payment standard approved by HUD). The current FMR on OCHA's website are the current FMR and Payment Standards. For your application complete *Exhibit 4.20.01: Housing Survey Form* to establish current rents. If funded, the rent comparison will need to be completed once again at closing.

Utility Allowance:

The same OCHA utility allowance for tenant-based will be applied for PBV projects. OCHA's utility allowance schedule is available on OCHA website: <http://www.ochousing.org>.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]:

Procedures for selecting PBV program proposals are intended to provide broad public notice of the opportunity to offer project proposals for consideration by HCD and OCHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice for proposals will specify the submission deadline.

Request for Proposals and Notice of Funding Availability for Supportive Housing Units:

HCD and/or OCHA will advertise its request for proposals (RFP) or Notice of Funding Availability (NOFA) for newly constructed housing requesting project based vouchers in the OC Register, along with other media or announcements on the web site at: <https://www.ochcd.org/housing-development>

In addition, HCD and/or OCHA will post the RFP/NOFA and proposal submission and rating and ranking procedures electronically on its web site.

HCD and/or OCHA will publish its advertisement in the OC Register at least one day per week for three consecutive weeks. The advertisement will specify the number of units OCHA estimates that it will be able to assist under the funding OCHA is making available. Proposals will be due as specified in the publication notice.

OCHA Selection of Proposals Subject to a Previous Competition under an OCCS or OCCR Housing Development Request for Proposal/Notice of Funding Availability (NOFA):

OCHA will accept proposals for PBV program assistance from owner-applicants that were competitively selected by HCD's, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

In addition to, or in place of advertising, HCD may also directly contact specific project owners that have already been selected for federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV program assistance.

Proposals will be reviewed on a first-come first-served basis. HCD/OCHA will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers OCHA goal of deconcentrating poverty and expanding housing and economic opportunities.
- Extent to which the proposal complements other local activities such as the HOME program, CDBG activities, other development activities that address homelessness, and/or programs that address other special needs clients.

Notice of Owner Selection [24 CFR 983.51(d)]:

Within fifteen (15) calendar days of making the selection, OCHA will notify the selected owner-applicant in writing of their qualification for the PBV program. HCD/OCHA will also notify in writing all other owner-applicants whose submitted proposals were not selected informing them of the selected owner-

recipient of the PBVs.

In addition, OCHA will publish its owner-recipient selection at: <https://www.ochcd.org/housing-development> and <http://www.ochousing.org>.

HCD/OCHA will make available to any requesting party its review and documents that identify the basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner-recipient selection. HCD/OCHA will not make available sensitive owner information that is considered confidential, such as financial statements and other, similar information about the owner.

HCD/OCHA will make these documents available for review at HCD office during normal business hours. The cost for reproduction of allowable documents will be \$.15 per page.

SECTION IV - APPLICATION & THRESHOLD REQUIREMENTS

Applications must be complete. Incomplete applications may not be processed. However, HCD reserves the right to waive minor technical deficiencies in the application and to request minor, non-substantive corrections or clarifications.

For applications to meet the threshold requirements of this NOFA and be considered complete, they must: a) contain all items listed in the application checklist; b) include signatures where required; and c) contain all of the Exhibits listed in Section IV. All projects must meet minimum HCD threshold requirements for new construction and/or rehabilitation projects. If an application does not meet these threshold requirements, it will not proceed to the underwriting phase of the process and will be returned to the applicant.

In addition, the project must meet the affordability and eligibility requirements as outlined in Sections II & III (Special Programs) of this NOFA.

Applicants will be notified as to whether they 1) passed threshold review and staff will proceed to the underwriting phase or 2) that the applicant's proposal has failed the threshold review and the proposal has been rejected.

The following section describes the minimum threshold requirements; please refer to the application checklist for a complete listing of items that must be submitted.

PROJECT DESCRIPTION

4.01 GENERAL APPLICATION FORM

Complete Exhibit 4.01

4.02 PROJECT NARRATIVE

Complete Exhibit 4.02, describing the project's location and purpose.

4.03 PROJECT PRO FORMAS, NOTES AND ASSUMPTIONS.

To complete this requirement, you will need the financial template, provided by HCD, in Excel format that has been included in your application. Complete all applicable portions of this template and submit the electronic version with the completed application.

- Data Input Form
- Total Development Cost – Part 1
- Rent Schedule – Part 2
- Operating Expenses – Part 3
- Cash Flow Analysis/Project Proformas – Part 4
- Tax Credit Equity Calculation – Part 5
- Threshold Basis Limits – Part 5a

NOTE:

Applicants are strongly encouraged to verify the accuracy of any calculations completed using the spreadsheet models provided in your application.

Proformas must demonstrate project feasibility for the proposed target population. Applicants may adapt the sample proformas as needed to accurately reflect the proposed financial structure of the project.

4.03.01 Davis-Bacon & State Prevailing Wage Requirements

Complete Exhibit 4.03.01 as appropriate for the project. If the County determines that the project should be subject to state prevailing wage requirements and the applicant disagrees, then the applicant will provide an attorney's opinion as to why the project should not be subject to state prevailing wage requirements.

4.04 NOTES & ASSUMPTIONS DESCRIBING THE BASIS FOR ALL MAJOR LINE ITEMS

Financial Assumptions

All project budgets shall include a replacement reserve. Capitalized replacement reserves shall be allowed for rehabilitation projects, based on a capital needs assessment. Minimum annual deposits to replacement reserves shall equal \$250 per unit per annum for new construction and \$300 per unit per annum for rehabilitation. Annual deposits to replacement reserves shall not exceed \$400 per unit per annum. Exceptions may be considered where required for continued feasibility of projects with short-term rent subsidy commitments, or when required by other funding agencies.

A minimum capitalized operating reserve shall equal the amount required to pay three (3) months of operating expenses and three (3) months of mandatory debt service

Except where extraordinary circumstances require use of alternate assumptions, project proformas shall reflect the following assumptions: (1) A vacancy rate of 10% shall be used for SRO or special needs housing projects, except where a significant project based public rent subsidy is available. In such cases, a vacancy rate of 5% may be utilized for units covered by such rent subsidies; (2) inflation of rental income of two and a half percent (2.5%) per annum and inflation of operating expenses of three and a half percent (3.5%) per annum; and (3) debt coverage ratio of 1.15. For low-income housing tax credit projects, applicants shall use either the TCAC required rate or the current rate.

Annual Partnership Management Fee of up to \$25,000 may be paid from project cash flow, prior to residual receipts payments. This fee must be substantiated in writing prior to construction closing by the applicant/developer and cannot include charges for any office overhead for the development of the project or project operating expenses. This fee may only be paid during the tax credit compliance period and includes payment to both the general partner(s) and the limited partner. Payment above this limit must be made from the borrower's portion of residual receipts. No annual escalations are permitted, and unpaid Partnership Management Fee cannot be accrued. All underwriting assumptions submitted in the application must assume and incorporate this policy.

As appropriate, the financial assumption may include a maximum of three percent (3%) interest on the deferred developer fee. The maximum inflation factor for asset and partnership management fees will be three percent (3%). Development Cost budget line items for marketing shall not exceed \$1,500 per unit and for common area furnishings shall not exceed \$1,000 per unit.

Project operating budgets shall not include fees for social services or social service coordinators in excess of \$3,000 per unit per year or \$4,000 per unit per year for units restricted to the chronically homeless, which are to be paid from project rents prior to payment of residual receipts. Projects proposing social service fees shall provide a separate budget showing the proposed use of such fees.

For units assisted under this NOFA that receive PBVs through the OCHA, HCD reserves the right to

require all or a portion of the increase in Net Operating Income which is generated by these PBVs be utilized to fund the cost of providing social services to these residents.

Deviations from these assumptions must be justified in Notes and Assumptions and are subject to HCD approval. Notes and Assumptions should follow each financial exhibit.

4.05 DEVELOPMENT SOURCES & USES NARRATIVE

Provide a narrative of the development financing structure.

4.06 IMPACT FEE WORKSHEET

Applications shall include an Impact Fee Worksheet. Local impact fees are defined as: the amount of impact fees, or other mitigation fees, or capital facilities fees imposed by municipalities, county agencies, or other jurisdictions such as public utilities districts, school districts, water agencies, resource conservation districts, etc.

In order to include such local impact fees in the total development cost, applicants must provide documentation that supports the amount of the fee. HCD reserves the right to disallow the inclusion of any unsubstantiated fees.

4.07 EVIDENCE OF FINANCIAL COMMITMENTS

Evidence of any financial commitments received prior to the NOFA application shall be included in the application. This may include tax credit award letters, letters of credit from banks or other lenders, award letters from private grantors, cities, and state funding sources. Applicants are required to provide evidence of all financing or funding commitments as they become available. These may include but are not limited to: fee waivers; payment of infrastructure costs; loans and other subsidies from other jurisdictions; Low-Income Housing Tax Credits; tax exempt bonds; lender financing; and local, state, or other federal assistance. Include a description of the type of funding or fee waiver and the name, title and telephone number of a contact person.

4.08 DEVELOPMENT TEAM MEMBERS

Provide the name, address, contact person, telephone number, fax number, e-mail address, and resumes for all members of the development team. See Form Exhibit 4.08.

Other than the applicant, describe the development team's experience in real estate development and/or management and ownership. Development team must include team members with a successful record of accomplishment in developing at least one affordable rental housing project of the type and scale proposed.

4.09 DEVELOPMENT TEAM RESUMES

Attach resumes of staff and consultants specifically assigned to this project.

4.10 APPLICANT/DEVELOPER/CO-DEVELOPER EXPERIENCE

- Describe the following for your organization/corporation:
Mission statement
Administrative structure
Describe your organization's capability to administer the housing project/program you propose.
- Describe the long-term relationship between the:
Applicant
Developer
Co-Developer (if any)
Non-Profit Organization (if any)

4.11 SCHEDULE OF REAL ESTATE OWNED, MANAGED OR DEVELOPED

Complete Exhibit 4.11 for all property owned, managed or developed in whole or in part by applicant. Attach additional pages as needed.

4.12 APPLICANT/GENERAL PARTNER DISCLOSURE STATEMENT, INCLUDING ORGANIZATIONAL DOCUMENTS

Complete Exhibit 4.12, identifying all parties that have a ten percent (10%) or greater interest in the property authorized to negotiate on behalf of the development entity. Please include Articles of Incorporation, Bylaws, Certificates of Limited Partnership, or other organizational documents. For non-profit corporations, evidence of tax-exempt 501(c)(3) status and a roster of the Board of Directors must also be attached.

4.13 FINANCIAL STATEMENTS

Provide the applicant's audited financial statements for the most recent two years. Subject to review of the current audited financial statements, applicants may be required to submit audited financial statements with an unqualified opinion for the most recent (3) years. *If an audited financial statement is not available at the time of application, the applicant will be required to provide one no later than thirty (30) days after a notice of satisfactory completion of threshold review is received.*

Applicants are expected to have the ability to manage and track multiple funding streams and to have the mechanisms in place so they can quickly react to changes in fund availability. Applicants must demonstrate sound financial practices. Financial capability includes the ability to maintain fiscal controls, accounting procedures, and financial reporting in accordance with Generally Accepted Accounting Principles (GAAP) and other requirements established by the County.

Applicant is advised that funding streams must be kept separate, therefore separate accounting records must be kept for the contract to ensure accurate and appropriate reporting of expenditures, and costs must be tracked in sufficient detail to determine contractual and programmatic compliance.

Applicants must comply with 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [<https://www.gpo.gov/fdsys/granule/CFR-2014-title2-vol1/CFR-2014-title2-vol1-part200/content-detail.html>]. Applicants who have expended Federal funds in excess of \$750,000 annually are required to submit the past two (2) years of Single Audit reports. Single Audits must be conducted in accordance with §200.514 Scope of Audit which includes financial statements entity wide. Refer to Annual Audit Requirements in Section 2.27 of this NOFA.

4.14 RESOLUTION OF BOARD OF DIRECTORS

Provide a board resolution that authorizes the submittal of the proposal and identifies who is authorized to execute documents. See Exhibit 4.14 for a sample format.

4.15 COMMUNITY HOUSING DEVELOPMENT CORPORATION (CHDO)

Non-profit housing development organizations which have previously been certified as a CHDO and wish to be re-certified or non-profit housing developers that wish to be designated a CHDO, complete Exhibit 4.15 which outlines the requirements for certification and include with your completed NOFA application.

4.16 SOCIAL SERVICES PLAN

All applications shall include a Social Services Plan demonstrating how social services appropriate to the needs of individuals experiencing homelessness will be provided. All services will be voluntary and available at no cost to tenants in assisted units. Applicants are encouraged to partner with CalOptima Health for potential services and/or community supports for any eligible assisted units in the development.

The Plan shall provide a description of the proposed social services to be provided, including:

- Target Population
- Types of Services to be provided
- Agency which will provide the services and their experience
- Location of the services (on or off-site, and if off-site, where)
- Proposed source of funding for services
- Status of funding for services
- Any fees to be charged for services
- Homeless Service System Pillars Report

All applicants must identify a qualified service provider that will provide supportive services to the residents occupying units assisted under this NOFA. In the event that there are multiple service providers, the application must identify a primary service provider for the residents occupying units assisted under this NOFA. The applicant will be required to arrange for the provision of supportive services for the term of the assistance provided under this NOFA.

On an annual basis, the County will conduct an assessment to assess and confirm adherence to the best practices, principles and commitments as described in the Homeless Service System Pillars, specifically to the Housing and Supportive Service Pillars. The assessment may be conducted by OC Community Resources and/or a County department designated by OC Community Resources and findings of the assessment may be reported to the Board of Supervisors and/or the Commission to End Homelessness.

4.17 SOCIAL SERVICES OPERATING BUDGET

If the applicant is proposing to fund services for the homeless through project revenues, or a funding source that is specific to the project, provide a budget for the social services. A budget is not required where services are proposed to be provided by third party agencies from existing revenue sources. Consistent with the Social Services Plan, applicants are encouraged to partner with CalOptima Health for potential services and/or community supports for any eligible assisted units in the development.

For units assisted under this NOFA that receive PBVs through the OCHA, HCD reserves the right to require all or a portion of the increase in Net Operating Income which is generated by these PBVs be utilized to fund the cost of providing social services to these residents.

4.18 EVIDENCE OF SITE CONTROL

Provide evidence of site control. The following are acceptable forms of evidence of site control:

- Grant Deed and preliminary title report showing that the applicant holds fee title
- A current, enforceable purchase agreement or option agreement between the applicant and the owner of the subject property
- An executed disposition and development agreement between the applicant and a public agency
- An executed lease or lease option for a minimum of 55 years between the applicant and the owner of the property
- Other written evidence that constitutes a contract

4.19 PRELIMINARY TITLE REPORT

Provide a preliminary title report that is dated no earlier than six (6) months prior to the date of the application.

Applicant is expected to update such preliminary title report periodically so that at the time that the loan is funded, HCD will possess a preliminary title report that is not more than six (6) months old. Projects closed and/or funded at construction will need to provide updated copies of the preliminary title report prior to construction closing

4.20 COMPARABLE RENT DATA

Provide comparable rent data from at least three developments within a two-mile radius of the proposed project. Comparable properties should be similar in size, unit size, location, and amenities. Projects where rents for all units are targeted at persons earning no more than 30% of Area Median Income are

exempt from this requirement.

4.21 CURRENT APPRAISAL

Provide an appraisal prepared by a "Certified General Real Estate Appraiser" as licensed by the State of California *Office of Real Estate Appraisers* and have no identity of interest with the development's partner(s) or intended partner or general contractor. The appraiser must comply with Uniform Standards of Professional Appraisal Practice (USPAP) guidelines. For rehabilitation projects, an appraisal must determine both the "as-is" and "after-rehab" values of the development. New construction applicants are required to submit a land-only and an "as-built" appraisal, along with market studies to assist HCD in establishing value. The appraisal must not be more than twelve (12) months old. Appraisals provided by other lenders will not be accepted. For Community Housing Development Organizations (CHDO), the County may provide assistance for the appraisal. The County also reserves the right to contract our own appraiser to review the developer's appraisal and/or to conduct a new appraisal.

Where an appraisal is not available at the time of application, applicants will be required to submit an appraisal within 30 days of notification that the project has been accepted as meeting threshold requirements.

4.22 ARCHITECTURAL/CONSTRUCTION DESIGN NARRATIVE

Provide a narrative of the project design concept, current site description, and the current status of the architectural design work.

4.23 ARCHITECTURAL CONCEPT DESIGNS

Submit conceptual architectural designs that include preliminary concept designs, site plan, floor plan, elevations, unit layout, and a landscape plan. Describe the appropriateness of the design, unit mix, and any special features that meet the proposed occupants' needs. Designs must include adequate private meeting space for provision of supportive services to formerly homeless persons and other residents.

Where mixed-income projects are proposed, the subsidized units should be distributed throughout the project and across all unit types. Projects that enhance the surrounding community are encouraged.

4.24 CONSTRUCTION OR REHABILITATION COST ESTIMATE

Provide a signed construction and/or rehabilitation cost estimate prepared by a qualified professional, such as a licensed architect or general contractor, for completion of the work. The estimate shall be on the letterhead of the preparer and shall state the basis for the estimate (i.e., the date and stage of the construction drawings). The estimate shall provide a breakdown of expected construction costs by trade.

4.25 PHOTOGRAPHS OF SITE/LOCATION MAP

Provide current photographs of the site and surrounding area. Provide a location map showing the location of the proposed area.

4.26 EVIDENCE OF COMPLIANCE WITH ZONING

Provide evidence of compliance with local zoning on letterhead from Orange County Planning and Community Development or the city or in which the development is located. Proposed projects must be compatible with existing land uses and comply with both the zoning ordinance and General Plan of the jurisdiction in which the project is located or present a plan for obtaining any discretionary approvals required. This plan shall include a schedule for such approvals and must indicate a reasonable basis for an expectation that such approvals can be obtained.

4.27 ENVIRONMENTAL INFORMATION FORM

All projects will require an Environmental Review in accordance to the California Environmental Quality Act (CEQA) and projects funded with federal funds will additionally require an environmental review in accordance to the National Environmental Policy Act (NEPA). Proposed projects must be in compliance with CEQA and/or NEPA prior to the release of federal funds. Please provide **all** applicable Environmental clearances to HCD for review (i.e. Initial Study, Mitigated Negative Declaration, EA, EIS, Notice of

Determination) prior to project commencement.

Complete Exhibit 4.27. Federally funded resources, such as HOME funds and Project Based Vouchers, are subject to NEPA. Where federal funds are used, HCD will be responsible for obtaining NEPA reviews for most rehabilitation/conversion projects and will work with the applicant to obtain the needed review(s) for new construction or other complex projects. The developer must provide HCD with a copy of a CEQA and/or NEPA review, if completed through sources other than HCD.

4.28 PHASE I ENVIRONMENTAL REPORT

The applicant is required to provide a completed Phase I environmental review dated within one (1) year of the application submission date, as part of the application to meet threshold. The Phase I must be prepared within six months of the transaction. This period can be extended for a period up to one year after its initial preparation by updating the Phase I. Proposals requiring rehabilitation or demolition of buildings constructed prior to 1978 should be inspected for lead paint and asbestos. If the report recommends any additional work or studies, please explain the status of such items. When remediation is required, provide certification that work was completed in accordance with all applicable laws and regulations.

4.29 LEAD PAINT AND ASBESTOS REPORTS – If Applicable

For projects involving rehabilitation or demolition of buildings, provide a lead paint and asbestos report. *Applicants will be required to submit such a report as part of the application to meet threshold.*

HCD requires that Cal/OSHA's safe work practices be followed for rehabilitation or demolition of buildings containing lead-based paint or asbestos. These practices are listed under Title 8 California Code of Regulations, Section 1532.1 (website: <http://www.dhs.ca.gov/ohb/OLPPP/lic.pdf>) and Title 8 California Code of Regulations, Section 1529 (website: <http://www.dir.ca.gov/DOSH/Asbestos.html>). HUD's regulations on lead based paint hazards are in title 24, part 35 of the Code of Federal Regulations (websites: <http://www.hud.gov/offices/lead/leadsaferule/24CFR35LeadSafeHousingRule.rtf> and <http://www.hud.gov/offices/lead/training/LBPguide.pdf>).

4.30 RELOCATION AND TENANT CHARACTERISTICS

Development shall result in no or minimal permanent residential displacement, which equals twenty percent (20%) or less of households residing in a property. Proposals that result in more than twenty percent (20%) of the households being displaced will generally not be considered.

If any residential or commercial tenants or property owners are to be permanently displaced by the proposed project, the project developer will provide such persons with relocation assistance as required by the California Relocation Law and Guidelines (California Government Code Section 7260 et. seq. and Title 25 California Code of Regulations Section 6000 et. seq.) and/or the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 (49 Code of Federal Regulations Part 24). These requirements include but are not limited to the timely distribution of notices to persons who may be displaced informing them of their potential benefits, preparation of a relocation plan and providing displaced persons with assistance in finding and paying for equivalent housing.

Any applicant who is aware that their project may involve permanent or temporary displacement/relocation should complete Exhibit 4.30 and submit a relocation plan as described in Attachment I, which includes but is not limited to indicating the number of persons or households to be relocated, the estimated cost and provisions and actions taken to meet the relocation requirements.

If the proposed project is currently occupied, applicants are required to complete a Tenant Characteristics Form (See Exhibit 4.30). If you are unable to obtain access to the site to obtain complete information at this time, please provide all available information, including a schedule of current rents.

4.31 UTILITY SCHEDULE FORM

The utility schedule is used to identify the type of utilities that will be needed for occupancy. The utility allowance schedule is reviewed annually by the OCHA to estimate the average amount of money a

tenant spends on utilities monthly. The applicant must complete the revised Exhibit 4.31- Utility Schedule Form by identifying the type of appliances that will be used for heating, cooking and hot water and whether they are operated by gas or electricity, and by filling in the Tenant Paid Utilities chart. Insert the total amount of utilities from the TOTAL column in the appropriate cell in Rent Schedule of Exhibit 4.03 (Part 2).

4.32 ARTICLE 34 COMPLIANCE

Applicants must submit documentation that shows the Project's compliance with or exemption from Article 34. If a Project is subject to Article 34, the County requires a letter from the City that shows that there is Article 34 compliance for the Project. The City Attorney and/or local government official with authority should prepare the letter, and it should include the following:

- a. The name and date of the referendum, and the number of units that were approved;
- b. A copy of the referendum language and a certified vote tally;
- c. The number of units that remain in the City's "bank" of Article 34 authority (i.e., the number of units that are still available for allocation); and
- d. The number of units that the City will commit to this Project, including the manager's unit.

If a Project is statutorily exempt from Article 34, the County requires an Article 34 opinion letter from the Applicant's legal counsel. The Article 34 opinion letter must demonstrate that the Applicant has considered both the legal requirements of Article 34 and the relevant facts of the Project (e.g., all funding provided by public bodies, including state, county, or city sources, the number of low-income restricted Units, and the general content of any regulatory restrictions). Any conclusion that a Project is exempt from Article 34 must be supported by facts and a specific legal theory for exemption that itself is supported by the Constitution, statute, and/or case law.

4.33 CONSOLIDATED PLAN CERTIFICATION

Applicants must receive certification, from the governing jurisdiction where the proposed project is located, stating that the proposal is consistent with the governing *Consolidated Plan*.

Proposals located within the jurisdiction of any of the County's Participating Cities, Unincorporated Target Areas, or any of the remaining County Unincorporated Areas should contact Craig Fee, Community Development Manager, HCD, at Craig.Fee@occr.ocgov.com.

For proposals located in any of the County's Entitlement Cities, see revised Exhibit 4.34 for a sample certification letter which the applicant can send to the Entitlement City for certification.

4.34 MARKETING PLAN AND TENANT SELECTION

MARKETING PLAN AND CERTIFICATION OF COMPLIANCE WITH AFFIRMATIVE FAIR HOUSING MARKETING PLAN AND GOOD NEIGHBOR POLICY

Provide a preliminary marketing plan, which outlines the marketing strategy of the development, outreach, and how they will reach their targeted population including items required in Exhibit 4.34.

Marketing Plan should include:

- 1) The tenant selection procedures;
- 2) How owners will affirmatively market housing assisted with NOFA funds;
- 3) What owners will do to inform persons not likely to apply for housing;
- 4) Plans for maintenance of records to document actions taken to affirmatively market units and to assess marketing effectiveness; and
- 5) Since the County is a regional lender, describe how the owner will market units to all areas of Orange County. *

The requirements for PBV's set forth in 24 CFR 92.253 are incorporated into this NOFA as if fully set forth herein. To ensure compliance with the requirements set forth in 24 CFR 92.253, and other tenant

selection criteria required by the U.S. Department of Housing and Urban Development (HUD), the applicant shall submit a management plan with respects to the funded units for review and approval by the County, and the Orange County Housing Authority (OCHA) when applicable, prior to construction loan closing. The tenant selection criteria established by the applicant/developer and/or property management company cannot be more restrictive than the development's funding source. At no time shall the criminal background threshold set by the applicant/developer and/or property management company be more restrictive than that established by HUD, and where HUD defers to PHA, the threshold cannot be more restrictive than the PHA's criminal background threshold. Where more than one PHA is a party to the development, each PHA's administrative plan shall apply to the specific unit(s) under that PHA's housing opportunity/rental assistance.

Marketing materials referencing PBV units may not be published without prior consent and approval from the PHA providing the PBV's, the CES, and OC Health Care Agency if receiving MHSA funding. CES referrals will not begin until the tenant selection plan is approved by all required parties.

Compliance with CES policies and procedures as approved by the Continuum of Care Board will be required for all County assisted units. CES Workflow to be included as an Exhibit to the NOFA.

The owner will use fair housing logo or slogans in all advertisements. The HUD Fair Housing logo is available at: <http://portal.hud.gov/hudportal/HUD?src=/library/bookshelf11/hudgraphics/fheologo>.

Applicant must not have a record of violation of the Fair Housing and Employment Practices, or of the affordability clauses in recorded regulatory agreements of the County or other housing agencies, or of discrimination.

4.34.01 Certification of Compliance

Complete and sign Exhibit 4.35.

4.34.02 Good Neighbor Policy

Provide a Good Neighbor Policy for developments in the Unincorporated County. Good neighbor strategies may include but are not limited to community outreach to neighbors and homeowner associations to educate them on the planned use of the development and to ensure that there is no major opposition to the development. Refer to Exhibit 4.34 for Good Neighbor Policy requirements.

4.36 EQUAL OPPORTUNITY PROGRAM FOR CONTRACTORS & MINORITY BUSINESS ENTERPRISE (MBE) & WOMEN OWNED BUSINESS ENTERPRISE (WBE) AND DISADVANTAGE BUSINESSES Enterprise (DBE)

Complete and sign Exhibit 4.35.

4.36 EQUAL OPPORTUNITY PROGRAM FOR CONTRACTORS DOING BUSINESS WITH THE HCD DEPARTMENT

Complete and sign Exhibit 4.36.

4.37 EVIDENCE OF COMPLIANCE WITH PREVIOUS HCD OR OCHA LOANS

If the applicant has received a loan, grant and/or vouchers for affordable housing development from any of the following County or County related organizations please complete and sign Exhibit 4.37.

- County of Orange
- OC Community Resources/Housing and Community Development
- Orange County Housing Authority
- Orange County Health Care Agency
- Environmental Management Agency

4.38 UNIQUE ENTITY ID (UEI) NUMBER

Provide a valid Unique Entity ID (UEI) number prior to Contract Award. If needed, your agency may obtain one at no cost at [SAM.gov](https://sam.gov). Applicant is required to submit proof per Exhibit 4.38 instructions.

4.39 CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Government Code section 84308, a provision of the Political Reform Act generally known as the "Levine Act," was amended, effective January 1, 2023, to apply to County elected officials. To comply with this change in the law, each applicant must complete and submit a Campaign Contribution Disclosure Form, Exhibit 4.39, with their application.

SECTION V - REQUIREMENTS PRIOR TO CONSTRUCTION LOAN CLOSING AND FUNDING (LOAN CLOSING)

In addition to the conditions set forth in the financing commitment letter, see Attachment K for a sample list of documents that are required prior to loan closing. A complete project-specific list will be provided by HCD upon notification of closing by the applicant.

Federally funded resources, such as HOME funds and Project Based Vouchers, are subject to a complete NEPA and Subsidy Layering Review that must be submitted to the Department of Housing and Urban Development by HCD Housing Development/OCHA for approved use of these resources.