



## **2026 Supportive Housing NOTICE OF FUNDING AVAILABILITY**

OC Housing and Community Development  
1501 E. St. Andrew Place  
Santa Ana, CA 92705  
[OCHCD.NOFA@occr.ocgov.com](mailto:OCHCD.NOFA@occr.ocgov.com)

Julia Bidwell, Director,  
OC Housing and Community Development  
Michelle Zdeba, Housing Development Manager  
Sherluna Vien, Housing Development Administrator  
Star Johnson, Housing Development Analyst

**March 6, 2026**

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**2026 SUPPORTIVE HOUSING  
NOTICE OF FUNDING AVAILABILITY  
OpenGov NOFA 2026-01  
March 6, 2026**

**SECTION I - INTRODUCTION, APPLICATION & SELECTION PROCESS**

As authorized at the February 10, 2026, County of Orange (County), Board of Supervisors (Board) meeting, the 2026 Supportive Housing Notice of Funding Availability (NOFA) announces the availability of up to \$20.9 million of Federal HOME Investment Partnerships Program (HOME), HOME American Rescue Plan Program (HOME-ARP), Mental Health Services Act (MHSA)/Behavioral Health Services Act (BHSA), 15G Reserves and Housing Successor Agency (HSA) funds 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 also makes available up to 100 Housing Choice, Mainstream and/or Veterans Affairs Supportive Housing (VASH) Project Based Vouchers (PBVs) for extremely low-income households who are experiencing homelessness in Orange County, for projects that meet the requirements of this NOFA (regardless of whether or not capital funding is requested under this NOFA).

OC Housing and Community Development (HCD) requires that units assisted under this NOFA be filled with tenants who are prioritized through the County's Coordinated Entry System (CES). Interested and qualified applicants/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 NOFA: HCD will accept applications for developments located in unincorporated Orange County and Urban County Participating Cities.
- From days 61-90 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.
- Ninety-one (91) days after the release of the NOFA, applications for any development eligible under this NOFA throughout the County (except generally 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 (OCHA) jurisdiction. Case-by-case exception may be made for developments on County owned or County developed property.

Homekey+ projects in conjunction with review and approval of the County's Request for Information (RFI) need not comply with the preferences and timeframes above. Applicants seeking only MHSA/BHSA, 15G Reserves, or HSA Fund (and not another source or PBVs) under this NOFA will also be accepted upon the release of the 2026 NOFA.

On a case-by-case basis and upon release of the 2026 NOFA, HCD may accept applications requesting only additional capital funding for developments previously approved by the Board.

<b>Timeframe</b>	<b>Eligible Development</b>	<b>Eligible Locations</b>
Day 1 – 60 March 6 – May 4	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* (List of Urban County Participating Cities in Section 2.08.01)
Day 61- 90 May 5 – June 3	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*
Day 91 and after June 4	Any development eligible under this NOFA will be accepted based on the remaining eligible funding and lending policies (except generally for project-based vouchers requests in the cities of Santa Ana, Anaheim, and Garden Grove)	Throughout the County

\* Applications for PBVs will only be accepted for developments located in the OCHA’s jurisdiction. Case-by-case exception may be made for developments on County-owned or County developed property.

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 (LIHTCs), owner equity, sale of tax-exempt bonds, state and federal funding, grants and donations, and other public and private sources of funds.

**Acceptance of a proposal does not constitute a contract and does not obligate HCD to award funds and/or PBVs.** Funding and PBVs are available until the NOFA closes, is replaced by a new NOFA, or until all available funds are committed via Board action, whichever occurs first. HCD reserves the right to suspend acceptance of proposals at any time. HCD reserves the right to increase or decrease available resources in this NOFA subsequent to Board 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, availability of resources 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; the need for financial assistance; the quality of the proposed project including consideration of alignment with existing federal policies for environmental justice (24 CFR 58.5[j]) and deconcentration of poverty and expanding housing and economic opportunities (24 CFR 983.57).

Within each tier, the County will prioritize projects that have secured a building permit and/or can begin construction within 180 days of receiving the County’s funding commitment.

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 Policy Act (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. The Applicant may directly hire an environmental consultant from the County's Qualified Consultant List to draft a substantially complete NEPA for the County's review and approval.

Upon submittal of an application, the Applicant shall not undertake in any activity utilizing federal or non-federal funds that would result in Choice Limiting Action under 24 CFR 58.22(a), including but not limited to real property acquisition, demolition, disposition, rehabilitation, repair, new construction, site preparation or clearance, ground disturbance and leasing, until satisfactory completion of the NEPA environmental review and receipt of an approval of the Request of Release of Funds (RROF) and certification from the HUD under 24 CFR Part 58. Failure to comply with this requirement may result in a violation of HUD regulations and could render the project ineligible for federal funding. A waiver may be considered in accordance with the Orange County Housing Authority (OCHA) Administrative Plan for developments proposed within a master planned community.

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](mailto:OCHCD.NOFA@occr.ocgov.com) with "2026 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 eight (8) 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/applicant 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: 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 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, HCD 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/or the results of the developer/applicant 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 bring forward the project to the Board for consideration.

**Financial Commitment Letter:** If approved by the Board, HCD staff will issue a conditional 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 ("Financial Commitment Letter"). If an applicant does not secure all project funding within the 24 months, HCD reserves the right to extend or withdraw the County funding commitment if the project is not proceeding satisfactorily toward the proposed activity, as indicated in the submitted Project Timeline found in Exhibit 4.01. The Financial Commitment Letter 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.

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 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. All expenses incurred prior to an HCD Environmental Clearance will not be eligible for reimbursement.

## **1.02 DISCLOSURES**

The applicant 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 must receive written approval from either the Director, or designee if authorized or by the Board, 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.

In the event that the County is unable to provide the Loan or PBVs due to any change in federal or state law or regulations, the Applicant and the County agree and acknowledge that the County's commitment shall be terminated, and the County shall have no obligation to provide the Loan or the PBVs and shall be released by Applicant from all further liability pertaining thereto.

### **1.03 APPEAL PROCESS**

The applicant may appeal funding recommendations by writing to Director, OC 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 Housing and Community Development Commission (HCD Commission) at the same address 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 applicant/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 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 reserves the right to verify information submitted in the application.

## **SECTION II - PROGRAM DESCRIPTION**

### **2.01 FUNDS AVAILABLE**

Up to \$20.9 million in HOME, HOME-ARP, MHSA/BHSA, 15G Reserves and HSA funds 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 2026 NOFA. Funds are available on a first-come, first-served 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 approval.

## **MENTAL HEALTH SERVICES ACT (MHSA)/BEHAVIORAL HEALTH SERVICES ACT (BHSA) FUNDS**

MHSA/BHSA 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/BHSA funded units are set forth in **Attachment D**.

## **CAPITALIZED OPERATING SUBSIDY RESERVE (COSR) PROGRAM**

The County may implement a COSR Program utilizing MHSA/BHSA funds, as set forth in **Attachment D**, 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/BHSA 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/BHSA 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 Board for the NOFA. All 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 Financial 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. Processing time may take up to 6 weeks for disbursement of funds for reoccurring draws. Developers shall factor in the processing time when considering requesting funds for construction loans. For HOME funds requested at construction or permanent loan closing, the Developer shall submit the draw request at least 15 business days in advance of the estimated closing date.

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 Financial 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, including small-scale housing that meets NOFA criteria and the guiding principles in the Commission to Address Homelessness Small-Scale Housing Unit Report received and filed by the Board of Supervisors on January 28, 2025, and conversion of commercial and light industrial to residential use on a case-by-case basis.

### **2.05 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.

In light of the funding limitations of the Emergency Housing Voucher (EHV) program and changes to the Continuum of Care (CoC) funded permanent supportive housing program, households participating in any special-purpose voucher or CoC funded permanent supportive housing program – who are at risk of homelessness and/or at risk of losing rental assistance because of funding limitations, program changes, or shifts in eligibility requirements may be considered as eligible target populations, consistent with the Coordinated Entry System prioritization policy.

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

## **2.06 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, other lender required third-party reports (market study, capital needs assessment), 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, cost of property insurance during development, relocation costs and costs relating to payment of loans (construction principal and interest), if it is consistent with the eligible costs specified in this section. 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. Certain eligible costs shall be limited to those incurred and paid not more than twenty-four (24) months before the date of a written legally binding agreement for HOME funds, consistent with 24 CFR 92.206.

Applicants/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 four (4) rental units selected or rehabilitated while under a Housing Assistance Payment (HAP) contract after January 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 or \$500 per unit per annum for MHSA/BHSA restricted units. Exceptions may be considered where required for continued feasibility of projects with short-term rent subsidy commitments, or when required by other funding agencies.

Any reserves (e.g. security reserve, furnishing reserves) beyond the County’s operating reserve, replacement reserve, and/or transition reserve requirements shall be reviewed and approved by the County.

Project expenses may include developer 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/BHSA funding are included 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 PBVs 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 LIHTC 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 CES.

Housing vouchers provided by public housing authorities that are not funded through the Continuum of Care (CoC), such as PBVs, 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 ALLOCATION (RHNA) TRANSFERS**

The following Regional Housing Needs Allocation (RHNA) transfer or credit policies are applicable to developments applying for capital funding, COSR and/or PBVs (including VASH). RHNA allocation transfers are subject to Government Code Section 65584.07.

- Require RHNA transfers or credits for developments funded with County local revenue and regional revenue, such as General Funds, Housing Successor Agency funds, 15G Reserves funds, Mental Health Services Act/Behavioral Health Services Act funds (capital and COSR), federal Urban County funds, including Federal HOME Investment Partnership Programs (HOME), and PBVs.

The County will require acceptance of the transfer of RHNA share from the County's allocation to the City's allocation or credits toward the County's existing RHNA obligation if the development occurs during the Planning Period (following adoption of a Housing Element), based on total number of County assisted units. The number of RHNA transfer or credit will be calculated on a pro-rata basis of County funds to City funds invested in the total number of County assisted units.

For this calculation, the County's capital and valuation of the PBVs will be included. The Applicant 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.

### **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).

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: Aliso Viejo, 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 OCHA’s 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.

<b>Unit Size</b>	<b>Maximum Household Size for Occupancy</b>	<b>Assumed Household Size for Rent Calculations</b>
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 fee interest of 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, the period beginning upon the Conversion Date. Owners are required to examine tenant incomes annually to ensure that tenants meet the income and occupancy requirements.

Where consistent with the California Assembly Bill (AB) 1386 (Veterans housing: tenant referrals) and/or State HCD’s Homekey/Homekey+ Program and where the proposed affordable housing development is funded with VASH, the County will allow units to be filled with Secondary Tenants, as defined in California Military and Veterans Code section 987.003, up to 60% AMI, pursuant to California Military and Veterans Code section 987.000.

**2.11 DEVELOPER FEES**

Developer fees shall be allowed for LIHTC projects as defined by California Tax Credit Allocation Committee (TCAC) adopted regulations. Allowable developer fees for projects not utilizing LIHTCs shall be determined on a case-by-case basis. Projects utilizing PBVs are also subject to a subsidy layering review pursuant to the U.S. Department of Housing and Urban Development (HUD) Administrative Guidelines for Subsidy Layering Review for Project-Based Vouchers, which utilizes a maximum safe harbor of twelve percent (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 and/or annually 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. Monitoring of each development will occur in two phases: Phase 1: In-house review of quarterly and/or annual 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 Financial Commitment letter, closing of the loan and commencement of construction. See Attachment N 1-12 for sample loan documents.

**2.14.02 Permanent Loan:** Loan documents will get dry recorded at acquisition/construction loan closing. 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 PBVs through the OCHA, HCD reserves the right to require all or a portion of the increase in Net Operating Income (NOI) which is generated by these PBVs 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 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 applicant/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 applicant/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 applicant/developer, (iii) the failure to make timely payments under any loan secured by the project, (iv) the breach or default by applicant/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. Customary investor capital contributions, and approved repayment of documented operating deficit advances permitted under the Partnership Agreement, shall not be deemed "internal loans" for purposes of this section.

**(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 fifty percent (50%) of cash flow payable to public agencies shall be shared by agencies in an amount proportional to the loan provided by such agencies. The fifty percent (50%) of cash flow payable to the developer shall cover any intra-partnership or other internal loans of the operating entity, including the GP loan.

**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 lien 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 (State HCD), require their Regulatory Agreement be in senior position.

Security Instruments

Lien priority will be based on amount of financial assistance provided by the County. The calculation of the financial assistance provided by the County will include the County-contributed capital, COSR and the initial 20-year 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 approval to commit funding to the development. Exceptions to include the value of long-term rental subsidies in the financial

assistance calculation apply to State HCD funds, consistent with the State's Uniform Multifamily Regulations (UMR).

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.

Subordination to Construction and Permanent Senior Financing

The County may, at its sole discretion, agree to subordinate its financing to the construction and/or permanent deed of trust if the senior loan is increased after the County's initial funding commitment, provided that the revised financing terms are reviewed and approved by the County and will not adversely affect the project's financial feasibility or the County's affordability requirements and security position. An appraisal at construction loan closing or at permanent closing (if required by another lender due to a higher permanent loan) may be used to determine if the additional increase in senior loan will affect the project's financial feasibility.

Specifically, the County shall not enter into a subordination agreement unless the following conditions are met:

- a. The County retains the right to exercise its remedies under the Regulatory Agreement;
- b. The proposed subordination to the senior loan will not adversely affect the project's financial feasibility and complies with Section 4.04 of this NOFA. Subordination requests must meet County's underwriting policies. Concurrent with the request to subordinate, the request must include the proposed loan terms, sources and uses, and an updated proforma for County review;
- c. The affordability requirements are consistent under Section 2.12 of this NOFA; and
- d. The County's security position is consistent with the provisions titled *Security Instrument* and *Financial Assistance from Cities* in this NOFA.

**2.14.10 Rent Increases:** Increases in rent may be allowed annually as determined by increases in the HUD AMI.

**2.14.11 Monitoring Fees:** Unless prohibited by federal, state or local law, borrowers shall pay a monitoring fee. Monitoring fees will be incorporated into the operating proforma. Monitoring fees shall include a total initial set-up of \$500 to be included in the Total Development Cost Budget, plus a flat annual fee of \$3,795 and a per unit fee of \$22 to be included in the Annual Operating Budget. HCD will make the final determination if regulations governing the funding source permit monitoring fees. Annual monitoring fees will be applied during the Qualified Project Period under the Regulatory Agreement.

**2.14.12 Furnishing:** All units assisted under this NOFA should be furnished with standard furnishings applicable to the unit type, such as bed, living area furniture, table and chairs for eating area.

## 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.

The maximum MHSA/BHSA capital and COSR loan limit will increase by 4% every year but the specific amount for a project will be locked in at the time of application. For projects funded under the 2026 NOFA, the maximum loan amount is \$207,235 per regulated unit, consistent with the MHSA/BHSA Term Sheet. An additional request of \$207,235 per regulated unit may be requested for MHSA/BHSA COSR.

## 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:** Applicants/developers applying for only PBV and COSR 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 applicant/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 applicant/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 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 high cost standards set by the TCAC. If a project exceeds the \$650,000 per unit cost threshold, a brief explanation of the factors driving increased costs shall be submitted as part of the NOFA application. Should there be any changes to TCAC guidance or cost standards, this figure may be amended to remain consistent with the updated regulations.

## **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 as part of threshold review, 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 CoC 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**

Applicant/developer 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 applicant/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. Applicant/developer will make reasonable efforts to accommodate the County's coordination of meetings and requests for information.

## **2.22 PROCUREMENT DUE DILIGENCE**

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 County requires a valid Unique Entity ID (UEI) number *and* Data Universal Numbering System (DUNS) 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. The County will check status of a license via the California Contractors State License Board's website, business current standings via the California Secretary of State Business Search's website, and registration with the Department of Justice via the Department of Justice's Registry Search Tool.

## **2.23 DAVIS-BACON & PREVAILING WAGE REQUIREMENTS**

The rehabilitation or new construction of 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 Determinations may be found at: <https://sam.gov/content/wage-determinations>. The construction bid package must include the current federal wage determination. The prime contractor must update the bid package if a revised wage determination is published ten (10) or more days before the bids are due. Projects funded only with local resources, such as MHSA/BHSA 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 the applicant's legal 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 applicant/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. If state prevailing wage applies, the applicant shall register the project with the State.

Bid documents must be submitted to HCD staff for review and approval prior to advertising the bid opportunity. HCD will confirm that the bid package includes all required information pursuant to Davis-Bacon, Section 3, and any other federal, state, or local requirements. A list of sites and publications where the bid notice will appear must be included with the bid package submission.

## **2.24 EQUAL EMPLOYMENT OPPORTUNITY**

Applicant/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 applicant/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 applicant/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 applicant/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 applicant/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, applicant/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 Federal and California 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)

Borrowers, 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 3 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 subcontractor 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 \$1,000,000 annually are required to submit the most recent two (2) years of Single Audit reports (includes Management Letter) as defined in Section 4.13 of this NOFA.
- 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:

- Classified Balance Sheet (Statement of Financial Position) – Distinguishing between current and long-term assets and liabilities, and 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' 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 (MBEs), Women-owned Business Enterprises (WBEs) 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 MBEs/WBEs/DBEs for participation in HCD projects.
- Provide HCD with a process for tracking MBEs/WBEs/DBEs.
- Establish and maintain a records system that clearly documents actions taken by HCD, 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 MBEs/WBEs/DBEs.

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

## **2.29 NON-DISCRIMINATION**

Applicant/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. Applicant/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 BUILD AMERICA, BUY AMERICA ACT**

Applicant/developers, whose projects involve federally funded infrastructure projects, must comply with the Build America, Buy America Act (BABA) found at 2 CFR § 184, except projects assisted with Project-Based Section 8 Vouchers (rental assistance) and HOME-ARP. BABA requires that all iron, steel, manufactured products, and construction materials are produced in the United States.

### **2.32 COMPLIANCE WITH OTHER REQUIREMENTS**

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

**HOME Program (CFDA 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, 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.
- Compliance with the eligibility and verification requirements that apply under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended (8 U.S.C. 1601-1646) (PRWORA) and any applicable requirements that HUD, the Attorney General, or the U.S. Citizenship and Immigration Services may establish from time to time to comply with PRWORA, Executive Order 14218, or other Executive Orders or immigration laws.
- Use of SAVE, or an equivalent verification system approved by the Federal government, to prevent any Federal public benefits from being provided to an illegal alien who entered the United States illegally or is otherwise unlawfully present in the United States.
- All applicants/developers or other recipients of funds shall comply with, and perform in a manner consistent with, applicable federal statutes, regulations, and executive orders including, but not limited to, the Federal Award Agreement for HOME funds between the County of Orange and the U.S. Department of Housing and Urban Development, Office of Community Planning and Development.

## **SECTION III - SPECIAL PROGRAMS**

### **3.01 SECTION 8 PROJECT BASED VOUCHERS**

Project proposals may request PBVs. Based on the availability of funds, OCHA may provide up to 100 in VASH, Mainstream and/or Housing Choice PBVs for new Permanent Supportive Housing units under this NOFA. Please note that PBVs may be limited or unavailable at any time during the review process due to any change in federal law or regulations and availability may be impacted by when the PBVs are anticipated to be used.

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 PBVs -

**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 (AHAP) contract.
- 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 PBV 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).

The PBV rent limits shall be based upon the project’s characteristics and fair market rent (FMR) 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 – Initial Rent Request* and *Exhibit 4.20.02: Housing Survey Form – Comparable Rent Data* to establish current rents. If funded, the rent comparison will need to be completed once again at closing.

For projects under construction with an executed AHAP Contract, increases in rent may be allowed prior to execution of the Housing Assistance Payment (HAP) Contract. An owner’s request for a rent increase must be submitted to HCD sixty (60) days prior to construction completion or certificate of occupancy. An updated Housing Survey Form shall be submitted with the request.

For developments with an executed HAP Contract, increases in rent may be allowed annually at the anniversary date of the 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.

**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>. OCHA will allow affordable housing developments with OCHA PBVs to request a waiver to establish a site-specific utility allowance schedule calculated using the California Utility Allowance Calculator (CUAC) if the development is selected and the TCAC has approved the use of the CUAC for the development.

**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 (RFP) and Notice of Funding Availability (NOFA) 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 PBVs 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 website.

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 OC Community Resources (OCCR) or HCD Development RFP/NOFA:**

OCHA will accept proposals for PBV program assistance from applicants/developers that were competitively selected by HCD, including projects that were competitively awarded LIHTCs, on an ongoing basis.

In addition to, or in place of advertising, HCD may also directly contact specific project developers 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 (pursuant to the OCHA Administrative Plan and 24 CFR 983.57).
- 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 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.

- Instructions and Input
- Development Budget – Part 1
- Rent Schedule – Part 2
- Social Services Budget – Part 3
- Operating Expenses – Part 4
- Cash Flow Analysis/Project Proformas – Part 5
- Tax Credit Equity Calculation – Part 6
- Threshold Basis Limits – Part 6a
- Financing Sources – Part 7
- Maximum County Loan – Part 8
- Notes – Part 8

**NOTE:**

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. 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 NOI which is generated by these PBVs be utilized to fund the cost of providing social services to these residents.

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 ten percent (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 five percent (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 LIHTC projects, applicants shall use either the TCAC required rate or the current rate.

The hard cost contingency should be a minimum of 5% hard costs for new construction and a minimum of 10% for rehabilitation projects. In addition, a soft cost contingency minimum of 2% of total soft costs should be included.

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. 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 \$4,000 per unit per year for projects with in-kind case management by a public agency (e.g. MHSA/BHSA, Veterans Affairs) or \$10,000 per unit per year for permanent supportive housing units, 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 NOI 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; LIHTCs; 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 and co-applicant's (who will have a 10% or greater interest in the property) 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 \$1,000,000 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. A separate board resolution is needed for any co-applicants who will have a 10% or greater interest in the property. See Exhibit 4.14 for a sample format.

**4.15** Intentionally deleted.

#### **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 OCCR and/or a County department designated by OCCR and findings of the assessment may be reported to the Board and/or the Commission to End Homelessness.

#### **4.17 REGIONAL HOUSING NEEDS ALLOCATION CALCULATION WORKSHEET**

Complete Exhibit 4.17 to calculate the number of RHNA transfer or credit.

#### **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

Projects considering the use of federal funds must meet acquisition requirements per 49 CFR 24.101. Provide a copy of the voluntary or involuntary acquisition notice.

#### **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.

#### **4.20.01 HOUSING SURVEY FORM – INITIAL RENT REQUEST**

Complete and sign Exhibit 4.20.01 for the proposed project.

#### **4.20.02 HOUSING SURVEY FORM – COMPARABLE RENT DATA**

Exhibit 4.20.02 is a template available to use for providing the comparable properties' rent data.

#### **4.21 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).

#### **4.22 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 County will accept an existing appraisal at initial application submittal if consistent with the TCAC's adopted regulation Section 10322 (h)(9). The appraisal must not be more than six (6) months old at construction loan closing and at permanent conversion (if required by another lender due to a higher permanent loan). Appraisals must be prepared by a California certified general appraiser having no identity of interest with the development's partner(s) or intended partner or general contractor. 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.*

#### **4.23 ARCHITECTURAL/CONSTRUCTION DESIGN NARRATIVE**

Provide a narrative of the project design concept, current site description, the current status of the architectural design work, and describe how the project will comply with accessibility requirements that meet state and federal regulations.

#### **4.24 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 for those who have formerly experienced homelessness 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.

#### **4.25 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.

For rehabilitation projects, include the rehabilitation assessment that supports the cost estimate (i.e., Physical Needs Assessment, Capital Needs Assessment).

#### **4.26 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 and other areas used for the project staging.

#### **4.27 EVIDENCE OF COMPLIANCE WITH ZONING**

Provide evidence of compliance with local zoning on letterhead from Orange County Development Services 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.

#### **4.28 ENVIRONMENTAL INFORMATION FORM**

All projects will require an Environmental Review in accordance with the CEQA and projects funded with federal funds will additionally require an environmental review in accordance with the 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, EIR, EIS, Notice of Exemption, or Notice of Determination) prior to project commencement.

Complete Exhibit 4.27. Federally funded resources, such as HOME funds and PBVs, 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.

#### **4.29 PHASE I ENVIRONMENTAL REPORT**

The applicant is required to provide a completed Phase I environmental review dated within five (5) year of the application submission date, as part of the application to meet threshold. Prior to construction closing, the Phase I must be prepared within one (1) year and updated within six (6) months of the transaction. 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.

#### **4.30 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>).

#### **4.31 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 applicant/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/developer who is aware that their project may involve permanent or temporary displacement/relocation shall complete Exhibit 4.30 and submit a relocation plan and checklist as described and provided 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.

#### **4.32 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 Attorney that shows that there is Article 34 compliance for the Project. The City Attorney and/or local government official with authority shall 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 Frank Padilla at [francisco.padillajr@occr.ocgov.com](mailto:francisco.padillajr@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 HUD, the applicant shall submit a management plan with respects to the funded units for review and approval by the County, and the 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 HCA if receiving MHSA/BHSA 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 CoC 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 4.34.01.

##### **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.

##### **4.35 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 BUILD AMERICA, BUY AMERICA (BABA) CERTIFICATION FORM**

Complete and sign Exhibit 4.37.

#### **4.38 EVIDENCE OF COMPLIANCE WITH PREVIOUS OCCR/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 4.38.

- County of Orange
- OCCR/HCD
- OCHA
- HCA

#### **4.39 UNIQUE ENTITY ID (UEI) NUMBER AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS)**

Provide a valid Unique Entity ID (UEI) number and Data Universal Numbering System (DUNS) 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 4.39 instructions.

#### **4.40 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 4.40, with their application and must provide an updated Campaign Contribution Disclosure Form before a proposed loan award goes before the Board of Supervisors for consideration.

#### **4.41 PROJECT BASED VOUCHER REGULATIONS ACKNOWLEDGMENT**

Complete and sign Exhibit 4.41.

#### **4.42 MANAGEMENT PLAN**

Complete Exhibit 4.42. Refer to Attachment E Property Management Plan Guidelines for Multi-family Rental Housing Projects for guidance on what the plan package shall address.

#### **4.43 HOMELESS SERVICE SYSTEM PILLARS ATTESTATION**

Complete and sign Exhibit 4.43.

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

In addition to the conditions set forth in the financial 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 PBVs, are subject to a complete NEPA and Subsidy Layering Review that must be submitted to HUD or TCAC by HCD/OCHA for approved use of these resources prior to disbursement of funds and/or occupancy and execution of the HAP contract, as applicable.