ORANGE COUNTY
OC Community Resources
Our Community. Our Commitment.

ATTACHMENT D - Amended
MENTAL HEALTH SERVICES ACT (MHSA) FUNDING
TERM SHEET

The Orange County Community Resources Housing and Community Development (HCD) provides below market rate financing for the development of permanent supportive rental housing that includes housing affordable to extremely low-income households who are experiencing homelessness, using Orange County funding, which includes but is not limited to: 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), and American Rescue Plan Act (ARPA) funds. The funds may be used for acquisition, new construction, and acquisition and rehabilitation of Supportive Housing. HCD may also provide funds for Capitalized Operating Subsidy Reserve (or COSR), if no project-based rental assistance vouchers or other rental subsidies are available through the county and/or a participating city, to address operational deficits attributable to restricted supportive housing units. COSR funding, if approved, will be considered to be part of the total financial assistance awarded by HCD and subject to any determination of maximum eligible gap financing to be made available by the county to a proposed supportive housing development. HCD will consider COSR funding only for a supportive housing development, and will provide the funding as a zero interest, forgivable loan over a maximum of 20 years.

Each fund noted above may have special target populations for eligibility purposes; this term sheet is specifically related to the requirements for the MHSA funding only.

HCD may also provide two hundred ten (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).

Eligible applicants include non-profit and for-profit organizations, joint ventures, or partnerships that serve the identified purpose of the NOFA.

Eligible Projects are those which provide a minimum of five (5) new permanent rental homes with supportive services for extremely low- income individuals with a serious mental illness experiencing homelessness; these projects may result from new construction, acquisition or acquisition and rehabilitation. Conversion of commercial and light industrial use buildings to residential use may be eligible on a case-by-case basis as determined by HCD.

General Loan Terms and Conditions

All of the policies and lending practices of HCD for permanent financing set forth within the NOFA shall also apply to all projects funded with MHSA funds. **The following additional requirements shall apply to all of the MHSA funded units:**

- The population to be served shall include extremely low income (30% of Area Median Income for Orange County), individuals experiencing homelessness who have a serious mental disorder as defined in WIC 5600.3(b), verified by a State Licensed Mental Healthcare Professional and has been deemed to meet the MHSA Housing Program eligibility (MHSA Certified) by Health Care Agency MHSA Housing Program staff.
- The maximum 2023 loan limit for the MHSA funds is $184,230.23 per regulated unit (increasing up to 4% a year).
- Restricted rents for the MHSA funded units shall not exceed 30% of the HUD-published 30% Area Median Income (AMI) levels for Orange County, adjusted for designated household size (less a utility allowance unless included in the rent) with the **tenants rent portion not to be more than 30% of their Social Security Income/Social Security Pension (SSI/SSP) or not more than 30% of their total gross household income (if additional income beyond SSI/SSP is received)**. If federally funded-Project-Based Vouchers are provided, the developer shall comply with the federal regulations for maximum rent and tenant rent portions.
- HCD requires that units assisted under this NOFA be occupied by tenants who are prioritized through the Coordinated Entry System (CES). The Developer shall utilize the local CES to screen for eligible residents currently experiencing homelessness and with a documented serious mental disorder.
- Housing units and building features must meet the needs of the MHSA tenants to be served at the development, including privacy, housing activities and community interaction. There shall be no requirement for non-related, single, adult tenants to share bedrooms. There shall be adequate number of bedrooms to accommodate the housing composition. **Units are encouraged to have at least one-bedroom and be at least 450 square feet.**
- Rental homes must have an identifiable and private living area, sleeping area, full kitchen area and a full bathroom. The kitchen area shall at a minimum include a sink, full size refrigerator, cupboard space, counter area, microwave or oven, and a two-burner stove or built-in cooktop.
- All units should be furnished with standard furnishings applicable to the unit type, such as bed, living area furniture, table and chairs for eating area.
- Developers are encouraged to provide units that are pre-wired for high technology and internet access.
- The building must include common space, such as a community room that can accommodate a variety of community building activities and where tenants can choose to interact with one another.
- The building must include a designated office space on-site to provide services to MHSA tenants.
- The design and operation of the housing shall incorporate features designed to increase efficiency and reduce ongoing expenses.

- The housing shall incorporate appropriate and feasible green design practices, such as the use of ENERGY STAR rated energy-efficient appliances and water-conserving fixtures and products.
- The housing must also utilize durable materials chosen to reduce future maintenance costs and renewable building supplies.
- Tenants shall be provided with information to assist them to participate in environmentally friendly practices such as energy and water conservation, recycling and use of non-toxic household products.

Required Operating, Replacement and Subsidy Reserves

All developments using MHSA funds must provide for the following reserves:

Capitalized operating expense reserve, at a minimum, 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 reserve for rehabilitation projects shall be based on a physical needs assessment and/or one or more Building Inspection Reports and a Replacement Reserve Needs Analysis. New construction projects shall have a capitalized replacement reserve of at least $500 per unit/annually for all units in a project, increasing by 5% every five years.

Capitalized operating subsidy reserve ("COSR") shall be required for projects without rental assistance vouchers (or other rental subsidies) to subsidize operating costs for the MSHA Regulated Units. COSR's must be funded to allow for operating cost subsidies for a minimum of 20 full years unless waived by HCD. If the developer can demonstrate adequate revenue to pay for annual operating costs through a diverse rent structure of mixed rates, HCD will consider an exemption from the COSR or other rental subsidies requirement. A determination of adequate rental revenue to cover expenses shall be made following underwriting review by HCD. If developer is unable to demonstrate that there is adequate funding for operating deficits for the MHSA Assisted Units and intends to apply for COSR funds from HCD, please read the information noted below before submitting an application.

Developer/Borrower is required to continually seek future commitments of rental or operating subsidies for the MHSA Regulated Units (e.g., project-based Section 8) for the life of the MHSA Loan.

COSR FUNDING REQUEST

HCD will consider a 20-year, zero interest, and forgivable loan for COSR funds to address development operating deficits attributable to MHSA Assisted Units. Not more than $184,230.23 per restricted MHSA **Unit** may be provided for a COSR to address development operating deficits attributable to the MHSA assisted units based on operating deficit projections; HCD may adjust the per-Unit subsidy limits for the COSR portion of the loan from time to time as may be necessary to achieve HCD policy objectives, including, but not limited to, adjustments based upon increases in the Consumer Price Index. Any changes shall be applicable to new awards and contracts subsequent to posting of adjustments, and not to existing contracts or loan agreements.

To be eligible to apply for COSR, the applicant/developer must provide proof that: 1) All possible federal, state, and local sources of rental assistance and other operating assistance to support the MHSA Assisted Units have been identified; 2) Applications or other written requests to the appropriate entities to secure Project-based rental or other operating assistance to support the MHSA Assisted Units have been made and documented; and/or 3) Other evidence from the appropriate entities has been provided that rental assistance and other operating assistance is not available to support the MHSA Assisted Units.

The COSR shall be sized to cover anticipated operating deficits attributable to the MHSA Assisted Units for a minimum of 20 years. The applicant shall list all assumptions used to size the anticipated operating deficits for the MHSA Assisted Units and include projected COSR in the project proforma cash flow analysis for operations.

HCD shall hold each Project COSR in a segregated interest-bearing account for the benefit of the MHSA Assisted Units for as long as funds remain in the COSR, but for not less than 20 years. HCD will establish procedures for disbursement of amounts from the COSR to the development. HCD shall monitor the COSR balance, routinely, to determine if adjustments need to be made to disbursement levels to ensure the long-term sustainability of the COSR fund for operation purposes.

COSR Funds shall not be used to pay:

- Amortized debt service payments;
- Costs/Expenses associated with non-Assisted Units;
- Any loan payments;
- Ground lease payments;
- Sponsor Distributions
- Asset management fees, partnership management fees and deferred developer fees attributable to the MHSA Assisted Units that can be paid for out of cash flow from the non-Assisted Units. Asset management fees, partnership management fees and deferred developer fees attributable to the Assisted Units that cannot be paid for out of cash flow from the non-Assisted Units can only be paid out of the COSR if all other eligible Operating Expenses have been paid and the total amount of the COSR payment for that year does not exceed five percent of the total COSR award;
- Deposits to reserves beyond those required by State HCD under the UMRs, including reserves required by other Project financing sources;
- Vacancy loss beyond two months for a tenant who has left the Assisted Unit. Where vacancy loss is paid through the COSR, this amount shall not exceed 80 percent of the approved Rent for the Assisted Unit. If the Unit is receiving rental assistance, the requirements of the rental subsidy source shall apply.
- Supportive services costs not permitted as part of the Project budget;
- Residual Receipt payments, monitoring, or servicing fees owed to other lenders;
- Balloon payments on other loans;
- Under no circumstances may COSR funds be used for or in connection with a limited partner buyout, substitution, or assignment of ownership interest, neither during an operating (fiscal) year nor at any potential restructure or re-syndication transaction; and
- Other costs not approved by HCD.

Proposals requesting funding for a COSR must ensure multi-year cash flow projections accurately reflect expected operating deficits attributable to MHSA Assisted Units.

Application and Loan Commitment Notes

Upon review of the borrower application and a decision to loan MHSA funds, the following will be determined by HCD and set forth in a commitment letter: 1) the regulated unit loan amount; 2) the percent of MHSA regulated units as it relates to the entire Project; 3) the size of the regulated units to best meet MHSA tenants needs (bedroom count); 4) any permissible occupancy preferences (adults; seniors; transition age youth); 5) the maximum COSR (if applicable) to carry the project through the first 20 years of operations; 6) any permissible developer fees for non-tax credit transactions; and 7) permissible overlaying occupancy, rent or income restrictions from other financing or tax credit sources.

Supportive services provisions and a Social Services Plan and operating budget from the primary or lead service provider(s) shall be provided.

All units assisted with MHSA funding through this NOFA shall additionally include supportive services provided by the Orange County Health Care Agency (HCA) Behavioral Health Services (BHS) as the lead service provider, or an HCA BHS-contracted service provider. The developer shall work with HCA MHSA Housing Program to develop and provide a supportive services plan that meet and address the needs of the MSHA tenants for the term of the HCD Loan.

Primary supportive services shall be provided on site to meet the specific needs of the population to be served.

All MHSA tenants must be MHSA Certified by HCA MHSA Housing Program staff as outlined in the MHSA Certification and Referral Process. It is important to note that in no event shall a person be required to be a client of the Orange County Behavioral Health department or a recipient of mental health or other services in order to qualify for or remain in an Assisted Unit.

NOTE: This term sheet is subject to change.