



**ATTACHMENT G**  
**SAMPLE PERM COMMITMENT LETTER**



[Insert date]

[Insert name]  
[Insert title]  
[Insert organization's name]  
[Insert address]  
[Insert city], CA [Insert zip code]

**Re: [Insert project name] Apartments – Conditional Commitment**  
[Insert project address]

Dear Mr/Mrs. -----:

We are pleased to inform you that the Orange County Board of Supervisors (the “**Board**”) and Orange County Housing Authority (**OCHA**) (collectively, the “County”) approved a conditional loan commitment and an award of Project-Based Vouchers (“**PBVs**”), with the contingencies described below, for a housing development currently known as [insert project name] Apartments (the “**Project**”) on [insert date], 20xx.

**LOAN COMMITMENT**

The Board approved utilization of up to \$xxx in capital funding in Mental Health Services Act (**MHSA**) funds in Fund 12A, or other available funding such as Federal HOME Investment Partnership Program (**HOME**) , HOME-American Rescue Plan Act (**HOME-ARP**), Fund 15G, Housing Successor Agency (HSA) funds (the “**County Loan**”) for loan financing to a limited partnership to be formed by [insert developer name] (“**Developer**”) for the development of the Project.

**PROJECT BASED VOUCHERS (PBV)**

The Board, acting as OCHA, approved the selection of the Project for the utilization of [insert PBV count] (xx) PBVs for an initial 20-year term.

Based on the current voucher Payment Standard and anticipated Utility Allowance, anticipated rents are:

	<u>Net/Contract Rent</u>	<u>Utility Allowance</u>	<u>Gross Rent</u>
[Bedroom Count]:	\$xxx	\$xx	\$xxx

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SANTA ANA, CA 92705  
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## **PROJECT DESCRIPTION**

The Developer is proposing to develop the Project, a xx-unit affordable housing project consisting of xx one-bedroom, xx two-bedroom, xx three-bedroom, and xx (xx) bedroom management unit. The purpose of the Project is to provide affordable and permanent supportive housing to low and extremely low-income households in Orange County.

[Insert number] permanent supportive housing units will be restricted to individuals experiencing homelessness earning at or below 30% of Area Median Income (AMI) and will also be required to meet the MHSA eligibility criteria. The remaining xx units will be restricted by the California Tax Credit Allocation Committee and/or other public lender.

The County's administration of the Loan is contingent upon completion of full underwriting review in accordance with County underwriting standards under the 2025 Supportive Housing Notice of Funding Availability (2025 NOFA). As of the date of this letter, the County's award is based on the preliminary underwriting conditions presented during initial project review, as set forth in Section I.

The County reserves the right to underwrite/re-underwrite this Project based on material changes to the financing. Financial changes to the Project must be reported to within thirty (30) days of their occurrence and no later than ninety (90) days before construction closing. This commitment expires twenty-four (24) months from the date of this letter unless the Project receives the aforementioned financing or OC Housing and Community Development (HCD) has approved an extension of the terms and conditions. The Borrower may obtain one (1) six (6) month extension, as approved by HCD; additional extensions may require Board approval.

### **I. Loan Terms and Non-Negotiable Conditions Applicable to the Construction and/or Permanent Capital Loan**

1. Amount: \$xxxx in [insert funding source] to be available during construction  
\$xxxx in [insert funding source], or other funding sources, to be available at permanent financing  
Total amount for the County Loans: \$xxxx
2. Term: Fifty-five (55) years from the date of completion of construction of the Project, as evidenced by a recorded notice of completion.
3. Rate: Three percent (3%) simple interest
4. Repayment: An amount equal to fifty percent (50%) of the net cash flow, if any, will be paid to the County and other public agencies (if any) providing residual receipts loans, and fifty percent (50%) to the developer. The 50% of cash flow payable to public agencies shall be shared by agencies in an amount proportional to the loan provided by such agencies (the "**Residual Receipts Percentage Based Distribution**"). Based on the updated financial assumptions submitted for the [insert date], County of Orange Agenda Staff Report, the repayment of this loan is xx% of the Residual Receipts Percentage Based Distribution. This

Percentage Based Distribution is subject to change for consistency with County policy.

5. Security: [Insert lien] Deed of Trust during **construction and/or permanent** phase securing a Promissory Note in the amount of up to \$xxx. All Loan documents shall be in a form approved by the County and Borrower. The County Loan shall be non-recourse to Borrower except for liabilities arising out of, or due to, fraud, criminal activity, and other standard County conditions.
6. Loan Closing: Disbursement of the Loan proceeds will be based on completion of work and submission of invoices for approved expenses.

**Disbursement of the County Loan up to \$xxxx at construction closing is subject to Borrower's request and completion of the following: (1) HCD has received and approved all items per Loan Construction Closing Checklist(s); and (2) the Borrower satisfies the other conditions to closing set forth in the Loan documents.**

**Disbursement of the County Loan for an additional #xxxx at permanent loan closing is subject to Borrower's request and completion of the following: (1) all construction has been completed; (2) notice of completion has been issued for the Project; (3) certificate of occupancy has been issued for the residential units; (4) HCD has received and approved a draft cost certification; (5) title to the subject property is free and clear of all labor and material liens; (6) HCD has received and approved all items per Loan Closing Checklist(s); and (7) the borrower satisfies the other conditions to closing set forth in the Loan documents**

7. Subordination: The Deed of Trust securing said Loan shall be recorded, insured and shall encumber the subject leasehold property and real property as [insert lien] Deed of Trust. If any County Loan is junior to senior debt approved by the County, the County will execute and deliver its subordination agreement standard forms confirming its subordination to said senior debt. Borrower shall cause all financing junior to the County's Loan to provide an executed subordination agreement in favor of the County on County's standard form as a condition to the closing of the Loan. The County's Regulatory Agreement will not be subordinated to any conventional Deed of Trust. Borrower's financial assumptions must include the County policy regarding the Regulatory Agreement and must include this assumption when seeking additional financing for this Project.
8. Affordability: Fifty-five (55) year regulatory agreement to be recorded restricting [insert unit count] units (as defined by the 2025 NOFA) with incomes at or below 30% of AMI.

## **II. Loan Terms and Non-Negotiable Conditions Applicable to the Permanent COSR Loan (if applicable)**

9. Amount: \$xxxx in MHSA COSR to be available at permanent conversion
10. Term: Twenty (20) years from the permanent conversion date

11. Rate: Zero percent (0%) interest
12. Repayment: Deferred and forgivable, subject to continued fulfillment of requirements
13. Security: [Insert lien] Deed of Trust securing a Promissory Note in the amount of up to \$xxxx. All Loan documents shall be in a form approved by the County Board of Supervisors. The COSR Loan shall be non-recourse to Borrower except for liabilities arising out of, or due to, fraud, criminal activity, and other standard County conditions.
14. Loan Closing: Disbursement of the COSR Loan for \$xxx at permanent loan closing is subject to Borrower's request and completion of the following: (1) all construction has been completed; (2) notice of completion has been issued for the Project; (3) certificate of occupancy has been issued for the residential units; (4) HCD has received and approved a draft cost certification; (5) title to the subject property is free and clear of all labor and material liens; (6) HCD has received and approved all items per Loan Closing Checklist(s); and (7) the Borrower satisfies the other conditions to closing set forth in the Loan documents.
15. Subordination: The Deed of Trust securing said COSR Loan shall be recorded, insured and shall encumber the subject leasehold property and real property as Third Deed of Trust. If any COSR Loan is junior to senior debt approved by the County, the County will execute and deliver its subordination agreement standard forms confirming its subordination to said senior debt. Borrower shall cause all financing junior to the COSR Loan to provide an executed subordination agreement in favor of the County on County's standard form as a condition to the closing of the COSR Loan.

### **III. Terms Applicable to the Project-Based Housing Choice Vouchers**

1. Affordability: [Insert unit count] units restricted to homeless persons (as defined by the 2025 NOFA) with incomes at or below 30% of AMI for an initial term of twenty (20) years.
2. Tenant Selection Criteria: The tenant selection criteria established by the property developer and/or property management company cannot be more restrictive than the eligibility criteria established by Housing and Urban Development (HUD), unless the restriction is a requirement related to the project's funding source. At no time shall the criminal background threshold set by the property developer and/or property management company be more restrictive than that established by HUD, and where HUD defers to the public housing authority (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, the least restrictive criminal background threshold shall prevail. Tenant selection criteria shall be included in the loan agreement.

### **IV. Other Financing**

The following financing has been underwritten as shown in the developer’s proforma dated [insert date]:

<b>Construction Sources of Funds</b>	<b>Funding Amount</b>
Construction Loan	\$XXXX
County of Orange	\$XXXX
City of [insert name]	\$XXXX
[Insert funding source]	\$XXXX
Tax Credit Equity (GP/LP Equity)	\$XXXX
<b>Total Sources of Funds</b>	<b>\$XXXX</b>

<b>Permanent Sources of Funds</b>	<b>Funding Amount</b>
Conventional Permanent Loan	\$XXXX
County of Orange	\$XXXX
City of [insert name]	\$XXXX
[Insert funding source]	\$XXXX
Tax Credit Equity (GP/LP Equity)	\$XXXX
<b>Total Sources of Funds</b>	<b>\$xxx</b>

**V. Non-Negotiable Conditions Applicable to the Loan and Project-Based Vouchers**

1. As required under U.S. Department of Housing and Urban Development regulations, beginning at 24 CFR Part 58, this commitment of funds is conditioned upon satisfactory completion of the National Environmental Policy Act (NEPA) and its approval by HCD. A Phase I environmental assessment dated [insert date] has been reviewed and approved by HCD. The Authority to Use Grant Funds was issued by the U.S. Department of Housing and Urban Development for Project-Based Vouchers on [insert date]. [Insert information on the California Environmental Quality Act]
2. The Borrower 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 RROF and certification from the HUD under 24 CFR Part 58.
3. The Borrower shall take title to the subject property free and clear of all encumbrances, covenants and conditions, whether recorded or unrecorded, except for HCD approved title encumbrances.
4. The Borrower shall provide an ALTA Lender’s Policy of Title Insurance containing such title endorsements as required by the County.

5. The Borrower shall submit evidence of insurance in such amounts and containing such deductibles as required by Attachment F to the 2025 NOFA, under which Borrower applied for and was awarded the funding and vouchers.
6. The Borrower must comply with all the applicable requirements, statutes, and regulations of the funding source(s) being utilized for the proposed Project.
7. The Borrower shall provide documentation to HCD for completion of a subsidy layering review after receipt of all financing and prior to start of construction and entering into an Agreement to Enter into a Housing Assistance Payment (AHAP) Contract.
8. The Borrower shall complete and execute all Affirmative Action and Minority and Women Business Enterprise plans provided by the County.
9. The Borrower shall submit a project timeline for review and approval by HCD.
10. The Borrower shall submit a marketing plan for review and approval by HCD. The marketing plan must contain procedures that include marketing of the units to residents throughout Orange County including residents of unincorporated areas and other incorporated cities. For certain developments, including but not limited to those receiving Project Based Section 8 from the cities of Anaheim, Garden Grove or Santa Ana, or those subject to special zoning ordinances requiring preference for City residents, further documentation from the Borrower will be required demonstrating that residents throughout the County will have equal opportunity at obtaining units in the Project. Units assisted in this project are required to utilize the Coordinated Entry System (CES) for referrals.
11. The Borrower shall submit a management plan for review and approval by HCD prior to construction and permanent loan closing.
12. Formation of limited partnership. The Borrower shall submit for review and approval by HCD organizational documents for the Borrower, including as applicable partnership agreements, operating agreements, by-laws and articles of incorporation as well as a Board of Director's resolution authorizing the rental assistance.
13. The Borrower shall submit for HCD's review and approval executed commitments and loan documents for all sources of financing in amounts and with terms consistent with Section I above.
14. The Borrower shall submit for HCD's review and approval the construction drawings, as approved by the City of [insert]. HCD will have the right to review and approve all material changes to the construction drawings.
15. If applicable, the Borrower shall submit for review and approval by HCD all social service contracts budgeted in the development costs.

16. The Borrower shall submit within sixty (60) days after issuance of the Certificate of Occupancy a certified statement setting forth a complete breakdown of the development costs with supporting documentation.
17. The Borrower shall comply with Davis-Bacon and State Prevailing Wage requirements.
18. The Borrower shall submit an updated project pro forma, that includes final financing and final project development costs for review and approval prior to start of construction closing and prior to permanent loan closing. The developer fee and contractor's overhead and profit, must not differ significantly from the amount indicated in the Development Cost Schedule, as determined by HCD.
19. The Borrower shall submit an as-built appraisal for review and approval prior to the closing of the construction loan and permanent loan.
20. Prior to the commencement of any construction of the project, Borrower shall deliver to HCD a complete copy of the executed construction contract.
21. The construction contract(s) shall be awarded pursuant to a negotiated bid unless the borrower is self-performing as general contractor. HCD shall approve the final construction cost breakdown, the construction contract, and the contractor. HCD will have the right to review any change orders related to the construction of the project.
22. Prior to the commencement of any construction of the project, Borrower shall deliver to HCD copies of performance and payment bonds for such construction, if required by other lenders, or a construction completion guaranty if such bonds are not required by other lenders.
23. Prior to permanent loan conversion, Borrower shall submit the recorded Notice of Completion and the final certificate of occupancy to the HCD.
24. Prior to permanent loan conversion, the Borrower shall submit evidence that all construction costs have been paid in full and that the period for filing of mechanic's lien has expired without the filing of any lien.
25. The Borrower must comply with all State and Federal relocation laws and shall submit to the to the County a relocation plan and or other required relocation documents.
26. The Borrower shall comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3) found at 24 CFR Part 75.
27. The Borrower shall comply with the Build American, Buy America Act (BABA) requirements under 2 CFR § 184.

28. The Borrower shall implement mitigation measures identified in the Environmental Assessment Determinations and Compliance Funding for HUD-assisted Projects 24 CFR Part 58: [insert link].

[insert mitigation measures]

**VI. Non-Negotiable Conditions Applicable to the COSR Loan**

1. The Borrower is required to continually seek future commitments of rental or operating subsidies for the MHSA Regulated Units (e.g., PBVs) for the life of the MHSA Loan.
2. The Borrower shall be required to have a capitalized transition reserve, which shall at a minimum, cover expenses for one year, preventing rent increases following the loss of rental assistance or exhaustion of the COSR funds. A transition plan must be submitted to HCD for approval two years before the estimated COSR Loan exhaustion date.
3. The Borrower shall provide an annual bifurcated independent audit for the MHSA COSR Loan.
4. The Borrower shall submit the COSR Disbursement Request Form annually within 180 days after the end of the property's fiscal year to receive an operation subsidy payment.

The parties intend that the County shall only be obligated to fund the Loan or commit the Project-Based Vouchers when: (i) all of the matters and contingencies set forth in this commitment letter have been satisfied, completed or waived, (ii) the Borrower has satisfied all of the conditions to funding set forth in the County's loan documents, and (iii) the Borrower has executed and delivered, in recordable form, the County's standard form loan documents in a form acceptable to the County.

Notwithstanding any other provision of this commitment letter, in the event that the County is unable to provide the Loan or Project-Based Vouchers due to any change in federal or state law or regulations, the Borrower and the County agree and acknowledge that this letter shall be terminated, and the County shall have no obligation to provide the Loan or the Project-Based Vouchers and shall be released by Borrower from all further liability pertaining thereto.

Please acknowledge your consent to the terms and conditions of this letter by signing and returning a scanned copy to [insert project manager's name], [insert project manager's title], at [\[insert project manager's email\]](#).

If you have any questions, please do not hesitate to contact [insert project manager's name] at [insert phone number].

Sincerely,

[insert name]  
Director  
OC Housing & Community Development

**[insert organization's name]** consents to the terms and conditions set forth in this letter.

By: \_\_\_\_\_  
Name  
  
\_\_\_\_\_  
Title  
  
\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Name  
  
\_\_\_\_\_  
Title  
  
\_\_\_\_\_  
Date

Enclosure: County of Orange Agenda Staff Report dated [insert date]

