2023 Supportive Housing
NOTICE OF FUNDING AVAILABILITY

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TABLE of CONTENTS

2023 SUPPORTIVE HOUSING
NOTICE OF FUNDING AVAILABILITY
BidSync NOFA 2023-01
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SECTION I - INTRODUCTION, APPLICATION & SELECTION PROCESS

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

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

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

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

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

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

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

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

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

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

1.01 Application Process

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

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

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

For a submission/application that will trigger the National Environmental Protection Agency (NEPA) process, the Applicant shall pay all actual consultant fees and other fees incurred in connection with the preparation and finalization of the federally required environmental review process for the proposal. Payment of all fees must be made before the County loan is funded.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.02 DISCLOSURES

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

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

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

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

1.03 APPEAL PROCESS

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

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

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

1.04 TERMS AND CONDITIONS

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

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

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

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

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

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

SECTION II - PROGRAM DESCRIPTION

2.01 FUNDS AVAILABLE

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

MENTAL HEALTH SERVICES ACT (MHSA) FUNDS

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

CAPITALIZED OPERATING SUBSIDY RESERVE PROGRAM

The County may implement a Capitalized Operating Subsidy Reserve (COSR) Program utilizing Mental Health Services Act (MHSA) funds, if no project-based rental assistance vouchers or other rental subsidies are available through the County and/or participating city, to address operational deficits attributable to restricted MHSA supportive housing units. COSR funding, if approved, will be part of the total financial assistance awarded by the County and subject to any determination of maximum eligible gap financing to be made available by the County to a proposed supportive housing development. The County will consider COSR funding only for MHSA units within a development, and will provide the funding as a zero interest, forgivable loan over a maximum of twenty (20) years.

2.02 PROGRAM DESCRIPTION

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

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

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

2.03 ELIGIBLE APPLICANTS

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

2.04 ELIGIBLE ACTIVITIES FOR CONSTRUCTION AND/OR PERMANENT FINANCING

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

2.05 ELIGIBLE COSTS

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

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

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

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

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

Eligible costs under MHSA funding are included in Attachment D.

2.06 ELIGIBLE PROJECTS

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

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

2.07 RESIDENCY PREFERENCES

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

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

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

2.08 REGIONAL HOUSING NEEDS ASSESSMENT ALLOCATION TRANSFERS

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

a. Pursue RHNA allocation transfers for developments:

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

b. Optional RHNA allocation transfer for developments:

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

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

2.08.01 Urban County Participating Cities

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

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

2.08.02 Entitlement Cities

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

2.09 OCCUPANCY LIMITS

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

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

2.10 AFFORDABILITY REQUIREMENTS

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

2.11 DEVELOPER FEES

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

2.12 AFFORDABILITY COVENANT

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

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

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

2.13 SELECTION OF FUNDING SOURCE

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

2.14 LOAN TERMS & CONDITIONS

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

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

2.14.03 **<u>Interest Rate</u>**: Loans will bear an interest rate of three percent (3%) simple interest. Interest will be calculated based on a 360-day year and the actual number of days elapsed. HCD reserves the right to renegotiate this rate for the benefit of the County and the project.

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

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

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

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

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

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

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

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

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

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

2.14.09 Subordination:

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

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

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

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

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

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

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

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

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

2.15 MAXIMUM LOAN AMOUNTS/SUBSIDY LIMITS:

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

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

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

2.16 MATCH REQUIREMENT

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

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

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

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

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

2.17 PAYMENT IN LIEU OF TAXES (PILOT)

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

2.18 MAXIMUM TOTAL DEVELOPMENT COST

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

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

2.19 MANAGEMENT AND AFFIRMATIVE MARKETING PLANS

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

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

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

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

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

2.20 GOOD NEIGHBOR POLICY

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

2.21 PROJECT MANAGEMENT AND INSPECTIONS

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

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

2.22 DEBARRED AND/OR SUSPENDED CONTRACTORS

Participants must certify, pursuant to 24 CFR Part 24, that they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the present NOFA. The California Contractors State License Board website for checking the status of a license is https://www2.cslb.ca.gov/onlineservices/CheckLicenseII/checklicense.aspx. The County requires a valid Unique Entity ID (UEI) number prior to Contract Award. If needed, your agency may obtain one at no cost at SAM.gov. The federal System for Award Management (SAM) identifies those parties excluded throughout the U.S. Government from receiving Federal contracts or certain subcontracts. (See Exhibit 4.38)

2.23 DAVIS-BACON & PREVAILING WAGE REQUIREMENTS

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

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

2.24 EQUAL EMPLOYMENT OPPORTUNITY

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

2.25 FAIR HOUSING

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

2.26 SECTION 3 (EQUAL OPPORTUNITY EMPLOYMENT)

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

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

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

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

d. The Sub-recipient, contractor, and subcontractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in Section 3 Regulations and agrees to take appropriate action, as provided in an applicable provision of the 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 $750,000 annually are required to submit the most recent two (2) years of Single Audit reports (includes Management Letter) as defined in Section IV.13 of this RFP.

C. Applicants who are not subject to Single Audit reports are required to submit the most recent two (2) years of audited financial statements.

   Audited Financial Statements will include, but not limited to:

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

- Retained Earnings
- Any footnotes to the statements.

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

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

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

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

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

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

2.29 NON-DISCRIMINATION

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

2.30 INDEMNIFICATION

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

2.31 COMPLIANCE WITH OTHER REQUIREMENTS

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

HOME Program (CDFA 14.239) – Federal Register at 24 CFR Part 92
Orange County Housing Successor Agency - California Health and Safety Code 33000 et seq.
Project Based Vouchers - Chapter 17 of the OCHA Administrative Plan and Title 24 of the Code of Federal Regulations
MENTAL HEALTH SERVICES ACT - Welfare and Institutions Code – WIC - Division 5 - Community Mental Health Services Part 3.9 - Sections 5849.1 – 5849.15

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

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

Rehabilitation Act of 1973), and removal of Physical Barriers: for new construction or substantial rehabilitation of Federally-assisted multifamily rental properties, five percent (5%) of the units (at least one unit) (1) in the project must be accessible to individuals with mobility impairments and an additional two percent (2%) of the units (at least one unit) must be accessible to individuals with sensory impairment).
- Fire Administration Authorization Act of 1992.
- Compliance with the County Affordable Housing Strategy & the Consolidated Plan, both of which can be found in the library on the HCD web site at: https://www.ochcd.org/resources/library and all other federal, state or local laws which may govern the use of these funds.

SECTION III - SPECIAL PROGRAMS

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

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

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

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

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

Eligible Housing Types:

Existing units, newly constructed units and rehabilitated units.

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

Ineligible Units:

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

Vacancy Loss/Damage claims:

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

Rent limits and Rent Reasonableness:

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

New Construction & Substantial Rehabilitation	New construction and substantial rehabilitation (over $25,000/unit): Cost Effective Energy Conservation Standards (24 CFR Part 39).

The PBV rent limits shall be based upon the project's characteristics and fair market rent at time of contract execution, and an analysis of "rent reasonableness", based upon a comparison of rents for comparable unassisted units in the local market. Rent to owner plus the allowance for tenant-paid utilities may not exceed the lower of the reasonable rent, or 110 per of the applicable FMR (or any exception payment standard approved by HUD). The current FMR on OCHA's website are the current FMR and Payment Standards. For your application complete *Exhibit 4.20.01: Housing Survey Form* to establish current rents. If funded, the rent comparison will need to be completed once again at closing.

Utility Allowance:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION IV - APPLICATION & THRESHOLD REQUIREMENTS

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

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

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

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

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

PROJECT DESCRIPTION

4.01 GENERAL APPLICATION FORM

Complete Exhibit 4.01

4.02 PROJECT NARRATIVE

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

4.03 PROJECT PRO FORMAS, NOTES AND ASSUMPTIONS.

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

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

Financing – Part 6
Maximum County Loan and Maximum Total Development Cost – Part 7

NOTE:

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

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

4.03.01 Davis-Bacon & State Prevailing Wage Requirements

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

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

Financial Assumptions

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

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

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

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

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

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

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

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

4.05 DEVELOPMENT SOURCES & USES NARRATIVE

Provide a narrative of the development financing structure.

4.06 IMPACT FEE WORKSHEET

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

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

4.07 EVIDENCE OF FINANCIAL COMMITMENTS

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

4.08 DEVELOPMENT TEAM MEMBERS

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

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

4.09 DEVELOPMENT TEAM RESUMES

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

4.10 APPLICANT/DEVELOPER/CO-DEVELOPER EXPERIENCE

- Describe the following for your organization/corporation:
  Mission statement
  Administrative structure
  Describe your organization's capability to administer the housing project/program you propose.

- Describe the long-term relationship between the:
  Applicant
  Developer
  Co-Developer (if any)
  Non-Profit Organization (if any)

4.11 SCHEDULE OF REAL ESTATE OWNED, MANAGED OR DEVELOPED

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

4.12 APPLICANT/GENERAL PARTNER DISCLOSURE STATEMENT, INCLUDING ORGANIZATIONAL DOCUMENTS

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

4.13 FINANCIAL STATEMENTS

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

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

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

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

4.14 RESOLUTION OF BOARD OF DIRECTORS

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

4.15 COMMUNITY HOUSING DEVELOPMENT CORPORATION (CHDO)

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

4.16 SOCIAL SERVICES PLAN

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

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

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

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

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

4.17 SOCIAL SERVICES OPERATING BUDGET

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

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

4.18 EVIDENCE OF SITE CONTROL

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

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

4.19 PRELIMINARY TITLE REPORT

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

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

4.20 COMPARABLE RENT DATA

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

4.21 CURRENT APPRAISAL

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

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

4.22 ARCHITECTURAL/CONSTRUCTION DESIGN NARRATIVE

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

4.23 ARCHITECTURAL CONCEPT DESIGNS

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

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

4.24 CONSTRUCTION OR REHABILITATION COST ESTIMATE

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

4.25 PHOTOGRAPHS OF SITE/LOCATION MAP

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

4.26 EVIDENCE OF COMPLIANCE WITH ZONING

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

4.27 ENVIRONMENTAL INFORMATION FORM

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

Determination) prior to project commencement.

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

4.28 PHASE I ENVIRONMENTAL REPORT

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

4.29 LEAD PAINT AND ASBESTOS REPORTS – If Applicable

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

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

4.30 RELOCATION AND TENANT CHARACTERISTICS

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

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

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

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

4.31 UTILITY SCHEDULE FORM

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

4.32 ARTICLE 34 COMPLIANCE

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

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

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

4.33 CONSOLIDATED PLAN CERTIFICATION

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

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

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

4.34 MARKETING PLAN AND TENANT SELECTION

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

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

Marketing Plan should include:

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

The requirements for PBV's set forth in 24 CFR 92.253 are incorporated into this NOFA as if fully set forth herein. To ensure compliance with the requirements set forth in 24 CFR 92.253, and other tenant selection criteria required by the U.S. Department of Housing and Urban Development (HUD), the applicant shall submit a management plan with respects to the funded units for review and approval by the County, and the Orange County Housing Authority (OCHA) when applicable, prior to construction loan closing. The tenant selection criteria established by the applicant/developer and/or property management company cannot be more restrictive than the development's funding source. At no time shall the criminal background threshold set by the applicant/developer and/or property management company be more restrictive than that established by HUD, and where HUD defers to PHA, the threshold cannot be more restrictive than the PHA's criminal background threshold. Where more than one PHA is a party to the development, each PHA's administrative plan shall apply to the specific unit(s) under that PHA's housing opportunity/rental assistance.

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

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

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

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

4.34.01 Certification of Compliance

Complete and sign Exhibit 4.35.

4.34.02 Good Neighbor Policy

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

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

Complete and sign Exhibit 4.35.

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

Complete and sign Exhibit 4.36.

4.37 EVIDENCE OF COMPLIANCE WITH PREVIOUS HCD OR OCHA LOANS

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

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

4.38 UNIQUE ENTITY ID (UEI) NUMBER

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

4.39 CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

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

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

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

OC Housing and Community Development

NOTICE OF FUNDING AVAILABILITY (NOFA)
APPLICATION GUIDELINES

SUBMISSION REQUIREMENTS

1. All proposals must be typed and comply with the requirements detailed below. Proposals that are incomplete, out of order, lack required attachments, or have other content errors or deficiencies may be rejected. Contextual changes and/or additions to the proposal after submission will not be accepted.

2. Proposals must be in 12-point font and must have at least 1" margins on all four sides.

3. Each number on the Application Checklist corresponds to the same sub-number found under Section IV, Application & Threshold Requirements of the NOFA. See Section IV for detailed descriptions of the required information.

4. For those sections that are checked Use Form Provided, see attached Exhibits for the forms corresponding to those numbers (applicant must use forms provided). For those sections without Exhibit forms, no specific format is required.

5. Within sections, documents that are from separate entities or of different origins should be separated and identified.

6. If, within a section, the questions are stated in alphabetic or numeric order, your responses should also be stated in the same alphabetic or numeric order.

7. If any section is not applicable to your project, DO NOT leave the section out. Insert a document for that section stating, "NOT APPLICABLE" and the reason why it does not apply to your project.

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

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

9. Lack of compliance with these requirements may lead to disqualification. Proposals that are disqualified will not be reviewed.

APPLICATION CHECKLIST

EXHIBIT	**N/A OR 4.0#**	**USE FORM PROVIDED**		**Page**
APPLICATION CHECKLIST – Insert correct page numbers in your application				32
Tab 4.01	_____	☒	General Application Form	34
Tab 4.02	_____	☒	Project Narrative	40
Tab 4.03	_____	☒	Development Financial Pro Formas	42
Tab 4.03.01	___	☒	Davis-Bacon & State Prevailing Wage Requirements	50
Tab 4.04	_____		Notes & Assumptions – See Sample	51
Tab 4.05	_____	☒	Development Sources & Uses Narrative	53
Tab 4.06	_____	☒	Impact Fee Worksheet	54
Tab 4.07	_____		Evidence of Financial Commitments	55
Tab 4.08	_____	☒	Development Team Members	58
Tab 4.09	_____		Development Team Resumes	61
Tab 4.10	_____		Applicant/Developer Experience	62
Tab 4.11	_____	☒	Schedule and Analysis of Real Estate Owned	63
Tab 4.12	_____	☒	Applicant Disclosure Statement	66
Tab 4.13	_____		Audited Financial Statements	75
Tab 4.14	_____		Resolution of the Board of Directors (Sample Provided)	76
Tab 4.15	_____	☒	Community Housing Development Organization (CHDO)	77
Tab 4.16	_____		Social Services Plan	81
Tab 4.17	_____	☒	Annual/Social Service Budget	82
Tab 4.18	_____		Evidence of Site Control	83
Tab 4.19	_____		Preliminary Title Report	84

Exhibit	N/A or 4	Use Form Provided		Page
Tab 4.20			Comparable Rent Data	85
Tab 4.20.01		☒	PBV Housing Survey Form	86
Tab 4.21			Current Appraisal	88
Tab 4.22		☒	Architectural/Construction Design Narrative	89
Tab 4.23			Architectural Concept Designs	90
Tab 4.24			Construction or Rehabilitation Cost Estimate	91
Tab 4.25			Site Photographs and Location Map	92
Tab 4.26			Evidence of Compliance with Zoning	93
Tab 4.27		☒	Environmental Information Form	94
Tab 4.28			Phase I Environmental Report	97
Tab 4.29			Lead Based Paint and Asbestos Reports (If Applicable)	98
Tab 4.30		☒	Relocation and Tenant Characteristics	99
Tab 4.31		☒	Utility Schedule Form	101
Tab 4.32			Article 34 Compliance – Sample Letter	103
Tab 4.33			Consolidated Plan Certification	105
Tab 4.34			Marketing Plan and Good Neighbor Policy	107
Tab 4.35		☒	Equal Opportunity Program and MBE/WBE compliance for Contractors Doing Business with HCD	109
Tab 4.36		☒	Equal Employment Opportunity	110
Tab 4.37		☒	Evidence of Compliance with Previous County Loans	111
Tab 4.38			UNIQUE ENTITY IDENTIFIER	112
Tab 4.39		☒	Campaign Contribution Disclosure Form	113

Please refer to Section IV of this NOFA for detailed description of the required information for each Exhibit.

EXHIBIT 4.01
GENERAL APPLICATION FORM

Please provide all known information as requested. Check all boxes that apply.

PROJECT INFORMATION

Project Name: ______________________________
Address: ______________________________
City: ______________ State: ______________ Zip: ______________
Supervisorial District: ______________

Type of project:

☐ New Construction ☐ Acquisition ☐ Conversion
☐ Preservation ☐ Acquisition & Rehabilitation ☐ Rehabilitation

Target population to be served: ______________________________

APPLICANT INFORMATION (Attach additional sheet for Co-Applicant Information, if applicable)

Legal Name: ______________________________
Address: ______________________________
City: ______________ State: ______________ Zip: ______________
Telephone: ______________ Fax: ______________
*UEI # ______________ W-9 ______________

* *The County requires a valid UEI number prior to Contract Award. If needed, your agency may obtain one at no cost at https://www.SAM.GOV*

Legal Status of Applicant:

☐ Individual ☐ General partnership ☐ Limited liability corporation
☐ Non-profit corporation ☐ Limited partnership ☐ CHDO
☐ For-profit corporation ☐ Joint venture ☐ Other: ______________

Contact Person: ______________________________
Title: ______________________________
Address: ______________________________
City: ______________ State: ______________ Zip: ______________
Telephone: ______________ Fax: ______________
Email: ______________________________

PROJECT FINANCING

Housing and Community Development Construction and/or Permanent Loan Request Amount:

☐ Construction ☐ Permanent

$ ___________________

Requested Source of Funds:

☐ HOME Program ☐ Housing Successor Agency ☐ MHSA Program

☐ HOME-ARPA ☐ ARPA-SLFRF

Requested Terms:

☐ Residual Receipts ☐ Amortized ☐ Other: ________

Project Based Voucher Request:

☐ Housing Choice Vouchers: _____________ (Number Requested) ☐ VASH: _____________ (Number Requested)

Capitalized Operating Subsidy Reserve Program:
Only if no project-based rental assistance vouchers or other rental subsidies are available through the County and/or participating city, to address operational deficits attributable to restricted MHSA supportive housing units.

☐ MHSA: _____________ (Requested Amount)

Applicants may request a specific funding source; however, Housing and Community Development may not be able to grant this request.

SOURCES & USES OF FUNDS

ACQUISITION FUNDING (List all sources of funding)

Name of Lender/Source	Amount	Term in Months	Interest Rate	Per Unit Cost	Per Bedroom Cost	Committed Yes	Committed No
TOTAL							

CONSTRUCTION PERIOD FUNDING (List all sources of funding)

Name of Lender/Source Contact Person and Phone Number	Amount	Term in Months	Interest Rate	Per Unit Cost	Per Bedroom Cost	Committed Yes	Committed No
TOTAL*							

*Must be consistent with Exhibit 4.03-A Development Financial Pro forma

PERMANENT FUNDING (List all sources of funding, including amount requested from Housing and Community Development)

Name of Lender/Source Contact Person and Phone Number	Amount	Term in Months	Interest Rate	Per Unit Cost	Per Bedroom Cost	Committed Yes	Committed No
TOTAL*							

*Must be consistent with Exhibit 4.03-A Development Financial Pro forma

USES OF FUNDS

Uses of Funds	Amount	Per Unit Cost	Per Bedroom Cost
Land Cost			
Fees, Permits, Studies			
Direct Construction Cost			
Indirect Construction Cost			
Rent-up/Marketing Cost			
Financing Cost			
Other: ______			
TOTAL DEVELOPMENT COST	$0	$0	$0

NOTE: Above Sources and Uses of Funds must agree with the information shown in Exhibit 4.03-A.

PREVAILING WAGE REQUIREMENTS – Check if either of the following wage requirements were included in the Total Development Cost of your project.

Davis-Bacon Wages ☐ State Prevailing Wages ☐

SITE INFORMATION

Current Owner/Seller Information:

Name: ______________________
Address: ______________________
City: ____________ State: ____________ Zip: ____________
Telephone: ____________ Fax: ____________
Email: ______________________
Contact Person: ______________________

Site Control:

☐ Deed ☐ Option ☐ Other: __________

Lot Size: ________ sq. ft. ________ acres

Census Tract: ________ APN: ____________________

Legal Description: ____

____
____
____
____
____

Prior use of property: ____

____
____
____

Current Number of occupied units: ______

Number of potential relocated households: _______

EXISTING or PROPOSED STRUCTURE INFORMATION		
	Existing Building (if applicable)	**Proposed Configuration** (after Rehab or New Construction)
Units		
Bedrooms		
Buildings		
Stories		
Parking spaces		
Residential sq. ft.		
Common area sq. ft.		
Parking sq. ft.		
Commercial sq. ft.		
Total building sq. ft.		
OC Community Services - assisted sq. ft.		

UNIT MIX		
Unit Mix	**Existing Unit Mix**	**Proposed Unit Mix (after rehab or construction)**
0 bedroom/SRO		
1 bedroom		
2 bedrooms		
3 bedrooms		
4 bedrooms		
TOTAL UNITS		

UNIT TYPE & AFFORDABILITY SUMMARY						
Unit Type	**% of AMI** (insert % of the area median income)	**Proposed Rent**	**Total # of Units**	**Total # of Units To be Subsidized by other Public Funds (Name source)**	**Total # of Units Subsidized by Housing and Community Development**	**Total # of Bedrooms**
0 bedroom/SRO						
1 bedroom						
2 bedrooms						
3 bedrooms						
4 bedrooms						
TOTAL UNITS						

Add additional rows if necessary.

PROJECT TIMELINE		
Activity	**Estimated Start Date**	**Estimated Completion Date**
Site Acquisition		
Environmental Clearance – CEQA		
Environmental Clearance – NEPA		
Application for Entitlements (e.g. Conditional Use Permit, Variance)		
Submission of plans to Building Department		
Application for Construction Financing		
Application for Permanent Conventional Financing		
Application for Tax Exempt Bonds		
Application for Other Loans and Grants (describe source)		
Application for Other Loans and Grants (describe source)		
Application for Other Loans and Grants (describe source)		
Application for Other Loans and Grants (describe source)		
Application for Other Loans and Grants (describe source)		
Application for Low-Income Housing Tax Credits (4% or 9%)		
Receipt of Construction Bids		
Commencement of Construction		
Completion of Construction		
100% Lease-up		
Receipt of Permanent Financing		

EXHIBIT 4.02
PROJECT NARRATIVE

Project Name:____

Please attach a project narrative summary, no longer than one 8 ½ by 11 page, of the proposed project to this page.

NOTE: IF YOU PLAN TO RE-TYPE THIS EXHIBIT, PLEASE TYPE THE QUESTIONS IN BOLD PRINT, MAINTAIN SECTIONS IN THEIR ORIGINAL ORDER AND PUT THE DOCUMENT NAME IN THE HEADERS. YOU MAY ADD ADDITIONAL PAGES AS NEEDED.

In addition, provide information for the following:

1. General Information

A. Provide a narrative of the purpose and the scope of your project.

B. Identify the neighborhood you will serve. Attach a map and identify boundaries.

C. Summarize the condition of the housing stock in the neighborhood.

D. Document neighborhood services (public transportation, schools, shopping, etc.)

E. Discuss any other relevant issues regarding land use.

2. Fair Housing

Explain how the project affirmatively promotes fair housing.

3. Targeting

Indicate the number of units targeted for the categories indicated in the table below.

Population Served	Large Families (3 or more Bedrooms)	Elderly	Homeless	Single-room Occupancy	Handicapped
No. of Units					

NOTE: Total of units listed in categories above may exceed total units.

4. Neighborhood Revitalization

A. Describe the appropriateness of the design, unit mix and any special features that meet the occupants' needs.

B. Describe how the project will address the identified housing priorities in the Consolidated Plan for the jurisdiction in which the project is located.

C. Is the proposed project in an impacted census tract? How will the project positively impact the neighborhood?

5. Collaboration

Describe the extent to which the project will involve community organizations, other than the project sponsor(s). Attach letters of endorsement, if available.

6. Innovation

Describe the extent to which the project involves a new or innovative approach (either physical, financial, or managerial) to meet the housing needs for very low and low-income persons.

7. Other

State anything else that you would like OC Housing and Community Development to know that is pertinent to this application. Please limit comments to one page.

<u>Certification</u>
The undersigned certifies under penalty of perjury that all statements made in this proposal are true and correct to the best of the undersigned's knowledge.

______________________________	______________________________
Authorized Signature (Board Officer)	Typed Name
______________________________	______________________________
Title	Date Signed

Exhibit 4.03
Development Financial Pro Formas

PROJECT NAME:
PROJECT ADDRESS:
PROJECT DEVELOPER:

MASTER MENU	
SAMPLE FORMAT	***(Click on Link or F5)***
Master Menu	**MENU**
Input Table	INPUT
Exhibit 1 - Development Costs	COSTS
Exhibit 2 - Rent Schedule	RENT
Exhibit 3 - Operating Expenses	OE
Exhibit 4 - Cash flow Analysis	CASH
Exhibit 5 - Tax Credit Analysis	TCAC
Exhibit 5a - Basis Limits	BASIS LIMITS
Exhibit 6 - Financing	SOURCES
Exhibit 7 - Maximum County Loan Amount	COUNTY

(back to main menu)

INPUT DATA	
TOTAL # UNITS	0
TOTAL # BEDROOMS	0
VACANCY RATE	5.00%
TOTAL LAND SQUARE FOOTAGE	0
TOTAL BUILDING SQUARE FOOTAGE	0
RENT INCOME	$0.00
RENT INCOME INFLATION FACTOR	2.50%
COMMERCIAL INCOME	$0.00
COMMERCIAL INCOME INFLATION FACTOR	4.00%
LAUNDRY & MISC. INCOME/YEAR	$0.00
LAUNDRY & MISC. INCOME INFLATION FACTO	3.00%
INTEREST INCOME	$0.00
INTEREST INCOME INFLATION FACTOR	0.00%
OPERATING EXPENSES/UNIT/YEAR	#DIV/0!
OPERATING EXPENSE INFLATION FACTOR	3.50%
OPERATING RESERVE	0.00%
REPLACEMENT RESERVE PER UNIT	$0.00
LAND COSTS	$0
DEVELOPMENT COSTS (NIC Land)	$0
TOTAL DEVELOPMENT COSTS	$0
TOTAL CONSTRUCTION COSTS	$0
OCCS PERMANENT LOAN AMOUNT	#VALUE!
OCCS LOAN RATE	3.00%
CONVENTIONAL LOAN AMOUNT	$0.00
CONVENTIONAL LOAN RATE	0.00%
CONVENTIONAL LOAN YEARS	0
CONVENTIONAL LOAN TYPE	AMORTIZED
DEBT COVERAGE RATIO (X::1) X=	1.15
Other	$0
Tax Credits	#VALUE!
Other	$0

Part I - Development Costs

PART 1
DEVELOPMENT COSTS
(back to menu)

Project Name:
Project Address:
Developer:

Number of Dwelling Units:
Number of Bedrooms

Gross Building Area (sf)
Gross Non-Residential Floor Area

Gross Land Area (sf)

	TOTAL PROJECT COSTS	$ PER UNIT	$ PER BEDROOM	$ PER SF BUILDING	$ PER SF LAND	% OF TOTAL		9% BASIS	4% BASIS
LAND COSTS/ACQUISITION:									
Land Cost or Value	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Demolition	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Legal /Appraisal Costs	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Total Land Cost or Value	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Existing Improvements Value	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Off-Site Improvements	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Total Acquisition Costs	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
REHABILITATION									
Site Work	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Structures	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
General Requirements	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Prevailing Wage (State/Federal)	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Contractor Overhead	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Contractor Profit	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
General Liability Insurance	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Total Rehab. Costs	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
RELOCATION EXPENSES	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
NEW CONSTRUCTION									
Site Work	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Structures	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
General Requirements	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Contractor Overhead	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Contractor Profit	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
General Liability Insurance	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Total new Construction Costs	*$0*	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		*$0*	*$0*
ARCHITECTURAL FEES									
Design	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Supervision	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Total Architectural Costs	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Total SURVEY AND ENGINEERING	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
CONSTRUCTION INTEREST & FEES									
Construction Loan Interest	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Origination Fee	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Credit Enhance. & App. Fee	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Bond Premium	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Taxes	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Insurance	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Title and Recording	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Total Construction Interest & Fees	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
PERMANENT FINANCING									
Loan Origination Fee	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Credit Enhance. & App. Fee	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Title and Recording	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Other	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Total Permanent Financing Costs	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
LEGAL FEES									
Lender Legal Pd. by Applicant	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Other (Specify)	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Total Attorney Costs	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
RESERVES									
Capitalized Operating Reserve	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Capitalized Replacement Reserve	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Capitalized Operating Subsidy Reserve	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Capitalized Transition Reserves	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Total Reserve Costs	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
APPRAISAL COSTS	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
CONSTRUCTION CONTINGENCY COSTS	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
OTHER									
TCAC App/Alloc/Monitor fees	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Environmental Audit	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Local Dev. Impact Fees	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Permit Processing Fees	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Capital Fees	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Marketing	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		XXXXXX	XXXXXX
Accounting	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Furnishings - common areas	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Furnishings - units (MHSA, other)	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Market Study	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Other (Specify)	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Total Other Costs	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Subtotals	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	**Subtotal Eligible Basis**	$0	$0
							Max. Dev. Fee*	**$0.00**	**$0.00**
DEVELOPER COSTS									
Developer Overhead/Profit	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Consultant/Processing Agent	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Project Administration	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Broker Fees paid by Owner	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Const. Management Oversight	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Other (Specify)	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
Total Developer Costs	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
TOTAL PROJECT COST	$0	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		$0	$0
							Bridge Loan Expense During Construction	$0	$0
							Total Eligible Basis	$0	$0

Note: Please edit/update eligible basis costs, if needed

Exhibit 4.03
Part 2 - Rent Schedule

PART 2
RENT SCHEDULE
(back to menu)

Project Name:
Project Address:
Developer Name: 20-Mar-23

Insert utility allowance calculation from the work sheet in Exhibit 4.31-A. A separate utility allowance will be needed for each bedroom size unit. Insert utility calculation in yellow column below.

Note: The rents shown below are based on 2022 rent limits Per California Tax Credit Allocation Committee. Other income limits for units receiving funding from the Housing Successor Agency or other programs may apply

Unit Type	Percent Median	Monthly Gross Rent	Monthly Utility Allow.	Monthly Net Rent	Number of Units	Total Monthly Rent	Total Annual Rent ($)	Total # of Bdrms.
EFFICIENCY	30%	$711	$0	$711	0	$0	$0	0
	40%	$949	$0	$949	0	$0	$0	0
	50%	$1,186	$0	$1,186	0	$0	$0	0
	60%	$1,423	$0	$1,423	0	$0	$0	0
	Market/Other		$0	$0	0	$0	$0	0
Total efficiency					0	$0	$0	0
ONE BEDROOM	30%	$762	$0	$762	0	$0	$0	0
	40%	$1,016	$0	$1,016	0	$0	$0	0
	50%	$1,270	$0	$1,270	0	$0	$0	0
	60%	$1,524	$0	$1,524	0	$0	$0	0
	Market/Other		$0	$0	0	$0	$0	0
Total one bedroom					0	$0	$0	0
TWO BEDROOM	30%	$915	$0	$915	0	$0	$0	0
	40%	$1,220	$0	$1,220	0	$0	$0	0
	50%	$1,525	$0	$1,525	0	$0	$0	0
	60%	$1,830	$0	$1,830	0	$0	$0	0
	Market/Other		$0	$0	0	$0	$0	0
Total 2 bedroom					0	$0	$0	0
THREE BEDROOM	30%	$1,057	$0	$1,057	0	$0	$0	0
	40%	$1,409	$0	$1,409	0	$0	$0	0
	50%	$1,761	$0	$1,761	0	$0	$0	0
	60%	$2,114	$0	$2,114	0	$0	$0	0
	Market/Other		$0	$0	0	$0	$0	0
Total 3 bedroom					0	$0	$0	0
FOUR BEDROOM	30%	$1,179	$0	$1,179	0	$0	$0	0
	40%	$1,572	$0	$1,572	0	$0	$0	0
	50%	$1,965	$0	$1,965	0	$0	$0	0
	60%	$2,358	$0	$2,358	0	$0	$0	0
	Market/Other		$0	$0	0	$0	$0	0
Total 4 bedroom					0	$0	$0	0
MANAGER'S	100%	$0	$0	$0	0	$0	$0	0
Total Number of Units					***0***	***$0***	***$0***	***0***

*Gross Rents with Project Based Vouchers/VASH	# of Units	Unit Rent	Total Rent
	0	$0	$0
	0	$0	$0
TOTAL SECTION 8 RENTAL INCOME	0		**$0**
**Tenant Paid Rents Calculation:	**# of Units**	**Unit Rent**	**Total Rent**
Scheduled rents w.o. rent subsidies	0	$0	$0
TENANT RENTAL INCOME	0		**$0**
Net additional PBV/VASH Income			$0

Input data in green & yellow areas only.
If you change a formula or rent figure, then you must include the change in your notes and assumptions.

Exhibit 4.03
Part 3 Operating Expenses

PART 3
OPERATING EXPENSES
(back to menu)

Input data in green areas only.
If you change a category or formula you must explain the change in your Notes & Assumptions.

Project Name:
Project Address:
Developer: 20-Mar-23
No. of Total Units: 0

	ANNUAL	MONTHLY	PER UNIT	UNIT/MO.	% TOTAL
1. MANAGEMENT					
Contract Management Fee	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
TOTAL MANAGEMENT	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
2. ADMINISTRATION					
Marketing	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Audit	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Legal	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Office Expenses	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
TOTAL ADMINISTRATION	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
3. SALARIES AND BENEFITS					
On-Site Manager/Asst. Manager	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Maintenance Personnel	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Janitorial Personnel	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Case Manager	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Housekeepers	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Payroll Txs, Ins & Wkr. Comp.	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
TOTAL SALARIES	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
4. MAINTENANCE					
Supplies	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Repairs Contract	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Pest Control	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Grounds Contract	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Interior Painting	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Other	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
TOTAL MAINTENANCE	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
5. UTILITIES NOT PAID BY TENANTS					
Trash Removal	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Electricity	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Water/Sewer	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Gas	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
TOTAL UTILITIES	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
6. INSURANCE					
Property & Liability Insurance	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
TOTAL INSURANCE	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
7. TAXES					
Business Tax and License	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
TOTAL TAXES	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
8. OTHER					
Loan Monitoring	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Other: Security	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
TOTAL OTHER	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
TOTAL OPERATING EXPENSES	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Real Estate Taxes and Assessments	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
Support Services - Provide detailed budget	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!
TOTAL OPERATING EXPENSES INC. TAXES AND SERVICES	$0	$0	#DIV/0!	#DIV/0!	#DIV/0!

PART 4
CASH FLOW ANALYSIS/Project Pro Formas
(back to menu)

Project Name:
Project Address
Developer Name:

20-Mar-23

ASSUMPTIONS:								**Total**	**Per Unit**	**Percent**
Residential Income Infl. Rate:	2.50%	Unit Operating Exp:	#DIV/0!	H&CS Loan, Rate:	3.00%	**TOTAL DEV. COSTS:**		**$0**	**#DIV/0!**	**#DIV/0!**
Laundry & Misc. Infl. Factor:	3.00%	Unit Operating Reserve:	0.00%	Conventional Loan Rate:	0.00%	Max Conven. Loan:		$0	#DIV/0!	#DIV/0!
Operating Expense Infl. Factor:	3.50%	Replace Res. per unit	0	Conventional Loan Yrs:	0	Other		$0	#DIV/0!	#DIV/0!
Vacancy Rate:	5.00%	Construction Costs:	0	Conventional Loan Type:	AMORTIZED	Tax Credits		#VALUE!	#VALUE!	#VALUE!
Number of Units:	0	Laundry Inc/Year:	0	Debt Coverage Ratio:	1.15	Other		$0	#DIV/0!	#DIV/0!
		Real Estate Taxes:	2.00%	Accum 15 yr Op Reserve:	$0	HCS Gap Loan:		#VALUE!	#VALUE!	#VALUE!

		YEAR 1	**YEAR 2**	**YEAR 3**	**YEAR 4**	**YEAR 5**	**YEAR 6**	**YEAR 7**	**YEAR 8**	**YEAR 9**	**YEAR 10**	**YEAR 11**	**YEAR 12**	**YEAR 13**	**YEAR 14**	**YEAR 15**
Residential Income		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Section 8 Rents		$0														
Commercial Income		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Laundry & Miscellaneous		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
GROSS INCOME		*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*
Vacancy		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
EFFECTIVE GROSS INCOME		*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*
Operating Expenses		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Real Estate Taxes		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Supportive Services		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Operating Reserve		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Replacement Reserve		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
NOI BEFORE DEBT SERVICE		*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*
Cash Available for Debt Service		$0														
Actual Debt Service		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Debt Coverage Ratio		*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*	*#DIV/0!*
CASH FLOW AFTER DEBT SERVICE		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Partnership Related Charges and Fee		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
CASH AVAILABLE FOR DISTRIBUTION		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
	revise split when necessary															
HCS -PERCENT OF CASH AVAILABLE FOR DISTRIBUTION	33.33%															
Annual Payment (_____%)		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Interest Payment Due	3.00%	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Cumulative HCS Loan Balance		#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
City- PERCENT OF CASH AVAILABLE FOR DISTRIBUTION	33.33%															
Annual Payment		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Interest Payment Due	3.00%	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Cumulative City of ____________ Loan Balance		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
BORROWER - PERCENT OF CASH AVAILABLE FOR DISTRIBUTI	33.33%															
Annual Cash to Borrower		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Cumulative Cash to Borrower		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Exhibit 4.03
Part 5 - Tax Credit Equity Calculation

PART 5
Tax Credit Equity Calculation
(back to menu)

Project Name:
Project Address:
Developer:

DETERMINATION OF ELIGIBLE AND QUALIFIED BASIS

	9%	4%	
Total Eligible Basis ***(enter 0 in column for credits not being used)***	0	0	
Deduct From Eligible Basis:			
All Grant Proceeds Used to Finance Costs in Eligible Basis	0	0	
Non-Qualified Non-Recourse Financing	0	0	
Non-Qualifying Portion of Higher Quality Units	0	0	
Historic Credit (residential portion only)	0	0	
Photovoltaic Credit (as applicable)	0	0	
Other Ineligible Amounts	0	0	
Total Ineligible Amounts	0	0	
Total Eligible Basis Amount Voluntarily Excluded	0	0	
TOTAL BASIS REDUCTION	0	0	
TOTAL REQUESTED UNADJUSTED ELIGIBLE BASIS	0	0	
High Cost Area Adjustment (adjust to 130% where applicable)	100%	100%	
TOTAL ADJUSTED ELIGIBLE BASIS	0	0	
Applicable Fraction (adjust where necessary)	100%	100%	
QUALIFIED BASIS	0	0	
TOTAL QUALIFIED BASIS	0		
TOTAL CREDIT REDUCTION	0		
TOTAL ADJUSTED QUALIFIED BASIS	0		
DETERMINATION OF FEDERAL CREDIT			
Qualified Basis	$0.00	$0.00	
Applicable Percentage	9.00%	4.00%	use maximum currently allowed by TCAC or current rate
Subtotal Annual Federal Credit	$0.00	$0.00	
TOTAL COMBINED ANNUAL FEDERAL CREDIT	$0		
TOTAL ANNUAL FEDERAL CREDIT	0		
x 10 years	10		
MAXIMUM FEDERAL CREDIT	0		
x Tax Credit Factor (must document)			
Estimated Federal Syndication Net Proceeds Raised	#VALUE!		
State Credit Determination			
Qualified Basis	0	0	
% over 4 years	0.3	0.13	
equals	0	0	
Total State Credit (4 years)	0	0	
X Tax Credit Factor			
Estimated State Syndication Net Proceeds Raised	#VALUE!	0	
Estimated Total Syndication Net Proceeds	**#VALUE!**	**0**	

Exhibit 4.03
Part 6 - Financing

PART 6
Financing
(back to menu)

Project Name:
Project Address:
Developer Name:

Sources Summary-THROUGH CONSTRUCTION

	Total	Per Unit	Per Bedroon	Percent
Construction Loan		#DIV/0!	#DIV/0!	#DIV/0!
AHP Subsidy		#VALUE!	#VALUE!	#VALUE!
Tax Credit Proceeds		#VALUE!	#VALUE!	#VALUE!
Other: deferred expenses		#VALUE!	#VALUE!	#VALUE!
Other: deferred developer fee		#VALUE!	#VALUE!	#VALUE!
City Loan		#VALUE!	#VALUE!	#VALUE!
Total Sources of Funds	-	#DIV/0!	#DIV/0!	#DIV/0!

Sources Summary-PERMANENT

	Total	Per Unit	Per Bedroon	Percent
Max. Conven. Loan	-	#DIV/0!	#DIV/0!	#VALUE!
AHP Subsidy	-	#DIV/0!	#DIV/0!	#VALUE!
Tax Credit Proceeds	#VALUE!	#VALUE!	#VALUE!	#VALUE!
City Loan	-	#DIV/0!	#DIV/0!	#VALUE!
County Loan	-	#DIV/0!	#DIV/0!	#VALUE!
Deferred Developer Fee	-	#DIV/0!	#DIV/0!	#VALUE!
Total Sources of Funds	#VALUE!	#VALUE!	#VALUE!	#VALUE!

These sources of funds are a guide add or delete sources as needed

PART 7
Maximum County Loan and Maximum Total Development Cost

[(back to menu)]
Project Name:
Project Address
Developer Name:

Maximum County Loan

	Bdrm Unit Size	Affordability	Number of units *	Max Subsidy	Total
Unincorporated Areas and Participating Cities					
	0	30% or below		137,500	0
	1	30% or below		137,500	0
	2 or larger	30% or below		137,500	0
All Other Cities					
	0	30% or below		95,000	0
	1	30% or below		100,000	0
	2 or larger	30% or below		105,000	0
Total			0		0

*** Insert the number of each type of unit**

EXHIBIT 4.03.01
DAVIS-BACON & STATE PREVAILING WAGE REQUIREMENTS

☐ Davis-Bacon or State Prevailing Wage applies to this project.

☐ State Prevailing Wage does not apply to this project, legal opinion attached.

DAVIS-BACON WAGE REQUIREMENTS

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)	The use of CDBG funds for construction or rehabilitation of nine (9) or more assisted units, (residential property) triggers Davis-Bacon wage requirements.
Home Investment Partnership Program (HOME)	The use of HOME funds for construction or rehabilitation of twelve (12) or more HOME assisted units in a development triggers Davis-Bacon wage requirements.
Project Based Section 8	The use of Project Based Section 8 funds for construction or rehabilitation of nine (9) or more assisted rental units triggers Davis-Bacon wage requirements.

STATE PREVAILING WAGE REQUIREMENTS

Housing Successor Agency Funds (formerly Orange County Development Agency Funds)	OC Housing and Community Development may require the inclusion of State Prevailing Wage requirements as outlined in California Labor Code Section 1720.
Mental Health Services Act (MHSA)	The use of MHSA funds may require the inclusion of State Prevailing Wage requirements as outlined in California Labor Code Section 1720.

EXHIBIT 4.04
FINANCIAL NOTES & ASSUMPTIONS

NOTES & ASSUMPTIONS DESCRIBING THE BASIS FOR ALL MAJOR LINE ITEMS

Provide a brief narrative on a separate sheet of paper regarding each of the major line items listed in Exhibit 4.03 and the general financial assumptions and reserve requirements noted below. 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. See example provided.

General Financial Assumptions to be reflected in Development Proforma are noted below:

1. Vacancy Rate of 10% shall be used for SRO or special needs housing projects, except where a significant project based public rent subsidy is available. In such cases, a vacancy rate of 5% may be utilized for units covered by such rent subsidies.
2. Rental Income Inflation rate of 2.5% per annum
3. Operating Expenses Inflation rate of 3.5% per annum
4. Debt Coverage Ratio of 1.15. For low-income housing tax credit projects, applicants shall use either the TCAC required rate or the current rate.
5. Annual Partnership Management Fee of up to $25,000 may be paid from project cash flow, prior to residual receipts payments. 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. No annual escalations are permitted. Unpaid Partnership Management Fee cannot be accrued.
6. Maximum of 3% interest on the deferred developer fee.
7. Marketing shall not exceed $1,500 per unit.
8. Common area furnishings shall not exceed $1,000 per unit.
9. Social Services Fee or costs of Social Service Coordinators shall not exceed $3,000 per unit per year or $4,000 per unit per year for units restricted to the chronically homeless, which are to be paid from project rents prior to payment of residual receipts.

All developments, except MHSA Funded developments, shall use the following assumptions for reserves:

1. Replacement Reserve required for all projects. 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.
2. A Capitalized Replacement Reserve is permitted for rehabilitation projects based on Capital Needs Assessment
3. 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.

All MHSA funded developments shall use the following assumptions for reserves:

1. Capitalized operating expense reserve, at a minimum, shall equal 25% of the first year's approved operating and reserve budget (for entire development; all units).

2. Capitalized operating subsidy reserve ("COSR") shall be required for projects without rental assistance vouchers (or other rental subsidies) to subsidize operating costs for the MSHA Regulated Units. COSR's must be funded to allow for operating cost subsidies for a minimum of 17 full years unless waived. The recommended maximum

COSR limit is $184,230.23 per assisted unit (with a suggested increase up to 4% per year).

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

4. Transition or Tenant Rent & Utility Reserve may be required by County on a case by case basis to be funded by the Developer by Certificate of Occupancy for the development. The Reserve should provide 2 to 3 years rental income for the MHSA-assisted units (assuming rents that include utilities at 30% of SSI/SSP).

PART 1
DEVELOPMENT COSTS

(back to menu)

Project Name:
Project Address:
Developer:

Number of Dwelling Units:
Gross Land Area (sf)

1. LAND COSTS:
   Purchase Price (a)
   Closing Costs (b)
   Appraisal (c)
   Holding Costs (d)

TOTAL LAND COSTS

2. FEES/PERMITS & STUDIES
   Building Fees and Permits (a)
   Surveys/Soils/Variance (b)
   Environmental Documentation/Toxic Report (c)
   Arch. & Engineering Fees
      Design (d)
      Reimbursable (e)

   Subtotal:

TOTAL FEES/PERMITS & STUDIES

SAMPLE NOTES & ASSUMPTIONS

Provide a brief narrative on a separate sheet of paper regarding each of the major line items listed in Exhibit 4.03-A. Each page has its own reference key.

EXAMPLE

1(a) Land was donated to the ABC Non-Profit Corporation to fulfill an inclusionary housing requirement of the City of Lakewood.

1(c) Appraisal costs are $5,000, which is normal and customary.

2(a) Building Fees & Permits include $12,000 for building permits and $180,000 in impact fees. See fee breakdown attached to this exhibit.

2(b) Surveys/Soils/Variance includes $43,000 for soils testing due to possible site contamination.

EXHIBIT 4.05
DEVELOPMENT SOURCES & USES NARRATIVE

Provide a narrative of the development financing structure, both construction and permanent, including an explanation of the rates and terms of all financing and the status of all financing commitments.

For projects expecting to utilize 9% Low Income Housing Tax Credits, or 4% Low Income Housing Tax Credits in combination with State Credits, provide a Final Tie Breaker Self Score from the most recent version of the applicable California Tax Credit Allocation Committee's application form.

In addition, include a description of your secondary financing strategy if you are unable to secure your first choice of financing. (Refer to the Sources & Uses section of Exhibit 4.03 Excel Spreadsheet).

EXHIBIT 4.06
IMPACT FEE WORKSHEET

Local impact fees may be considered outside of the Total Development Cost Budget when calculating the Maximum Cost Per Unit, which is in accordance with the Tax Credit Allocation Committee (TCAC) regulations. 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 for a fee to be considered outside of the Maximum Development Cost, you must provide documentation that supports the amount of the fee. OC Housing and Community Development reserves the right to subtract any unsubstantiated fees. If you have indicated fees under the "other" category, then provide documentation showing why these fees should be considered.

IMPACT FEES	DESCRIPTION OF FEES	AMOUNT REQUESTED	Do Not Write in this Area
PUBLIC WORKS FEE			
SCHOOL FEES			
PARKS & RECREATION FEES			
SEWER & SANITATION FEES			
WATER FEES			
LAW ENFORCEMENT FACILITIES			
FIRE FACILITIES			
LIBRARY FACILITIES			
DRAINAGE FEES			
STREET FEES			
POLICE DEPARTMENT FEES			
FIRE DEPARTMENT FEES			
OTHER FEES			
OTHER FEES			
TOTAL FEES*			

*Place this total in Exhibit 4.03 Development Pro forma: Costs

EXHIBIT 4.07
EVIDENCE OF FINANCIAL COMMITMENTS

Provide evidence of financing or funding commitments. These may include, but are not limited to: fee waivers, payment of infrastructure costs, loans and other subsidies from other jurisdictions; Low-Income Housing Tax Credits; tax exempt bonds; lender financing; and local, state, or other federal assistance. Developments located in Cities will be required to provide a subsidy match.

Match for PBV Only Applicants: Developers applying for only Project Based Vouchers must also show evidence of their best effort in obtaining match from the city/jurisdiction the project is located in.

The maximum subsidy/loan amount provided by the County will not exceed the amount of the City's contribution to the development. Provide evidence of this commitment or a plan to secure such commitment.

For projects located in the Urban County Participating Cities, developers may request a waiver of the match requirement if the City is able to show proof that they are unable to provide matching funds because they have exhausted all other financial resources including, CDBG, HOME, Housing Successor Agency funds, land donation, fee waivers and/or payment of infrastructure costs to the development.

Include a description of the type of funding or fee waiver and the name, title and telephone number of a contact person.

Include signed commitment letters in this exhibit.

Lender Commitments	
Name of Lender/Source	Contact Person
Street Address	Contact Person Phone #
City, State, & Zip	Fax or Email
Type of Financing	Terms
Committed ☐ Yes ☐ No	

Lender Commitments	
Name of Lender/Source	Contact Person
Street Address	Contact Person Phone #
City, State, & Zip	Fax or Email
Type of Financing	Terms
Committed ☐ Yes ☐ No	

Lender Commitments	
Name of Lender/Source	Contact Person
Street Address	Contact Person Phone #
City, State, & Zip	Fax or Email
Type of Financing	Terms
Committed ☐ Yes ☐No	

Lender Commitments	
Name of Lender/Source	Contact Person
Street Address	Contact Person Phone #
City, State, & Zip	Fax or Email
Type of Financing	Terms
Committed ☐ Yes ☐No	

Lender Commitments	
Name of Lender/Source	Contact Person
Street Address	Contact Person Phone #
City, State, & Zip	Fax or Email
Type of Financing	Terms
Committed ☐ Yes ☐No	

Lender Commitments	
Name of Lender/Source	Contact Person
Street Address	Contact Person Phone #
City, State, & Zip	Fax or Email
Type of Financing	Terms
Committed ☐ Yes ☐No	

Lender Commitments	
Name of Lender/Source	Contact Person
Street Address	Contact Person Phone #
City, State, & Zip	Fax or Email
Type of Financing	Terms
Committed ☐ Yes ☐No	

Lender Commitments	
Name of Lender/Source	Contact Person
Street Address	Contact Person Phone #
City, State, & Zip	Fax or Email
Type of Financing	Terms
Committed ☐ Yes ☐No	

Lender Commitments	
Name of Lender/Source	Contact Person
Street Address	Contact Person Phone #
City, State, & Zip	Fax or Email
Type of Financing	Terms
Committed ☐ Yes ☐No	

Lender Commitments	
Name of Lender/Source	Contact Person
Street Address	Contact Person Phone #
City, State, & Zip	Fax or Email
Type of Financing	Terms
Committed ☐ Yes ☐No	

Exhibit 4.08
DEVELOPMENT TEAM MEMBERS

Provide the name, address, contact person, telephone number, fax number, and e-mail address for all members of the development team. In addition, 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.

Name of Developer	Address	Address	City	State, Zip
Primary Contact Person/Title	Phone	FAX	E-Mail	Other names under which you have done business.

Name of Co-Developer	Address	Address	City	State, Zip
Primary Contact Person/Title	Phone	FAX	E-Mail	Other names under which you have done business.

Name of General Contractor	Address	Address	City	State, Zip
Primary Contact Person/Title	Phone	FAX	E-Mail	Other names under which you have done business.
Experience List of other affordable housing developments that you have developed				

Name of Architectural Firm	Address	Address	City	State, Zip
Primary Contact Person/Title	Phone	FAX	E-Mail	Other names under which you have done business.
Experience List of other affordable housing developments that you have developed				

Name of Property Mgmt Co	Address	Address	City	State, Zip
Primary Contact Person/Title	Phone	FAX	E-Mail	Other names under which you have done business.
Experience List of other affordable housing developments that you have developed				

Name of Legal Counsel	Address	Address	City	State, Zip
Primary Contact Person/Title	Phone	FAX	E-Mail	Other names under which you have done business.
Experience List of other affordable housing developments that you have developed				

Name of Tax Credit Syndicator	Address	Address	City	State, Zip
Primary Contact Person/Title	Phone	FAX	E-Mail	Other names under which you have done business.
Experience List of other affordable housing developments that you have developed				

Other Development Team Member	Address	Address	City	State, Zip
Primary Contact Person/Title	Phone	FAX	E-Mail	Other names under which you have done business.
Experience List of other affordable housing developments that you have developed				

Name of Service Provider	Address	Address	City	State, Zip
Primary Contact Person/Title	Phone	FAX	E-Mail	Other names under which you have done business.
Experience List of other affordable housing developments that you have developed				

Exhibit 4.09
DEVELOPMENT TEAM RESUME

Other than the Applicant/Borrower, provide a resume of all of the following:

- All of the development team members identified in Exhibit 4.08
- Other key staff person(s) from your organization assigned to this project.

Exhibit 4.10
APPLICANT/DEVELOPER EXPERIENCE

1. **Describe the following for your organization/corporation:**
   a. Mission statement
   b. Administrative structure

2. **Describe the long term relationship between the:**
   a. Applicant
   b. Developer
   c. Co-Developer (if any)
   d. Non-Profit Organization (if any)

3. **Describe your organization's capability to administer the housing project/program you propose.**

   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.

EXHIBIT 4.11
SCHEDULE AND ANALYSIS OF REAL ESTATE OWNED

Project Name: ______________________________

To be attached to and made a part of the loan application on the property located at ______________________ Dated ____________

PROPERTY ADDRESS	NO. UNITS	LENDER NAME AND ADDRESS	LOAN NO.	CURRENT BALANCE	MARKET VALUE	ANNUAL RENTAL	ANNUAL TAXES AND INS.	ANNUAL EXPENSES	ANNUAL PRIN. & INT. PYMT	CASH FLOW
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
										ANNUAL
										MONTHLY

NOTE: Describe your organization's past activities/experience. Number of rental housing projects/units applicant has developed. Number of rental projects/units applicant currently owns. Number of rental housing projects/units applicant currently manages. Number of projects/units in development phase (funding committed; not ready for occupancy). If ownership on any above is shared, list prorated amounts above and explain percent shared under remarks below.

REMARKS: ______________________________

____

EXHIBIT 4.11
Schedule and Analysis of Real Estate Owned

Project Name: ____________________

To be attached to and made a part of the loan application on the property located at ____________________ Dated ____________

PROPERTY ADDRESS	NO. UNITS	LENDER NAME AND ADDRESS	LOAN NO.	CURRENT BALANCE	MARKET VALUE	ANNUAL RENTAL	ANNUAL TAXES AND INS.	ANNUAL EXPENSES	ANNUAL PRIN. & INT. PYMT	CASH FLOW
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
										ANNUAL

NOTE: Describe your organization's past activities/experience. Number of rental housing projects/units applicant has developed. Number of rental projects/units applicant currently owns. Number of rental housing projects/units applicant currently manages. Number of projects/units in development phase (funding committed; not ready for occupancy). If ownership on any above is shared, list prorated amounts above and explain percent shared under remarks below.

REMARKS: ____________________

____

EXHIBIT 4.11
Schedule and Analysis of Real Estate Owned

Project Name: ______________________________

To be attached to and made a part of the loan application on the property located at ______________________ Dated __________

PROPERTY ADDRESS	NO. UNITS	LENDER NAME AND ADDRESS	LOAN NO.	CURRENT BALANCE	MARKET VALUE	ANNUAL RENTAL	ANNUAL TAXES AND INS.	ANNUAL EXPENSES	ANNUAL PRIN. & INT. PYMT	CASH FLOW
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
		1st:								
		2nd:								
										ANNUAL

NOTE: Describe your organization's past activities/experience. Number of rental housing projects/units applicant has developed. Number of rental projects/units applicant currently owns. Number of rental housing projects/units applicant currently manages. Number of projects/units in development phase (funding committed; not ready for occupancy). If ownership on any above is shared, list prorated amounts above and explain percent shared under remarks below.

REMARKS: ______________________________

____

Exhibit 4.12
BORROWER/APPLICANT/DEVELOPER
DISCLOSURE STATEMENT

For the purpose of this form *Borrower* shall mean:

- Any person or entity having 10% or more ownership interest in the development project;
- the General Partners or Principals of the development; and, if applicable,
- any non-profit entity associated with the development.

The Borrower(s) shall provide the following information. Use a separate sheet of paper, if necessary. A response to each question is required. If an item is not applicable, type N/A.

Name of Primary Borrower	Address	Address	City	State, Zip
Primary Contact Person	Phone	FAX	E-Mail	Other names under which you have done business.
Taxpayer Identification Number	Borrower's Organization Check One			
	☐ Corporation – Attach Articles of Incorporation ☐ Non-Profit – Attach Articles of Incorporation and verification of 501 C(3) status. ☐ Partnership – Attach Partnership Agreement ☐ General Partnership - General Partnership Agreement ☐ Limited Partnership - Attach Certificate of Limited Partnership ☐ A business association or a joint venture			

Co-Borrower	Address	Address	City	State, Zip
Primary Contact Person	Phone	FAX	E-Mail	Other names under which you have done business.
Taxpayer Identification Number	Borrower's Organization Check One			
	☐ Corporation – Attach Articles of Incorporation ☐ Non-Profit – Attach Articles of Incorporation and verification of 501 C(3) status. ☐ Partnership – Attach Partnership Agreement ☐ General Partnership - General Partnership Agreement ☐ Limited Partnership - Attach Certificate of Limited Partnership ☐ A business association or a joint venture			

Provide names, addresses, business addresses, telephone numbers, title of position (if any) and nature and extent of the interest of the current officers, principal members, shareholders, and investors of the applicant entity.

Name	Address	Phone	Fax
E-Mail	Title of Position	Nature of Interest	Extent of Interest

Name	Address	Phone	Fax
E-Mail	Title of Position	Nature of Interest	Extent of Interest

Name	Address	Phone	Fax
E-Mail	Title of Position	Nature of Interest	Extent of Interest

Name	Address	Phone	Fax
E-Mail	Title of Position	Nature of Interest	Extent of Interest

Name	Address	Phone	Fax
E-Mail	Title of Position	Nature of Interest	Extent of Interest

Add additional pages if necessary.

Has the Borrower had any professional license suspended, revoked, lapsed and/or terminated for any reason? If yes, please explain.

YES	NO	EXPLANATION

Has the Applicant filed for bankruptcy, either voluntarily or involuntarily, within the past 10 years? If yes, please explain and state the case number and the case name and whether the case was dismissed, discharged, or is current.

YES	NO	EXPLANATION

Has the Applicant defaulted on a financial obligation? If yes, please explain.

YES	NO	EXPLANATION

Is there, or has there ever been, a settlement and/or judgment filed or a case pending against the Applicant? If yes, please explain.

YES	NO	EXPLANATION

Has a lien ever been filed against real property owned by the Applicant as a result of a judgment or failure to pay taxes, etc? If yes, please explain.

YES	NO	EXPLANATION

Has the Applicant been convicted of any felony or any crime other than minor traffic violations and/or placed on probation, fined or given a suspended sentence in court within the past 10 years? If yes, please explain.

YES	NO	EXPLANATION

Has the Applicant or any of its partners or principals ever been cited and/or convicted of a misdemeanor, including but not limited to a conviction under local health, fire, environmental and/or building and safety laws, relating to the ownership and/or management of real property? If yes, please explain.

YES	NO	EXPLANATION

Does the Applicant – Contractor/Builder have an ownership/investor interest in the development? If yes, please explain.

YES	NO	EXPLANATION

Does the Applicant have any employees or relatives who have close associations with current or former employees of OC Housing and Community Development, Orange County Housing Authority ("Authority"), or the County of Orange ("County"), to which the accompanying proposal is being made? If yes, state names, dates of employment, and interest.

YES	NO	EXPLANATION

Does the Applicant employ any current or former employee(s) of OC Housing and Community Development, the Authority, or the County? Does the Applicant employ relatives of employees of OC Housing and Community Development, the Authority, or the County? If yes, state names, dates of employment, and interest.

YES	NO	EXPLANATION

Are there any OC Housing and Community Development, Authority, or County employees (current or former) who have a financial interest in this project? If yes, state names, dates of employment, and interest.

YES	NO	EXPLANATION

Has the contractor or builder, within the last 10 years, ever failed to qualify as a responsible bidder, refused to enter into a contract after an award has been made, or failed to complete a construction or development contract? If yes, please explain.

YES	NO	EXPLANATION

Is the proposed Applicant – Contractor/Builder currently involved in any construction-related litigation? If yes, please explain.

YES	NO	EXPLANATION

Has the Applicant – Contractor/Builder ever been disqualified, removed from, or otherwise prevented from bidding on or completing a federal, state, or local government project because of a violation of law or a safety regulation? If so, please explain the circumstances in detail.

YES	NO	EXPLANATION

Within the last five years, has the Applicant – Contractor/Builder been the subject of a complaint filed with the Contractor's State License Board (CSLB)? Within the last five years, has the Applicant – Contractor/Builder had a revocation or suspension of a Contractor's License? If yes, please explain.

YES	NO	EXPLANATION

Has the Applicant failed to comply with Davis-Bacon or State Prevailing Wage requirements on any previous development projects? If yes, please explain.

YES	NO	EXPLANATION

Has the Applicant been the subject of an investigation of Fair Housing and Employment Practices or been in violation of affordability clauses in recorded regulatory agreements of the County or any other federal, state, or local housing agency? If yes, explain the nature of the complaint and the outcome.

YES	NO	EXPLANATION

Exhibit 4.12
APPLICANT CERTIFICATION

Applicant warrants and certifies that it will not during the term of the project, loan, contract, development and/or rendition of services discriminate against any employee, person, or applicant for employment because of race, age, sexual orientation, marital status, color, religion, sex, handicap, or national origin. The Applicant will take affirmative action to ensure persons who are employed are treated during employment, without regard to their race, age, sexual orientation, marital status, color, religion, sex, handicap or national origin. Such action shall include, but not be limited to the following: employment, upgrading, promotion or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Applicant agrees to post in conspicuous places, available to employees and applicants for employment, notices regarding fair employment practices setting forth the provisions of this nondiscrimination clause.

The Applicant warrants and certifies that it will not without prior consent of OC Housing and Community Development, engage in any business pursuits that are adverse, hostile or take incompatible positions of interest to OC Housing and Community Development, during the term of the PROJECT, DEVELOPMENT, LOAN, CONTRACT and/or RENDITION OF SERVICES.

Applicant warrants and certifies that no member, commissioner, council-person, officer, or employee of OC Housing and Community Development, the Authority and/or the County, no member of the governing body of the locality in which OC Housing and Community Development was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the assignment of work, has during his or her tenure, or will for (1) year thereafter, have any interest, direct or indirect, in this PROJECT or the proceeds thereof.

Borrower Signature	Print Name
Date	Title
Co-Borrower Signature	Print Name
Date	Title

Exhibit 4.12
AUTHORIZATION
TO VERIFY APPLICANT'S CREDITWORTHINESS

PRIVACY NOTIFICATION. The information requested in this Application and Certification Statement is to be used by OC Community Services to assess the applicant's creditworthiness. Information provided that is contained in public records cannot be withheld from disclosure under the California Public Records Act Gov. Code Sections 6250 and 6254. All other information may be required to be disclosed outside the agency by state and/or federal law.

All information requested on this form, is mandatory. Failure to provide such information may result in disqualification of the application or a withdrawal of OC Housing and Community Development's commitment.

CRIMINAL PENALTIES. Any person who shall knowingly make or cause to be made in writing, either directly or indirectly, any false statement, with the intent that it shall be relied upon, for the purpose of procuring the loan secured by real property, shall be guilty of a criminal offense, punishable by a fine not exceeding ten thousand dollars ($10,000.00), or by imprisonment in a county jail not exceeding six months, or by both the fine and imprisonment. California Penal Code sections 532(a) and 532(f).

CONTINUING OBLIGATION. The applicant has a continuing obligation to provide OC Housing and Community Development with current and accurate information. Applicant must provide to OC Housing and Community Development all requested information, with an Applicant's Certification Statement for any individual or entity that OC Housing and Community Development, in its sole discretion, believes is necessary to evaluate the application (reasonably related to the applicant).

By signing below, authorization is hereby provided to OC Housing and Community Development to verify any and all information provided in the proposal, including, but not limited to, the organization's credit rating, status and payment history of real estate loans and performance on contracts with third parties. OC Housing and Community Development is further authorized to utilize photocopies of this authorization to obtain third party contractual and credit references and status of the organization's obligations. I understand that the confidentiality of the information I have furnished will be preserved except where disclosure of this information is required by applicable law.

CERTIFICATION/AUTHORIZATION. I, the undersigned, certify that the information provided to OC Housing and Community Development in this application is true and correct as of the date set forth below. My signature on this application package is an acknowledgment that any false or misleading statements of the information contained, may result in civil liability and liability for monetary damages to the lender, its agents, successors, and assigns, insurers, and any other person who may suffer any loss due to reliance upon any false or misleading statements which I have made on this Applicant Disclosure Statement.

______________________	______________________
Borrower Signature	Print Name
______________________	______________________
Date	Title
______________________	______________________
Co-Borrower Signature	Print Name
______________________	______________________
Date	Title

Exhibit 4.12
<u>CONSENT TO PUBLIC DISCLOSURE BY APPLICANT</u>

By providing the "Personal Information," (if any) as defined in Section 1798.3(a) of the Civil Code of the State of California (to the extent that it is applicable, if at all), requested herein and by seeking a loan from, or a contract with, the sale of real estate to, the right to develop from and/or any and all other entitlements from the OC Housing and Community Development Department of the County of Orange, the Orange County Housing Authority ("Authority"), and/or the County of Orange ("County"), the Applicant, consents to the disclosure of any and all "Personal Information" and of any and all other information contained in this Applicant Disclosure Statement. Applicant specifically, knowingly and intentionally waives any and all privileges and rights that may exist under State and/or Federal Law relating to the public Applicant, by executing this disclosure statement and providing the information requested, consents to its disclosure pursuant to the provisions of the Information Practices Act of 1977, Civil Code Section 1798.24. Applicant is aware that a disclosure of information contained herein will be made at a public meeting or meetings of OC Housing and Community Development, the Authority, and/or the County at such times as the meetings may be scheduled. Applicant hereby consents to the disclosure of said "Personal Information," if any, more than thirty (30) days from the date of this statement at the duly scheduled meeting(s) of OC Housing and Community Development, the Authority, and/or the County. Applicant acknowledges that public disclosure of the information contained herein may be made pursuant to the provisions of the Civil Code Section 1798.24(d).

Applicant represents and warrants to OC Housing and Community Development, the Authority and the County that by providing the information requested herein and waiving any and all privileges available under the Evidence Code of the State of California, State and Federal Law, (to the extent of this disclosure that the information being submitted herein), the information constitutes a "Public Record" subject to disclosure to members of the public in accordance with the provisions of California Government Section 6250 et seq.

Applicant specifically waives, by the production of the information disclosed herein, any and all rights that Applicant may have with respect to the information under the provisions of Government Code Section 6254 including its applicable subparagraphs, to the extent of the disclosure herein, as well as all rights of privacy, if any, under the State and Federal Law.

Executed this ____ day of ________________, 200__, at Orange County, California.

APPLICANT

Borrower Signature	Print Name
Date	Title
Co-Borrower Signature	Print Name
Date	Title

Exhibit 4.12
CERTIFICATION

The Borrower, _______________________________, hereby certifies that this Borrower's Disclosure Statement and the attached information/evidence of the Applicant's qualifications, background, and financial responsibility, including financial statements, are true and correct to the best of Applicant's knowledge and belief.

Borrower Signature	Print Name
Date	Title
Co-Borrower Signature	Print Name
Date	Title

ATTEST:

Subscribed and sworn to before me this ____________ day of ____________________, 2_____.

Print Name

Signature of Notary

My Commission Expires: __________________

EXHIBIT 4.13
AUDITED FINANCIAL STATEMENTS
INCLUDING SINGLE AUDITS

1. Applicants who are non-profits must attach their most recent IRS Form 990.

2. Audit Requirements as defined in Section II.2.27 of this NOFA.
   Audits must be conducted by an independent CPA and must include a description of corrective action taken for any findings identified by the auditor, both of which will be reviewed by OC Housing and Community Development Accounting Manager or designated staff. Submit required Audited documents as it related to your organization:

   a. Applicants who have expended federal funds in excess of $750,000 annually are required to submit the most recent two (2) years of Single Audit reports (includes Management Letter) as defined in Section IV 4.13 of this RFP.

      Or

   b. Submit copies of your organization's most recent two (2) years of audited financial statements.

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 three (3) years.

County reserves the right to require additional Single Audits and/or Audited Financial Statements as part of the review process.

EXHIBIT 4.14
SAMPLE BOARD RESOLUTION
[Letterhead of Borrower]

RESOLUTION OF BOARD OF DIRECTORS

OF

____

WHEREAS, ____________________ is a ____________________ [status of Corporation, i.e. a Non-profit Public Benefit Corporation, qualified pursuant to the provisions of Internal Revenue Code Section 501 (c) (3), etc.]; and

WHEREAS, ____________________, recognizes that the community at large, and especially low-income residents have many diverse needs for social, housing, education and other services; and

WHEREAS, ____________________, is committed to effectively serving the communities referenced in the prior recital; and

NOW, THEREFORE BE IT RESOLVED as follows:

1. That ____________________ is committed to providing safe, decent and affordable housing for persons of very-low, low- and moderate-income levels;

2. That on or about ____________________, 2____, the Board of Directors voted to authorize the ____________________ [title of person authorized], or his designee, to apply for, accept, and execute any documents related to the financial assistance of the Project located at ____ [address], for the purpose of obtaining financing to provide for the ____

____
[purpose, i.e. acquisition, rehabilitation, construction, etc.] of the Project, in an amount not to exceed ______________________________________ ($____________________) from OC Community Services and/or the Orange County Housing Authority.

Authorized Signature	Typed Name
Title	Date Signed

EXHIBIT 4.15
COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) CHECKLIST

The information contained in this application/checklist refers to the definition of a CHDO of the Home Investment Partnerships Program (HOME) Rule (24 CFR 92.2). For urban areas, the term "community" may be a neighborhood or neighborhoods, city, county, or metropolitan area. For rural areas, "community" is defined as a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State).

OC Housing and Community Development requires all information be completed and documentation provided for certification for the following:

Legal Status

1. The nonprofit organization is organized under State or local laws, as evidenced by:
   ___ Charter: Citation__________________, **OR**
   ___ Articles of Incorporation: Citation______________________________

2. No part of its net earnings inuring to the benefit of any member, founder, contributor, or individual, as evidenced by:
   ___Charter: Citation____________, **OR**
   ___Articles of Incorporation: Citation________________________

3. Attached a tax exemption ruling from the Internal Revenue Service (IRS) under Section 501 (c)(3) or (4) of the Internal Revenue Code of 1986, as evidenced by:
   ___A 501 (c)(3) or (4) Certificate from the IRS; **AND**
   ___does not include a public body (including the participating jurisdiction).
   ___Provide an IRS tax-exempt letter dated no more than 12 months prior, or a Certificate of Status provided by the Secretary of State, Business Programs Division. Online Certificates of Status can be found at https://www.sos.ca.gov/business-programs/business-entities/information-requests/ (which may take as long as 24 days).

4. Has among its purposes the provision of decent housing that is affordable to low- and moderate-income persons, as evidenced by a statement in the organization's:
   ___Charter: Citation____________
   ___Articles of Incorporation: Citation__________________
   ___By-laws: Citation____________________________________, **OR**
   ___Resolutions

Capacity

1. Has standards of financial accountability that conforms to 2 CFR 200.302, 'Financial Management' and 2 CFR 200.303, 'Internal Controls' as evidenced by:
   ___Notarized statement by the president or chief financial officer of the organization, **OR**
   ___A certification from a certified Public Accountant

2. Has a demonstrated capacity for carrying out housing projects assisted with HOME funds, as evidenced by:
   ___Resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with HOME funds, **OR**

___Contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with HOME funds and a plan to train appropriate key staff of the organization

3. Has a history of serving the community within which housing to be assisted with HOME funds is to be located, as evidenced by:
   ___A statement that documents at least one year of experience in serving the community, **OR**
   ___For newly created organizations formed by local churches, service organizations or neighborhood organizations, a statement that documents that its parent organization has at least one year of experience in serving the community

Organizational Structure

1. Number of seats on the governing board:_________

2. Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations.

   a. This is evidenced by the organization's:
      ___Charter: Citation_____________
      ___Articles of Incorporation: Citation _________________________, **OR**
      ___By-laws: Citation___________________

   b. On a separate page, please provide the following information for every current Board member who meets this qualification:

Board Member Name:____ This board member is a(n): ☐ Resident of a Low-Income Neighborhood Street Address____ State, City, Zip____ **OR** ☐ Low-Income Community Resident Household Size___________ Household Annual Gross Income $_________ (Please maintain verification in your records of meeting income requirements.) **OR** ☐ Elected Representative of a Low-Income Neighborhood Organization Organization:____ Date Elected:_____________Date Term Expires:________________

3. Provides a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing projects, as evidenced by:
   ___The organization's By-Laws: Citation________________
   ___Resolutions, **OR**

___A written statement of operating procedures approved by the governing body.

Relationship With Other Entities/Organizations

1. Is the CHDO applicant chartered by a State or Local Government?
   ___No. If no, proceed to question 2.
   ___Yes. If yes, please answer the following:

   a. A CHDO may be chartered by a State or local government with the following restrictions: (1) the State or local government may not appoint more than one-third of the membership of the organization's governing body; (2) the board members appointed by the State or local government may not appoint the remaining two-thirds of the board members; and (3) no more than one-third of the board members are public officials or employees of the participating jurisdiction, as evidenced by the organization's:
   ___Charter: Citation________________
   ___Articles of Incorporation: Citation________________, **OR**
   ___By-laws: Citation________________

2. Is the CHDO sponsored or created by a For-Profit Entity?
   ___No. If no, proceed to question 3.
   ___Yes. If yes, please answer the following:

   a. The CHDO is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization, as evidenced by:
   ___the organization's By-Laws, **OR**
   ___a Memorandum of Understanding (MOU)

   b. The CHDO may be sponsored or created by a for-profit entity, however:
   i. the for-profit may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm as evidenced the organization's:
   ___Charter: Citation_____________
   ___Articles of Incorporation: Citation_____________, **OR**
   ___By-laws: Citation___________________

   AND

   ii. the for-profit may not appoint more than one-third of the membership of the CHDO's governing body. Board members appointed by the for-profit may not appoint the remaining two-thirds of the board members, as evidenced by the CHDO's:
   ___Charter: Citation_____________
   ___Articles of Incorporation: Citation_____________, **OR**
   ___By-laws: Citation___________________

   AND

   iii. the CHDO is free to contract for goods and services from vendors of its own choosing, as evidenced by the CHDO's:
   ___Charter: Citation_____________
   ___Articles of Incorporation: Citation_____________, **OR**
   ___By-laws: Citation___________________

3. Is the CHDO sponsored or created by a Religious Organization?
   ___ No. If no, proceed to Required Documentation section.
   ___Yes. If yes, please answer the following:

   a. The CHDO is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization, as evidenced by:
      ___the organization's By-Laws, **OR**
      ___a Memorandum of Understanding (MOU)

   B. The religious organization may not appoint more than one-third of the membership of the CHDO's governing body and board members appointed by the religious organization may not appoint the remaining two-thirds of the board members, as evidenced by the CHDO's:
      ___Charter: Citation________________
      ___Articles of Incorporation: Citation________________, **OR**
      ___By-laws: Citation________________

4. Required Documentation

The following documentation must be attached to this checklist:

Attached Documentation	Check
Copy of By-laws	
Copy of Charter and/or Articles of Incorporation	
Copy of IRS tax-exempt letter dated no more than 12 months prior, or a Certificate of Status provided by the Secretary of State, Business Programs Division.	
List of Governing Board Members	
Evidence that organization's purpose includes providing decent housing that is affordable to low- and moderate-income persons	
Evidence of compliance with 'Financial Management' and 'Internal Controls'	
Evidence of capacity for carrying out activities assisted with HOME funds	
Evidence of history of serving the community	
Evidence that 1/3 of Governing Board Members meet low-income requirement	

==

____
Name of Non-Profit Organization

______________________________ ______________________________
Name of Authorized Official Title

______________________________ ______________________________
Signature of Authorized Official Date

EXHIBIT 4.16
SOCIAL SERVICES PLAN

If the applicant is proposing to provide social services to the residents, 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
- Alignment with the Homeless Service System Pillars Report

OC Housing and Community Development allows $3,000 per unit per year to be included in the annual operating budget of the proposed project or $4,000 per unit per year for units restricted to applicants experiencing chronically homelessness. In addition, applicants are encouraged to partner with CalOptima Health for potential services and/or community supports for any eligible assisted units in the development.

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. All services will be voluntary and available at no cost to tenants in assisted units.

MHSA Funding Applicants:

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

Applicants must include a services plan that outlines services to non-MHSA tenants and how services will be coordinated for all tenants at the development.

Exhibit 4.17
ANNUAL/SOCIAL SERVICES BUDGET

Project Name:
Project Address
Developer Name:

Personnel costs	**Salary**	**FTE**	**Annual Cost**
Benefits			
Total Personnel Costs			
Non-personnel costs			
Services and Supplies			
Telephone			
Equipment			
Maintenance			
Travel			
Other (specify)			
Total Non-personnel costs			
Indirect Costs			
Administration			
Insurance			
Legal and Accounting			
Other (specify)			
Total Indirect Costs			
Total Annual Social Service Costs			
Annual Social Service Cost/Unit			

Exhibit 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 fifty-five (55) years between the applicant and the owner of the property.
- Other written evidence that constitutes a contract.

EXHIBIT 4.19
PRELIMINARY TITLE REPORT

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

EXHIBIT4.20
COMPARABLE RENT DATA

In order to establish initial rents for units utilizing requested Project-Based Housing Choice Vouchers, applicants shall submit a Housing Survey along with rent data for at least three (3) comparable properties.

The Housing Survey Form can be found on the Orange County Housing Authority website at this link: https://www.ochousing.org/sites/ocha/files/import/data/files/63663.pdf

A copy of the Form is also provided as Exhibit 4.20.01.

Comparable properties must be similar in size and amenities to the proposed project and within a two-mile radius. The data must be collected within the last six months.

Alternatively, applicants may submit a rental market study with the same level of detail.

Exhibit 4.20.01
Comparable Rent Data - **Housing Survey**

Please complete all of the information about the housing unit listed below.

Unit Location

Building Name (optional) ______________________

Street Address ______________________ Apt # ________

City, State, ZIP ______________ ________ ________

Management and Owner Information

Managment Information

Managed By ☐ Owner
☐ Management Company

Mgr Name ______________________

Mgr Phone ______________________

Is the Owner / Manager On-Site? ☐ Yes ☐ No

Owner Information

Owner Name ______________________

Owner Address ______________________

____

City ______________________

State ______________ ZIP ______________

Unit Size, Cost and Utilities Provided

Size of Unit

Number of Bedrooms ________

Number of Bathrooms ________

Square Footage ________ ☐ Above Average
☐ Average
☐ Below Average

Lease Information

Current Rent $ ________

Date Rented ________

Unit is assisted under a Federal, State or local government program or the rent and rent increases are restricted by law or court action. ☐ Yes ☐ No

Owner Paid Utilities

Check all utilities that are included in the rent

☐ Heat ☐ Water Heat ☐ Water ☐ Trash Collection ☐ Refrigerator
☐ Cooking ☐ Other Electric ☐ Sewer ☐ Air Conditioning ☐ Range

Types of Utilities Used

The unit is heated with:
☐ Natural Gas ☐ Oil
☐ Electric
☐ Bottle Gas

The stove uses:
☐ Natural Gas ☐ Oil
☐ Electric
☐ Bottle Gas

The hot water is heated with:
☐ Natural Gas ☐ Oil
☐ Electric
☐ Bottle Gas

Housing Survey

Housing Choice Voucher Program

Unit Type, Quality and Age

Unit Type

Check the one box that best describes the unit

- ☐ High Rise
- ☐ Low Rise 3,4 stories
- ☐ Mobile Home
- ☐ Row House/Garden/Townhouse
- ☐ Semi Detached Duplex
- ☐ Shared Housing
- ☐ Single Family Detached
- ☐ Single Room Occupancy

Quality of the Unit

Describe the overall quality and condition of the unit in comparison with other apartments you have seen.

- ☐ Above Average
- ☐ Average
- ☐ Below Average

Age

Estimated year of construction or last major renovation ____________

Accessibility

Check all boxes that apply if the unit has specific features to assist people with the following types of disabilities:

- ☐ Hearing
- ☐ Sight
- ☐ Mobility
- ☐ Other

Amenities, Services and Maintenance

Check all of the items listed below that are included in the rent of the unit.

- ☐ Access to Medical
- ☐ Access to Schools
- ☐ Access to Transportation
- ☐ Air Conditioning
- ☐ Air Conditioning - Wall Unit
- ☐ Alarm Security Service
- ☐ Carpeting
- ☐ Ceiling Fans
- ☐ Community Room
- ☐ Covered Parking
- ☐ Day Care
- ☐ Dishwasher
- ☐ Elevator
- ☐ Fenced Yard
- ☐ Fireplace
- ☐ Garage
- ☐ Garbage Disposal
- ☐ Gardener
- ☐ Ground Level Unit
- ☐ Laundry Facilities
- ☐ Microwave
- ☐ New Floor Coverings
- ☐ New Window Coverings
- ☐ On site Managment
- ☐ On-Site Maintenance
- ☐ Park
- ☐ Patio/Deck
- ☐ Playground
- ☐ Pool Service
- ☐ Pool/Spa
- ☐ Refrigerator
- ☐ Remodeled Unit
- ☐ Security Guard/System
- ☐ Storage
- ☐ Trash Collection
- ☐ Trash Compactor
- ☐ Washer/Dryer Hookups
- ☐ Washer/Dryer Provided
- ☐ Wheelchair Accessible

Certification

I certify that the information on this form is true and complete to the best of my knowledge and belief. I understand that I can be fined up to $10,000 if I furnish false or incomplete information.

Name	Signature	Date

EXHIBIT 4.21
CURRENT APPRAISAL

Provide an appraisal prepared by a "Certified General Real Estate Appraiser" as licensed by the State of California *Office of Real Estate Appraisers* and have no identity of interest with the development's partner(s) or intended partner or general contractor. The appraiser must comply with Uniform Standards of Professional Appraisal Practice (USPAP) guidelines. For rehabilitation projects, an appraisal must determine both the "as-is" and "after-rehab" values of the development. New construction applicants are required to submit a land-only and an "as-built" appraisal, along with market studies to assist OC Housing and Community Development in establishing value. The appraisal must not be more than six (6) months old. Appraisals provided by other lenders will not be accepted. 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.*

EXHIBIT 4.22
ARCHITECTURAL/CONSTRUCTION DESIGN NARRATIVE

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

EXHIBIT 4.23
ARCHITECTURAL CONCEPT DESIGNS

Submit conceptual architectural designs that include schematic designs, site plan, floor plan, elevations, unit layout, and landscape plan. Describe the appropriateness of the design, unit mix, and any special features that meet the proposed occupants' needs.

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.

For new construction or substantial rehabilitation of Federally-assisted multifamily rental properties, five percent (5%) of the units (at least one unit) 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.

EXHIBIT 4.24
CONSTRUCTION/REHAB 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.

EXHIBIT 4.25
SITE PHOTOGRAPHS & LOCATION MAP

Provide current photographs of the site and surrounding area. Provide a location map showing the location of the proposed project and their proximity to shopping, public transportation, schools and health care.

EXHIBIT 4.26
EVIDENCE OF COMPLINACE WITH ZONING

Provide evidence of compliance with local zoning on letterhead from the city 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 jurisdiction in which the project is located, or present a plan for obtaining any discretionary approvals required.

OC Housing and Community Development
1501 E St. Andrew Place, Santa Ana, CA 92705
ENVIRONMENTAL INFORMATION FORM – 2020 SUPPORTIVE HOUSING NOFA
NEPA (24 CFR Part 58)

PROJECT TITLE:
PROGRAM ACTIVITY (IES):
NAME OF SUBRECIPIENT:
FUND TYPE (S): ☐ HOME ☐ HSA ☐ OCHA ☐ MHSA
CONTRACT NUMBER (S):
CONTRACT AMOUNT: $________________________

PROJECT LOCATION: Provide precise address and include Census Tract No.. If confidential, please insert "Suppressed" and provide Census Tract No.)

PROJECT ACTIVITY LEVEL DESCRIPTION: (Please provide in detail the level of services you provide or the scope of rehabilitation and/or construction your project will involve. If needed, please use attachments.)

(Projects involving new construction, rehabilitation or acquisition activities <u>must</u> complete the SUPPLEMENTAL SITE INFORMATION portion of this form)

EXISTING ENVIRONMENTAL CONDITIONS: (Please, describe the surrounding environment around your project)

PREVIOUS GOVERNMENTAL ACTIONS/APPROVALS RECEIVED ON YOUR PROJECT: (If applicable, please list and attach a copy of any discretionary approvals you received on your project from a City or other County Agency.)

PHOTOS-PLEASE PROVIDE PHOTOS OF THE PROJECT SITE

DISCRETIONARY APPROVAL (S) NEEDED FROM CITY/COUNTY TO COMPLETE YOUR PROJECT (S):

I hereby declare that the statements furnished above, including any exhibits attached hereto represent all information required for this assessment. Said statements together with any exhibits attached hereto are true and correct.

____
Signature Title Date

ENVIRONMENTAL FORM
Supplemental Site Information

PLEASE PROVIDE ALL KNOWN INFORMATION AS REQUESTED – CHECK ALL BOXES THAT APPLY

(All PF&I, Acquisition, Rehabilitation and/or New Construction Activities must include site photos and site plan)

Proposed Project Type: ☐ New Construction ☐ Acquisition
☐ Acquisition/Rehabilitation ☐ Rehabilitation

Description of the Proposal: Include all contemplated actions, which logically are either geographically, or functionally a composite part of the project, regardless of the source of funding. [24 CFR 58.32, 40 CFR 1508.25]

____
____
____
____
____
____
____
____
____
____

Proposed Site: Zoning Designation: ___________General Plan Land Use Designation: _____________

Is project in a floodplain? FEMA Map No: _____________________ (attach copy)
Existing Use(s): Vacant Residential Commercial Industrial
Other:____
(Specify)

Size of Site: _________ Acres _________ Sq. Ft. Assessor's Parcel No: ______________

Age of Existing Structures: ____________________ years Year built: _________________________

Prior Use(s)/Development(s): Residential Industrial Commercial

Agriculture Other: ____

If residential use, number of units: Proposed Existing

Studio # of units _____ 1 Bdrm # of units_____

2 Bedroom # of units _____ 3 Bedroom # of units _____ 4+Bedroom_____units

Total Number of Units: ___________________ Total Number of Buildings: _______________________

Existing Conditions and Trends: Describe the existing conditions of the project area and its surroundings. [24 CFR 58.40(a)]

Is current zoning and use appropriate for the proposed site? If not, present a plan for obtaining any discretionary approvals.

Prior Analysis:
Have there been any prior Environmental Reviews completed for the proposed site or project within the last five (5) years. *If yes, please attach copies of the Environmental Review.* ☐ Yes ☐ No

Has the site been involved in any other proposals previously submitted to this office? ☐ Yes ☐ No

Title of Prior Proposal: ____________________

Applicant's Name: ____________________

Eventual Result: ☐ Project Not Funded

☐ Project Funded $____________________

☐ Project Completed Date Completed

____________________ ____________

☐ Project Cancelled Date Cancelled

____________________ ____________

Describe reasons why project was cancelled:

EXHIBIT 4.28
PHASE I ENVIRONMENTAL REPORT

Provide a Phase 1 Environmental Report. The applicant is required to provide a completed Phase I environmental review dated within one (1) year of the application submission date, as part of the application to meet threshold. The Phase I must be prepared within six (6) months of the transaction. This period can be extended for a period up to one year after its initial preparation by updating the Phase I If the report recommends any additional work or studies, please explain the status of such items.

EXHIBIT 4.29
LEAD BASED PAINT AND ASBESTOS REPORT
(IF APPLICABLE)

For projects involving rehabilitation or demolition of buildings, applicants must provide a detailed lead paint and asbestos report that samples the entire structure including roof and flooring. Applicants will be required to submit such a report as part of the application to meet threshold.

EXHIBIT 4.30
RELOCATION AND TENANT CHARACTERISTICS FORM

Project Name: ______________________________

Project Address: ______________________________

* See below for codes to use when completing this form.

Tenant Name and Address	Number of Occupants	Race/ Ethnic Code *	Sex of Head of Household	Age of Head of Household	Disabled **	Occupants: Relation-ship by Sex and Age	Receive Sect 8? ***	Income Level ****	Income Source *****	Number of Bedrooms	Current Monthly Rent	Post-Rehab Rent

I certify that the above, are tenants of record as of this date. (Please note address or unit number for any vacant unit, including the number of bedrooms and the current rent being requested). *Add additional pages as necessary.*

______________________________ ______________
Signature of Owner/Manager Date

(1) RACE/ETHNIC CODES (*)

"**B**" = African American "**H**" = Hispanic "**W**" = White "**A**" = Asian/Pacific Islander/Alaskan Native "**O**" = Other

(2) DISABILITY CODES (**)

"**H**" = Hearing Impaired "**V**" = Visually Impaired "**M**" = Mobility Impaired

(3) SECTION 8 ASSISTANCE (***)

If yes, please identify type: "**V**" = Voucher

(4) INCOME LEVELS (****)

Area Median Income (AMI) Limits

CODE	Income Categories
"1"	Extremely Low (<30% AMI)
"2"	Very Low (≤ 50% AMI)
"3"	Low Income (≤ 60% AMI)
"4"	Lower (≤ 80% AMI)
"5"	Median Income (>100%AMI)

(5) INCOME SOURCE (*****)

Codes: "1" = Earned Income (Head of Household)
"2" = Earned Income (Joint)
"3" = Investment Income (Interest/Dividends)
"4" = Earned Investment (Rental Income)
"5" = Social Security
"6" = Retirement Income (Other Pension/Annuities)
"7" = Redistributed Income (Unemployment, Welfare, Disability, SSI)

EXHIBIT 4.31
UTILITY SCHEDULE FORM

Project Name: ____

Project Address: ____

ORANGE COUNTY HOUSING AUTHORITY

UTILITY ALLOWANCE SCHEDULE

HOUSING CHOICE VOUCHER PROGRAM

Effective Date: October 1, 2019

Bedroom:	0	1	2	3	4	5+
GAS						
Cooking	3	4	5	7	8	10
Heating	14	17	18	20	23	25
W. Heater	8	9	13	18	23	28
ELECTRIC						
Basic	26	31	44	58	74	89
Cooking	5	6	11	16	19	23
Heating	17	20	22	25	28	35
W. Heater	16	20	28	34	40	46
OTHER						
Water	42	45	65	97	127	158
Trash/Sewer	26	26	26	26	26	26
Refrigerator	9	9	9	9	9	9
Stove	7	7	7	7	7	7

Use the utility allowances listed above to fill in the chart below to calculate the utility allowances for your units. If applicable, circle gas or electric. Insert the total amount of utilities from the TOTAL column in the appropriate cell in Exhibit 4.03-A – Development Financial Pro Formas - Part 2 Rent Schedule.

TENANT PAID UTITLITIES

	ELECTRIC Lights	HEAT Circle One Gas or Electric	COOKING Circle One Gas or Electric	HOT WATER Circle One Gas or Electric	WATER & TRASH	REFRIGERATOR Tenant will Provide Own Refrigerator	OTHER	OTHER	TOTAL
EXAMPLE 1 Bdrm Gas/Electric	**31**	**17**	**6**	**9**	**N/A**	**9**			**$72**
SRO									
1 Bdrm									
2 Bdrm									
3 Bdrm									
4 Bdrm									

EXHIBIT 4.32
ARTICLE 34 COMPLIANCE

Applicants must submit documentation that shows the Project's compliance with or exemption from Article 34. If a Project is subject to Article 34, the County requires a letter from the City that shows that there is Article 34 authority for the Project. The City Attorney and/or local government official with authority should prepare and sign the letter. A sample City letter is provided on the next page for your reference.

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.

If Article 34 Authority is not available, OC Housing and Community Development may only assist up to 49% of the rental units. Subsidized units must be available for rent and income restrictions for a term of not less than 55 years.

SAMPLE CITY LETTER

[DATE]

Letter must be written on official city/county stationary of the locality in which the development is located.

[Developer Name, Contact Person, & Address]

SUBJECT: Article 34 Authority

[Developer Name]:

The proposed development project, [Name of Development], is located within a jurisdiction, which has 34 Authority.

Proposed Development Site:	[Name of Development] [Address of Development]
Description:	[Describe Project: Include number of units and affordability levels. i.e.: Demolition/New Construction of 7, two and three-bedroom units affordable to persons/families whose income is at or below 50% of the AMI.]

On [Date], the voters in [City/Jurisdiction] enacted a low income housing authorization measure pursuant to California Constitution Article 34. [##] units were approved under [name and date of proposition]. A copy of the referendum and a certified vote tally is attached. [##] units are available for allocation under the City's Article 34 authority. The City is committing [##] units (including/not including one manager's unit) to the Project.

If you need additional information, please contact me at [__________].

Sincerely,

[Name]
[Title]

(**Signed by:** This letter must be signed by the City Attorney or government official with authority.)

EXHIBIT 4.33
COUNTY OF ORANGE
CONSOLIDATED PLAN CERTIFICATION OF CONSISTENCY PROCESS

All entities that apply for federal funds must receive a certification from the jurisdiction in which the project is located, which indicates that the proposed program activities are consistent with the priorities and implementation plan contained in the City or County's Consolidated Plan. This certification is accomplished through the following three-step process:

1. **LETTER OF REQUEST**: Send a letter to one of the governing bodies listed below, requesting a Certification of Consistency to the Consolidated Plan for your funding application or proposal. Your letter should provide, at a minimum, the information specified in the sample letter.

2. **REVIEW**: Staff of the governing authority will review the request and make a determination of Consistency with the Consolidated Plan.

3. **NOTIFICATION**: If all the necessary information has been included with the request, and if the funding application or proposal is found to be consistent, the applicant will receive a Certification of Consistency form from either the City or County. If the request is not complete, or if the proposal is not found to be consistent with the Consolidated Plan, the applicant will receive a notification from the City or County explaining the reason for denial. The applicant will be asked to provide the missing information or to respond to the denial.

Selection of the Proper Jurisdiction

Orange County is designated as an Urban County by HUD and represents the 12 Participating Cities listed below with populations under 50,000, the 2 Metro Cities listed below with a population over 50,000, 14 Target Areas, and other unincorporated areas of the County.

Participating Cities

Aliso Viejo (prior to July 1, 2018), 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, & Yorba Linda (Metro City).

Metro Cities

Aliso Viejo (prior to July 1, 2018), Placentia, and Yorba Linda.

To request Certification of Consistency with the Consolidated Plan for rental housing located in the Unincorporated County, Participating Cities, and Metro Cities, contact Craig Fee of Housing and Community Development at 714-480-2996 or craig.fee@occr.ocgov.com.

To request Certification of Consistency with the Consolidated Plan for rental housing that is NOT located in the Unincorporated County, Participating Cities, and Metro Cities, applicants must contact the jurisdiction where the rental housing is located.

The following is a sample letter to request consolidated plan certification from a jurisdiction. All of the information in the sample letter must be included in all request letters.

Sample Letter

(on company letterhead)
Requesting Consolidated Plan Certification

(Date)

Dear (Contact person at the City or the County):

[First Paragraph: Identify your organization.]
The (*name of organization*), located at (*address, including zip code*), will submit an application to the County of Orange, Housing and Community Development located at 1501 E. St. Andrew Place Santa Ana CA 92705for (Project Name), (Project location, Address, City and Zip Code).

[Second Paragraph: State your request]
(*name of organization*) is requesting certification from the (*name the governing jurisdiction. i.e. City of Anaheim*) demonstrating that its funding application activities are consistent with the (*name the governing jurisdiction's*) Consolidated Plan.

[Third Paragraph: Name the Program to which you are applying. Describe your application/proposal, Include the amount being requested, the location of the facility or site where the funding will be used, the purpose for which the funds will be used, the number of families who will be served, the income of families who will be served, and a timeline indicating when the project will be completed.]

[Fourth Paragraph: Describe how the application/proposal coincides with the jurisdiction's priorities, resource allocations, implementation plans, and site selection policies:

Thank you for your consideration, (*name of organization*) looks forward to receiving a response from the (*name of jurisdiction/department*) to this request for Consolidated Plan Certification.

Sincerely,

(Type name, title, and organization title)
Signature

List contact person and phone number.

EXHIBIT 4.34

MARKETING PLAN
AND
GOOD NEIGHBOR POLICY

Applicants submitting proposals for funding must include a mini Marketing Plan. Persons and households that live and/or work in Orange County will be given a preference for occupancy in developments that are funded under this NOFA.

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. *

* OC Housing and Community Development (HCD) will allow preferences for occupancy to local residents for homeless developments in Urban County Participating Cities on a case-by-case basis. HCD reserves the right to require that units assisted under this NOFA provide a preference to applicants who are referred through the Coordinated Entry System.

Good Neighbor Policy (Unincorporated County Only)

Applicants submitting proposals for funding for developments in the Unincorporated County must include a Good Neighbor Policy in addition to a mini Marketing Plan. 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. Borrower is required to provide the County with documents such as meeting flyers, meeting agendas, written community feedback, if received, and developer written plans to address community feedback.

Certification of Compliance with the Affirmative Fair Housing Marketing Policy

To whom it may concern:

1. I, _______________________________ *[name]* am the __________ *[owner or manager]* of a OC Housing and Community Development assisted property located at ____ *[property address]*, Orange County, California __________ *[zip code]*, which is known as the ____________________, *[name of apartments].*

2. I am aware that owners of all OC Housing and Community Development (HCD) assisted properties must comply with HCD's Marketing Policy which includes the following:

   (a) When advertising a unit, the owner will solicit applications in accordance with fair housing law.

   (b) The owner will utilize various community contacts in order to solicit applications from a wide range of potentially eligible persons. These contacts may include, but not limited to:

      (1) a list of community-based organizations, provided by the Equal Opportunity Office;
      (2) social service providers;
      (3) city-wide newspapers;
      (4) community and minority newspapers; and
      (5) minority radio stations

   (c) The owner will use fair housing logo or slogans in all advertisements.

   (d) The owner will provide fair housing information to potential tenants at pre-application briefings.

   (e) The owner will document all efforts to meet the requirements of this policy and will submit said documentation to HCD during its annual review of the project or when requested.

   (f) The owner will provide tenant education, which may include, but not limited to:

      (1) Review of lease terms
      (2) Rules and responsibilities for tenancy
      (3) Review of tenant's financial responsibility
      (4) Review of housekeeping and maintenance requirements of unit

______________________________	______________________________
Name of Authorized Official	Title
______________________________	______________________________
Signature of Authorized Official	Date

EXHIBIT 4.35
EQUAL OPPORTUNITY PROGRAM FOR CONTRACTORS &
MINORITY BUSINESS ENTERPRISE (MBE),
WOMEN OWNED BUSINESS ENTERPRISE (WBE), & DISADVANTAGED BUSINESS ENTERPRISES

Housing and Community Development and the Orange County Housing Authority are committed to an Equal Opportunity Program pursuant to applicable State and Federal laws and guidelines, which provide equal opportunity in all activities of the agency, including the employment of individuals and firms which contract with the County of Orange and Housing and Community Development

CERTIFICATE OF COMPLIANCE

____
(Name of Firm)

As an authorized official for the above named firm, I hereby certify by the signature affixed to this document that said firm will comply with Executive Order 11246, Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act and any other applicable Federal and State laws as well as any other applicable local, state and federal Equal Opportunity Programs.

If requested, I will submit an acceptable Equal Employment Opportunity Plan which addresses the affirmative actions that will be taken by this firm to correct any identified under-representation of targeted groups in the employment of this firm.

Furthermore, Housing and Community Development & Homeless Prevention has established 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 for funds under all of Housing and Community Development & Homeless Prevention programs and they are designed to:

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

For further instructions for MBE/WBE/DBE compliance see Attachment L of this NOFA.

______________________________	______________________________
Name of Authorized Official	Title
______________________________	______________________________
Signature of Authorized Official	Date

EXHIBIT 4.36
EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The undersigned understands and agrees that it is the "applicant" within the meaning of 200.410 of the HUD Regulations and Agrees that there shall be no discrimination against any employee who is carrying out work receiving HUD assistance, or against any applicant for such employment, because of race, creed, color, or national origin, including but not limited to employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff of termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The applicant further agrees to the following:

(1) It will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the Regulations of the President's Committee on Equal Opportunity, which is paid for in whole or in part with funds obtained pursuant to a HUD program, the equal opportunity clause set forth in HUD Regulations 200.420;

(2) It will be bound by said equal opportunity clause in HUD assisted construction work which it performs itself other than through the permanent work force directly employed by an agency of Government;

(3) It will cooperate actively with HUD and the President's Committee on Equal Employment Opportunity in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the regulations and relevant orders of the Committee;

(4) It will furnish HUD and the Committee such information as they may require for the supervision of such compliance and will otherwise assist HUD in the discharge of its primary responsibility for securing compliance;

(5) It will refrain from entering into any contract of contract modification subject to Executive Order 11114 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to Part III, subpart D of Executive Order 10925;

(6) It will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by HUD or the Committee pursuant to Part III, subpart D of Executive Order 10925; and

(7) In the event that it fails and refuses to comply with its undertakings, the applicant agrees that HUD agency may cancel, terminate, or suspend in whole or in part any contractual Arrangements it may have with the applicant, may refrain from extending any further assistance under any of its programs subject to Executive Order 11114 until satisfactory assurance of future compliance has been received from such applicant, or may refer the case to the Department of Justice for appropriate legal proceedings.

Applicant Name ________________________________

By ________________________

Title _____________________

EXHIBIT 4.37
Evidence of Compliance with Previous OC Housing and Community Development, OCHA Operating Reserve Loans and/or OCDA/Housing Successor Agency Loans

Borrower/Developer Name: ______________________________

Purpose for Compliance Review ______________________________

Part A – Current or previous loans with OC Housing and Community Development (HCD) and/or the Housing Authority

Project	Original Loan Amount	Purpose (Grant/Loan)
1		
2		
3		

Signed: ______________________________ Date: ______________________

Part B - Compliance Monitoring (to be completed by HCD Staff)

The Project(s) listed above is/are in compliance: YES NO

Annual Reports/GPRs are submitted when due: YES NO

Comments: ____

____

____

____

____

Signed: ______________________________ Date: ______________________

Part C – Loan Monitoring (to be completed by HCD Accounting Staff)
The Project(s) listed in Part A above is/are in compliance with the terms of repayment of their loan, except for the following:

Project	Original Loan Amount	Default or Other Compliance Issue

Signed: ______________________________ Date: ______________________

EXHIBIT 4.38
UNIQUE ENTITY IDENTIFIER NUMBER

Applicants must submit their UEI number and proof of active status record under SAM.

A UEI number is the authoritative identification number provided by the U.S. government, used to identify businesses awarded federal grants, awards and contracts. It replaces the DUNS number and allows entities to obtain an authorized identifier directly from the System for Award Management (SAM) rather than through a third party.

If your entity is already registered in SAM.gov, it has already been assigned a UEI number. Simply log in at SAM.gov to access it.

If your entity needs to obtain a UEI number at SAM.gov, you have two options:

1. Entities intending to bid on contracts or grants directly from the federal government should visit SAM.gov and choose "Register Entity" to receive a UEI.
2. Those who would like a UEI for sub-award reporting should choose "Get Unique Entity ID."

EXHIBIT 4.39
COUNTY OF ORANGE
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Application or Solicitation Number: ____________________________
Application or Solicitation Title: ____________________________

Was a campaign contribution, regardless of the dollar amount, made to any member of the Orange County Board of Supervisors or to any County Agency Officer within the preceding 12 months by the applicant, or, if applicable, any of the applicant's proposed subcontractors or the applicant's agent or lobbyist?

Yes ____ No_____

If no, please sign and date below.

If yes, please provide the following information:

Applicant's Name: ____

Contributor or Contributor Firm's Name: ______________________________________

Contributor or Contributor Firm's Address: ____

Is the Contributor:
- o The Applicant Yes___ No ___
- o Subcontractor Yes___ No ___
- o The Applicant's agent/ or lobbyist Yes___ No ___

Note: Under California law as implemented by the Fair Political Practices Commission, campaign contributions made by the Applicant and the Applicant's agent/lobbyist who is representing the Applicant in this application or solicitation must be aggregated together to determine the total campaign contribution made by the Applicant.

______

Identify the Board of Supervisors Member(s) and County Agency Officer(s) to whom you, your subcontractors, and/or agent/lobbyist made campaign contributions, the name of the contributor, the dates of contribution(s) in the preceding 12 months and dollar amount of the contribution. Each date must include the exact month, day, and year of the contribution.

Name of Board of Supervisors Member or County Agency Officer: ____

Name of Contributor: ____

Date(s) of Contribution(s): ______________________________________

Amount(s): ____

(Please add an additional sheet(s) to identify additional Board Members or County Agency Officer to whom you, your subconsultants, and/or agent/lobbyist made campaign contributions)

By signing below, I certify that the statements made herein are true and correct. I also agree to disclose to the County any future contributions made to Board Members or County Agency Officers by the applicant, or, if applicable, any of the applicant's proposed subcontractors or the applicant's agent or lobbyist after the date of signing this disclosure form, and within 12 months prior to and following the approval, renewal, or extension of the requested license, permit, or entitlement to use.

Date ______________________ Signature of Applicant ______________________

Print Firm Name, if applicable ______________________ Print Name of Applicant ______________________

ORANGE COUNTY BOARD OF SUPERVISORS
AND COUNTY AGENCY OFFICERS

Board of Supervisors

Doug Chaffee, Chairman, Fourth District

Donald P. Wagner, Vice Chairman, Third District

Andrew Do, First District

Katrina Foley, Second District, Supervisor-Elect, Fifth District

Lisa A. Bartlett, Fifth District

Vicente Sarmiento, Supervisor-Elect, Second District

County Agency Officers

Claude Parrish, Assessor

Hugh Nguyen, Clerk-Recorder

Todd Spitzer, District Attorney-Public Administrator

Don Barnes, Sheriff-Coroner

Shari A. Freidenrich, Treasurer-Tax Collector

Andrew Hamilton, Auditor-Controller-Elect

LIST OF NOFA ATTACHMENTS

A. Orange County Income & Rent Limits
B. Maximum Total Development Costs/Minimum Sq. Ft. Requirements
C. Permanent Supportive Housing Guidelines and Definitions
D. MHSA Term Sheet
E. Management Plan Requirements
F. County of Orange Insurance Requirements
G. OC Community Services Sample Commitment Letter
H. Apartment Development Revenue Bond Application
I. Relocation Plan Instructions
J. Affordable Housing Opportunity Overlay Zone Eligible Sites
K. Loan Closing Checklist
L. OC Community Services Affordability Monitoring Policy
M. Contracting with Minority and Women-Owned Business
N. Sample Loan Documents
   ATTACHMENT N 1 Sample Loan Agreement
   ATTACHMENT N 2 Sample Deed of Trust
   ATTACHMENT N 3 Sample Promissory Note
   ATTACHMENT N 4 Regulatory Agreement
   ATTACHMENT N 5 Subordinate Agreement
   ATTACHMENT N 6 Assignment of Leases
   ATTACHMENT N 7 HOME Loan Attachment
   ATTACHMENT N 8 HSA PBV Loan Attachment
   ATTACHMENT N 9 MHSA Loan Attachment

Orange County Rent & Income Limits

2022 Orange County Income Limits **California Tax Credit Allocation Committee** **Based on Household Size**	April 2022 % of Median Income	Revised per HUD Notice Effective April 18, 2022 1 Person	2 Person	3 Person	4 Person	5 Person	6 Person
Median Income	100%	$94,900	$108,400	$122,000	$135,500	$146,400	$157,200
60% of Median	60%	$56,940	$65,040	$73,200	$81,300	$87,840	$94,320
50% of Median (Very Low-Income)	**50%**	**$47,450**	**$54,200**	**$61,000**	**$67,750**	**$73,200**	**$78,600**
40% of Median	40%	$37,960	$43,360	$48,800	$54,200	$58,560	$62,880
30% of Median	30%	$28,470	$32,520	$36,600	$40,650	$43,920	$47,160

2022 Orange County Rent Limits **California Tax Credit Allocation Committee** **Based on Bedroom Size**	April 2022 % of Median Income	Rent levels are based on 30% of the maximum family income in each category. Rent will be adjusted based on the type of utilities paid by the tenant.	Efficiency	1 Bdrm	2 Bdrm	3 Bdrm	4 Bdrm
Median Income	100%		$2,372	$2,540	$3,050	$3,522	$3,930
60% of Median	60%		$1,423	$1,524	$1,830	$2,113	$2,358
50% of Median (Very Low-Income)	**50%**		**$1,186**	**$1,270**	**$1,525**	**$1,761**	**$1,965**
40% of Median	40%		$949	$1,016	$1,220	$1,409	$1,572
30% of Median	30%		$712	$762	$915	$1,057	$1,179

2022 HOME Program Rents
Source: HUD Exchange *(https://www.hudexchange.info/programs/home/home-rent-limits/)*

	0 Bdrm	1 Bdrm	2 Bdrm	3 Bdrm	4 Bdrm
2023 HUD Fair Market Rents *(https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2023_code/2023summary.odn)*	$1,939	$2,113	$2,539	$3,448	$4,032
High HOME Rent Limit - 65% AMI (per HUD 06/2022)	$1,523	$1,633	$1,961	$2,257	$2,498
Low HOME Rent Limit - 50% AMI	$1,186	$1,270	$1,525	$1,761	$1,965

ATTACHMENT B
MAXIMUM TOTAL DEVELOPMENT COSTS & MINIMUM SQUARE FOOTAGE REQUIREMENTS

It is the goal of the County of Orange to encourage development of affordable permanent supportive housing, which is well designed and located, and has a reasonable development cost, given local market conditions. Total project development costs must be reasonable for the type of development proposed. Projects shall not exceed cost standards of the Tax Credit Allocation Committee for determination of whether projects are "high cost" for 9% Low Income Housing Tax Credit projects, regardless of whether or not the project utilizes such tax credits. Exceptions to this may be considered on a case-by-case basis. Project costs which are excluded from this calculation, such as land costs and reserves, shall be considered reasonable.

Land costs must also be reasonable for the community in which the project is located. The County may require independent documentation of the reasonableness of land costs where necessary.

The sizes of the units in the project must be equal to or greater than the size shown in the chart below:

Unit Size	Minimum Square Feet
0 Bedrooms	No less than 300*
1 Bedroom	450
2 Bedroom	700
3 Bedroom	1,000
4 Bedroom	1,200

* The minimum square footage for a zero bedroom is no less than 300 square feet, however, applicants may request an exception and provide justification for the reduced square footage, which will be considered on a case-by-case basis.

ATTACHMENT C
SUPPORTIVE HOUSING NOFA
GUIDELINES AND DEFINITIONS

Homeless

Applicants will serve HUD Homeless Category 1 as defined below. HUD Homeless Categories 204, as defined below, are not currently eligible to be served by Applicants under this NOFA. The County reserves the right to change as needed to meet demand.

Final Rule Defining Homeless, the final rule establishes four categories of homelessness. These categories are:

1. Individuals and families who lack a fixed, regular, and adequate nighttime residence and includes a subset for an individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or a place not meant for human habitation immediately before entering that institution;
2. Individuals and families who will imminently lose their primary nighttime residence;
3. Unaccompanied youth and families with children and youth who are defined as homeless under other federal statutes who do not otherwise qualify as homeless under this definition; or
4. Individuals and families who are fleeing, or are attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member

Additional information HUD information regarding Homeless definition and recordkeeping requirements are available at the following HUD websites:
https://www.hudexchange.info/news/huds-definition-of-homelessness-resources-and-guidance/
https://files.hudexchange.info/resources/documents/HomelessDefinition_RecordkeepingRequirementsandCriteria.pdf

Chronically Homeless

Chronically homeless means:

1. A ‘‘homeless individual with a disability,’’ as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:
   i. Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
   ii. Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;
2. An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or
3. A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

Additional information for defining Chronically Homeless is available at the following HUD Exchange link: https://www.hudexchange.info/resources/documents/Defining-Chronically-Homeless-Final-Rule.pdf

Permanent Housing

Permanent housing (PH) is defined as community-based housing without a designated length of stay in which formerly homeless individuals and families live as independently as possible. Under PH, a program participant must be the tenant on a lease (or sublease) for an initial term of at least one year that is renewable and is terminable only for cause. Further, leases (or subleases) must be renewable for a minimum term of one month. Permanent supportive housing is permanent housing with indefinite leasing or rental assistance paired with supportive services to assist homeless persons with a disability or families with an adult or child member with a disability achieve housing stability.

Additional information for defining Permanent Supportive Housing is available at the following HUD Exchange link: https://www.hudexchange.info/programs/coc/coc-program-eligibility-requirements/

Coordinated Entry

Coordinated Entry System is a critical component to any community's efforts to meet the goal of the Federal Strategic Plan to Prevent and End Homelessness. HUD's primary goal for Coordinated Entry System processes are that assistance be allocated as effectively as possible and as easily accessible no matter where or how people present. The Coordinated Entry System paves the way for more efficient homeless assistance systems. It will reduce the amount of time people spend before finding the right housing match; and reduce new entries into homeless by consistently offering prevention and diversion resources upfront, and it will improve data collection and quality thus providing accurate information of what type of assistance is needed in our community.

The Orange County Continuum of Care Coordinated Entry System is managed by the County of Orange and includes a vast network of service providers serving as access points for people experiencing homelessness in Orange County. The Coordinated Entry System is for anyone experiencing homelessness in Orange County including young adults, single adults, couples, families, veterans and seniors. For more information about the Coordinated Entry System in Orange County, please visit: https://ceo.ocgov.com/care-coordination/homeless-services/coordinated-entry-system. For questions regarding the Coordinated Entry System, please contact coordinatedentry@ocgov.com.

Mental Health Services Act (MHSA) Target Population

The target population is defined as adults, older adults, transition-age youth with serious mental illness, children with severe emotional disorders and their families, who at the time of assessment for housing services meet the criteria for MHSA Community Services and Supports (CSS) in their county of residence and are homeless or at risk of homelessness.

Serious Mental Disorder

This applies to adults and older adults who have a serious mental disorder. "Serious mental disorder" means a mental disorder that is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. *Per Welfare and Institutions Code 5600.3 (b).*

Verification of a serious mental disorder must be provided by a State Licensed Healthcare Professional. This may include medical service providers, Licensed Marriage and Family Therapist

(LMFT), Licensed Clinical Social Worker (LCSW), physicians or treating health care provider as stated in the Social Security Act-42 U.S.C Section 423.

ORANGE COUNTY
OC Community Resources
Our Community. Our Commitment.

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

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

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

HCD may also provide two hundred ten (210) Housing Choice, Mainstream and/or Veterans Affairs Supportive Housing Project Based Vouchers for extremely low-income households who are homeless, for projects that meet the requirements of this NOFA (regardless of whether or not capital funding is requested under this NOFA).

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

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

General Loan Terms and Conditions

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

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

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

Required Operating, Replacement and Subsidy Reserves

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

Capitalized operating expense reserve, at a minimum, shall equal the amount required to pay three (3) months of operating expenses and three (3) months of mandatory debt service under stabilized occupancy.

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

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

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

COSR FUNDING REQUEST

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

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

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

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

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

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

Application and Loan Commitment Notes

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

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

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

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

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

NOTE: This term sheet is subject to change.

ATTACHMENT E
PROPERTY MANAGEMENT PLAN GUIDELINES FOR
MULTI-FAMILY RENTAL HOUSING PROJECTS

In consideration for your loan from the County of Orange, you must submit a Management Plan package for the review and approval of OC Housing and Community Development (HCD). To be approved, your plan package must satisfactorily address the requirements listed below in the following three parts:

1. Information on Management Agent.
2. Management Plan.
3. Documents attached to Management Plan.
4. Plans will be approved that satisfactorily meet these requirements.

A. Information on Management Agent

The following information is required for the Management Agent:

1. Name, address, contact person, telephone, fax numbers, and e-mail.
2. Type of Organization: corporation, for-profit, non-profit, partnership, sole proprietor, other.
3. Number of years experience managing property; managing affordable rental property.
4. Number and type of projects currently under management: private subsidized, affordable, commercial. List name of project, name, address, telephone number of project owner, dates managed, describe unit size, type, and affordability.
5. Copy of proposed agent's real estate broker's license.
6. Copy of Corporation's certificate of status and statement of officers (if applicable).
7. Copy of the Management Agreement with the Owner/Developer.

B. Management Plan

The following information is required to be contained in the Management Plan.

1. Development name and address, number of units.
2. Amount and terms of compensation of Management Agent. Describe scope of responsibilities of Agent and indicate circumstances under which agent will need prior approval from owner.
3. Term of contract with Management Agent.

4. Provision for OC Housing and Community Development (HCD) approval of termination or change of Management Agent.

5. Number of employees, their job descriptions and salaries. Include time basis and percent of time proposed to be spent on project. Indicate policy when employing residents and indicate if unit rent is affected by their employment. Include provision requiring resident manager if more than 16 units.

6. Procedures to determine tenant eligibility*, and for certifying and re-certifying household income and size. Describe steps to determine initial eligibility for filling vacancies. Describe annual tenant recertification procedure. Describe action to be taken if household's income exceeds program limits. Describe action to be taken if the number of persons occupying the unit increases and is no longer appropriate for unit size occupied. Describe procedure for implementation of tenant occupancy standards.

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

7. Provision to transfer records and accounts upon termination of contract.

8. Provision requiring accounting and certification of cash, bank accounts, and trust accounts with right for owner approval. Describe procedure for expending funds on items not budgeted or that exceed the spending authorization.

9. Describe procedures for compliance with reporting requirements of HCD including provision of the annual audit and the certified annual report.

10. Provisions required for affirmative marketing, including a description of the methods to be used to notify the area's general population of the availability of assisted housing. Management plan must specify the following:

    a. Statement of Nondiscrimination

    b. The process for identifying persons least likely to know about the available units

    c. Method of advertising, including advertising in English/Spanish/Vietnamese and or other language which will ensure the greatest possible number of non-English speaking minorities are reached

    d. Process for notification of eligibility to applicants

    e. Grievance and Appeal Procedure

11. Procedures and standards for selecting tenants*. These standards may include rental history, income, credit history, and other relevant information, but may not include items excluded by

Fair Housing regulations. The resident selection criteria must include the income restrictions imposed be the County. Any minimum income guidelines set by the management company must be low enough to include the majority of the group to be served by the project.

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

12. Procedure for collection of rents and other receipts. Describe procedure to record vacancies and rent losses. Describe how rent will be calculated and collected.

13. Provision for keeping separate accounts for general operation, replacement reserve account, operating reserve account, and security deposit account. Describe use of security deposit account with policy for refund.

14. Procedures for disbursement from the general operating account, replacement and operating reserve accounts, and security deposit account. Include procedure for obtaining approval from HCD for disbursements from the reserve accounts. Describe system for cost control and purchasing. Describe system for assuring that monthly cash flow is sufficient to cover all operating expenses, reserve deposits, and loan payments. Describe system for determining payments on HCD loans. Describe system for tax credit reporting, accounting requirements, and any other financial reporting required by other funding/lending entities.

15. Provision for insurance.

16. Indicate basis of accounting that is used for project records.

17. Procedure for preparation, submission, and approval of proposed operating budget.

18. Describe procedure for maintenance and repairs in the following areas:

    - Schedule of preventative maintenance,
    - Provide a schedule for replacement items,
    - Procedure for making non-emergency repairs and emergency repairs,
    - Describe procedure for the identification and follow-up on construction defects,
    - Procedure for charging the tenant to repair tenant caused damage,
    - Procedure for tenant to dispute charges,
    - Authorization of purchases of equipment and supplies,
    - Describe maintenance to be performed by on-site staff and contractors,
    - Describe method of completing and recording routine and emergency tenant maintenance requests,
    - Maintenance of a service log book, and
    - Identify special security provisions.

19. Procedures for rent adjustments.

20. Procedures for provision of utilities and services for common areas.
21. Procedures for enforcement of residential leases and house rules. Describe actions to be taken when rent is late and circumstances if and when partial rent payments will be accepted. Describe how damages in excess of security deposit will be recovered from a vacating tenant.
22. Procedures for provision of resident services.
23. Procedures for termination of tenancies and evictions. Include grievance procedures.
24. Procedures for compliance with government orders.
25. Procedures for nondiscrimination.
26. Procedures for fidelity bond.
27. Provisions for inspection of units.
28. Procedures for procurement of contract services, discounts, rebates and commissions.
29. Procedures for protecting rights of HCD under contract with borrower.

C. <u>Documents Attached to Management Plan</u>

1. Management agent contract including the following terms:

    a. Name of agent and agent compensation,

    b. Number of employees,

    c. Delineation of responsibilities including duties related to affirmative marketing, tenant selection, and annual re-certification,

    d. Collection of rents,

    e. Responsibilities for accounts,

    f. Disbursements,

    g. Records and reports,

    h. Insurance,

    i. Maintenance and repairs,

    j. Utilities and services,

    k. Enforcement of leases,

    l. Terminations and evictions,

m. Rent increases and adjustments,

n. Nondiscrimination,

o. Inspection of units

p. Contracts and bids,

q. Bonds,

r. Term of agreement,

s. Termination of agreement,

t. HCD compliance procedures and requirements,

2. An updated operating expense budget,
3. List of employees assigned to the project/development,
4. Application for occupancy and notice of eligibility or ineligibility (Tenant Information Sheet),
5. Waiting list form,
6. Lease form,
7. Service plan (if applicable),
8. Unit inspection report form,
9. Maintenance schedule,
10. Replacement schedule,
11. Application for recertification form,
12. Tenant income verification forms,
13. Re-certification process checklist,
14. Copy of affirmative marketing flyer,
15. Copy of proposed rent schedule, and
16. Schedule of tenant paid utilities.

ATTACHMENT F
COUNTY OF ORANGE INSURANCE REQUIREMENTS

Insurance. While any obligation of Borrower under any Loan Document remains outstanding, Borrower shall maintain at Borrower's sole expense, the following policies of insurance in form and substance as follows:

A. Commercial General Liability insurance in an amount not less than $1,000,000 per occurrence and $2,000,000 in the aggregate;

B. Commercial Auto Liability insurance covering all owned or scheduled, non-owned and hired autos with a limit of $1,000,000 combined single limit each accident;

C. Statutory Workers' compensation insurance and Employer's Liability with a minimum limit of $1,000,000 per occurrence;

D. Commercial Property Insurance on an "All Risk" or "Special Causes of Loss" form for 100% of the Replacement Cost Value and no coinsurance provision. (including insurance against loss by flood if the Project is located in an area now or hereafter designated as subject to the danger of flood but excluding insurance against loss by earthquake). Builders Risk coverage is required for new construction or any major remodels.

E. Rent loss insurance for a period of at least one year

F. The Commercial Property policy and Builders Risk policy if applicable, shall include a "lender's loss payable endorsement" to the County assuring County that all proceeds shall be paid to County as provided in the Deed of Trust subject to the interests of the senior lenders on the Project. The County shall be an additional insured with ISO forms Cg 20 26 04 13 and ISO form Cg 20 37 04 13, or comparable forms that provide the same broad coverage, on the Commercial General Liability policy, and such insurance shall be primary, and any insurance maintained by the County shall be excess and non-contributing. Evidence of primary and non-contributory coverage shall be provided with ISO form CG 20 01 04 13, or a form at least as broad. All policies shall waive all rights of subrogation against the County, its elected and appointed officials, officers, agents, and employees. The general liability policy shall contain a severability of interest's clause. Certificates of insurance and endorsements for all of the above policies (and/or original policies, if required by the County from time to time), showing the same to be in full force and effect, shall be delivered to the County.

G. All self-insured retentions (SIR)'s shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars $50,000 shall specifically be approved by the County's Risk Manager, or designee. The County reserves the right to require current audited financial reports from Contractor. If Contractor is self-insured, Contractor will indemnify the County for any and all claims resulting or arising from Contractor's services in accordance with the indemnity provision stated in this contract.

If the Borrower fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

H. **Qualified Insurer**

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com).**

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

I. Borrower shall file with the County, prior to the funding of the Loan, a Certificate of Insurance together with all required endorsements evidencing that the coverage required under this Loan Agreement is in full force and effect.

J. All contractors and subcontractors performing work on behalf of Borrower pursuant to this Loan Agreement shall be covered under Borrower’s insurance or shall obtain insurance subject to the same terms and conditions as set forth herein for Borrower.

K. The County retains the rights at any time to review the coverage, form and amount of the insurance required hereby. If, in the opinion of the County, the insurance provisions in this Loan Agreement do not provide adequate protection for the County, the County may require Borrower to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. The County’s said additional requirements shall be reasonable and shall be designed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required. County shall notify Borrower in writing of changes in the insurance requirements. If Borrower does not deposit copies of acceptable certificates of insurance and endorsements with the County incorporating such changes within thirty (30) days of receipt of such notice, said failure shall constitute, at the option of County, an Event of Default (hereinafter defined in Article VIII) this Loan Agreement without further notice to Borrower.

L. The procuring of such required policy or policies of insurance shall not be construed to limit Borrower’s liability hereunder nor to fulfill the indemnification provisions and requirements of this Loan Agreement.

ATTACHMENT G
SAMPLE PERM COMMITMENT LETTER

ORANGE COUNTY
OC Community Resources
Our Community. Our Commitment.

DATE

Vice President

City, CA ------------

RE: Organization Name, Permanent Loan Commitment
Organization address

Dear Mr./Ms. --------------------------:

We are pleased to inform you that the Orange County Board of Supervisors approved the loan, as described below, for your project on ------------, 20--.

LOAN COMMITMENT(s)

PERMANENT: A funding maximum of ---------------- in U.S. Department of Housing and Urban Development ("HUD") HOME Investment Partnerships Program funds, Orange County Housing Successor Agency funds and/or Mental Health Services Act (MHSA) funds for ----------------.

PROJECT DESCRIPTION:

The proposed development is a ------------------ apartment consisting of ----- bedroom units ("Project"). The purpose of the Project is to provide affordable permanent supportive housing for families in Orange County. --------------of the units will be restricted to homeless persons with disabilities earning at or below 30% of the Area Median Income ("AMI"). One two-bedroom unit will be used as an on-site manager's unit. Housing and Community Development (HCD) will record rent and occupancy restrictions on a total of --------- units in the project, --------- two-bedroom and --------- three-bedroom units. Occupancy of the HCD units will be restricted to households earning at or below 30% AMI for a period of fifty-five (55) years.

Project funding will be contingent on the following underwriting conditions: This commitment is valid only if the borrower applies for and receives a commitment of funds for: (1) no less than $---------- in tax credit equity, (2) no less than $------------- from the City of---------, and (3) no less than $------- from --------- Bank. Material changes to the amount of financing and the total development cost of the Project, which affect the underwriting of the Project are subject to HCD review and approval.

Increases or decreases to the financing and the total development costs of the Project, which affect the underwriting of the project, are subject to the HCD review and approval. Any increases to the financing and total development costs of the Project which fall outside of HCD staff's delegated authority will be subject to consideration and approval by the Board of Supervisors.

HCD reserves the right to re-underwrite any project based on any material changes to the financing. Financial changes to the Project must be reported to HCD within thirty (30) days of their occurrence. This commitment expires 24 months from the date of this letter unless the Project receives the aforementioned financing, and the borrower executes the County's loan documents pursuant to the conditions set forth in this commitment letter, or HCD has approved an extension of the terms and conditions. The borrower has the ability to obtain one (1) six (6) month extension, as approved by HCD; additional extensions may require Board of Supervisors approval.

HCD reserves the right to require that units assisted under this loan utilize the County's Coordinated Entry System.

I. <u>Loan Terms Applicable to the Permanent Loan</u>

1. Term: 55 years from the date of completion of construction of the Project, as evidenced by a Certificate of Occupancy and recorded Notice of Completion.

2. Rate: 3% simple interest.

3. Repayment: Residual Receipts. %%% of the residual receipts will go to the County of Orange.

4. Security: Deed of Trust securing a Promissory Note in the amount of $------------. All loan documents shall be in a form approved by the County and borrower. The HCD loan shall be non-recourse to borrower except for liabilities arising out of, or due to, fraud, criminal activity, and other standard County conditions.

5. Loan Closing: Disbursement of loan proceeds will be based on completion of work and submission of invoices for approved expenses.

   Disbursement of the County loan may occur upon 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 HCD Loan Closing Checklist, (7) the borrower satisfies the other conditions to closing set forth in the loan documents.

6. Subordination: <u>The Deed of Trust securing said loan shall be recorded, insured and encumber the subject real property as a **second** Deed of Trust only</u>. If said County loan is junior to senior debt approved by the County, the County will execute a subordination agreement 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 County's loan.

7. Affordability: 55-year regulatory agreement to be recorded, unsubordinated

II. <u>Other Financing</u>

1. Terms Applicable to the Project-Based Housing Choice Vouchers

   Affordability: (No. PBV) units restricted to homeless persons (as defined by the 2023 Supportive Housing NOFA) with incomes at or below 30% of Area Median Income for a term of twenty (20) years, or as stated in the OCHA Administrative Plan, which is revised from time to time.

2. Other Financing: The following financing has been underwritten as follows in the County's

Pro Forma dated _____________, 2023:

Bank Loan: _____________________

Security: First Deed of Trust

City Grant: _____________________

Security: None

AHP Grant: _____________________

Security: Third position

Pro Forma dated _____________, 2023:

III. Conditions Applicable to the Loan

1. 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 & Homeless Prevention approved title encumbrances.

2. The borrower shall provide an ALTA Lender's Policy of Title Insurance containing such title endorsements as required by the County.

3. The borrower must comply with all the applicable requirements, statutes, and regulations of the funding source(s) being utilized for the proposed Project, which includes federal HOME funds, Orange County Housing Successor funds and Mental Health Services Act Funds.

4. The borrower shall complete and execute all Affirmative Action and Minority- and Women-Owned Business Enterprise plans provided by the County.

5. The borrower shall submit a project timeline for review and approval by HCD. The project schedule will be attached as an exhibit to the loan agreement. Non-compliance with this schedule, unless specifically permitted by HCD, shall be considered a default under the County loan agreement.

6. The borrower shall execute all County standard loan documents that are required or deemed appropriate by the County in a form approved by the County in its discretion.

7. The borrower shall submit evidence of insurance on County approved forms with such carriers and in such amounts and containing such deductibles as may be approved by the County.

8. 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 Housing Choice Vouchers and/or Veterans Affairs Supportive Housing Project Based Vouchers 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 borrower will be required demonstrating that residents throughout the County will have equal opportunity at obtaining units in the Project.

9. Upon execution of the loan agreement, the borrower shall execute and cause to be recorded County form affordability covenants restricting the occupancy of the units for a period of 55

years. The affordability covenants will remain in effect for not less than the agreed upon term regardless of the date upon which the HCD loan is fully repaid if that date occurs prior to the expiration of the covenant. Said covenant shall be in a form approved by the County.

10. The borrower shall submit for review and approval by HCD by-laws and articles of incorporation as well as a Board of Director's resolution authorizing the loan.

11. The borrower shall submit for HCD review and approval executed commitments and loan documents for all sources of financing in amounts and with terms consistent with the Financial Pro Forma -------------------------.

12. The borrower shall submit for HCD review and approval the construction drawings, as approved by the City of ------------------. HCD will have the right to review and approve all material changes to the construction drawings.

13. If applicable, the borrower shall submit for review and approval by HCD all service contracts budgeted in the development costs. No disbursements will be processed for services whose contracts were not approved in advance and/or which are not in compliance with the budget submitted to HCD

14. The borrower shall submit a management plan for review and approval by HCD. HCD will have the right to review, approve, and require changes to the property management plan, operation of the building, and property management entity in order to preserve the affordability, physical appearance and condition of the project, during the fifty (55) years of the covenant.

15. A Phase I environmental assessment dated -------------------- has been reviewed and approved by the County. No funds shall be disbursed until an updated environmental clearance showing no material changes to the environmental condition to the property has been received and approved by the County.

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, if applicable.

18. HCD may subordinate its security to approved construction and permanent financing. Any changes to subordination amount or position on title require approval prior to funding.

19. The borrower and HCD agree to comply with the requirements of Article XXXIV of the California Constitution as applicable.

20. HCD will specify in the County loan documents events which will cause HCD to declare the borrower in default. These events include, but are not limited to, development or operational cost overruns, breach of rent covenants, failure to maintain the property, failure to make agreed upon loan repayments, breach of affirmative action, equal opportunity and MBE/WBE requirements, failure to abide by prevailing wage requirements if applicable, failure to maintain appropriate insurance coverage, failure to abide by development and/or construction schedules, bankruptcy, and dissolution or insolvency of the borrower or general partner or borrower's partnership.

21. The loan is subject to the total development cost and, specifically, the developer fee and contractor's overhead and profit, not differing by more than 5% from the amount indicated in the Development Cost Schedule.

22. Prior to the commencement of any construction of the project, Borrower shall deliver to County a complete copy of the executed construction contract

23. The construction contract(s) shall be awarded pursuant to a negotiated bid. 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.

24. Prior to the commencement of any construction of the project, Borrower shall deliver to County copies of performance and payment bonds for such construction.

25. The borrower agrees to comply with and complete all mitigation measures and requirements identified in the Environmental Assessment and the National Environmental Protection Act (NEPA) process.

The parties intend that the County shall only be obligated to fund the subject loan and project based vouchers when: (i) all of the matters set forth in this commitment letter have been satisfied, completed or waived, (ii) the borrower has satisfied all of the conditions to closing 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 due to a requirement by the State of California or HUD to transfer all, or a portion, of the County's Housing Successor Agency Fund or other County housing funds, to the State's general fund or HUD, the Borrower and the County agree and acknowledge that this letter shall be terminated and the County or the Orange County Housing Successor Agency, as applicable, shall have no obligation to make the Loan 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 the original to HCD at 1501 E St. Andrew Place, Santa Ana CA, 92705

Sincerely,

Director

Partnership, LLC consents to the terms and conditions set forth in this letter.

By: ______________________________
Name

____
Title

____
Date

By: ______________________________
Name

____
Title

____
Date

Attachment: County of Orange Agenda Staff Report (ASR) – -------------------

ATTACHMENT H
SUMMARY OF COUNTY OF ORANGE
APARTMENT DEVELOPMENT REVENUE BONDS

Staff Contact: Louis McClure, County Executive Office (714) 834-5999, Luis.McClure@ocgov.com

- The Apartment Development Revenue Bond Program provides lower interest rate, primary financing for qualified borrowers (developers) for the acquisition and construction of multifamily rental housing. Projects may be located anywhere in Orange County and must be either new construction projects or acquisition/rehabilitation of existing projects. A "typical" bond financed loan is $7 million or more for which the issuance cost is approximately $300,000.
  - A minimum of <u>either</u> 20% of total units must be affordable for very low-income households; <u>or</u> 10% of total units must be affordable for very low-income households and 30% of total units must be affordable for households at 60% of area median income. The bond affordability period is the <u>longer</u> of 15 years or as long as the bonds are outstanding (approximately 30 years).
  - If approved by OC Housing and Community Development and the Board of Supervisors, OC Community Resources funding may be used for bond financed projects to produce additional affordable units or "deeper" affordability.
- The borrower will be responsible for paying all costs related to the bonds, including the costs of bond issuance and fees of the finance team (e.g., underwriter, lender, bond counsel, financial advisor, trustee and compliance administrator for the affordable units).
- The borrower will also be responsible for repaying the bond financed loan, typically over a 30-year period. The bonds are backed by a letter of credit, insurance or guarantee from a lender (e.g., Fannie Mae, Freddie Mac or acceptable bank) which if needed, will pay the bond interest and principal. At its discretion, the County may consider private placement of the bonds by a qualified institution.
- After the borrower obtains site control for the project and a lender commitment for the bonds, the borrower should be ready to prepare an application to first the County, and if approved, to the California Debt Limit Allocation Committee (CDLAC) for an allocation of tax-exempt bonds. The following summarizes the County and CDLAC process:
  - The financing concept and finance team must be approved by the Public Financing Advisory Committee (PFAC).
  - If approved by PFAC, the Board of Supervisors will be requested to conduct a public hearing and approve the inducement resolution required for tax-exempt bonds, financing concept, finance team and application submittal to CDLAC.
  - After submittal of the CDLAC application, CDLAC will award bond allocations to higher ranked applications during its scheduled allocation meetings.
  - If a bond allocation is awarded, thereafter, the finance team, including the borrower and County staff, will finalize the financing terms and prepare the bond documents.
  - The financing terms and documents, and issuance of the bonds must be approved by PFAC and thereafter, the Board of Supervisors. Bonds must be issued within 90 days after the date of the CDLAC award, or another date set by CDLAC.
- Please call the staff person listed above prior to preparing your apartment bond application and submitting it to the County Executive Office.

ATTACHMENT I
INSTRUCTIONS FOR RELOCATION PLANS

Where relocation is anticipated, a detailed cost estimate by a qualified relocation specialist must be provided with the proposal. All proposals must include an anti-displacement/relocation plan in compliance with relocation law.

All proposals must comply with applicable relocation laws: either the California Relocation Assistance Law, Health and Safety Code Section 7260, et seq. ("CRAL") or Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended ("URA"), and Final Rule Effective February 3, 2005. The CRAL implementing regulations are found in the California Code of Regulations, Title 25, Housing and Community Development, Division 1, Chapter 6, Section 6000, et seq. The URA implementing regulations are found in the Code of Federal Regulations, 49 CFR Part 24, and the specific federal programs in 24 CFR Parts 42, 91, 92 and 570, including for example, the CDBG and HOME programs.

Proposals must include a line item in their development budget for possible tenant relocation/displacement costs. **Proposals that require the displacement of a significant number of households will generally not be considered.**

DO NOT BEGIN NOTICING REQUIREMENTS UNTIL FINAL PROJECT APPROVAL

RELOCATION PLANS

Relocation plans must include all items required by the CRAL and URA, as applicable. This may include, but is not limited to:

1. Project Area Description
    - Regional location
    - Project Site Address, APN(s), and Map
    - General demographic and housing characteristics
2. Definition of Terms
3. Description of Displacement Activities
    - Scope of construction/rehabilitation
    - Projected dates of displacement
4. Assessment of Resident Needs and How Needs are to be Met
    - Methodology describing how needs were determined
    - Number of displaced households
    - Analysis of aggregate relocation needs of all displaced persons and how needs will be met, including but not limited to:
        - Household income levels
        - Ages
        - Special needs (i.e. ADA improvements)
        - Primary language(s)
        - Parking and public transportation needs
        - Preferred relocation location(s) considering proximity to jobs and schools (i.e. City, neighborhood, school zone, etc.)
    - Numerical summary of needs

5. Analysis of relocation housing resources
   - Standards for a decent and sanitary comparable replacement dwelling
   - Comparable replacement dwelling survey that meets resident needs
   - Estimated replacement dwelling costs
6. Description relocation advisory services
   - Detailed description of services to be provided
   - Procedures for comparable replacement dwelling identification and referrals
   - Relocation office and/or coordinator procedures
7. Temporary relocation plans, if applicable
8. Description of relocation payments
   - Relocation cost estimate and funding sources
   - Last resort housing plan
9. Standard information statement for all displaced renters
10. Public participation and review
    - Plans for citizen participation
    - Comments of relocation committee, if applicable
    - Written determination by a local public entity that necessary resources will be available, if applicable
    - Compliance with 30-day review period

The Relocation Plan must be approved by the community's legislative body at least thirty (30) days after the relocatees have received a General Notice.

Even if a Relocation Plan is not required, the displacing Developer must conduct a survey and analysis to determine the availability of Comparable replacement dwellings. This must be started within 60 days of the Initiation of Negotiations.

RELOCATION ASSISTANCE REQUIREMENTS

Relocation assistance must comply with the CRAL and URA, as applicable. This may include, but is not limited to:

1. For projects receiving federal funds, assistance must be provided in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (URA), and Final Rule Effective February 3, 2005 (42 U.S.C. 4201-4655) and 49 CFR part 24.
2. Under both federal and state law, a residential tenant who is defined as a Displaced Person and who has occupied the displacement property for 90 days prior to the Initiation of Negotiations is eligible for a long-term replacement housing payment.
3. Notice Requirements: To be given to tenants who are expected to relocate and also those who are not expected to relocate).
   - General Information Notice: Must give general information about the anticipated acquisition of the affected property and potential relocation of tenants within 60 days of Initiation of Negotiations.
   - Eligibility or Non-Displacement Notice:

- An Eligibility Notice must provide information about the relocation benefits and the terms and conditions under which the tenant may lease and occupy a Comparable replacement dwelling. The agency must determine the particular benefits for which the person is eligible. Agencies are required to inform tenant occupants of their potential eligibility for relocation assistance when negotiations are initiated, when and if they become fully eligible, and in the event the purchase will not occur, notify them that they are no longer eligible for relocation assistance.
- Ninety-Day Notice to Vacate: Should specify a date, at least ninety days away, to be completely moved out of the property (exceptions can be found in 24 CFR 24.203(c), HUD Handbook Section 2-3(c) and 25 CCR 6042(e)) on which the tenant is expected to relocate.
- If no displacement is expected, a Notice of Non-Displacement and should notify the tenants that the project will not result in an unreasonable change in the character or use of the property.

4. No Displaced Person can be relocated until at least three comparable replacement dwellings have been made available to the person.
5. Reimbursement must be provided for all reasonable out-of-pocket expenses incurred in connection with temporary relocation, including the cost of moving to and from the temporarily occupied housing (HUD Handbook Section 3-2; Government Code Sections 7262(a) and (b); 25 CCR Sections 6090 and 6098). Limit on "temporary relocation" to no longer than 12 months. Residents or businesses, which are temporarily displaced, must be contacted after 12 months and offered permanent relocation benefits.
6. Reimbursement must be provided for any increase in monthly rent/utility costs incurred with temporary relocation.

IF COMPARABLE REPLACEMENT HOUSING IS NOT AVAILABLE (WHETHER BECAUSE OF PHYSICAL AVAILABILITY, CONDITION, OR AFFORDABILITY) TO A RELOCATEE, THE AGENCY IS ABLE TO TERMINATE THE ACQUISITION.

DEFINITIONS:

Displaced Person: Both state and federal law define a "Displaced person" as a person who moves from their property as a result of acquisition of the property by a public agency, or by a private entity under contract with or on behalf of a public agency, or as a result of receipt of a notice of intention to acquire by a public agency. This includes all people who move as a result of the rehabilitation, demolition, or other activity of an agency or private party acting under contract with or on behalf of an agency.

No or Minimal Displacement: No or minimal displacement 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.

Comparable: A replacement dwelling is "Comparable" if it meets several criteria including being decent, safe, and sanitary, functionally equivalent to the original dwelling, and adequate in size. In addition, a comparable replacement dwelling must be within the financial means of the relocatee.

Initiation of Negotiations: The Initiation of Negotiations (ION) does not become effective for purposes of relocation eligibility until there is execution of an agreement between the agency and owner covering the acquisition, rehabilitation, or demolition of property.

For further information, it is recommended that you contact a relocation consultant.

Attachment J
Affordable Housing Opportunity Overlay Zone
Eligible Sites

The purpose of the Orange County Housing Opportunities Manual is to provide implementation guidelines for the Housing Opportunities Overlay Regulations pursuant to Section 7-9-148.6 of the County of Orange Zoning Code and the Housing Element of the County of Orange General Plan. The Housing Opportunities Overlay Regulations (Overlay Regulations) permit the development of affordable housing, emergency shelters, and multi-service centers in commercial and industrial districts in the unincorporated area. The Overlay Regulations also allow affordable housing projects on certain residentially-zoned arterial highway frontage parcels in the unincorporated area. These uses are consistent with the County of Orange Zoning Code and County of Orange General Plan and are therefore allowed "by-right" subject to the provisions of Zoning Code section 7-9-148.

The Orange County Housing Opportunities Manual (2014) is available on the OC Development Services/Planning website at the following link: https://ocds.ocpublicworks.com/service-areas/oc-development-services/building-safety/building-grading-information/codes

A list and maps of eligible sites under the Housing Opportunities Overlay are available in the Land Inventory (Appendix B) of the County of Orange Housing Element adopted December 10, 2013. The Housing Element is available on the OC Development Services/Planning website at the following link: https://ocds.ocpublicworks.com/sites/ocpwocds/files/import/data/files/33606.pdf

For updates on the Affordable Housing Overlay contact Joanna Chang (714) 667-8815 or joanna.chang@ocpw.ocgov.com

Loan Closing Checklist - New Construction

Project Name:
Project Manager:
Estimated Date of Loan Closing:

	Date Received	County Counsel Approval Required Date of Approval	Project Manager Approval	Item	Comments
				Construction Closing	
1				Submit a copy of all draft and/or executed loan documents from Borrower's other financing sources.	
2				Submit an updated development time line. During the construction phase of the project, update the development time line quarterly.	
3				If applicable, submit the current wage determination from either the State of California Department of Industrial Realations (DIR) or from the U.S. Department of Labor.	
4				Submit a copy of the executed Construction Contract between the developer/borrower and the General Contractor.	
5				Submit copies of fully executed Partnership Agreements, other organizational documents and certificates (Certificate of Status and LP-1 &/or LP2).	
6				If applicable, submit copies of executed City Redevelopment Agency's DDA or OPA agreements (that were not included in application) and any amendments thereto.	
7				If applicable, submit a copy of the executed ground lease.	
8				Submit copies of all project construction and permanent financing commitment letters.	
9				Submit Preliminary Title Report with copies of all recorded documents and/or easements shown on the report.	
10				Submit a UCC search to identify other outstanding liens against the property.	
11				Submit an updated construction time line and estimated closing schedule.	
12				Submit borrower's W-9 Tax Form	
13				Borrower shall submit a letter requesting the amount of the loan proceeds, a detailed description of the use of said funds and information regarding when those funds will be needed.	
14				Borrower shall submit a County of Orange Disclosure Statement and environmental questionnaire.	
15				If applicable, submit Phase II Environmental Assessment outlining any remediation work required, and verifying that remedial work was completed. If applicable, submit copies of contracts for any environmental remedial work.	
16				Submit copies of all necessary use permits, density bonus agreements, and other entitlements not included in application.	
17				Submit an updated Marketing Plan. Include marketing materials and the residential lease.	
18				Submit copies of other lenders permanent draft/executed loan, regulatory and subordination agreements, as applicable.	
19				Submit an updated Exhibit 4.03 of the Current NOFA - Rents, Income, Operating Expense Budget, 15 year Operating pro-forma, Sources & Uses	
20				Submit a copy of the executed Property Management Agreement, including amendments.	
21				Submit all necessary insurance documents as required in the Loan Agreement.	
22				Submit a list of names of officers authorized to sign on behalf of borrower.	
23				Submit UCC-2 Termination Statement for Existing Financing Statement	
24				Submit an audited year end financial statement including balance sheet (not more than 1 year old).	
25				Submit the Secretary of State's Certificate of Good Standing for Borrower.	
26				Submit ALTA As-Built Survey, performed in accordance with current ALTA/ASCM/NSPS requirements, and showing optional survey items 2, 3, 4, 5, 6, 7(a) copies of all underlying exceptions and a plot maps with plotted easements.	
27				Borrower and County will make arrangements to execute the loan agreement and all other related loan documents.	
				Permanent Conversion	
28				Submit an updated social services plan, copies of executed service agreements, budget and information on status of services funding.	
29				Submit a copy of final Property Management Plan.	
30				Submit a record of any Reconveyance of any loan that existed against the property since the borrower took title and has since has been repaid.	
31				Submit a copy of the Architect's Certification of Completion.	
32				At least 30 days prior to funding, Borrower shall submit either (i) a TCAC Placed In Service Cost Certification Statement, including a Final Cost Certification, signed by the Borrower's Tax Professional as required by TCAC, or (ii) a statement from a Certified Public Accountant of the total cost of the Project, indicating the major cost categories and respective amounts.	
33				Submit copy of TCAC "Placed in Service" application (if applicable).	
34				Submit copy of final Certificate of Occupancy.	
35				Submit copy of evidence of recorded Notice of Completion.	
36				Prevailing Wage Compliance Certification. Due 30 days after construction has been completed.	
37				Draft audited Development Cost Certification and draft Development Cost Audit. Due 60 days after construction completed.	
38				Final Permanent lender loan docs and escrow instructions.	
39				Final Executed Permanent Loan Doc's	
40				Lien period expiration date: 120 days after issuance of Certificate of Occupancy must have clear title.	
41				As Built Appraisal within 6 months of construction completion	
				Post Closing	
42				Evidence of Property Tax exemption.	

ATTACHMENT L
AFFORDABILITY MONITORING

In order to comply with the Federal monitoring and reporting requirements for affordable housing as dictated by each funding source and contractual agreement, and to ensure compliance with all applicable OC Housing and Community Development (HCD) programs, HCD administers a comprehensive monitoring program.

HCD staff will conduct monitoring visits at ***all*** County-assisted affordable housing developments for the purposes of:

A. determining if a Developer/Property Manager is carrying out the affordability requirements for housing set forth in the applicable Agreement/Contract, and

B. ensuring that required records be maintained to demonstrate compliance with affordability requirements, and

C. determining if an affordable housing development is in compliance with federal Housing Quality Standards (HQS), and

D. determining if the Affirmative Fair Housing Marketing Plan and Tenant Selection Plan/Resident Selection Criteria are in compliance with the equal opportunity regulations under Federal Housing Administration subsidized and unsubsidized housing programs.

HCD staff will coordinate with the Orange County Housing Authority for units assisted with Project Based Housing Choice Vouchers.

ATTACHMENT M
POLICY AND PROCEDURE FOR CONTRACTING WITH MINORITY BUSINESS ENTERPRISES, WOMEN-OWNED ENTERPRISES AND DISADVANTAGED ENTERPRISES

I Purpose

OC Housing and Community Development (HCD) hereby establishes guidelines to affirmatively further contracting opportunities for Minority Business Enterprises (MBE's), Women Business Enterprises (WBE) and Disadvantaged Business Enterprises (DBE's). These guidelines pertain to applicants under all of HCDprograms and they are designed to:

A. Promote the employment of disadvantaged businesses by providing increased opportunities to MBE's/WBE's/DBE'S for participation in HCD projects.
B. Provide HCD with a process for tracking MBE's/WBE's/DBE'S.
C. Establish and maintain a records system that clearly documents actions taken by OC HCD, and bidding entities (i.e Contractor), to comply with Executive Orders 11625, 12432,12138 and 13170.
D. Provide clear and concise information to Prime Contractors on how to qualify as a MBE/WBE/DBE.

II Scope

HCD is complying with Executive Orders 11625, 12432, and 12138 in taking affirmative steps towards providing opportunities to minority-owned women-owned and disadvantaged owned business enterprises. Towards this end, HCD is strongly encouraging Prime Contractors to subcontract or joint venture with firms who meet the definition of MBE/WBE/DBE. Prime Contractors are encouraged to contract with consortiums of minority-owned firms and women's business enterprises when a contract is too large to be handled individually. Prime Contractors are encouraged to submit proposals by advertising subcontracting opportunities in trade newspapers/notices and magazines, trade and union publications, and publications of general circulation. Prime Contractors are encouraged to use the services and assistance, as appropriate, of certifying organizations in the solicitation and utilization of small businesses, minority-owned firms, and women's business enterprises.

HCD is taking affirmative steps to the extent possible to meet the requirements in 24 CFR 84.44. HCD will:

A. Ensure that **minority**-owned firms and women's business enterprises are, to the fullest extent possible, given equal opportunities to participate in the HCD contract bidding process.
B. Make information on forthcoming opportunities available and arrange time frames for contracts to encourage and facilitate participation by small businesses, **minority**-owned firms, woman's business enterprises and disadvantaged-owned enterprises.
C. Consider in the contract process whether firms competing for larger contracts "made a good faith effort" to subcontract with **minority**-owned firms, women's business enterprises and disadvantaged-owned enterprises.
D. Encourage contracting with consortiums of **minority**-owned firms, women's business enterprises and disadvantaged-owned enterprises when a contract is too large for one of these firms to handle individually.
E. Encourage Contactors to use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of **minority**-owned firms, women's business enterprises and disadvantaged-owned enterprises.

III <u>Definitions</u>

Minority-owned firms and women's business enterprises fall under the category of Disadvantaged Business Enterprises as defined in 49 CFR 26. Therefore, to meet the definition of a MBE a WBE or a DBE, a firm must have the following characteristics:

A. At least 51% owned and controlled by one or more socially and economically disadvantaged individuals or in the case of any publicly-owned business, at least 51% of the stock of which is owned and by one or more socially and economically disadvantaged individuals; and
B. The management and daily business operations of which are controlled by one or more socially and economically disadvantaged individuals who own it.

A ***socially disadvantaged*** individual is considered socially disadvantaged because of his/her color, origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.

An ***economically disadvantaged*** individual is one whose ability to compete in free enterprises has been impaired due to diminished capital and credit opportunities, compared to others in the same line of business and competitive market area who are not socially disadvantaged.

Socially and economically disadvantaged individuals are those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, women, and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act or by Regional Certification Reciprocity Council (RCRC)/Orange County Transportation Authority, pursuant to 49 CFR Section 26.67.

For purposes of these policies, the ***prime contractor*** shall be a business or firm who is proposing to assume the responsibility as the primary entity to whom a contract may or will be awarded for a particular service. The prime contractor shall be responsible for the management of all aspects of a contract, including the subcontracting of services to secondary businesses or firms.

IV. Good Faith Effort

Prime Contractors wishing to contract with HCD must make a "Good Faith Effort" to partner or subcontract with MBE's/WBE's. The "Good Faith Effort" involves a reasonable attempt to contract with MBE's/WBE's. The following indicators will be used to determine the Contractor's compliance with the "Good Faith Effort" requirements:

A. The Prime Contractor's efforts to obtain participation by MBE's and WBE's can be reasonably documented by HCD.

B. The Prime Contractor attended pre-solicitation or pre-bid meetings, if any, scheduled by HCD. The pre-bid meetings will be the forum used to inform all interested parties of these HCD MBE/WBE/DBE policies for the project for which a contract will be awarded. HCDmay waive this requirement if the Prime Contractor provides verifiable proof and certifies that it is informed and understands these MBE/WBE requirements. To satisfy this requirement, the Prime Contractor must complete and submit as part of its bid documentation a CERTIFICATION OF COMPLIANCE WITH THE MINORITY AND WOMEN BUSINESS ENTERPRISE REQUIREMENT (Attachment A, pg. 155 - 156).

C. The Prime Contractor identified and selected specific items of the project for which the contract will be awarded to be performed by subcontractors to provide an opportunity for participation by MBE's, WBE's and DBE's. The Prime Contractor shall, when economically feasible, divide total contract requirements into small portions or quantities to permit maximum participation by MBE's and WBE's.

D. The Prime Contractor advertised for subcontracting bids or proposals from interested business enterprises no less than 10 calendar days prior to the submission of bids or proposals, in one or more daily or weekly newspapers, trade association publications, minority or trade oriented publications, trade journals, or other media specified by the Awarding Authority. The name of each publication and the date that the ad appeared must be provided.

E. In its advertisements for bids, the Contractor must provide written notice of its interest in bidding on the contract to those subcontracting business enterprises, including MBE's and WBE's, having an interest in participating in such contracts. All notices of interest shall be provided no less than 10 calendar days prior to the date the bids or proposals were required to be submitted. In all instances, the Contractor must document that invitations for subcontracting bids were sent to available MBE's, WBE's and DBE's for each item of work to be performed. HCDshall be available to help Prime Contractors identify interested MBE's, WBE's and DBE's.

F. The Prime Contractor documented efforts to follow-up initial solicitations of interest by contacting business enterprises to determine with certainty whether the enterprises were interested in performing specific portions of the project not less than three calendar days prior to the date the bids or proposals were required to be submitted.

G. The Prime Contractor provided interested MBE, WBE and DBE business enterprises with information about the plans, specifications, and requirements for the selected subcontracting work.

H. The Prime Contractor requested assistance from organizations that provide assistance in the recruitment and placement of MBE's and WBE's no less than 15 calendar days prior to the submission of bids of proposals.

I. The Prime Contractor negotiated in good faith with interested MBE's, WBE's and DBE's and did not unjustifiably reject as unsatisfactory bids or proposals prepared by a business enterprise. As documentation, the Prime Contractor must submit a list of all sub-bidders for each item of work solicited, including dollar amounts of potential work for MBE's and WBE's.

J. The Prime Contractor documented efforts to advise and assist interested MBE's and WBE's in obtaining bonds, lines of credit, or insurance required by the Awarding Authority or contractor.

HCD determination of the adequacy of a Prime Contractor's Good Faith Effort will be based on due consideration of all indicators of good faith as set forth above.

The Good Faith Effort is also required even if the Prime Contractor is a certified Minority or Woman Business Enterprise.

In the event that HCD does not award a contract to a Prime Contractor because the proposal is determined to be in non-compliance with the Good Faith Effort requirements set forth above, HCD shall, if requested and prior to the award of the contract, afford the Prime Contractor the opportunity to appeal the HCD selection and present evidence to the Manager, Administration and HCD of the Prime Contractor's compliance with the Good Faith Efforts in making its outreach.

CERTIFICATION OF COMPLIANCE
WITH THE
MINORITY, WOMEN AND DISDAVANTAGED BUSINESS ENTERPRISE REQUIREMENT
(Attachment A)

1. I, ____________________ (name) representing __________________________ (firm) am aware that, Orange County Housing and Communtiy Development, is complying with Executive Orders 11625, 12432, 12138 and 13132 in taking affirmative steps towards providing contracting opportunities to Minority and Women Business Enterprises.

2. I understand that Minority, Women Business and Disadvantaged Enterprises are defined as follows:

   (a) a business concern that must be at least 51% owned and controlled by one or more socially and economically disadvantaged individuals, including women and ethnic minorities, or, in the case of any publicly-owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals, including women and ethnic minorities; and

   (b) the management and daily business operations of which are controlled by one or more socially and economically disadvantaged individuals, including women and ethnic minorities, who own it.

   (c)

3. I am aware that the following agencies provide certifications and some provide lists of certified contractors.

   - **City of Los Angeles**
     Department Of Public Works/Bureau Of Contract Administration
     HTTP://BCA.LACITY.ORG, Telephone (213) 847-1922
     https://bca.lacity.org/CertificationListings/DBETable.php

   - **California Department of Transportation (Caltrans)**
     916/324-1700

     https://dot.ca.gov/programs/business-and-economic-opportunity

4. I understand that when seeking subcontractors and suppliers I will provide opportunities for Minority and Women Business Enterprises to submit proposals by advertising in:

   (a) Trade newspapers/notices and magazines
   (b) Trade and union publications
   (c) Publications of general circulation, including local newspapers publishing primarily for the benefit of persons whose primary language is not English (i.e. including but not limited to Spanish and Vietnamese).

5. I understand that at the completion of the project, if requested by the County, I will provide OC HCD with documentation verifying:

   (a) Company's marketing activities soliciting Minority and Women Business Enterprises

(b) Listing of Minority and Women Business Enterprises businesses that responded to solicitation efforts
(c) Identify Minority and Women Business Enterprises participating in this project and state contract amounts.

Attachment N
SAMPLE LOAN DOCUMENTS

Attached are the Sample Loan Documents for the 2023 NOFA.

Each document will be revised per the funding type, amount, and other applicable regulations.

ATTACHMENT N 1 Sample Loan Agreement

ATTACHMENT N 2 Sample Deed of Trust

ATTACHMENT N 3 Sample Promissory Note

ATTACHMENT N 4 Regulatory Agreement

ATTACHMENT N 5 Subordinate Agreement

ATTACHMENT N 6 Assignment of Leases

ATTACHMENT N 7 HOME LOAN ATTACHMENT

ATTACHMENT N 8 HSA PBV LOAN ATTACHMENT

ATTACHMENT N 9 MHSA LOAN ATTACHMENT

ATTACHMENT N 1

LOAN AGREEMENT

BY AND BETWEEN

[ORANGE COUNTY HOUSING AUTHORITY,
acting solely as the Housing Successor Agency to the Orange County Development Agency,]

OR

[COUNTY OF ORANGE, a political subdivision of the State of California,]

AND

BORROWER

ATTACHMENT N 1

LOAN AGREEMENT

THIS LOAN AGREEMENT ("the **Agreement**") is entered into as of this **_____** day of **_________________**, 2023, by and between the [ORANGE COUNTY HOUSING AUTHORITY, a public corporation created pursuant to California Health and Safety Code section 34200 et. seq., acting solely as the Housing Successor Agency to the Orange County Development Agency] [COUNTY OF ORANGE, a political subdivision of the State of California] ("**County**"), and [BORROWER**]** ("**Borrower**"), with reference to the following:

RECITALS

1. Borrower intends to construct a housing project on that certain real property located within the [**WHERE?]**, County of Orange, State of California, and more particularly described in Exhibit "A" attached hereto and incorporated herein (the "**Property**"). The Borrower further intends to [construct] operate a [number of units] (__) residential development consisting of [insert facts] which shall be constructed by Borrower on the Property (collectively, the "**Project**").

2. The Borrower has submitted to County an application for funding of a project, described herein, under its 2023 Supportive Housing Notice of Funding Availability ("**2023 NOFA**").

3. The County desires to provide permanent financial assistance in the form of a loan to Borrower subject to the Borrower's agreement, amongst other things, to encumber the Property with certain rental restrictions, all as more particularly set forth in this Agreement and the Regulatory Agreement.

4. The Orange County Board of Supervisors [acting as the Board of Commissioners for the Orange County Housing Authority] approved a loan to the Borrower from County funds for permanent financing on [DATE].

5. Borrower is financing the construction of the improvements and related costs and expenses through, among others, during the Qualified Project Period, as defined below, the following sources:

[FINANCING SOURCES TO BE OUTLINED FORTHWITH]

NOW, THEREFORE, the parties agree as follows:

ATTACHMENT N 1

ARTICLE I

DEFINITIONS

The following terms used in this Agreement shall have the respective meanings assigned to them in this Article I unless the context in which they are used clearly requires otherwise:

1.1. "Adjusted Income" shall mean the adjusted income of all persons who intend to reside in one residential unit, calculated in the manner which complies with determinations of income for low income families under the Department of Housing and Urban Development’s Section 8 Program of the United States Housing Act of 1937, as amended.

1.2. "Agreement" shall mean this Loan Agreement.

1.3. “Area" shall mean Orange County.

1.4. “Assignment of Leases” shall mean that certain Assignment of Lessor’s Interest in Leases, Rents and Profits executed by Borrower of even date herewith.

1.5. “Borrower” shall mean [NAME OF BORROWER]

1.6. “Close of Escrow" shall mean the date on which the Loan is funded by the County through the Escrow Holder and the Deed of Trust together with the other Loan Documents set up for recording are in fact recorded.

1.7. "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time hereafter, or any successor statute thereto.

1.8. "County" shall mean the [County of Orange, a political subdivision of the state of California] or [Orange County Housing Authority, a public corporation created pursuant to California Health and Safety Code section 34200 et. seq., acting solely as the Housing Successor Agency to the Orange County Development Agency].

1.9. "Deed of Trust" shall mean that certain Deed of Trust, Assignment of Rents and Security Agreement executed by the Borrower in favor of the County of even date herewith.

1.10. "Director" shall mean the [Orange County Housing Authority Executive Director] OR [OC Community Resources Director] or her or his designee.

1.11. "Due Date" shall mean the date which is fifty-five (55) years following the Conversion Date, on which all principal and interest due on the Loan shall be fully paid.

1.12. "Escrow Holder" shall mean the escrowholder approved by the County for the escrow established to facilitate the Close of Escrow.

1.13. "Financing Plan" shall mean the financing plan described in Section 4.1 below.

1.14. “Financing Statement" shall mean the UCC-1 form to be prepared and executed by Borrower, in a form satisfactory to the County, and delivered to the County, the filing of which shall give the County a perfected security interest in Borrower's tangible personal property and fixtures located on or about the Project.

1.15. “Hazardous Materials” or “hazardous materials” shall mean:

(a) any oil, flammable substance, explosive, radioactive material, hazardous waste or substance, toxic waste or substance or any other waste, material, or pollutant that

(i) poses a hazard to the Project or to persons on the Project or
(ii) causes the Project to be in violation of any Hazardous Substance Law;

(b) asbestos in any form;

(c) urea formaldehyde foam insulation;

(d) transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls;

(e) radon gas;

(f) any chemical, material, or substance defined as or included in the definition of “hazardous substance,” “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous waste,” “restricted hazardous waste,” or “toxic substances” or words of similar import under any applicable local, state, or federal law or under the regulations adopted or publications promulgated pursuant to those laws, including, but not limited to, any Hazardous Substance Law, Code of Civil Procedure § 564, as amended from time to time, Code of Civil Procedure § 726.5, as amended from time to time, Code of Civil Procedure §736, as amended from time to time, and Civil Code § 2929.5, as amended from time to time;

(g) any other chemical, material, or substance, exposure to which is prohibited, limited, or regulated by any governmental authority or which may pose a hazard to the health and safety of the occupants of the Project or the owners or occupants of property adjacent to or surrounding the Project, or any other person coming on the Project or any adjacent property; and

(h) any other chemical, material, or substance that may pose a hazard to the environment flammable materials, explosives, radioactive materials, hazardous wastes, toxic substances and similar substances and materials, including all substances and materials defined as hazardous or toxic wastes, substances or materials under any applicable law, including, without limitation the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et. seq., as amended.

1.16. “Hazardous Substance Law” means any federal, state, or local law, ordinance, regulation, or policy relating to the environment, health, and safety, any Hazardous Substance (including, without limitation, the use, handling, transportation, production, disposal, discharge, or storage of the substance), industrial hygiene, soil, groundwater, and indoor and ambient air conditions or the environmental conditions on the Project, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 USCS §§ 9601 et seq.], as amended from time to time; the Hazardous Substances Transportation Act [49 USCS §§ 1801 et seq.], as amended from time to time; the Resource Conservation and Recovery Act [42 USCS §§ 6901 et seq.], as amended from time to time; the Federal Water Pollution Control Act [33 USCS §§ 1251 et seq.], as amended from time to time; the Hazardous Substance Account Act [Health and Safety Code §§ 25300 et seq.], as amended from time to time; the Hazardous Waste Control Law [Health and Safety Code §§ 25100 et seq.], as amended from time to time; the Medical Waste Management Act [Health and Safety Code §§ 25015 et seq.], as amended from time to time; and the Porter-Cologne Water Quality Control Act [Water Code §§ 13000 et seq.], as amended from time to time.

1.17. "Loan" shall mean the Loan in the amount of --------------- ($---------------) by the County to the Borrower, which Loan is the subject of this Agreement.

1.18. "Loan Documents" shall mean the following documents evidencing the Loan: (a) the Note; (b) the Deed of Trust; (c) the Financing Statement; (d) the Regulatory Agreement; (e) Request for Notice of Default; (f) the Assignment of Leases; and (g) this Loan Agreement.

1.19. "Management Plan" shall mean that management plan submitted to and approved by the County pursuant to Section 4.1 below.

1.20. “Marketing Plan” shall mean that certain Marketing Plan submitted to and approved by the County pursuant to Section 7.8 hereof.

ATTACHMENT N 1

1.21. "Median Income for the Area" shall mean the median income for the Area as most recently determined by the United States Department of Housing and Urban Development ("HUD") and published by the State of California. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the County shall provide the Borrower with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HUD and the State.

1.22. "Mortgage Loan" shall mean any of the following loans secured by a mortgage or deed of trust on the Project:

(a) The Loan evidenced by the Note and the balance of the Loan Documents.

(b) Any other loan secured by a mortgage or deed of trust on the Project, either senior or junior to the Loan.

1.23. "Mortgage Loan Documents" shall mean all documents executed by the Borrower endorsing or securing a Mortgage Loan.

1.24. "Mortgagee" shall mean the mortgagee or beneficiary under a mortgage or a deed of trust executed in connection with a Mortgage Loan.

1.25. "Note" shall mean the promissory note in the principal amount of Loan evidencing the monies borrowed by Borrower from the County.

1.26. "Operating Reserves" shall mean reserves maintained during the Qualified Project period and funded out of Residual Receipts, loan advances, equity, or other sources and set aside for taxes and assessments, insurance premiums, operating expenses, and debt service. Operating Reserves shall not exceed the amount required to pay three (3) months of operating expenses and three (3) months of mandatory debt service.

1.27. "Parties" shall mean the County and the Borrower.

1.28. Partnership" shall mean [NAME OF PARTNERSHIP].

1.29. "Permanent Lender" shall mean the permanent lender designated by Borrower and approved in advance by the County as the Permanent Lender for the Project.

1.30 "Permanent Term" shall mean the period beginning with the period beginning on the Qualified Project Period and ending on the date that is fifty-five (55) years after the beginning of the Qualified Project Period.

1.31. “Plans and Specification” shall mean the final set of architectural, structural, mechanical, electrical, grading, sewer, water, street and utility plans and specifications for the Project, including all supplemental, amendments and modifications.

1.32. "Project" means collectively the Property and the structures and related buildings and other improvements now or hereafter located on the Property from time to time together with all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements.

1.33. "Property" means the real property legally described on Exhibit "A", which is attached hereto and by this reference incorporated herein, and all rights and appurtenances thereunto appertaining.

1.34. "Qualified Project Period" shall mean the period beginning upon the Conversion Date and ending on the date which is fifty-five (55) years after the beginning of the Qualified Project Period.

1.35. “Qualified Tenant” or “Qualified Tenants” shall collectively mean the individuals occupying the Restricted Units with the Adjusted Incomes more particularly described in Exhibit “B” attached hereto and incorporated herein. The income of individuals shall be determined in a manner consistent with determinations of lower income households under Section 8 of the United States Housing Act of 1937, as amended (or, if such program is terminated, in a manner consistent with such determinations under such program as is in effect immediately before such termination). In no event, however, will the occupant of a Restricted Unit be considered to be a Qualified Tenant if the occupant is a student, and is not entitled to file a federal income tax return.

1.36. "Regulations" shall mean the Income Tax Regulations promulgated by the United States Department of the Treasury pursuant to the Code from time to time.

1.37. "Regulatory Agreement" shall mean that certain Regulatory Agreement and Declaration of Restrictive Covenants between the County and the Borrower of even date herewith.

1.38. “Replacement Reserves” shall mean reserves maintained during the Qualified Project period and funded out of Residual Receipts, loan advances, equity, or other sources and set aside for replacement of roofing, furniture, fixtures, equipment and other capital expenditures. The annual amount set aside for Replacement Reserves shall not be more than three hundred dollars ($400) per unit. Exceptions may be considered where required for continued feasibility of projects with short-term rent subsidy commitments, or when required by other funding agencies when approved in writing by the County.

1.39. "Request for Notice of Default" shall mean a request for notice of default to be recorded against the Property in a form approved by the County.

1.40. “Residual Receipts” means, during the Qualified Project Period, the Annual Project Revenue less (A) Annual Operating Expenses (as defined in the Note), (B) obligated debt service on permanent loan(s) for the Project senior to the County’s Loan approved in writing by the County at the closing of the Loan, (C) payment obligations (e.g. partnership management fees, and deferred developer fees) approved in writing by the County at the closing of the Loan, and (D) scheduled deposits to reserves approved in writing by the County.

1.41. "Restricted Unit" or "Restricted Units" means the dwelling units in the Project identified on Exhibit "B" attached hereto and incorporated herein required to be rented to, or held available for occupancy by, Qualified Tenants pursuant to the terms, covenants and conditions of the Regulatory Agreement, this Agreement, including, but not limited to, the rental restrictions and other matters set forth in said Exhibit "B" and the other Loan Documents.

1.42. "Tax Credit Investor" shall mean the tax credit investor designated by Borrower and approved in advance by the County as the Tax Credit Investor for the Project.

1.43. "Term" shall mean the Permanent Term, as applicable, for a total possible term of up to fifty-eight (58) years.

ARTICLE II

LOAN

2.1 Amount. Subject to the terms of this Agreement, the County hereby agrees to lend and the Borrower hereby agrees to borrow, the Loan, evidenced by the Note, the proceeds of which shall be used to acquire the Property and upon fulfillment of certain conditions, as set forth herein, to permanently finance the Project and for the other purposes set forth herein.

2.2 Repayment of Loan. Borrower shall repay the Loan, with interest, in accordance with the provisions of the Note and this Agreement. Except as otherwise provided, all payments shall be applied first to interest and then to principal.

2.3 Prepayment. Borrower may pay the principal and any interest due the County under the Note prior to or in advance of the time for payment thereof as provided in the Note, without penalty; provided, however, that Borrower acknowledges that in the event the Conversion Date occurs the provisions of this Agreement and the Regulatory Agreement will be applicable to the Project throughout the Qualified Project Period even though Borrower may have prepaid the Note.

2.4 Assumption. Subject to the provisions of Section 7.7 hereof, the Note shall not be assumable by successors and assigns of Borrower, either voluntarily or by operation of law, without the prior written discretionary consent of the County and any such assignment or assumption without said prior consent of the County shall be void.

2.5 Loan Disbursement. Upon satisfaction of the conditions to disbursement set forth in Section 4.1 below and pursuant to the disbursement procedures set forth in Section 4.2 below, the County, through the approved Escrowholder, will cause the disbursement of the Loan as provided for in Section 4.2.

2.6 Security for Loan. The Loan shall be secured by the Deed of Trust, Regulatory Agreement, the Financing Statement, Assignment of Leases and the Request for Notice of Default.

2.7 Approval of Additional Financing. Except as to the Senior Construction/Permanent Deed of Trust and as otherwise described herein, the Borrower shall not place or permit (either voluntarily or involuntarily) to be placed any encumbrances, including, but not limited to any additional liens or financing of any kind on the Project without the prior written discretionary consent of the County.

2.8 Subordination of Deed of Trust.

The County agrees that the Deed of Trust may be subordinate to the lien of a permanent loan secured by a Senior Construction/Permanent Deed of Trust (and any refinancing of said permanent loan secured by the Senior Construction/Permanent Deed of Trust) securing financing in an amount not to exceed $[XXX,XXX] so long as (i) the documentation for said loan is approved by the County and (ii) said loan is otherwise provided for and approved by the County in the Financing Plan. Any other financing, refinancing or encumbrance of the Project is prohibited without the County's prior written consent which consent the County may arbitrarily withhold in the exercise of its discretion

In order to affect the subordinations described above and elsewhere in this Agreement, the County and Borrower agree to execute and acknowledge for recordation a subordination agreement (in a form acceptable to the County) in favor of the senior lender, as requested by such senior lender.

ARTICLE III

RENTAL RESTRICTIONS DURING THE QUALIFIED PROJECT PERIOD

3.1 Use and Rent Restrictions.

(a) During the Qualified Project Period, the Project shall be "Affordable" as defined in 24 CFR Part 92.252 and in compliance with County policies associated with the 2023 NOFA for a period of not less than fifty-five (55) years.

(b) In accordance with the provisions of the Regulatory Agreement, this Loan Agreement and Exhibit "B" attached hereto and incorporated herein, the Borrower has agreed to rent the Restricted Units of the Project to Qualified Tenants for the Qualified Project Period at the rents described in said Exhibit "B."

(c) Borrower agrees to provide to Qualified Tenants notice of all rent increases pursuant to applicable California law.

(d) Borrower agrees to limit rent increases to (i) the Department of Housing and Urban Development's (HUD) annually published Rent Adjustment factor for the Section 8 program, or (ii) no more than the rent established as affordable based on the Median Income for the Area and the affordability restrictions set forth in Exhibit "B", which is adjusted annually by HUD and published by the State of California.

3.2 Income Determination. For the purposes of this section, the income of individuals and families and the area median gross income shall be determined in a manner consistent with determinations of lower income families and the Median Income for the Area under Section 8 of the United States Housing Act of 1937, as amended (or, if such program is terminated, in a manner consistent with such determinations under such program as is in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for household size.

3.3 Certifications. With respect to those Restricted Units subject to the rental restrictions described above, during the Qualified Project Period the Borrower will comply with the Qualified Tenant certifications and recertifications in the same manner as prescribed under the Regulatory Agreement. Said certifications and recertifications shall include, but not be limited to, client name, address, and verifiable income level (as documented by income tax returns, employee payroll records, retirement statements, etc. or other third party documentation approved by the County for determining eligibility). Such information shall be made available to County monitors, or their designees, for review upon request.

3.4 Records.

(a) The Borrower will maintain complete and accurate records as required by Federal Regulations specified in 24 CFR 92.508, which shall contain a description of each activity undertaken, records pertaining to the Restricted Units, records documenting compliance with fair housing and equal opportunity components, financial records as required by 24 CFR 92.508 (a)(5), other records to document compliance with Subpart K of 24 CFR 92, and records documenting the continued affordability and income restrictions outlined in Exhibit "B".

(b) The Borrower will permit any duly authorized representatives of the County to inspect and copy the books and records of the Borrower pertaining to the Project, including those books and records pertaining to the occupancy of the Restricted Units provided that the County will make a reasonable effort to provide notice of at least forty-eight (48) hours to inspect, examine, or make copies of such information.

(c) Borrower will retain such records for a period of five (5) years after the termination of all activities funded under this Agreement.

3.5 Leases. Each lease pertaining to a Restricted Unit shall contain provisions to the effect that the Borrower has relied on the income certification and supporting information supplied by the Qualified Tenant in determining qualification for occupancy of the Restricted Unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease. County reserve the right to require additional non-financial terms or clauses that are reasonably related to such qualifications (including, but not limited to additional disclosure clauses) that the County may from time to time deem appropriate or necessary to be included in said leases.

ARTICLE IV

DISBURSEMENT OF LOAN

4.1 Conditions Precedent to Disbursement of Loan Proceeds. The County shall cause Loan proceeds to be disbursed through escrow to the Borrower as set forth in this Article IV. No disbursement shall be made until all of the following conditions precedent are satisfied:

(a) Execution and Delivery of Documents. Borrower shall have executed and delivered to the County (i) this Agreement, the Note, the Deed of Trust, the Financing Statement, the Regulatory Agreement, and the Assignment of Leases, (ii) all resolutions and certificates necessary or appropriate in the opinion of the County to evidence the Borrower's authority to enter into the Loan and be bound by the Loan Documents, and (iii) all other documents and instruments required by the County to be executed and delivered, all in form and substance satisfactory to the County.

(b) Insurance. Borrower shall have furnished the County with certificates of insurance for all policies required under this Agreement.

(c) Phase One Environmental Assessment Report. Borrower shall have provided the County with a Phase One Environmental Assessment Report on the Property prepared by a licensed and registered environmental engineer or other qualified party satisfactory to County, along with any other information the County may require, in each case stating that no hazardous substances are present in, on, under or around the Property and that no condition or circumstances warranting further investigation now exists.

(d) Notice of Completion; Compliance with Applicable Requirements; Senior Permanent Loan Conversion Conditions Precedent The Borrower shall have submitted to the County and the County shall have approved the recorded Notice of Completion, the final certificate of occupancy and evidence that the Property and its intended use are in compliance with all applicable building, zoning and other requirements of applicable public authorities.

(e) Financing Plan. The Borrower shall have submitted and the County shall have approved the Borrower's plan for the permanent financing of the Project ("Financing Plan").

(f) Management Plan. The Borrower shall have submitted and the County shall have approved a Management Plan ("Management Plan"). The Management Plan shall include a management contract with a manager approved in writing by the County for management of the Project and a plan for long-term marketing, operation, maintenance, repair and security of the Project, method of selection of tenants, and for rental policies in compliance with any applicable requirements, policies and procedures and with the Regulatory Agreement, along with any other policies or procedures required by the County. The Management Plan shall also include an initial budget for the Project.

(g) Mechanic's Liens. The Borrower shall have submitted to County for County approval evidence that all construction costs have been paid in full and that the period for filing of mechanic's liens has expired without the filing of any lien.

(h) As-Built Survey. Borrower shall have delivered and the County shall have approved a final, as-built ALTA survey for the Project showing the location of all improvements in and to the Project as well as (i) all "setbacks" and other restrictions applicable to the Project pursuant to requirements of applicable public authorities (ii) all easements, licenses and other rights of way, (iii) shows no encroachments onto the Project or from the Project onto adjoining property and (iv) certifies the legal description of the Project as insured in the title policy.

(i) Title Policy. Borrower shall, at its sole expense, have delivered to County an ALTA loan policy-2006, with ALTA endorsement Form 1 coverage, amended 6/1/87, without further revision or amendment, issued by an insurer satisfactory to County, together with an unconditional CLTA 100 endorsement, a CLTA 103.7 endorsement, a CLTA 116.1 endorsement, an ALTA Form 8.1 endorsement and all other endorsements and binders required by County, naming County as the insured, in a policy amount of not less than the Loan, showing Borrower as the owner of the Project and insuring the Deed of Trust to be a valid **[LIEN PRIORITY]** lien on the Project, subject only to those exceptions approved by the County in Section 2.8 above.

(j) Recordation. The Regulatory Agreement, Deed of Trust, Assignment of Leases and Financing Statement shall have been recorded, in that order, in the Official Records of Orange County.

(k) Senior Acquisition Deed of Trust. The Mortgage Loan Documents for the first trust deed permanent Mortgage Loan shall have been recorded in such order as directed by the said senior first trust deed lender.

(l) No Default. There shall exist no condition, event or act which would constitute an Event of Default (as hereinafter defined) hereunder or which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default.

(m) Representations and Warranties. All representations and warranties of Borrower herein contained shall be true and correct.

(n) Availability of Funds. The Borrower has submitted to the County and the County has approved in the exercise of its discretion evidence that the funds identified as committed to the acquisition of the Property in the approved Financing Plan are in fact unconditionally and readily available to Borrower for the Property as of the Close of Escrow.

(o) Priority of Regulatory Agreement. The Regulatory Agreement has been executed and recorded as a lien senior to the Deed of Trust.

4.2 Procedure for Disbursement of Loan Proceeds. When all the conditions to disbursement have been satisfied, the County shall deposit the Loan with the Escrowholder for disbursement upon the Close of Escrow in accordance with the terms of separate written escrow instructions between the County and Borrower. Said agreement shall be deposited into escrow.

4.3 Waiver; Termination. No waiver of any of the conditions to the Close of Escrow and disbursement of the Loan shall be permitted unless agreed to in writing by the Director. If any of the conditions to disbursement of the Loan are not satisfied within ninety (90) days following the date of this Agreement, County may terminate this Agreement by the Director giving written notice to Borrower. Upon such termination, the parties shall have no further rights or obligations under this Agreement.

ARTICLE V

LEASES

5.1 Standard Form Leases. On or before the commencement of the Qualified Project Period, Borrower shall submit to County for its written approval a standard form of residential lease to be used for leasing of the Project (the “Standard Lease”). The Standard Lease shall be in compliance with all applicable laws and Borrower shall be obligated to revise said Standard Lease from time to time to comply with any changes in said applicable laws.

5.2 Leasing Program. Borrower shall market and lease the Project consistent with the Marketing Plan described in Section 7.8 hereof.

5.3 Pro-Forma Schedules. Attached hereto and incorporated herein as Exhibit “B” is the rental rate schedule for the Units at the Project approved by County.

5.4 No Changes. Borrower shall not materially modify the approved Standard Lease or materially deviate from the approved rental rate schedule for the Units without the County’s prior written consent in each instance, which consent shall not be unreasonably withheld or delayed.

5.5 Landlord's Obligations. Borrower shall timely and in good faith, perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Project. If any tenant at any time claims any breach of landlord's obligations and the amount of such claim (in excess of available insurance coverage) is $10,000 or more, Borrower shall promptly notify County of such claim.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF BORROWER

6.1 Representations and Warranties. Borrower hereby makes the following representations and warranties to the County, each of which shall also be deemed a covenant and all of the following, Borrower agrees, shall continue to be true and accurate in all material respects so long as the Loan or any portion thereof remains outstanding:

(a) Organization. Borrower is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted. The copies of the documents evidencing the organization of Borrower delivered to the County are true and correct copies of the originals, as amended to the date of this Agreement, and Borrower will promptly provide the County with copies of any modifications thereto.

(b) Authority of Borrower. Borrower has full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Borrower, and all actions required under Borrower's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. This Agreement and the Loan Documents and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of Borrower enforceable against the Borrower in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement and the Loan Documents or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on Borrower and in effect at the time of execution of this Agreement, or any provision of the organizational documents of Borrower or, if applicable, of its constituent partners, or will conflict with or constitute a breach of or a default under any agreement to which Borrower, or, if applicable, its constituent partners, is a party, or will result in the creation or imposition of any lien upon any assets or property of Borrower, other than liens established pursuant hereto.

(f) Pending Proceedings. Borrower is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against Borrower or the Property or Project, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Borrower, materially affect Borrower's ability to repay the Loan or impair the security to be given to the County pursuant hereto.

(g) Compliance with Laws; Consents and Approvals. The Project shall comply at all times with all applicable laws (including but not limited to all Hazardous Substances Laws), ordinances, rules and regulations of federal, state, and local governments and agencies, and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector, and other officers of any such government or agency. All consents, permissions and licenses required by any federal, state, or local government or agency to which the Borrower, the Property or the Project is subject, which may be necessary in relation to this Agreement or the ownership or operation of the Project, have been or will be obtained.

(h) Financial Statements. The financial statements of the Borrower and its constituent partners, if any, and other financial data and information furnished by the Borrower for review by the County relating to the financial condition of Borrower or any of Borrower's constituent partners or the Project, fairly present the information contained therein. As of the date of Loan disbursement, there will not have been any adverse material change in the financial condition of the Borrower or its constituent partners from that shown by such financial statements and other data and information.

(i) Adequacy of Loan. The amount of the Loan, together with any funds to be provided by the Borrower or to the Borrower from any other sources, is adequate to pay all costs incurred in connection with the acquisition of the Property and to enable the Borrower to satisfy the covenants contained in this Agreement.

(j) Payment of Taxes. All federal, state, county, and municipal taxes required to be paid by the Borrower or on account of the Property have been paid in full as of the date of this Agreement or will be paid in full by the Close of Escrow. Borrower knows of no basis for any additional assessment of taxes as of this date.

(k) Regulatory Agreement. The Project is, and will at all times remain, in compliance with all requirements of this Agreement and the Regulatory Agreement. The units in the Project shall be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement. All leases will comply with all applicable laws and the Regulatory Agreement.

ARTICLE VII

CONTINUING OBLIGATIONS OF BORROWER

7.1 Applicability. For the longer of the entire Term, or so long as the Note remains outstanding, the Borrower shall comply with the provisions of this Article VII.

7.2 Compliance with Loan Documents. Borrower shall promptly comply with all the terms, covenants and provisions of the Loan Documents.

7.3 Taxes and Assessments. So long as Borrower owns the Property and the Project, Borrower shall pay all real and personal property taxes, assessments and charges, and all franchise, income, unemployment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any delinquency or penalty from accruing, or any lien or charge from attaching to the Project; provided, however, that Borrower shall have the right to contest in good faith any such taxes, assessments, or charges. In the event Borrower exercises its right to contest any tax, assessment, or charge against it, Borrower, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges, and interest.

7.4 Indemnity.

(a) To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the County and its elected officials, officers, governing members, employees, attorneys and agents (collectively, the "Indemnified Parties"), from and against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any and every conceivable nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject to under any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

1. the Loan Documents or the execution or amendment thereof or in connection with the transactions contemplated thereby;

2. Borrower's ownership or operation of the Project or any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation, operation or rehabilitation of, the Project or any part thereof;

3. any lien or charge upon payments by the Borrower to the County, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the County in respect of any portion of the Project;

4. any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof;

5. any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower contained in any Loan Document or any of the documents or instruments relating to said Loan Documents that the County relied upon in making the Loan except to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment and payment for counsel selected by the Indemnified Party, and shall assume the payment of all reasonable expenses related thereto, with full power to litigate, compromise or settle the same; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement.

6. If judgment is entered against Borrower and County by a court of competent jurisdiction because of the concurrent active negligence of County or Indemnified Parties, Borrower and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

7.5 Entry by the County. Borrower shall permit the County, through its officers, agents, or employees, at all reasonable times to enter into or onto the Property or the Project and inspect the Project to determine that the same is in conformity with the Loan Documents and all the requirements hereof. Borrower acknowledges that the County is under no obligation to supervise, inspect, or inform Borrower of the results of its said inspection(s) and Borrower shall not rely upon the County therefor. Any inspection by the County is entirely for its purposes in determining whether Borrower is in default under this Agreement or the Loan Documents. Borrower shall rely entirely upon its own supervision and inspection.

7.6 Hazardous Materials. Borrower shall indemnify, defend and hold harmless the County, and its respective elected and appointed officials, members, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of hazardous materials on, under, or about the Project, including without limitation: (a) all foreseeable consequential damages; (b) the costs of any required or necessary repair, cleanup or detoxification of the Project and the preparation and implementation of any closure, remedial or other required plans; and (c) all reasonable costs and expenses incurred by the County or County in connection with clauses (a) and (b), including but not limited to reasonable attorneys' fees.

7.7 Transfers. During the Term, Borrower shall not sell or otherwise transfer the Project or any portion thereof, and none of the constituent general partners of Borrower shall sell or otherwise transfer their interests in Borrower, and none of the constituent general partners in a partnership that is a partner in Borrower shall sell or otherwise transfer their interest in such partnership without first obtaining the approval of the County, which consent the County may withhold or grant in the exercise of its good faith discretion. The County shall not approve any such transfer request if the Borrower is in default under any of the Loan Documents or the Management Plan.

7.8 Management; Annual Marketing and Management Plans. Any management company of the Project and the management agreement with such management company shall be subject to the prior written approval of the County. The management agreement shall not be amended, modified, supplemented, terminated or canceled without the prior written consent of the County. Borrower and the County (if it so elects) will cooperate in the marketing of the units on the Property pursuant to a marketing plan (the “Marketing Plan”) prepared by the Borrower and approved by the County. Said Marketing Plan and the Management Plan described in Section 4.1 hereof shall be prepared by the Borrower and approved by the County on an annual basis; however, the Borrower shall provide quarterly written supplements to said approved plans (or more frequently if requested by the County).

7.9 Operation and Maintenance of Project.

(a) Operation. During the Qualified Project Period, Borrower shall at all times operate on the Project an affordable housing rental facility in compliance with this Agreement and the Regulatory Agreement.

(b) Maintenance. During the Qualified Project Period, Borrower agrees to maintain all interior and exterior improvements, including landscaping (and all abutting ground, sidewalks, roads, parking and landscape areas) on the Project in good condition, repair and sanitary condition (and, as to landscaping, in a healthy condition) and in accordance with any Management Plan approved by the County under the Loan Agreement (including without limitation any landscape and signage plans), as the same may be amended from time to time, and all other applicable laws, rules, ordinances, orders, and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having jurisdiction and all their respective departments, bureaus, and officials. Borrower acknowledges the great emphasis the County places on quality maintenance to protect its investment and to provide quality low-income housing for its constituents and to ensure that all County-subsidized affordable housing projects within the County are not allowed to deteriorate due to deficient maintenance. In addition, Borrower shall keep the Project free from all graffiti and any accumulation of debris or waste material. Borrower shall promptly make all repairs and replacements necessary to keep the Project in good condition and repair and shall promptly eliminate all graffiti and replace dead and diseased plants and landscaping with comparable approved materials. Borrower shall not commit or permit any waste or deterioration of the Project, shall not abandon any portion of the Project, and shall not otherwise act, or fail to act, in such a way as to unreasonably increase the risk of damage to the Project.

In the event that Borrower breaches any of the covenants contained in this Section 9.9 and such default continues for a period of five (5) days after written notice from County (with respect to graffiti, debris, waste material, and general maintenance) or thirty (30) days after written notice from County (with respect to landscaping and building improvements), then County, in addition to whatever other remedies it may have under this Agreement, the other Loan Documents or at law or in equity, shall have the right to enter upon the Project and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, the County shall be permitted (but not required) to enter upon the Project and perform all acts and work necessary to protect, maintain and preserve the improvements and landscaped areas on the Project, in the amount of the expenditure arising from such acts and work of protection, maintenance, and preservation by County and/or reasonable costs of such cure, including a fifteen percent (15%) administrative charge, which amount shall be promptly paid by Borrower to County upon demand.

(c) Removal of Personal Property. During the Qualified Project Period, Borrower shall not cause or permit the removal from the Project of any items of Borrower's personal property (other than tools and equipment used in the operation of the Project) unless (i) no Event of Default remains uncured and (ii) Borrower promptly substitutes and installs on the Project other items of equal or greater value in the operation of the Project, all of which shall be free of liens and shall be subject to the liens of the Deed of Trust and the Financing Statement and executes and delivers to County all documents required by County in connection with the attachment of such liens to such items. Borrower shall keep detailed records of such removal and shall make such records available to County upon written request from time to time.

7.10 Status of Borrower. Borrower shall at all times maintain its legal status and all material licenses, rights, franchises and privileges in the jurisdiction of its formation in good standing and comply with all laws, rules and regulations of California and the United States and of any political subdivision thereof applicable to it or its business.

ATTACHMENT N 1

7.11 Insurance. While any obligation of Borrower under any Loan Document remains outstanding, Borrower shall maintain at Borrower's sole expense, the following policies of insurance in form and substance as follows:

(a) Commercial General Liability insurance in an amount not less than $1,000,000 per occurrence and $2,000,000 in the aggregate;

(b) Commercial Auto Liability insurance covering all owned, non-owned and hired autos with a limit of $1,000,000 per occurrence);

(c) Statutory Workers' compensation insurance and Employer’s Liability with a minimum limit of $1,000,000 per occurrence (amounts subject to change to ensure proper coverage);

(d) Commercial Property Insurance on an “All Risk” or “Special Causes of Loss” form for 100% of the Replacement Cost Value and no coinsurance provision. (including insurance against loss by flood if the Project is located in an area now or hereafter designated as subject to the danger of flood, but excluding insurance against loss by earthquake);

(e) Rent loss insurance for a period of at least one year;

(f) The Commercial Property policy, shall include a "lender's loss payable endorsement" to the County assuring County that all proceeds shall be paid to County as provided in the Deed of Trust subject to the interests of the senior lenders on the Project. The County shall be an additional named insured on the Commercial General Liability policy, and such insurance shall be primary and any insurance maintained by the County shall be excess and non-contributing. All policies shall waive all rights of subrogation against the County, its elected and appointed officials, officers, agents, and employees. The general liability policy shall contain a severability of interests clause. Certificates of insurance and endorsements for all of the above policies (and/or original policies, if required by the County from time to time), showing the same to be in full force and effect, shall be delivered to the County;

(g) All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars ($50,000) shall specifically be approved by the County’s Risk Manager, or designee, upon review of Borrower’s current audited financial report. If Borrower’s SIR is approved, Borrower, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

1. In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Borrower, its agents, employee’s or subcontractor’s performance of this Contract, Borrower shall defend the County at its sole cost and

expense with counsel approved by Board of Supervisors against same; and

2. Borrower's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Borrower's SIR provision shall be interpreted as though the Borrower was an insurer and the County was the insured.

Upon notice of any actual or alleged claim or loss arising out of subcontractor's work hereunder, subcontractor shall immediately satisfy in full the SIR provisions of the policy in order to trigger coverage for the Borrower and Additional Insureds.

If the Borrower fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.
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7.12 Alterations and Repair. Except with the prior consent of the County, during the Qualified Project Period, Borrower shall not remove, demolish or materially alter any improvement constituting the Project, except to make non-structural repairs which preserve or increase the Project's value, and shall promptly restore, in good and workmanlike manner, any said improvement (or other aspect of the Project) that is damaged or destroyed from any cause.

7.13 Changes in Property Restrictions. Borrower shall not initiate, join in or consent to any change in any applicable zoning ordinance, general plan or similar law, or to any private restrictive covenant or any similar public or private restriction on the use of the Project, except with the prior written consent of the County.

7.14 Books, Records and Annual Statement. Borrower shall maintain complete books of account and other records reflecting the construction and operation of the Project in accordance with generally accepted accounting principles applied on a consistent basis. During the Qualified Project Period, the amount of the Residual Receipts (as defined in the Note) shall be determined on the basis of an annual audited financial statement ("Annual Statement"), for the preceding year, beginning with the first year of operation of all or any part of the Project, prepared at the Borrower's expense by an independent certified public account firm acceptable to the County. Such Annual Statement shall be prepared based on the guidelines, and taking into account the information, set forth on Exhibit "C," attached hereto and incorporated herein. During the Qualified Project Period, the Borrower shall submit the Annual Statement and any payment to the County not later than six (6) months after closing of the Borrower's previous year's books. The first Annual Statement submitted by the Borrower for the Loan shall include the period from the Completion of Construction to the close of that year's books. The County shall review and approve such statement, or request revisions, within ninety (90) days after receipt. In the event that as the result of County review, there is an increase in the amount of Residual Receipts, Borrower shall pay to the County the full amount of such increase within ten (10) days of notice of such increases. The terms of this subsection shall not be the exclusive method by which the County may review Residual Receipts payments by the Borrower. In the event that an increase in the amount of Residual Receipts for any annual period is discovered at any time subsequent to the ninety (90) day period for that year's books, no previous action or inaction by the County shall prohibit the County from requesting repayment of those amounts at any time during the term of this Agreement or thereafter. The Borrower shall pay to the County the full amount of such increase within thirty (30) days of notice of such increase for periods prior to the previous year.

7.15 Notices of Certain Matters. Borrower shall give notice to County, within ten (10) days after Borrower receives actual knowledge thereof, of each of the following:

(a) Any litigation or claim against the Borrower relating to the Property or the Project and involving an amount in excess of $25,000 and any litigation or claim that might subject Borrower or any constituent partner of Borrower to liability in excess of $50,000, whether covered by insurance or not;

(b) Any dispute between Borrower and any governmental or public agency relating to the Property or the Project, the adverse determination of which might materially affect the Project;

(c) Any trade name hereafter used by Borrower and any change in Borrower's principal place of business;

(d) Any Event of Default or event, which, with the giving of notice or the passage of time, without ameliorative action, or both, would constitute an Event of Default;

(e) Any default by Borrower or any other party under any Loan Document or Mortgage Document, or the receipt by Borrower of any notice of default under any Loan Document or Mortgage Document;

(f) The creation or imposition of any mechanics' lien or other lien against the Project;

(g) The presence of any hazardous materials on, under or about the Property or the Project; any enforcement, clean-up, removal or other action or requirement of any local, state or federal governmental or quasi-governmental authority with jurisdiction relating to any such hazardous materials; and the existence of any occurrence of conditions on any property in the vicinity of the Project that could cause any portion of the Project to be classified as "border-zone property" under the provisions of the

California Health and Safety Code or any related regulations, or that could cause the Project to be otherwise subject to any restrictions relating to hazardous materials; and

(h) Any material adverse change in the financial condition of Borrower or any of its constituent general partners.

7.16 Further Assurances. Borrower shall execute and acknowledge (or cause to be executed and acknowledged) and deliver to County all documents, and take all actions, reasonably required by County from time to time to confirm the rights created or now or hereafter intended to be created under the Loan Documents, to protect and further the validity, priority and enforceability of the Loan Documents, to subject to the Loan Documents any property intended by the terms of any Loan Document to be covered by the Loan Documents, or otherwise to carry out the purpose of the Loan Documents and the transactions contemplated thereunder.

7.17 Liens. Borrower shall not cause or suffer to become effective any lien, restriction or other title limitation affecting any part of the Project other than the (a) Regulatory Agreement, the Deed of Trust, the Financing Statement and the senior first deed of trust Mortgage Documents (including the Senior Acquisition Deed of Trust, Senior Construction Deed of Trust and the Senior Permanent Deed of Trust, as applicable) and (ii) taxes not delinquent.

7.18 Payment of Expenses. Borrower shall pay the County's costs and expenses incurred in connection with the making, disbursement and administration of the Loan and the conversion of the acquisition loan to a permanent loan, as well as any revisions, transfers, extensions, renewals, modifications, refinancing or "workouts," and providing estoppels or subordinations of the Loan, and in the exercise of any of County's rights or remedies under this Agreement. The County will receive from Borrower a nonrefundable fee in the amount of Five Hundred Dollars ($500) and Borrower shall reimburse County for all of the County’s reasonable out-of-pocket expenses (including reasonable attorney’s fees) incurred in the administration and review of such changes, to the extent such expenses exceed Five Hundred Dollars ($500). Such costs and expenses may include title insurance, recording and escrow charges, survey charges, hazard insurance, premiums, fees for any appraisals and any appraisal reviews, architectural and engineering review, construction services and environmental and toxic services and reviews, zoning and entitlement services and reviews, mortgage taxes, legal fees and any other reasonable fees and costs for services, regardless of whether such services are furnished by the County's employees or agents or independent contractors.

7.19 Loan Monitoring Fees. Unless prohibited by Federal, State or local laws, the Borrower shall pay an annual loan monitoring fee during the Term. Loan monitoring fees shall be incorporated into the operating pro forma. The loan monitoring fee shall include a one time payment (“One Time Payment”) of Five Hundred Dollars ($500) to be used for project set-up plus an annual fee (“Annual Fee”) of [AMOUNT] ($XXX), which will be used to offset the reasonable costs associated with loan monitoring. The initial One Time Payment fee and initial Annual Fee will be payable to the County at the Close of Escrow. The Annual Fee will be due each subsequent year for the Qualified Project Period on or within thirty (30) days of the day and month that this Agreement was entered into as set forth on page one hereof. Loan monitoring fees will be adjusted annually. The annual adjustment shall be in accordance with the change in the Consumer Price Index for Los Angeles –Anaheim - Riverside (All Urban Consumers – All Items) promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor. This adjustment shall be calculated by means of the following formula:

$$A = B \times \frac{C}{D}$$

Where: A = Adjusted Annual Fee

B = Annual Fee (as such Annual Fee may have been previously adjusted)

C = Average monthly index for the most recent twelve-month period

D = Average monthly index for the twelve-month period preceding the date of this Loan Agreement.

In the event that the Consumer Price Index (CPI) ceases to use 1982-84 = 100 as the basis of calculation, or if, in County’s sole judgment, a substantial change is made in the method used by the federal government to determine the CPI or the items used to calculate the CPI, then the CPI shall be converted to the figure that would have been calculated at (or as close to such figures as shall be practical) had the manner of calculating the CPI in effect at the date of this Loan Agreement not been altered.

In the event that the CPI is not issued or published for the period for which such minimum Annual Fees are to be adjusted and computed hereunder, or in the even that the Bureau of Labor Statistics of the United States Department of Labor should cease to publish said index figures, then any similar index published by any other branch or department of the United States Government selected by County, shall be used and if none is so published, then another index general recognized as authoritative shall be substituted by County.

In the event that the Borrower is required to pay a monitoring fee or One-Time Payment pursuant to this section any amounts paid towards the monitoring fee or One Time Payment for the HOME Loan to the Borrower shall be credited to the amount due under this section, such that the maximum monitoring fee and One-Time Payment hereunder combined with the monitoring fee and One-Time Payment for the HOME Loan shall not exceed $1215, as adjusted in accordance with this section. [Omitted if HOME funding is not an additional award.]

7.20 Subcontracts.

(a) Upon request of County, or their designated agent, Borrower shall submit any requested Subcontract agreements to the County for review and consent. Any requested Subcontracts shall be submitted to County within forty-eight (48) hours of such request.

(b) Borrower shall assume responsibility for all subcontracted services to assure compliance with this Agreement.

(c) Borrower shall cause all of the applicable provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

7.21 Relocation. Borrower shall, if applicable, in all matters relating to the Project:

(a) Take all reasonable steps to minimize displacement by providing tenants a reasonable opportunity to lease and occupy dwelling units in the Project being improved, if applicable;

(b) Submit to County a plan outlining financial and advisory assistance in securing temporary housing for any eligible tenant who is temporarily or permanently relocated due to the Project; and,

(c) Comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and 49 CFR 24 in providing relocation assistance for persons displaced by the Project.

(d) Has in effect, and follows a residential anti-displacement and relocation plan required under Section 104 (d) of the Housing and Community Development Act of 1974, as amended, in conjunction with any activity assisted with funds under the subject program.

7.22 HOME Requirements. The Borrower shall carry out the design, construction and operation of the Project, and operate the Program, in conformity with all applicable laws, regulations, and rules of governmental agencies having jurisdiction, including without limitation, the HOME Requirements and the legal requirements set forth in Attachment No. [X] attached to this Agreement and the statutes referenced therein. For purposes of this paragraph, “HOME Requirements” mean the requirements of the HOME Investment Partnership Act, as amended (42 U.S.C. § 12741, et seq.), and the implementing regulations (24 C.F.R. § 92, et seq.), and the legal requirements summarized or referenced in Attachment No. [X] attached hereto and incorporated herein by this reference. [Intentionally Omitted if inapplicable.]

7.23 Mental Health Services Act Requirements. The Borrower shall carry out the design, construction and operation of the Project, and operate the Program, in conformity with all applicable laws, regulations, and rules of governmental agencies having jurisdiction, including without limitation, the requirements set forth in California Welfare and Institutions Code Section 5771.1 *et. seq*. and, without limitation, the requirements found in Attachment No. [X] attached to this Agreement. [Intentionally Omitted if inapplicable.]

7.24 Housing Successor Agency and/or Project Based Voucher Requirements. The Borrower shall carry out the design, construction and operation of the Project, and operate the Program, in conformity with all applicable laws, regulations, and rules of governmental agencies having jurisdiction, including without limitation, the requirements set forth in state and federal law and, without limitation, the requirements found in Attachment No. [X] attached to this Agreement. [Intentionally Omitted if inapplicable.]

7.25 Lender Recognition. The owner shall ensure recognition of the role of the County in providing funds through this Agreement. All activities, facilities and items utilized pursuant to the Agreement shall be prominently labeled as to funding source.

7.26 Child Support Enforcement Requirements.

(a) In order to comply with child enforcement requirements of the County, within 30 days of the close of escrow, Borrower agrees to furnish to the County:

1. In the case of an individual Borrower, his/her name, date of birth, Social Security number, and residence address;

2. In the case of an Borrower doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns 10% or more of the Project;

3. A certification that the Borrower has fully complied with all applicable federal and state reporting requirements regarding its employees; and,

4. A certification that the Borrower has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to comply.

(b) The certification will be stated as follows:

"I certify that ______(company name)_______ is in full compliance with all applicable federal and state reporting requirements for its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of

Assignment and will continue to be in compliance throughout the Term of this Agreement with the County of Orange. I understand that failure to comply shall constitute a material breach of the Agreement and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Agreement without costs to the County."

It is expressly understood that this data will be transmitted to government agencies charged with the establishment and enforcement of child support orders and for no other purposes.

Failure of the contractor to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of the Agreement. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of this Agreement.

7.27 Labor Standards. To the extent applicable, the Borrower agrees to comply with the requirements of the California Department of Industrial Relations Prevailing Wage Requirements and the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours, the Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276, 327-333) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Borrower shall maintain documentation, which demonstrates compliance with hour, and wage requirements of this part. Such documentation shall be made available to the County for review upon request. The Borrower agrees that, except with respect to the rehabilitation or construction of residential property designed for residential use for less than twelve (12) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the County pertaining to such contracts and with the applicable requirements of the regulations of the U.S. Department of Labor, under 29 CFR, Parts 1, 3, 5, 7 and 1926 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing herein is intended to relieve the Borrower of its obligation, if any, to require payment of the higher rate. The Borrower shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph, for such contracts in excess of $10,000.00.

7.28 Section 92.252 Qualification as Affordable Housing and Income Targeting Rental Housing.

The requirements of 24 CFR 92.252 are incorporated into this Agreement as if fully set forth herein.

7.29 Section 92.253 Tenant and Participant Protections.

The requirement of 24 CFR 92.253 are incorporated into this Agreement as if fully set forth herein.

7.30 Annual Audit.

Following the Conversion Date and commencing on the date six (6) months after closing of the Borrower's previous year's books and every one year anniversary date thereafter during the Term, Borrower shall submit to County the following audit reporting package (the "Audit Reporting Package"). Said Audit Reporting Package shall be in accordance with OMB circular A-133. County reserves the right to revise the Audit Reporting Package requirements in accordance with changed Federal, State or County rules, regulations, ordinances, laws and statutes. The Audit Reporting Package shall include the following:

(a) Financial Statements for the Project;

(b) Schedule of expenditures of Federal awards;

(c) Auditor's report;

(d) Summary schedule and prior audit findings, if applicable;

(e) Corrective action plan, if applicable;

(f) SF-SAC (Single Audit Collection) Data Collection Form; and

(g) Management Letter.

7.31 Operating Reserve

Borrower shall establish an interest bearing account to be known as the Operating Reserve Account. Upon the Conversion Date shall deposit an amount into the Operating Reserve Account sufficient to pay three (3) months of operating expenses and three (3) months of mandatory debt service payments ("Target Balance").

Funds shall be invested subject to the prior written approval of the County, which approval shall not be unreasonably withheld, and any earnings shall become and remain a part of the Operating Reserve. Funds may be drawn only when revenue is insufficient to pay operating expenses. The Borrowers shall not draw funds from the Operating Reserve Account without the prior written approval of the County, which approval shall not be unreasonably withheld.

If the balance in the Operating Reserve Account falls below the amount required to pay three (3) months of operating expenses and three (3) months of mandatory debt service payments, then Borrower shall apply Residual Receipts, when and if available, or other funds, to the replenishment of Operating Reserves until the Target Balance is achieved.

In the event of a failure by the Borrower to pay operating expenses, mandatory debt service payments, or other payments required under the Loan Documents or Mortgage Loan Documents, or during the continuance of an event of default by Borrower under the Loan Documents or Mortgage Loan Documents that would provide for the acceleration of the Loan or Mortgage Loan, then County may, after delivery of notice to Borrower and the expiration of any applicable cure periods, apply the funds in the Operating Reserve Account to the Loan, a Mortgage Loan, or use such funds for the continued operation of the Project.

7.32 Replacement Reserve

At or before the Conversion Date, Borrower shall establish an interest bearing account to be known as the Replacement Reserve Account. Annually prior to March 31 of each year, Borrower shall deposit into the Replacement Reserve Account an amount equal to three hundred dollars ($XXX) per unit or such higher amount as may be required by a tax creditor investor or senior Mortgagee and approved by County, which approval shall not be unreasonably withheld. The Funds shall be invested subject to the prior written approval of the County and any earnings shall become and remain a part of the Replacement Reserve. The Borrowers shall not draw funds from the Replacement Reserve Account without the prior written approval of the County, which approval shall not be unreasonably withheld.

Funds may only be drawn from the Replacement Reserve Account to replace or maintain Project assets which have a useful life of more than one (1) year in accordance with Generally Accepted Accounting Principles ("GAAP"), and have been or will be depreciated on the Partnership Tax Return, Form 1040P, filed with the Internal Revenue Service by the Borrower's accountant.

In the event of a failure by the Borrower to adequately maintain the Project, or pay operating expenses, mandatory debt service payments, or other payments required under the Loan Documents or Mortgage Loan Documents, or during the continuance of an event of default by Borrower under the Loan Documents or Mortgage Loan Documents that would provide for the acceleration of the Loan or Mortgage Loan, then County may, after delivery of notice to Borrower and the expiration of any applicable cure periods, apply the funds in the Replacement Reserve Account to the Loan, a Mortgage Loan, or use such funds for the maintenance, improvement, or continued operation of the Project.

ARTICLE VIII

DEFAULT AND REMEDIES

8.1 Events of Default. Each of the following shall constitute an "Event of Default" by Borrower under this Agreement:

(a) Failure to Make Note Payments. Borrower fails to make any payment of principal and/or interest under the Note when due, after ten (10) days notice from County. Any payment that falls due on a non-business day may be made the next succeeding business day without penalty and shall not be considered a past-due payment;

(b) Failure to Make Other Payments. Borrower fails to perform any other obligation for the payment of money (other than payments described in subparagraph (a) above) under any Loan Document within ten (10) days after County gives Borrower written notice that such obligation was not performed or paid for;

(c) Non-Monetary Failure to Perform. Borrower fails to timely perform, comply with or observe any of the terms, covenants, or conditions of this Agreement or any other Loan Document (other than those provisions elsewhere referred to in this Section 8.1) and such failure continues uncured or without Borrower commencing to diligently cure for thirty (30) days after notice thereof in writing is given by the County to Borrower, provided that if Borrower has commenced cure but cannot complete such cure reasonably within thirty (30) days, Borrower shall have ninety (90) days from the date of notice to cure such failure without such failure constituting an event of default;

(d) Mortgage Loan Document Breach. Any default or breach of Borrower that continues uncured after the expiration of any applicable cure period under any other loan document including, but not limited to, the Mortgage Loan Documents (including but not limited to the Junior HSA Deed of Trust and any related documents);

(e) Voluntary Suspension. The voluntary suspension of Borrower's business or the dissolution or termination of the partnership (if any) constituting Borrower;

(f) Unauthorized Transfer. Borrower’s sale or other transfer of the Property or the Project in violation of Section 7.7 above;

(g) Fraud or Material Misstatement or Omissions. Any fraudulent act or omission of Borrower's, or intentional misrepresentation of Borrower's, pertaining to or made in connection with the Loan, Loan Documents or the Project;

(h) Insolvency. A court having jurisdiction shall have made or entered any decree or order (i) adjudging Borrower to be bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization of Borrower or seeking any arrangement for Borrower under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (iii) appointing a receiver, trustee, liquidator, or assignee of Borrower in bankruptcy or insolvency or for any of their properties, or (iv) directing the winding up or liquidation of Borrower, if any such decree or order described in clauses (i) to (iv), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days unless a lesser time period is permitted for cure under any other mortgage on the Property, in which event such lesser time period will apply under this subsection 8.1(h) as well; or Borrower shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive. The occurrence of any of the events of default in this paragraph shall act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note; or

(i) Project Monies. Borrower's misapplication or embezzlement of Project monies.

8.2 Remedies. The occurrence of any Event of Default shall, either at the option of the County or automatically where so specified, relieve the County of any obligation to make or continue the Loan and shall give the County the right to proceed with any and all remedies set forth in this Agreement and the Loan Documents or otherwise available at law or in equity or by statute (and all of the County's rights and remedies shall be cumulative), including but not limited to the following:

(a) Acceleration of Note. The County shall have the right to cause all indebtedness of the Borrower to the County under this Agreement and the Note, together with any accrued interest thereon, to become immediately due and payable. The Borrower waives all right to presentment, demand, protest or notice of protest, or dishonor. The County may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the County as a creditor and secured party under the law including the Uniform Commercial Code, including foreclosure under the Deed of Trust. The Borrower shall be liable to pay the County on demand all expenses, costs and fees (including, without limitation, attorneys' fees and expenses) paid or incurred by the County in connection with the collection of the Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the Loan.

(b) Specific Performance. The County shall have the right to mandamus or other suit, action or proceeding at law or in equity to require Borrower to perform its obligations and covenants under the Loan Documents or to enjoin acts on things that may be unlawful or in violation of the provisions of the Loan Documents.

(c) Right to Cure at Borrower's Expense. The County shall have the right to cure any monetary default by Borrower under a loan other than the Loan. The Borrower agrees to reimburse the County for any funds advanced by the County to cure a monetary default by Borrower upon demand therefore, together with interest thereon at the rate of twelve percent (12%) per annum (which rate shall in no event exceed the maximum rate permitted by law and if it does, said rate shall be reduced to the maximum rate then permitted by law), from the date of expenditure until the date of reimbursement.

8.3 Remedies Cumulative. No right, power, or remedy given to the County by the terms of this Agreement or the Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Borrower and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

8.4 Waiver of Terms and Conditions. No waiver of any default or breach by Borrower hereunder shall be implied from any omission by the County to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The consent or approval by the County to or of any act by Borrower requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. The exercise of any right, power, or remedy shall in no event constitute a cure or a waiver of any default under this Agreement or the Loan Documents, nor shall it invalidate any act done pursuant to notice of default, or prejudice the County in the exercise of any right, power, or remedy hereunder or under the Loan Documents, unless in the exercise of any such right, power, or remedy all obligations of Borrower to County are paid and discharged in full.

ARTICLE IX

MISCELLANEOUS

9.1 Approvals Under Agreement. Where this Agreement requires an approval or consent of the County, such approval or consent may be given on behalf of the County by the Director or his or her designee.

9.2 Time. Time is of the essence in this Agreement.

9.3 Notices. Any notice requirement set forth herein shall be in writing and delivered to the appropriate party at the address listed in this subparagraph. Addresses for notice may be changed from time to time by written notice to the other party. All communications shall be effective when actually received; provided, however, that nonreceipt of any communication as the result of a change in address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication.

Borrower: [BORROWER TO PROVIDE]

County: [Orange County Housing Authority]

ATTACHMENT N 1

[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705
Attn: [Executive] Director

(a) County shall endeavor to provide a courtesy copy of any notice sent to Borrower to the following addressee, however, failure to do so shall not affect the validity of any otherwise proper, timely delivered notice to Borrower:

[courtesy notices]

Such addresses may be changed by notice to the other party given in the same manner as provided above.

9.4 No Third Parties Benefitted. This Agreement is made and entered into for the sole protection and benefit of the County, its successors and assigns, and Borrower, its permitted successors and assigns, and no other person or persons shall have any right of action hereon.

9.5 County to File Notices. Borrower irrevocably appoints, designates, and authorizes the County as its agent (said agency being coupled with an interest) to file for record any notice that the County deems necessary or desirable to protect its interest hereunder and under the Loan Documents.

9.6 Actions. The County shall have the right to commence, appear in, or defend any action or proceeding purporting to affect the rights, duties, or liabilities of the parties hereunder, or the disbursement of any proceeds of the Loan.

9.7 Successors and Assigns. The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no assignment of Borrower's rights hereunder shall be made, voluntarily or by operation of law, without the prior written consent of the County as specified in Section 8.7 above, and that any such assignment without said consent shall be void.

9.8 Construction of Words. Except where the context otherwise requires, words imparting the singular number shall include the plural number and vice versa, words imparting persons shall include firms, associations, partnerships and corporations, and words of either gender shall include the other gender.

9.9 Partial Invalidity. If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

9.10 Governing Law and Venue. This Agreement and the Loan Documents and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement or any of the Loan Documents, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394.

9.11 Amendment. This Agreement may not be changed orally, but only by an agreement in writing signed by Borrower and the County.

9.12 Approvals. Where an approval or submission is required under this Agreement, such approval or submission shall be valid for purposes of this Agreement only if made in writing.

9.13 Captions and Headings. Captions and headings in this Agreement are for convenience of reference only, and are not to be considered in construing the Agreement.

9.14 Nonliability. By accepting or approving anything required to be performed or given to County under the Loan Documents, including any certificate, financial statement, survey, or insurance policy, County shall not be deemed to have warranted or represented the sufficiency or legal effect of the same, and no such acceptance or approval shall constitute a warranty or representation by County to anyone.

9.15 Obligations Unconditional and Independent. Notwithstanding the existence at any time of any obligation or liability of County to Borrower, or any claim by Borrower against County, in connection with the Loan or otherwise, Borrower hereby waives any right it might otherwise have (a) to offset any such obligation, liability or claim against Borrower's obligations under the Loan Documents or (b) to claim that the existence of any such obligation, liability or claim excuses the nonperformance by Borrower of any of its obligations under the Loan Documents.

9.16 Survival of Representations and Warranties. All representations and warranties of Borrower in the Loan Documents shall survive the making of the Loan and have been or will be relied on by County notwithstanding any investigation made by County.

9.17 Prior Agreements. This Agreement (together with the other Loan Documents) contains the entire agreement between County and Borrower with respect to the Loan and all prior negotiations, understandings and agreements (including, but not limited to, any commitment letter issued by County to Borrower) are superseded by this Agreement and such Loan Documents.

9.18 Conflicts. In the event of any conflict between the provisions of this Agreement and those of any other Loan Document, this Agreement shall prevail; provided, however, that with respect to any matter addressed in both such documents, the fact that one document provides for greater, lesser or different rights or obligations than the other shall not be deemed a conflict unless the applicable provisions are inconsistent and could not be simultaneously enforced or performed.

9.19 Waiver of Right to Trial by Jury. Unless prohibited by Federal, State or local laws, each party to this Agreement hereby expressly waives any right to trial by jury of any claim, demand, action or cause of action arising under any Loan Document or in any way connected with or related or incidental to the dealings of the parties hereto or any of them with respect to any Loan Document, or the transactions related thereto, in each case whether now existing or hereafter arising, and whether sounding in contract or tort or otherwise; and each party hereby agrees and consents that any such claim, demand, action or cause of action shall be decided by court trial without a jury, and that any party to this Agreement may file an original counterpart or a copy of this section with any court as written evidence of the consent of the parties hereto to the waiver of their right to trial by jury.

ATTACHMENT N 1

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

BORROWER:

[PLEASE PROVIDE SIGNATURE BLOCK]

By:

Signature Page Follows

ATTACHMENT N 1

COUNTY:

[COUNTY SIGNATURE BLOCK]

By:___________________________________
[NAME] [TITLE]

APPROVED AS TO FORM
COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By____________________________
Deputy

Dated__________________________

ATTACHMENT N 1

EXHIBIT A
LEGAL DESCRIPTION

[LEGAL DESCRIPTION TO BE PROVIDED]

ATTACHMENT N 1

EXHIBIT B
[TO BE PROVIDED]

LOW AND VERY LOW QUALIFIED TENANT/UNIT MIX
[ ], California

HOME RENT & AFFORDABILITY SCHEDULE

Number of Restricted Units	Number of Bedrooms	* Gross Restricted Rental Rate	**Utility Allowance	Net Restricted Rental Rate	Income Limit based on Area Median Income (AMI)	Age Restriction (if any)	Project Based Section 8 Units	Number of Years Restricted
Total							Total 0	

* Restricted Rental Rate is based on the current Area Median Income (AMI) published by HUD annually and does not include the utility allowance deduction.

*** *** Utility allowance is based on the current utility schedule published by the Orange County Housing Authority annually.

Rent increases shall be limited to (i) the Department of Housing and Urban Development's (HUD) annually published Rent Adjustment factor for the Section 8 program, or (ii) no more than the lower of rent established as affordable based on the Median Income for the Area and the affordability restrictions set forth above, which is adjusted annually by HUD and published by the State of California, or as required by California Health & Safety Code section 50053, as referenced in the Loan Agreement Section 3.1 (d).

ATTACHMENT N 1

EXHIBIT C
Annual Statement Guidelines

Gross Revenue
Rental Income (including PBV/VASH income)
Laundry & Miscellaneous

Expenses
Obligated debt service on the Senior Permanent Loan
Operating reserves
Replacement reserves ($-----/unit)
Deferred developer fee
County annual loan monitoring fee
Asset management and property management fee
Utility fees
Property taxes
Insurance premiums
Operating and maintenance expenses
Resident services

Debt Service
First Trust Deed – [lender name] (construction) / [lender name] (permanent)

Partnership and Management Fees
Asset Management Fee in the amount of $----- escalating at 2.5% per year
Partnership Management Fee in the amount of $----- escalating at 2.5% per year
[combined amount not to exceed $15,000 per year per the NOFA]

Cash Flow Available for Distribution

County of Orange	-----% of the available cash flow annually County loan accrues at 3% simple interest annually
City of ----------	-----% of the available cash flow annually
Borrower	-----% of the available cash flow annually

ATTACHMENT N 2

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

[Orange County Housing Authority]
[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705
Attn: [Executive] Director

DEED OF TRUST, ASSIGNMENT OF RENTS, AND SECURITY AGREEMENT

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, AND SECURITY AGREEMENT ("**Deed of Trust**") is made as of this ___ day of ________, 2023, by **[**BORROWER TO CONFIRM PARTY AND ORG IDENTITY**]**., ("**Trustor**"), to_________________, as trustee ("**Trustee**"), for the benefit of the [ORANGE COUNTY HOUSING AUTHORITY, a public corporation created pursuant to California Health and Safety Code section 34200 et. seq., acting solely as the Housing Successor Agency to the Orange County Development Agency] Or [COUNTY OF ORANGE, a political subdivision of the state of California], as beneficiary ("**Beneficiary**").

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, Trustor's fee interest in the property located in Orange County, State of California, that is described in Exhibit A, attached hereto and incorporated herein by this reference (the "**Property**"), on which Trustor intended to construct and operate an apartment complex commonly known as [PROJECT NAME].

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property and the rents;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, including without limiting the generality of the foregoing, all tenements, hereditament and appurtenances thereof and thereto;

TOGETHER WITH any and all buildings, improvements and landscaping of every kind and description now or hereafter erected thereon, and all property of the Trustor now or hereafter affixed to or placed upon the Property (sometimes collectively referred to as the "**Improvements**");

TOGETHER WITH all building materials and equipment now or hereafter delivered to said Property and intended to be installed therein;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys, strips and gores of land adjacent to or used in connection with the Property and/or Improvements;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all oil, gas and mineral rights (including royalty and leasehold rights relating thereto), all water and water rights and shares of stock relating thereto, all leases of all or any portion of the Property or Improvements entered into by Trustor as lessor or lessee, all options to purchase or lease all or any portion of the Property and/or Improvements, all deposits made with or other security given by Trustor to third parties including, utility companies, the proceeds from any or all of such property, including the Property, claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire, any and all awards made for the taking by eminent domain or by and proceeding or purchase in lieu thereof of the whole or any part of such property; and

TOGETHER WITH all articles of personal property or fixtures now or hereafter attached to, located on, installed in or used in and about the Property and/or Improvements, including without limitation, all partitions, generators, screens, boilers, furnaces, pipes, plumbing, elevators, cleaning and sprinkler systems, fire extinguishing machinery and equipment, water tanks, heating, ventilating, air conditioning and air cooling machinery and, equipment, gas and electric machinery and equipment and other appliances, machinery and equipment and other fixtures of every nature, all of which shall remain real property, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to the Property in any manner.

TOGETHER WITH all present and future accounts, general intangibles, chattel paper, deposit accounts, investment property, instruments and documents as those terms are defined in the California Commercial Code, now or hereafter relating or arising with respect to the Property and/or Improvements and/or the use thereof or any improvements thereto, including without limitation: (i) all rights to the payment of money, including escrow proceeds arising out of the sale or other disposition of all or any portion of the Property and/or Improvements; (ii) all deposit accounts and other accounts and funds created under or pursuant to the Loan Agreement (as defined below), and the other Loan Documents, all amounts now or hereafter on deposit herein, and all interest and other earnings thereon; (iii) all use permits, occupancy permits, construction and building permits, and all other permits and approvals required by any governmental or quasi-governmental authority in connection with the development, construction, use, occupancy or operation of the Property and/or Improvements; (iv) any and all agreements relating to the occupancy and/or operation of the Property and/or Improvements, including without limitation service, property management, landscaping, gardening , consulting and other contracts of every nature (to the extent the same are assignable); (v) all lease or rental agreements; (vi) all names under which the Property and/or Improvements are now or hereafter known and all rights to carry on business under any such names or any variant thereof; (vii) all trademarks relating to the Property and/or Improvements and/or the use, occupancy or operation thereof; (viii) all goodwill relating to the Property and/or Improvements and/or the use, occupancy or operation thereof; (ix) all insurance proceeds and condemnation awards arising out of or incidental to the ownership, use, occupancy or operation of the Property and/or Improvements; (x) all reserves, deferred payments, deposits, refunds, cost savings, bonds, insurance policies and payments of any kind relating to the Property and/or Improvements; (xi) all water stock, if any, relating to any Property and/or Improvements; (xii) all supplements, modifications and amendments to the foregoing and all present and future accessions, additions, attachments, replacements and substitutions of or to any or all of the foregoing; and (xiii) all cash and noncash proceeds and products of any or all of the foregoing, including without limitation all monies, deposit accounts, insurance proceeds and other tangible or intangible property received upon a sale or other disposition of any of the foregoing, whether voluntary or involuntary; and

TOGETHER WITH all present and future goods, equipment and inventory, as those terms are defined in the California Commercial Code, and all other present and future personal property of any kind or nature whatsoever, now or hereafter located at, upon or about the Property and/or Improvements, or used or to be used in connection with or relating or arising with respect to the Property and/or Improvements, the use thereof or any improvements thereto.

All of the foregoing, together with the Property, is herein referred to as the "Security". To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever.

FOR THE PURPOSE OF SECURING:

(a) Payment of and performance of all indebtedness of Trustor to Beneficiary as set forth in the Loan Agreement (defined in Section 1.5 below) and the Note (defined in Section 1.6 below) in the original principal amount of **[AMOUNT OF LOAN]** ($XXX) until paid or canceled. Said principal and other payments shall be due and payable as provided in the Loan Agreement and the Note. The Loan Agreement and the Note and all their terms are incorporated herein by reference, and this conveyance shall secure any and all extensions thereof, however evidenced;

(b) Payment and performance of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Deed of Trust with interest thereon as provided herein;

(c) Payment and performance of every other obligation, covenant or agreement of Trustor contained in this Deed of Trust and in the other "Loan Documents" (as such term is defined in the Loan Agreement);

(d) Payment and performance of all renewals, extensions, supplements, amendments and other modifications of any of the foregoing, including without limitation modifications that are evidenced by new or additional documents or that change the rate of interest on any obligation.

All of the foregoing obligations are referred to collectively herein as the “Obligations”.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

ARTICLE I

DEFINITIONS

In addition to the terms defined elsewhere in this Deed of Trust, the following terms shall have the following meanings in this Deed of Trust:

Section 1.1. The term “Debt Instrument” means any debt, loan, mortgage, deed of trust, regulatory agreement or security instrument relating to the Property or the Security, including, but not limited to, the Loan Documents.Section 1.2. The term “**Hazardous Substance**” means:

(a) any oil, flammable substance, explosive, radioactive material, hazardous waste or substance, toxic waste or substance or any other waste, material, or pollutant that

(i) poses a hazard to the Property or to persons on the Property or

(ii) causes the Property to be in violation of any Hazardous Substance Law;

(b) asbestos in any form;

(c) urea formaldehyde foam insulation;

(d) transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls;

(e) radon gas;

(f) any chemical, material, or substance defined as or included in the definition of “hazardous substance,” “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous waste,” “restricted hazardous waste,” or “toxic substances” or words of similar import under any applicable local, state, or federal law or under the regulations adopted or publications promulgated pursuant to those laws, including, but not limited to, any Hazardous Substance Law, Code of Civil Procedure § 564, as amended from time to time, Code of Civil Procedure § 726.5, as amended from time to time, Code of Civil Procedure §736, as amended from time to time, and Civil Code § 2929.5, as amended from time to time;

(g) any other chemical, material, or substance, exposure to which is prohibited, limited, or regulated by any governmental authority or which may pose a hazard to the health and safety of the occupants of the Property or the owners or occupants of property adjacent to or surrounding the Property, or any other person coming on the Property or any adjacent property; and

(h) any other chemical, material, or substance that may pose a hazard to the environment.

Section 1.3. The term "**Hazardous Substance Claim**" means any enforcement, cleanup, removal, remedial, or other governmental, regulatory, or private actions, agreements, or orders threatened, instituted, or completed pursuant to any Hazardous Substance Law together with all claims made or threatened by any third party against Trustor or the Property relating to damage, contribution, cost-recovery compensation, loss, or injury resulting from the presence, release or discharge of any Hazardous Substance.

Section 1.4. The term "**Hazardous Substance Law**" means any federal, state, or local law, ordinance, regulation, or policy relating to the environment, health, and safety, any Hazardous Substance (including, without limitation, the use, handling, transportation, production, disposal, discharge, or storage of the substance), industrial hygiene, soil, groundwater, and indoor and ambient air conditions or the environmental conditions on the Property, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 USCS §§ 9601 et seq.], as amended from time to time; the Hazardous Substances Transportation Act [49 USCS §§ 1801 et seq.], as amended from time to time; the Resource Conservation and Recovery Act [42 USCS §§ 6901 et seq.], as amended from time to time; the Federal Water Pollution Control Act [33 USCS §§ 1251 et seq.], as amended from time to time; the Hazardous Substance Account Act [Health and Safety Code §§ 25300 et seq.], as amended from time to time; the Hazardous Waste Control Law [Health and Safety Code §§ 25100 et seq.], as amended from time to time; the Medical Waste Management Act [Health and Safety Code §§ 25015 et seq.], as amended from time to time; and the Porter-Cologne Water Quality Control Act [Water Code §§ 13000 et seq.], as amended from time to time.

Section 1.5. The term "**Loan Agreement**" means that certain Loan Agreement, which terms and provision are incorporated into this Deed of Trust by reference, of even date herewith between Trustor and Beneficiary.

Section 1.6. The term "**Note**" means that certain promissory note of even date herewith executed by the Trustor, the payment of which is secured by this deed of Trust.

Section 1.7. The term "**Principal**" means the aggregate of all principal and interest due under the Note.

Section 1.8. The term "**Release**" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of Hazardous Substances that goes into the soil, surface water, or groundwater of the Property, whether or not caused by, contributed to, permitted by, acquiesced to, or known to Trustor.

ARTICLE II

GENERAL COVENANTS OF TRUSTOR REGARDING THE PROPERTY, IMPROVEMENTS AND SECURITY

Section 2.1. Payment of Secured Obligations.

Trustor shall duly and punctually pay and perform all Obligations, including but not limited to all terms, covenants, conditions and agreements set forth in the Debt Instruments, the Loan Agreement, the Note and any other agreement of any nature whatsoever now or hereafter involving or affecting the Security or any part thereof.

Section 2.2. Maintenance, Repair and Modification.

(a) The Trustor agrees that at all times prior to full payment of the sum owed under the Note, the Trustor will, at the Trustor's own expense, maintain, preserve and keep the Security or cause the Security to be maintained and preserved in good condition and repair and in a prudent and businesslike manner. The Trustor will from time to time make or cause to be made all repairs, replacements and renewals to the Security, which are necessary or appropriate. The Beneficiary shall have no responsibility in any of these matters or for the making of improvements or additions to the Security.

(b) Trustor shall not remove, demolish or substantially alter any of the Improvements, other than to make repairs in the ordinary course of business of a non-structural nature which serve to preserve or increase the value of the Security without Beneficiary's prior written consent, which consent shall not be unreasonably withheld so long as Trustor provides reasonable evidence to Beneficiary that, following such demolition and restoration and/or alteration, the Improvements shall have a fair market value at least equal to their fair market value prior to such demolition and restoration and/or alteration; Trustor shall complete promptly and in a good and workmanlike manner any Improvement which may now or hereafter be constructed and promptly restore in like manner any Improvement which may be damaged or destroyed thereon from any cause whatsoever, and pay when due all claims for labor performed and materials furnished therefor; Trustor shall comply with all laws, ordinances, rules, regulations, covenants, conditions, restrictions and orders of any governmental authority now or hereafter affecting the conduct or operation of Trustor's business or the security or any part thereof or requiring any alteration or improvement to be made thereon; Trustor shall not commit, suffer or permit any act to be done in, upon or to the Security or any part thereof in violation of any such laws, ordinances, rules, regulations or orders, or any covenant, condition or restriction now or hereafter affecting the Security; Trustor shall not commit or permit any waste or deterioration of the Security, and shall keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair; Trustor will not take (or fail to take) any action, which if taken (or not so taken) would increase in any way the risk of fire or other hazard occurring to or affecting the Security or otherwise would impair the security of Beneficiary in the Security; Trustor shall comply with the provisions of all leases, if any, constituting a portion of the Security; Trustor shall not abandon the Security or any portion thereof or leave the Security unprotected, unguarded, vacant or deserted; Trustor shall not initiate, join in or consent to any change in any zoning ordinance, general plan, specific plan, private restrictive covenant or other public or private restriction limiting the uses which may be made of the Security by Trustor or by the owner thereof; Trustor shall secure and maintain in full force all permits necessary for the use, occupancy and operation of the Security; except as otherwise prohibited or restricted by the Loan Agreement and the other instruments and documents executed in connection with the transaction to which the Loan Agreement pertains or any of them, Trustor shall do any and all other acts which may be reasonably necessary to protect or preserve the value of the Security and the rights of Trustee and Beneficiary with respect thereto.

Section 2.3. Granting of Easements.

Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to any property or rights included in the Security except those required or desirable for installation and maintenance of public utilities including, without limitation, water, gas, electricity, sewer, telephone and telegraph, or those required by law.

Section 2.4. Agreement to Pay Attorneys' Fees and Expenses.

In the event of any Event of Default (as defined below) hereunder, and if the Beneficiary should employ attorneys or incur other expenses for the collection of amounts due or the enforcement of performance or observance of an obligation or agreement on the part of the Trustor in this Deed of Trust, the Trustor agrees that it will, on demand therefor, pay to the Beneficiary the reasonable fees of such attorneys and such other reasonable expenses so paid by the Beneficiary; and any such amounts paid by the Beneficiary shall be added to the indebtedness secured by the lien of this Deed of Trust, and shall bear interest from the date such expenses are paid at the Agreed Rate (as defined in Section 3.1(d) below).

Section 2.5. Payment of the Principal.

The Trustor shall pay to the Beneficiary the Principal and any other payments as set forth in the Note in the amounts and by the times set out therein.

Section 2.6. Fixture Filing and Security Agreement.

(a) To the maximum extent permitted by law, the personal property subject to this Deed of Trust shall be deemed to be fixtures and part of the real property and this Deed of Trust shall constitute a fixture filing under the California Commercial Code. As to any personal property not deemed or permitted to be fixtures, this Deed of Trust shall constitute a security agreement under the California Commercial Code and Trustor hereby grants to Beneficiary a security interest in all of Trustor's right, title and interest, whether now existing or hereafter arising, in and to any portion of the Property which constitutes personal property (the "**Personal Property**").

(b) Trustor hereby represents and warrants to Beneficiary that: (1) Trustor is the owner of the Personal Property and no other person has any right, title, claim or interest (by way of security interest or other lien or charge or otherwise) in, against or to the Personal Property other than any senior lender or lien holder approved in writing by Beneficiary; (2) the Personal Property is free from all liens, security interests, encumbrances and adverse interests, except Permitted Encumbrances (hereinafter defined); (3) no financing statement or similar filing covering any of the Personal Property, and naming any secured party other than Beneficiary and the holders of Permitted Encumbrances, is on file in any public office; (4) each account, general intangible, chattel paper, deposit account, instrument, document, agreement, contract or right to the payment of money constituting Personal Property (collectively, the "Rights to Payment"), if any, is genuine and enforceable in accordance with its terms against the party obligated to pay the same and (5) the Personal Property is not used nor was the Personal Property purchased for personal or family use by Trustor.

(c) Trustor hereby agrees: (1) to pay, prior to delinquency, all taxes, assessments, charges, encumbrances and liens now or hereafter imposed upon or affecting all or any part of the Personal Property; (2) not to amend, modify, supplement, terminate or cancel any of the Personal Property; (3) without the prior written consent of Beneficiary, not to remove all or any part of the tangible Personal Property from the Property; (4) to give Beneficiary thirty (30) days' prior written notice of any change in Trustor's residence, principal place of business, chief executive office or trade names or styles; (5) to appear in and defend any action or proceeding which may affect the Personal Property (including, without limitation, actions, proceedings and claims which may affect Trustor's title to the Personal Property or the validity or priority of Beneficiary's security interest in the Personal Property); (6) to indemnify Beneficiary against all claims, demands and liabilities of every kind caused by the Personal Property; and (7) to permit Beneficiary to enter Trustor's premises to inspect the Personal Property. Trustor further agrees (8) to fully and timely perform all of its obligations under and with respect to all Rights of Payment and to diligently enforce all of the obligations of each obligor thereunder; (9) not to amend, modify, supplement, cancel or terminate any of the Rights to Payment in any material respect without the prior written consent of Beneficiary; (10) to keep the Rights to Payment and all proceeds free and clear of all defaults, defenses, rights of offset and counterclaim; (11) to take or bring, in Beneficiary's name or in the name of Trustor, as Beneficiary may require, all actions, suits or proceedings deemed reasonably necessary or desirable by Beneficiary to effect collection or to realize upon Rights to Payment; and (12) not to commingle Rights to Payment or collections thereunder with other property.

(d) As soon as practicable, and in any event within ten (10) days, Trustor shall notify Beneficiary of: (1) any attachment or other legal process levied against any of the Personal Property; (2) any information received by Trustor which may in any manner materially and adversely affect the value of the Personal Property or the rights and remedies of Beneficiary with respect thereto; and (3) the removal of any of the Personal Property to a new location other than in the ordinary course of business and the removal of any records of Trustor relating to the Personal Property to any location other than the Land and Improvements.

(e) Trustor hereby irrevocably constitutes and appoints Beneficiary as its attorney-in-fact to, after the occurrence and during the occurrence of an Event of Default: (1) perform any obligation of Trustor hereunder in Trustor's name or otherwise; (2) give notice of Beneficiary's rights in the Rights to Payment, to enforce the same, and make extension agreements with respect thereto; (3) release persons liable on the Rights to Payment and to give receipts and acquittances and compromise disputes in connection therewith; (4) release security for the Rights to Payment; (5) resort to security for the Rights to Payment in any order; (5) prepare, execute, file, record or deliver notes, assignments, schedules, designation statements, financing statements, continuation statements, termination statements, and other documents to perfect preserve or release Beneficiary's interest in the Rights to Payment; and (6) do all acts and things and execute all documents in the name of Trustor or otherwise, deemed by Beneficiary as necessary, proper and convenient in connection with the preservation, perfection or enforcement of its rights hereunder. The power of attorney granted hereunder is coupled with an interest and is irrevocable.

Section 2.7. Financing Statement.

The Trustor shall execute and deliver to the Beneficiary such financing statements pursuant to the appropriate statutes, and any other documents or instruments as are required to convey to the Beneficiary a valid perfected security interest in the Security. The Trustor agrees to perform all acts that the Beneficiary may reasonably request so as to enable the Beneficiary to maintain such valid perfected security interest in the Security in order to secure the payment of the Note in accordance with its terms. The Beneficiary is authorized to file a copy of any such financing statement in any jurisdiction(s) as it shall deem appropriate from time to time in order to protect the security interest established pursuant to this instrument.

Section 2.8. Operation of the Security.

The Trustor agrees and covenants to operate the Security in full compliance with the Loan Agreement and the Debt Instruments.

Section 2.9. Inspection of the Security.

The Trustor covenants and agrees that at any and all reasonable times, the Beneficiary and its duly authorized agents, attorney's experts, engineers, accountants and representatives, shall have the right, without payment of charges or fees, to inspect all or any portion of the Security, including, but not limited to, the right to inspect and copy all reports and records pertaining thereto.

Section 2.10. Nondiscrimination.

The Trustor herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, age, marital status, national origin, ancestry or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Security, nor shall the Trustor itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Security. The foregoing covenants shall run with the land.

Section 2.11. Subrogation and Waiver of Offset.

(a) Trustor waives any and all right to claim or recover against Beneficiary, its officers, employees, agents and representatives, for loss of or damage to Trustor, the Security, Trustor's property or the property of others under Trustor's control from any cause insured against or required to be insured against by the provisions of this Deed of Trust; provided, however, that this waiver of subrogation shall not be effective with respect to any policy of insurance permitted or required by this Deed of Trust if (i) such policy prohibits, or if coverage thereunder would be reduced as a result of, such waiver of subrogation and (ii) Trustor is unable to obtain from a carrier issuing such insurance a policy that, by special endorsement or otherwise, permits such a waiver of subrogation.

(b) Except as otherwise specifically provided herein, all amounts payable by Trustor pursuant to this Deed of Trust shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Security or any part thereof; (ii) any restriction or prevention of or interference by any third party with any use of the Security or any part thereof; (iii) any title defect or encumbrance or any eviction from the Security or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary, or by any court, in any such proceeding; (v) any claim which Trustor has or might have against Beneficiary; (vi) any default or failure on the part of Beneficiary to perform or comply with any of the terms hereof or of any other agreement with Trustor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing. Except as expressly provided herein, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Trustor.

Section 2.12. Utilities.

Trustor shall pay or cause to be paid when due all utility charges which are incurred for the benefit of the Security or which may become a charge or lien against the Security for gas, electricity, water, sewer services or other fees and charges for utilities furnished to the Security and all other assessments or charges of a similar nature, whether public or private, affecting or related to the Security or any portion thereof, whether or not such taxes, assessments or charges are or may become liens thereon.

Section 2.13. Actions by Beneficiary to Preserve Property.

If Trustor fails to make any payment or to do any act as and in the manner provided in this Deed of Trust, Beneficiary and Trustee, and each of them, each in its own discretion, without obligation to do so, without releasing Trustor from any Obligation, and subject only to the notice and cure provisions of the Loan Agreement, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. In connection therewith (without limiting their general and other powers, whether conferred herein, in another Loan Document or by law), Beneficiary and Trustee shall each and are hereby given the right, but not the obligation: (i) to enter upon and take possession of the Security; (ii) to make additions, alterations, repairs and improvements to the Security which either of them consider necessary or proper to keep the Security in good condition and repair; (iii) to appear and participate in any action or proceeding which may affect the security hereof or the rights or powers of Beneficiary or Trustee; (iv) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of either may affect the security of this Deed of Trust or be prior or superior hereto; and (v) in exercising such powers to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. Trustor shall reimburse Beneficiary on demand for all costs incurred by Beneficiary in connection with actions which Beneficiary deems advisable to protect its interest under the Loan Agreement and all such amounts shall bear interest at the Agreed Rate following demand and be secured hereby.

Section 2.14. Transfer of Property by Trustor.

Prior to repayment of the Note, Trustor agrees that Trustor shall not sell or transfer the Security or any interest therein or sell or transfer all or substantially all of the assets of Trustor or any of them except as may be provided in the Loan Agreement.

Section 2.15. Additional Security.

No other security now existing, or hereafter taken, to secure the Obligations secured hereby or the liability of any maker, surety guarantor or endorser with respect to such Obligations, or any of them, shall be impaired or affected by the execution of this Deed of Trust; and all additional security shall be taken, considered and held as cumulative. The taking of additional security, execution of partial releases of the Security, or any extension of the time of payment of the indebtedness shall not diminish the force, effect or lien of this Deed of Trust and shall not affect or impair the liability of any maker, surety, guarantor or endorser for the payment of said indebtedness. In the event Beneficiary at any time holds additional security for any of the Obligations secured hereby, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before, concurrently, or after a sale is made hereunder.

Section 2.16. Liens.

Trustor shall not cause, incur suffer or permit to exist or become effective any lien, encumbrance or charge upon all or any part of the Property, the Improvements or any interest therein other than (a) easements, rights of way, covenants, conditions, restrictions, liens and other title limitations approved in writing by Beneficiary prior to the execution of this Deed of Trust, and (b) immaterial easements and rights of way which are required by governmental authorities as a condition to the use and operation of the Improvements which are approved in writing by Beneficiary after the execution of this Deed of Trust (the "**Permitted Encumbrances**"). Trustor shall pay and promptly discharge, at Trustor's cost and expense, all liens, encumbrances and charges upon the Security, or any part thereof or interest therein other than the Permitted Encumbrances; provided, that the existence of any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right thereto shall not constitute a violation of this Section if payment is not yet due under the contract which is the foundation thereof. Trustor shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided Trustor shall first deposit with the Beneficiary a bond or other security satisfactory to Beneficiary in such amounts as Beneficiary shall reasonably require, but not more than one hundred fifty percent (150%) of the amount of the claim or shall post a bond authorized by statute in lieu thereof, and provided further that Trustor shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. If Trustor shall fail to remove and discharge any such lien, encumbrance, or charge, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same, without inquiring into the validity of such lien, encumbrance or charge nor into the existence of any defense or offset thereto, either by paying the amount claimed to be due, or by procuring the discharge of such lien, encumbrance or charge by depositing in court a bond or the amount claimed, or otherwise giving security for such claim, in such manner as is or may be prescribed by law. Trustor shall, immediately upon demand therefor by Beneficiary, pay to Beneficiary an amount equal to all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing right to discharge any such lien, encumbrance or charge, together with interest thereon from the date of such expenditure at the Agreed Rate and, until paid, such sums shall be secured hereby.

Section 2.17. Beneficiary's Powers.

Without affecting the liability of any other person liable for the payment of any Obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Security not then or theretofore released as security for the full amount of all unpaid Obligations, Beneficiary may, from time to time and without notice: (a) release any person so liable, (b) extend the maturity or alter any of the terms of any such Obligation (to the extent that Beneficiary is so allowed under the Loan Agreement), (c) grant other indulgences, (d) release or reconvey, or cause to be released or reconveyed at any time at Beneficiary's option any parcel, portion or all of the Security, (e) take or release any other or additional security for any Obligation herein mentioned, or (f) make compositions or other arrangements with debtors in relation thereto. By accepting payment or performance of any Obligation secured by this Deed of Trust after the payment or performance thereof is due or after the filing of notice of default and election to sell (other than satisfaction in full of the Obligations), Beneficiary shall not have thereby waived its right to require prompt payment or performance, when due, of all other

Obligations secured hereby, or to declare a default for failure so to pay or perform, or to proceed with the sale under any notice of default and election to sell theretofore given by Beneficiary, or with respect to any unpaid balance of the indebtedness secured hereby. The acceptance by Beneficiary of any sum in an amount less than the sum then due shall not constitute a waiver of the obligation of Trustor to pay the entire sum then due. Trustor's failure to pay the entire sum then due shall continue to be a default, notwithstanding the acceptance of partial payment, and, until the entire sum then due shall have been paid, Beneficiary or Trustee shall at all times be entitled to declare a default and to exercise all the remedies herein conferred, and the right to proceed with a sale under any notice of default and election to sell shall in no way be impaired, whether or not such amounts are received prior or subsequent to such notice. No delay or omission of Trustee or Beneficiary in the exercise of any other right or power hereunder shall impair such right or power or any other right or power nor shall the same be construed to be a waiver of any default or any acquiescence therein.

Section 2.18. Suits to Protect Property. Trustor agrees to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or any additional or other security for the obligations secured, the interest of Beneficiary of the rights, powers and duties of Trustee, and to pay all costs and expenses, including without limitation, cost of evidence of title and attorneys' fees, in any action or proceeding in which Beneficiary or Trustee may appear to be made a party, including, but not limited to, foreclosure or other proceeding commenced by those claiming a right to any part of the Property under subordinate liens, in any action to partition or condemn all or part of the Property, whether pursued to final judgment, and in any exercise of the power of sale in this Deed of Trust, whether the sale is actually consummated.

ARTICLE III

TAXES AND INSURANCE; ADVANCES

Section 3.1. Taxes, Other Governmental Charges and Utility Charges.

(a) Trustor shall pay, prior to delinquency, all real property taxes and assessments, general and special, and all other charges of any kind, including without limitation non-governmental levies or assessments such as maintenance charges, levies or other charges resulting from covenants, conditions and restrictions affecting the Security, which are assessed or imposed upon the Security or upon Trustor as owner or operator of the Security, or become due and payable, and which create or may create a lien upon the Security, or any part thereof, or upon any personal property, equipment or other facility used in the operation or maintenance thereof (all the above collectively hereinafter referred to as "Impositions"); provided, however, that if, by law, any Imposition is payable, or may at the option of the taxpayer be paid, in installments, Trustor may pay the same in installments (together with any interest charged) as the same become due and before any fine, penalty or cost may be added thereto for the nonpayment of any such installment. Notwithstanding the foregoing, Trustor shall have the right to diligently contest, in good faith and by appropriate proceedings, the validity of any Imposition, so long as Trustor demonstrates to Beneficiary that Trustor is maintaining sufficient reserves for the payment of all contested liabilities and so long as the security and value of Beneficiary's interest under this Deed of Trust are not impaired as a result of such contest.

(b) If at any time after the date hereof there shall be assessed or imposed (1) a tax or assessment on the Security in lieu of or in addition to the Impositions payable by Trustor pursuant to this Section 3.1 hereof, or (2) a license fee, tax or assessment imposed on Beneficiary and measured by or based in whole or in part upon the amount of the outstanding Obligations secured hereby, then all such taxes, assessments or fees shall be deemed to be included within the term "Impositions" as defined in this Section and Trustor shall pay and discharge the same as herein provided with respect to the payment of Impositions. If Trustor fails to pay such Impositions prior to delinquency or if Trustor is prohibited by law from paying such Impositions, Beneficiary may at its option declare all Obligations secured hereby, together with all accrued interest thereon, immediately due and payable. Anything to the contrary herein notwithstanding, Trustor shall have no obligation to pay any franchise, estate, inheritance, income, excess profits or similar tax levied on Beneficiary or on the Obligations secured hereby.

(c) Trustor shall deliver to Beneficiary within thirty (30) days after the date upon which any such Imposition is due and payable by Trustor official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payment thereof. Trustor shall not suffer, permit or initiate the joint assessment of any real and personal property which may constitute all or a portion of the Security and the personal property or suffer, permit or initiate any other procedure whereby the lien of real property taxes and the lien of personal property taxes shall be assessed, levied or charged to the Security as a single Lien. Trustor shall cause to be furnished to Beneficiary a tax reporting service, covering the Property, of a type and duration, and with a company, reasonably satisfactory to Beneficiary.

(d) In the event that Trustor shall fail to pay any of the foregoing items required by this Section to be paid by Trustor, Beneficiary may (but shall be under no obligation to) pay the same, after the Beneficiary has notified the Trustor of such failure to pay and the Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced therefor by Beneficiary, together with interest thereon from the date of such advance at the greater of twelve percent (12%) per annum or the maximum rate permitted by law (hereinafter the "Agreed Rate"), shall become an additional Obligation of Trustor to the Beneficiary and shall be secured hereby, and Trustor agrees to pay all such amounts.

Section 3.2. Insurance.

(a) Trustor agrees to provide insurance conforming in all respects to that required under the Loan Agreement at all times until all amounts secured by this Deed of Trust have been paid and all other Obligations secured hereunder fulfilled, and this Deed of Trust reconveyed. All such insurance policies and coverages shall be maintained at Trustor's sole cost and expense.

(b) All said insurance shall have attached thereto a lender's loss payable endorsement for the benefit of Beneficiary in form satisfactory to the Beneficiary and/or shall name Beneficiary as an additional insured, as Beneficiary may require, and shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policies notwithstanding any act or negligence of Trustor or any party holding under Trustor which might otherwise result in forfeiture of said insurance and the further agreement of the insurer waiving all rights of setoff, counterclaim and deduction against Trustor. At Beneficiary's option, Trustor shall furnish Beneficiary with an original of all required policies of insurance and/or a certificate of insurance with all required endorsements for each required policy setting forth the coverage, the limits of liability, the deductible, if any, the name of the carrier, the policy number, and the period of coverage, which certificates and endorsements shall be executed by authorized officials of the companies issuing such insurance, or any agents or attorneys-in-fact authorized to issue said certificates and endorsements (in which event each such certificate and endorsements shall be accompanied by a notarized affidavit, agency agreement or power of attorney evidencing the authority of the signatory to issue such certificate on behalf of the insurer named therein), accompanied by a certificate from Trustor that the insurance satisfies the requirements of the Loan Agreement, and that Beneficiary may conclusively rely on such certificates. If Beneficiary consents, Trustor may provide any of the required insurance through blanket policies carried by Trustor and covering more than one location; provided, however, all such policies shall be in form and substance and issued by companies satisfactory to Beneficiary.

(c) At least thirty (30) days prior to the expiration of each required policy, Trustor shall deliver to Beneficiary evidence satisfactory to Beneficiary of the payment of premium and the renewal or replacement of such policy continuing insurance in form as required by this Deed of Trust or the Loan Agreement. All such policies shall contain a provision that, notwithstanding any contrary agreement between Trustor and the insurance company, such policies will not be canceled, allowed to lapse without renewal, surrendered or materially amended (which term shall include any reduction in the scope, or limits of coverage) without at least thirty (30) days prior written notice to Beneficiary.

(d) In the event of foreclosure of this Deed of Trust or other transfer of title or assignment of the Property in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of Trustor in and to all policies of insurance required by Section 3.2 hereof and any unearned premiums paid thereon shall, without further act, be assigned to and shall inure to the benefit of and pass to the successor in interest to Trustor or the purchaser or grantee of the Property, and Trustor hereby appoints Beneficiary its lawful attorney-in-fact to execute an assignment thereof and any other document necessary to effect such transfer.

Section 3.3. Advances.

In the event the Trustor shall fail to maintain the full insurance coverage required by this Deed of Trust or shall fail to keep the Security in accordance with the Loan Agreement, the Beneficiary, after at least twenty (20) days prior written notice to Trustor, may (but shall be under no Obligation to) take out the required policies of insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced therefor by the Beneficiary shall become an additional Obligation of the Trustor to the Beneficiary (together with interest as set forth below) and shall be secured hereby, which amounts the Trustor agrees to pay on the demand of the Beneficiary, and if not so paid, shall bear interest from the date of the advance at the Agreed Rate.

ARTICLE IV

DAMAGE, DESTRUCTION OR CONDEMNATION

Section 4.1. Casualties.

Trustor shall give prompt written notice to Beneficiary upon the occurrence of casualty to or in connection with the Security or any part thereof, whether or not covered by insurance. In the event of such casualty Trustor hereby absolutely and unconditionally assigns to Beneficiary all insurance proceeds which it may be entitled to receive and such proceeds shall be delivered to and held by Beneficiary to be applied to Beneficiary's expenses in settling, prosecuting or defending any insurance claim, and then to the restoration of any portion of the Security that has been damaged or destroyed to the same condition, character and value as existed prior to such damage or destruction so long as the following conditions are satisfied: (i) Trustor is not in default hereunder (other than any default resulting from such casualty), (ii) Beneficiary's security is not materially impaired, (iii) all income (from the Security or otherwise) required to pay all debt service and operating expenses of the Security during such restoration and thereafter will be equal to or greater than the income which was required to pay such debt service and operating expenses prior to the casualty, (iv) Trustor evidences to the satisfaction of Beneficiary that the insurance required to be maintained hereunder will be available to the Trustor during restoration and thereafter, (v) Beneficiary shall have approved the plans and specifications for such restoration, which approval shall not be unreasonably withheld or delayed, and (vi) in the event that in Beneficiary's sole judgment the insurance proceeds and any amounts deposited with a senior lender are not sufficient to accomplish restoration, Trustor deposits with the Beneficiary or senior lender, as required by that senior lender pursuant to the terms of the senior Debt Instrument, within five days of demand by Beneficiary, the additional amounts necessary to accomplish restoration. Proceeds disbursed for restoration will be released to Trustor in accordance with Beneficiary's then current customary disbursement procedures. In the event any of the conditions set forth above are not satisfied or if the insurance proceeds shall not be applied to the restoration of the Security within thirty days after receipt of such proceeds by Beneficiary, Beneficiary may release such proceeds to Trustor without such release being deemed a payment of any indebtedness secured hereby, rather than apply such proceeds to the restoration of the Security. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. If the Security is restored at a cost less than the available insurance proceeds, then such excess proceeds shall, if Trustor is not then in default hereunder, be paid over to Trustor. Beneficiary may commence, appear in, defend or prosecute any assigned claim or action, and may adjust, compromise, settle and collect all claims, proceeds and awards assigned to Beneficiary, but shall not be responsible for any failure to collect any claim, proceeds or award, regardless of the cause of the failure.

Section 4.2. Condemnation.

Immediately upon its obtaining knowledge of the institution or the threatened institution of any proceeding for the condemnation or other taking for public or quasi-public use of the Security or any part thereof, or if the same be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner, or should Trustor receive any notice or other information regarding such proceedings, action, taking or damage, Trustor shall promptly notify Trustee and Beneficiary of such fact. Trustor shall then, if requested by Beneficiary, file or defend its right thereunder and prosecute the same with due diligence to its final disposition and shall cause any award or settlement to be paid to Beneficiary in accordance with the provisions of the Loan Agreement. At Beneficiary's option, Beneficiary or Trustor may be the nominal party in such proceeding but in any event Beneficiary shall be entitled, without regard to the adequacy of its security, to participate in, appear in, prosecute and settle, jointly with Trustor to control the same and to be represented therein by counsel of its choice, and Trustor will deliver, or cause to be delivered, to Beneficiary such instruments as may be requested by it from time to time to permit such participation. Trustor and Beneficiary agree to act in good faith with respect to any consent, settlement, or award arising out of said prosecution. If the Security or any part thereof is taken or diminished in value, or if a consent settlement is entered, by or under threat of such proceedings, all compensation, awards, damages, rights of action proceeds and settlements payable to Trustor by virtue of its interest in the security shall be and hereby are assigned, transferred and set over into Beneficiary to be held by it, in trust, subject to the lien and security interest of this Deed of Trust. All such proceeds shall be first applied to reimburse Trustee and Beneficiary, for all costs and expenses, including reasonable attorneys' fees, incurred in connection with the collection of such award or settlement, and then to the restoration of any portion of the Security that has been taken to the similar condition, character and value as existed prior to such taking so long as the following conditions are satisfied: (i) Trustor is not in default hereunder, (ii) Beneficiary's security is not materially impaired, (iii) all income (from the Security or otherwise) required to pay all debt service and operating expenses of the Security during such restoration and thereafter will be equal to or greater than the income which was required to pay such debt service and operating expenses prior to the casualty, (iv) Trustor evidences to the satisfaction of Beneficiary that the insurance required to be maintained hereunder will be available to the Trustor during restoration and thereafter, (v) Beneficiary shall have approved the plans and specifications for such restoration, and (vi) in the event that in Beneficiary's sole judgment the insurance proceeds and any amounts deposited with a senior lender are not sufficient to accomplish restoration, Trustor deposits with the Beneficiary or senior lender, as required by that senior lender pursuant to the terms of the senior Debt Instrument, within five days of demand by Beneficiary, the additional amounts necessary to accomplish restoration. Application or release of proceeds as provided herein shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

ARTICLE V

ENVIRONMENTAL COVENANTS OF TRUSTOR

Section 5.1. Disclosures By Trustor. Except as disclosed in writing to, and acknowledged and accepted in writing by Beneficiary, Trustor represents and warrants that:

(a) during the period of Trustor's ownership of the Property

(1) there has been no use, generation, manufacture, storage, treatment, disposal, discharge, Release, or threatened Release of any Hazardous Substance by any person

on or around the Property except in such small quantities as are customary and usual in the ordinary course of constructing, using and operating a residential housing business on the Property and in strict compliance with all Hazardous Substances Laws, and

(2) there have been no Hazardous Substances transported over or through the Property;

(b) after diligent inquiry, Trustor has no knowledge of, or reason to believe that, there has been:

(1) any use, generation, manufacture, storage, treatment, disposal, Release, or threatened Release of any hazardous waste or substance by any prior owners or prior occupants of the Property or by any third parties onto the Property, or

(2) any actual or threatened litigation or claims of any kind by any person relating to these matters;

(c) no Hazardous Substances in excess of permitted levels or reportable quantities under applicable Hazardous Substance Laws are present in or about the Property or any nearby real property that could migrate to the Property;

(d) no Release or threatened Release exists or has occurred;

(e) no underground storage tanks of any kind are or ever have been located in or about the Property;

(f) the Property and all operations and activities at, and the use and occupancy of, the Property comply with all applicable Hazardous Substance Laws;

(g) Trustor is now in strict compliance with, every permit, license, and approval required by all applicable Hazardous Substance Laws for all activities and operations at, and the use and occupancy of, the Property;

(h) to the best of Trustor's knowledge, after diligent inquiry, there are no Hazardous Substance Claims pending or threatened with regard to Property or against Trustor;

(i) to its knowledge the Property has not been nor is it within 2,000 feet of any other property designated as "hazardous waste property" or "border zone property" pursuant to Health and Safety Code §§ 25220 et seq., and no proceedings for a determination of this designation are pending or threatened;

(j) to the best of its knowledge after diligent inquiry, there exists no occurrence or condition on any real property adjoining or within 2,000 feet of the Property that would cause the Property or any part of it to be designated as "hazardous waste property" or "border zone property" under the provisions of Health and Safety Code §§ 25220 et seq., and any regulation adopted in accordance with that section;

(k) that the use of the Property shall be residential housing;

(l) any written disclosure submitted by or on behalf of Trustor to Beneficiary concerning any Release or threatened Release, past or present compliance by Trustor or other person of any Hazardous Substance Laws applicable to the Property, the past and present use and occupancy of the Property, and any environmental concerns relating to the Property, was true and complete when submitted and continues to be true and complete as of the date of this Deed of Trust.

Section 5.2 Covenants of Trustor. Trustor agrees, except in the ordinary course of business and in strict compliance with all applicable Hazardous Substance Laws, as follows:

(a) not to cause or permit the property to be used as a site for the use, generation, manufacture, storage, treatment, Release, discharge, disposal, transportation, or presence of any Hazardous Substance;

(b) not to cause, contribute to, permit, or acquiesce in any Release or threatened Release;

(c) not to change or modify the use of the Property without the prior written consent of Beneficiary;

(d) to comply with and to cause the Property and every invitee or occupant of the Property to comply with all Hazardous Substance Laws;

(e) to immediately notify Beneficiary in writing of and to provide Beneficiary with a reasonably detailed description of:

(1) any noncompliance of the Property with any Hazardous Substance Laws;

(2) any Hazardous Substance Claim;

(3) any Release or Threatened Release;

(4) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that would cause the Property or any part of it to be designated as "hazardous waste property" or "border zone property" under the provisions of Health and Safety Code §§ 25220 et seq., and any regulation adopted in accordance with that section;

(f) if Trustor discovers a Release or the presence of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law, to:

(1) notify Beneficiary of that discovery together with a reasonably detailed description;

ATTACHMENT N 2

(2) engage promptly after a request by Beneficiary, a qualified environmental engineer reasonably satisfactory to Beneficiary to investigate these matters and prepare and submit to Beneficiary a written report containing the findings and conclusions resulting from that investigation, all at the sole expense of Trustor, and

(3) take, at Trustor's sole expense, all necessary actions to remedy, repair, clean up, or detoxify any Release or Hazardous Substance, including, but not limited to, any remedial action required by any Hazardous Substance Laws or any judgment, consent, decree, settlement, or compromise in respect of any Hazardous Substance Claims, these actions to be performed:

A. in accordance with Hazardous Substance Laws,

B. in a good and proper manner,

C. under the supervision of a qualified environmental engineer approved in writing by Beneficiary,

D. in accordance with plans and specifications for these actions approved in writing by Beneficiary, and

E. using licensed and insured qualified contractors approved in writing by Beneficiary;

(g) immediately furnish to Beneficiary copies of all written communications received by Trustor from any governmental authority or other person or given by Trustor to any person and any other information Beneficiary may reasonably request concerning any Release, threatened Release, Hazardous Substance Claim, or the discovery of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law; and

(h) keep Beneficiary generally informed regarding any Release, threatened Release, Hazardous Substance Claim, or the discovery of any Hazardous Substance on or about the Property in violation of any Hazardous Substance Law.

Section 5.3 Rights of Beneficiary. Upon Beneficiary's reasonable belief of the existence of a past or present Release or threatened Release not previously disclosed by Trustor in connection with the making of the Loan or the execution of this Deed of Trust or upon Beneficiary's reasonable belief that Trustor has failed to comply with any environmental provision of this Deed of Trust or any other Loan Document and upon reasonable prior notice (except in the case of an emergency) to Trustor, Beneficiary or its representatives, employees, and agents, may from time to time and at all reasonable times (or at any time in the case of an emergency) enter and inspect the Property and every part of it (including all samples of building materials, soil, and groundwater and all books, records, and files of Trustor relating to the Property) and perform those acts and things that Beneficiary deems necessary or desirable to inspect, investigate, assess, and protect the Security of this Deed of Trust, for the purpose of determining:

(a) the existence, location, nature, and magnitude of any past or present Release or threatened Release,

(b) the presence of any Hazardous Substances on or about the Property in violation of any Hazardous Substance Law, and

(c) the compliance by Trustor of every environmental provision of this Deed of Trust and every other Loan Document.

In furtherance of the purposes above, without limitation of any of its other rights, Beneficiary may:

(1) obtain a court order to enforce Beneficiary's right to enter and inspect the Property under Civil Code § 2929.5; and

(2) have a receiver appointed under Code of Civil Procedure § 564 to enforce Beneficiary's right to enter and inspect the Property for the purpose set forth above.

All costs and expenses incurred by Beneficiary with respect to the audits, tests, inspections, and examinations that Beneficiary or its agents, representatives, or employees may conduct, including the fees of the engineers, laboratories, contractors, consultants, and attorneys, will be paid by Trustor. All costs or expenses incurred by Trustee and Beneficiary pursuant to this Section (including without limitation court costs, consultant's fees, and attorney fees, whether incurred in litigation and whether before or after judgment) will bear interest at the Agreed Rate from the date they are incurred until those sums have been paid in full. Except as provided by law, any inspections or tests made by Beneficiary or its representatives, employees, and agents will be for Beneficiary's purposes only and will not be construed to create any responsibility or liability on the part of Beneficiary to Trustor or to any other person. Beneficiary will have the right, but not the obligation, to communicate with any governmental authority regarding any fact or reasonable belief of Beneficiary that constitutes or could constitute a breach of any of Trustor's obligations under any environmental provision contained in this Deed of Trust or any Loan Document.

Section 5.4 Waiver and Indemnity. Trustor:

(a) releases and waives any future claims against Beneficiary for indemnity or contribution in the event Trustor becomes liable for cleanup or other costs under any Hazardous Substance Laws or under any Hazardous Substance Claim;

(b) agrees to reimburse Beneficiary, on demand, for all costs and expenses incurred by Beneficiary in connection with any review, approval, consent, or inspection relating to the environmental provisions in this Deed of Trust together with interest, after demand, at the Agreed Rate; and

(c) agrees to indemnify, defend, and hold Beneficiary and Trustee harmless from all losses, costs, claims, damages, penalties, liabilities, causes of action, judgments, court costs, attorney fees and other legal expenses, costs of evidence of title, cost of evidence of value, and other expenses (collectively, "**Expenses**"), including, but not limited to, any Expenses incurred or accruing after the foreclosure of the lien of this Deed of Trust, which either may suffer or incur and which directly or indirectly arises out of or is in any way connected with the breach of any environmental provision either in this Deed of Trust or in any Loan Document or as a consequence of any Release or threatened Release on the presence, use, generation, manufacture, storage, disposal, transportation, Release, or threatened Release of any Hazardous Substance on or about the Property, including the soils and groundwater, caused or permitted by Trustor, any prior owner or operator of the Property, any adjoining landowner or any other party, including, without limitation, the cost of any required or necessary repair, cleanup, remedy, or detoxification of any hazardous Substance and the preparation of any closure, remedial action, or other required plans, whether that action is required or necessary by reason of acts or omissions occurring prior to or following the recordation of this Deed of Trust. Trustor's obligations will survive the satisfaction, release, or cancellation of the indebtedness, the release and reconveyance or partial release and reconveyance of this Deed of Trust, and the foreclosure of the lien of this Deed of Trust or deed in lieu of the Deed of Trust.

Section 5.5 Additional Covenants of Trustor.

(a) Trustor and Beneficiary agree that:

(1) this Section is intended as Beneficiary's written request for information and Trustor's written response concerning the environmental condition of the Property as provided by Code of Civil Procedure § 726.5; and

(2) each representation, warranty, covenant, or indemnity made by Trustor in this Article or in any other provision of this Deed of Trust or any Loan Document that relates to the environmental condition of the Property is intended by Trustor and Beneficiary to be an "environmental provision" for purposes of Code of Civil Procedure § 736 and will survive the payment of the indebtedness and the termination or expiration of this Deed of Trust and will not be affected by Lender's acquisition of any interest in the Property, whether by full credit bid at foreclosure, deed in lieu of that, or otherwise. If there is any transfer of any portion of Trustor's interest in the Property, any successor-in-interest to Trustor agrees by its succession to that interest that the written request made pursuant to this Article will be deemed remade to the successor-in-interest without any further or additional action on the part of Beneficiary and that by assuming the debt secured by this Deed of Trust or by accepting the interest of Trustor subject to the lien of this Deed of Trust, the successor remakes each of the representations and warranties in this Deed of Trust and agrees to be bound by each covenant in this Deed of Trust, including, but not limited to, any indemnity provision.

(b) Even though Trustor may have provided Beneficiary with an environmental site assessment or other environmental report together with other relevant information regarding the environmental condition of the Property, Trustor acknowledges and agrees that Beneficiary is not accepting the Property as security for the Loan based on that assessment, report, or information. Rather, Beneficiary has relied on the representations and warranties of Trustor in this Deed of Trust, and Beneficiary is not waiving any of its rights and remedies in the environmental provisions of this Deed of Trust or any other Loan Document.

(c) Beneficiary or its agents, representatives, and employees may seek a judgment that Trustor has breached its covenants, representations, or warranties in Article II of this Deed of Trust or any other covenants, representations, or warranties that are deemed to be "environmental provisions" pursuant to Code of Civil Procedure § 736 (each an "**Environmental Provision**"), by commencing and maintaining an action or actions in any court of competent jurisdiction pursuant to Code of Civil Procedure § 736, whether commenced prior to or after foreclosure of the lien of this Deed of Trust. Beneficiary or its agents, representatives, and employees may also seek an injunction to cause Trustor to abate any action in violation of any Environmental Provision and may seek the recovery of all costs, damages, expenses, fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses actually incurred by Beneficiary (collectively, "**Environmental Costs**") incurred or advanced by Beneficiary relating to the cleanup, remedy, or other response action required by any Hazardous Substances Law or any Hazardous Substance Claim, or which Beneficiary believes necessary to protect the Property. It will be conclusively presumed between Beneficiary and Trustor that all Environmental Costs incurred or advanced by Beneficiary relating to the cleanup, remedy, or other response action of or to the Property were made by Beneficiary in good faith. All Environmental Costs incurred by Beneficiary under this Section (including without limitation court costs, consultant fees, and attorney fees, whether incurred in litigation and whether before or after judgment) will bear interest at the Agreed Rate from the date of expenditure until those sums have been paid in full. Beneficiary will be entitled to bid, at any trustee's or foreclosure sale of the Property, the amount of the costs, expenses, and interest in addition to the amount of other indebtedness.

(d) Beneficiary or its agents, representatives, and employees may waive its lien against the Property or any portion of it, including but not limited to the Improvements, to the extent that the Property or any portion of the Security is found to be environmentally impaired in accordance with Code of Civil Procedure § 726.5, and to exercise all rights and remedies of an unsecured creditor against Trustor and all of Trustor's assets and property for the recovery of any deficiency and Environmental Costs, including, but not limited to, seeking an attachment order under Code of Civil Procedure § 483.010. As between Beneficiary and Trustor, for purposes of Code of Civil Procedure § 726.5, Trustor will have the burden of proving that Trustor or any related party (or any affiliate or agent of Trustor or any related party) was not in any way negligent in permitting the Release or threatened Release of the Hazardous Substances.

ARTICLE VI

ASSIGNMENTS OF RENTS, ISSUES AND PROFITS

Section 6.1. <u>Assignment.</u>

Trustor hereby absolutely, irrevocably and unconditionally assigns to Beneficiary, as security for the Obligations, all rents, profits, deposits, royalties, income and other issues and similar benefits derived from the Security (collectively, the "**Rents**"), and hereby confers upon Beneficiary the right, power and authority to collect such Rents. Trustor irrevocably appoints Beneficiary its true and lawful attorney-in-fact, at the option of Beneficiary, at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in its name or in the name of Trustor, for all Rents, and apply the same to the Obligations secured hereby; provided, however, that Trustor shall have the right, as between Trustor and Beneficiary, to collect the Rents but not more than one (1) month in advance of the date due unless the written approval of Beneficiary has first been obtained, with the exception of security deposits and "first and last months' rent" collected from tenants in connection with Trustor's ordinary leasing of residential apartments within the Property), and to retain and enjoy the same, so long as an Event of Default shall not have occurred hereunder and be continuing.

Section 6.2. <u>Collection Upon Default.</u>

While any Event of Default remains uncured, Beneficiary may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Obligations hereby secured, enter upon and take possession of the Security, or any part thereof, and, with or without taking possession of the Security or any part thereof, in its own name sue for or otherwise collect such Rents (including those past due and unpaid, and all prepaid Rents and all other monies which may have been or may hereafter be deposited with Trustor by any tenant to secure the payment of any Rent or for any services thereafter to be rendered by Trustor for any other obligation of any tenant to Trustor arising under any lease, and Trustor agrees that, upon the occurrence of any Event or Default hereunder, Trustor shall promptly deliver all Rents and other moneys to Beneficiary), and Beneficiary may apply the same, less costs and expenses of operation and collection, including, without limitation, attorneys fees, whether or not suit is brought or prosecuted to judgment, against any indebtedness or Obligation of Trustor secured hereby, and in such order as Beneficiary may determine notwithstanding that said indebtedness or the performance of said Obligation may not then be due. The collection of Rents, or the entering upon and taking possession of the Security, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default or be deemed or construed to make Beneficiary a mortgagee-in-possession of the Security or any portion thereof.

Section 6.3. <u>Further Assignments.</u>

Upon demand of Beneficiary, Trustor shall, from time to time hereafter, execute, and deliver to Beneficiary recordable assignments of Trustor's interest in any or all leases, subleases, contracts, rights, licenses and permits now or hereafter affecting the Security or any portion thereof. Such assignments shall be made by instruments in form and substance satisfactory to Beneficiary; provided, however, that no such assignment shall be construed as imposing upon Beneficiary any obligation with respect thereto. Beneficiary may, at its option, exercise its rights hereunder or under any such specific assignment and such exercise shall not constitute a waiver of any right hereunder or under any such specific assignment.

Section 7.1. <u>Events of Default.</u>

Each of the following shall constitute Events of Default: (1) the occurrence of an "Event of Default" as defined in the Loan Agreement or as defined in any Debt Instrument; or (2) the failure to make any payment or perform any of Trustor's other Obligations now or hereafter secured by this Deed of Trust (subject to any applicable cure period).

Section 7.2. Acceleration of Maturity.

If an Event of Default shall have occurred and be continuing, then at the option of the Beneficiary, the amount of any payment related to the Event of Default, the unpaid Principal of the Note and any other indebtedness and other Obligations secured hereby shall immediately become due and payable without presentment, protest notice or demand, all of which are hereby expressly waived, upon written notice by the Beneficiary to the Trustor and no omission on the part of the Beneficiary to exercise such option when entitled to do so shall be construed as a waiver of such right.

Section 7.3. The Beneficiary's Right to Enter and Take Possession.

If an Event of Default shall have occurred and be continuing, the Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Security, or part thereof or interest therein, increase the income therefrom or protect the security thereof and, with or without taking possession of the Security, sue for or otherwise collect the Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including without limitation attorneys fees, against any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Security the collection of such Rents and the application thereof as aforesaid shall not cure or waive any Event of Default or notice of default hereunder or invalidate any act done in response to such Event of Default or pursuant to such notice of default, and, notwithstanding the continuance in possession of the Security, Beneficiary shall be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Security to be sold, which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of Orange County; or

(d) Exercise all other rights and remedies provided herein, in the instruments by which the Trustor acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing all or any portion of the Obligations secured hereby, or provided by law.

Section 7.4. Foreclosure by Power of Sale.

Should the Beneficiary elect to foreclose by exercise of the power of sale herein contained, the Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust, the Loan Agreement and the Note which is secured hereby (and the deposit of which shall be deemed to constitute evidence that the unpaid Principal amount of the Note is immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.

(a) Upon receipt of such notice from the Beneficiary ("**Notice of Default**"), Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and election to sell as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after notice of sale having been given as required by law ("**Notice of Sale**"), sell the Security, at the time and place of sale fixed by it in said Notice of Sale, whether as a whole or in separate lots or parcels or items as Trustee shall deem expedient and in such order as it may determine unless specified otherwise to the Trustor according to California Civil Code Section 2924g(b), at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale.

(b) After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale to payment of: (1) the unpaid Principal amount of the Note; (2) all other sums then secured hereby; and (3) the remainder, if any, to Trustor.

(c) Trustee may postpone sale of all or any portion of the Security by public announcement at such time and place of sale, and from time to time thereafter, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

Section 7.5. Receiver

If an Event of Default shall have occurred and be continuing, Beneficiary, as a matter of right and without further notice to Trustor or anyone claiming under the Security, and without regard to the then value of the Security or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Security (or a part thereof), and Trustor hereby irrevocably consents to such appointment and waives further notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases, and all the powers and duties of Beneficiary in case of entry as provided herein, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Security, unless such receivership is sooner terminated.

Section 7.6. Application of Funds After Default.

Except as otherwise herein provided, upon the occurrence of an Event of Default hereunder, Beneficiary may, at any time without notice, apply any or all sums or amounts received and held by Beneficiary to pay insurance premiums, Impositions, or either of them, or as Rents or income of the Security, or as insurance or condemnation proceeds, and all other sums or amounts received by Beneficiary from or on account of Trustor or the Security, or otherwise, against any indebtedness or Obligation of the Trustor secured hereby, in such manner and order as Beneficiary may elect. The receipt, use or application of any such sum or amount shall not be construed to affect the maturity of any indebtedness secured by this Deed of Trust, or any of the rights or powers of Beneficiary under the terms of the Loan Agreement, this Deed of Trust or the Note, or any of the Obligations of Trustor or any guarantor under any other instruments or documents now or hereafter delivered in connection with the Loan Agreement or to cure or waive any default or notice of default under the Loan Agreement or any such instruments or documents; or to invalidate any act of Trustee or Beneficiary.

Section 7.7. Costs of Enforcement.

If any Event of Default occurs, Beneficiary and Trustee, and each of them, may employ an attorney or attorneys to protect their rights hereunder. Trustor promises to pay to Beneficiary, on demand, the fees and expenses of such attorneys and all other costs of enforcing the Obligations secured hereby, including, without limitation, recording fees, the expense of a trustee, sale guarantee, Trustee's fees and expenses, receivers fees and expenses, and all other expenses, of whatever kind or nature, incurred by Beneficiary and Trustee, and each of them, in connection with the enforcement of the Obligations secured hereby, whether or not such enforcement includes the filing of a lawsuit. Until paid, such sums shall be secured hereby and shall bear interest at the Agreed Rate.

Section 7.8. Remedies Cumulative.

No right, power or remedy conferred upon or reserved to the Beneficiary by this Deed of Trust is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

Section 7.9. No Waiver.

(a) No delay or omission of the Beneficiary to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy, or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by this Deed of Trust to the Beneficiary may be exercised from time to time and as often as may be deemed expeditious by the Beneficiary. No consent or waiver, expressed or implied, by the Beneficiary to or any breach by the Trustor in the performance of the Obligations hereunder shall be deemed or construed to be a consent to or waiver of Obligations of the Trustor hereunder. Failure on the part of the Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by the Beneficiary of its right hereunder or impair any rights, power or remedies consequent on any Event of Default by the Trustor.

(b) If the Beneficiary (1) grants forbearance or an extension of time for the payment of any sums secured hereby, (2) takes other or additional security or the payment of any sums secured hereby, 3) waives or does not exercise any right granted in the Loan Agreement, (4) releases any part of the Security from the lien of this Deed of Trust, or otherwise changes any of the terms, covenants, conditions or agreements in the Loan Agreement, (5) consents to the granting of any easement or other right affecting the Security, or (6) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under this Deed of Trust, or any other obligation of the Trustor or any subsequent purchaser of the Security or any part thereof, or any maker, co-signer, endorser, surety or guarantor (unless expressly released); nor shall any such act or omission preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then made or of any subsequent Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary shall the lien of this Deed of Trust be altered thereby.

Section 7.10. Suits to Protect the Security.

The Beneficiary shall have power to: (1) institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Security and the rights of the Beneficiary as may be unlawful or any violation of this Deed of Trust, (2) preserve or protect its interest (as described in this Deed of Trust) in the Security, and (3) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement for compliance with such enactment, rule or order would impair the Security thereunder or be prejudicial to the interest of the Beneficiary.

Section 7.11. Trustee May File Proofs of Claim.

In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Trustor, its creditors or its property, the Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by the Trustor hereunder after such date.

ARTICLE VIII
MISCELLANEOUS

Section 8.1. Amendments.

This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Beneficiary and Trustor.

Section 8.2. Reconveyance by Trustee.

Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment by Trustor of Trustee's reasonable fees, Trustee shall reconvey, without warranty, the Security to Trustor, or to the person or persons legally entitled thereto.

Section 8.3. Notices.

(a) If at any time after the execution of this Deed of Trust it shall become necessary or convenient for one of the parties hereto to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing and shall be served personally or by depositing the same in the registered United States mail, return receipt requested, postage prepaid and:

(1) if intended for Beneficiary shall be addressed to:

[Orange County Housing Authority]

[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705
Attn: Director

and (2) if intended for Trustors shall be addressed to:

[TRUSTOR TO PROVIDE]

Any notice, demand or communication shall be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed in the manner herein specified, on the delivery date or date delivery is refused by the addressee, as shown on the return receipt. Either party may change its address at any time by giving written notice of such change to Beneficiary or Trustor as the case may be, in the manner provided herein, at least ten (10) days prior to the date such change is desired to be effective.

(b) County shall endeavor to provide a courtesy copy of any notice sent to Borrower to the following addressee, however, failure to do so shall not affect the validity of any otherwise proper, timely delivered notice to Borrower:

[courtesy notices]

Section 8.4. Successors and Joint Trustors.

All Obligations of Trustor secured by this Deed of Trust, shall also apply to and bind any permitted transferee or successors in interest. Where the terms of the Deed of Trust have the effect of creating an Obligation of the Trustor and a transferee, such Obligation shall be deemed to be a joint and several Obligation of the Trustor and such transferee. Where Trustor is more than one entity or person, all Obligations of Trustor shall be deemed to be a joint and several Obligation of each and every entity and person comprising Trustor.

Section 8.5. Captions.

The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

Section 8.6. Invalidity of Certain Provisions.

Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court or other body of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid or applied to the full payment of that portion of the debt which is not secured or partially secured by the lien of this Deed of Trust.

Section 8.7. Governing Law and Venue.

This Deed of Trust shall be governed by and construed in accordance with the laws of the State of California. In the event of any legal action to enforce or interpret this Deed of Trust, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394.

Section 8.8. Gender and Number.

In this Deed of Trust the singular shall include the plural and the masculine shall include the feminine and neuter and vice versa, if the context so requires.

Section 8.9. Deed of Trust, Mortgage.

Any reference in this Deed of Trust to a mortgage shall also refer to a deed of trust and any reference to a deed of trust shall also refer to a mortgage.

Section 8.10. Actions.

Trustor agrees to appear in and defend any action or proceeding purporting to affect the Security.

Section 8.11. Substitution of Trustee.

Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the Security is situated, shall be conclusive proof of proper appointment of the successor trustee.

Section 8.12. Acceptance by Trustee.

Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceedings in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

Section 8.13. Conflicts.

If any term or provision of this Deed of Trust conflicts with any term of provision of the Loan Agreement, the term or provision of the Loan Agreement shall control to the extent of such conflict.

Section 8.14. Statements by Trustor.

Trustor shall, at its cost, within ten (10) days after notice thereof from Beneficiary, deliver to Beneficiary a written statement setting forth to the best of its knowledge and information, the amounts then unpaid and secured by this Deed of Trust and stating whether Trustor is aware of any offset or defense against such amounts.

Section 8.15. Beneficiary Statements.

For any statement or accounting requested by Trustor or any other entitled person pursuant to Section 2943 or Section 2954 of the California Civil Code or pursuant to any other provision of applicable law, or for any other document or instrument furnished to Trustor by Beneficiary, Beneficiary may charge the maximum amount permitted by law at the time of the request therefor, or if there be no such maximum, then in accordance with Beneficiary's customary charges therefor or the actual cost to Beneficiary therefor, whichever is greater.

Section 8.16. Statute of Limitations.

Except insofar as now or hereafter prohibited by law, the right to plead, use or assert any statute of limitations as a plea or defense or bar of any kind, or for any purpose, to any debt, demand or obligation secured or to be secured hereby, or to any complaint or other pleading or proceeding filed, instituted or maintained for the purpose of enforcing this Deed of Trust or any rights hereunder, is hereby waived by Trustor.

Section 8.17. Trust Irrevocable; No Offset.

The Trust created hereby is irrevocable by Trustor. No offset or claim that Trustor now has or may in the future have against Beneficiary shall relieve Trustor from paying the indebtedness or performing any other Obligation contained herein or secured hereby.

Section 8.18. Corrections.

Trustor shall, upon request of Beneficiary, promptly correct any defect, error or omission which may be discovered in the contents hereof or in the execution or acknowledgment hereof, and will execute, acknowledge and deliver such further instruments and do such further acts as may be necessary or as may be reasonably requested by Beneficiary to carry out more effectively the purposes thereof, to subject to, the lien and security interest hereby created any of Trustor's properties, rights or interests covered or intended to be covered hereby, or to perfect and maintain such lien and security interest.

Section 8.19. Further Assurance.

Trustor, Beneficiary and Trustee agree to do or cause to be done such further acts and things and to execute and deliver or to cause to be executed and delivered such additional assignments, agreements, powers and instruments, as any of them may reasonably require or deem advisable to keep valid and effective the charges and liens hereof, to carry into effect the purposes of this Deed of Trust or to better assure and confirm unto any of them their rights, powers and remedies hereunder; and, upon request by Beneficiary, shall supply evidence of fulfillment of each of the covenants herein contained concerning which a request for such evidence has been made.

Section 8.20 Waiver of Jury Trial**.**

Unless prohibited by Federal, State or local laws, each party acknowledges that it is aware of and has had the advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Deed of Trust and/or any claim of injury or damage to the fullest extent permitted by applicable law.

ARTICLE IX
WAIVERS

Section 9.1. Waivers and Related Matters

(a) To the fullest extent allowed by law, Trustor hereby waives: (i) presentment, demand, protest, notice of dishonor, notice of protest and all other notices and demands of every kind, and all suretyship defenses of every kind that would otherwise be available in connection with this Deed of Trust, and (ii) all rights of redemption, valuation, appraisement, stay of executive, notice of election to mature or declare due the whole of the Obligation and marshaling in the event of foreclosure of the liens hereby created.

(b) Trustor hereby authorizes Beneficiary, at any time and from time to time without notice and without affecting this Deed of Trust in any way, to: (i) accept new or additional instruments, documents, agreements, security or guaranties in connection with all or any part of the Obligations; (ii) accept partial payments on the Obligations; and (iii) waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Obligations and any security or guaranties therefor, and apply any such security and direct the order or manner of sale thereof and bid and purchase at any such sale.

(c) Trustor hereby waives any right to require Beneficiary to (i) proceed against any person; (ii) proceed or exhaust any collateral held from any person; or (iii) pursue any other remedy in Beneficiary's power. Upon the occurrence of any Event of Default, Beneficiary is hereby expressly given the right, at its option, to proceed in the enforcement of this Deed of Trust, independently of any other remedy or security Beneficiary may at any time hold in connection with the Obligations, and Beneficiary shall not in any way be obligated or otherwise required to proceed upon or against and/or exhaust any other security or remedy before proceeding to enforce this Deed of Trust.

(d) Trustor hereby waives any defense arising by reason of: (i) any disability or other defense of Trustor or any other person; (ii) the cessation from any cause whatsoever, other than full payment and performance of the Obligations, of the Obligations of Trustor or any other person; or (iii) any act or omission by Beneficiary which directly or indirectly results in or aids in the discharge or release of Trustor, or any other person, any Obligation, or any collateral by operation of law or otherwise.

The waivers set forth in this Article 9 shall also apply, to the fullest extent permitted by law to all other real and/or personal property of Trustor now or hereafter assigned to Beneficiary as security for the Obligations. Trustor warrants and agrees that each, of the waivers set forth above are made with Trustor's full knowledge of their significance and consequences, with the understanding that events giving rise to any defense waived may diminish, destroy or otherwise adversely affect rights which Trustor otherwise may have against Beneficiary or others, or against collateral, and that under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any of the waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective to the maximum extent permitted by law.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

Signature to Follow

TRUSTOR:

By: [NEED SIGNATURE BLOCK]

APPROVED AS TO FORM
COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By________________________________

Deputy

Dated________________________________

ATTACHMENT N 2

Exhibit A

LEGAL DESCRIPTION

[LEGAL DESCRIPTION TO BE PROVIDED]

ATTACHMENT N 3

PROMISSORY NOTE SECURED BY DEED OF TRUST,

($XXXXX) _________________, 2023

FOR VALUE RECEIVED, the undersigned [XXXXXXXXX] ("**Borrower**") promises to pay to the [ORANGE COUNTY HOUSING AUTHORITY**,** acting solely as the Housing Successor Agency to the Orange County Development Agency][COUNTY OF ORANGE, a political subdivision of the state of California], (the "County") (the "**County**"), or order at Santa Ana, California or such other place as the County may designate in writing, the principal sum of [XXXX] ($XXX) plus interest on the terms specified below.

1. Agreement. This Note is given in accordance with that certain Loan Agreement executed by and between the County and the Borrower of even date herewith (the "**Loan Agreement**"), and in connection with that certain Regulatory Agreement executed by and between the County and the Borrower dated as of the same date as this Note (the "**Regulatory Agreement").** The obligations of the Borrower under this Note shall be subject to the terms of the Loan Agreement, the Deed of Trust of even date herewith which secures performance under this Note, the Assignment of Leases, the Regulatory Agreement, and the other Loan Documents, all of which are hereby incorporated by reference. Capitalized terms used but not defined herein shall have the meaning as set forth in the Loan Agreement.

2. Interest and Repayment.

(a) Borrower promises to pay simple interest recalculated annually based upon the outstanding principal amount at the rate of three percent (3%) per annum. Such simple interest shall begin to accrue the date escrow closes.

(b) Borrower promises to repay the indebtedness during the Permanent Term (defined in the Loan Agreement) of the Loan as follows:

(1) Commencing on the date six (6) months after closing of the Borrower's previous year's books and every one-year anniversary date thereafter during the Permanent Term, Borrower shall make annual payments to County of the then available Residual Receipts (hereinafter defined), but only to the extent said Residual Receipts are available; and

(2) At the expiration of the Permanent Term, as set forth in the Loan Agreement, the then outstanding principal amount of this Note together with all accrued, but unpaid interest thereon shall become all due and payable.

(c) Notwithstanding anything to the contrary set forth in this Paragraph 2, during the Permanent Term for so long as Borrower (i) timely makes the payments required under this Note, (ii) is not in breach of any of the terms, covenants or conditions of this Note, and (iii) there is no uncured Event of Default under the Loan Agreement or any other Loan Document, County agrees that then available Residual Receipts otherwise payable in their entirety to the County shall be divided **------------- percent (--%) to the County and ------------**

---- percent (--%) to the Borrower. This Paragraph 2(c) shall have no further force or effect immediately (x) upon an occurrence of any failure by Borrower to make timely payments hereunder, (y) a breach of any term, covenant or condition hereunder or (z) an Event of Default under any Loan Document which continues to remain uncured after the expiration of any cure period. In the event the Loan is timely reinstated in full as permitted under California law prior to foreclosure with all outstanding monies, costs, and expenses owed to County paid in full, then in such event the Residual Receipts sharing agreement stated hereinabove in this Paragraph 2 (c) shall also be reinstated

(d) For purposes of this Note, the terms listed below are defined as follows:

(1) **"Residual Receipts"** means the Annual Project Revenue less (A) Annual Operating Expenses (hereinafter defined), (B) obligated debt service on the Senior Construction/Permanent Loan (as defined in the Loan Agreement) and on any other loan(s) for the Project senior to the County's Loan approved in writing by the County at the closing of the Loan, (C) payment obligations (e.g. partnership management fees, and deferred developer fees) approved in writing by the County at the closing of the Loan, (D) scheduled deposits to reserves approved in writing by the County at the closing of the Loan, and (E) required deposits under the Loan Agreement for Operating Reserves and Replacement Reserves.

(2) **"Annual Project Revenue"** means all annual revenue generated by the Project, including, but not limited to, rent payments, governmental assistance housing payments, laundry and other vending machine and pay telephone income.

(3) **"Annual Operating Expenses"** means all regular and customary annual expenses incurred in relation to the operation of the Project as reflected on the annual budget for the Project that Borrower shall prepare and abide by each year during the Term (as defined in the Loan Agreement) of this Loan. Said Annual Operating Expenses shall include reasonable property management and administrative fee, as approved by the County, utility charges, operating and maintenance expenses, Project property taxes, Project insurance premiums and County annual loan monitoring fees, as set forth in the Loan Agreement. Director reserves the right to at any time review and approve each or any annual budget during the Term hereof and any changes to any said annual budget requested by Director shall be promptly implemented by Borrower. Notwithstanding the foregoing, in no event shall Annual Operating Expenses include any costs, fees, fines, charges, penalties, awards, judgments or expenses (including, but not limited to legal and accounting fees and expenses) which are due to or arising out of the Borrower's (A) breach or default of this Loan, any Loan Document or any Mortgage Loan Document (B) fraudulent acts or willful misconduct or (C) breach or default under any other contract, lease or agreement pertaining to the Project. Annual Operating Expenses shall also not include other expenses not related to the Project's operations such as depreciation, amortization, accrued principal and interest expense on deferred payment debt and capital improvement expenditures.

3. <u>Payments</u>.

(a) All amounts due and payable under the Note are payable at the address provided to the Borrower by the County, or at such other place or places as the County may designate to the Borrower in writing from time to time. Any payment under this Note shall be paid in advance, on the first day of the month in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts and which on the respective dates on which such payments are due shall be in immediately available funds.

(b) All payments and prepayments received by County pursuant to the terms hereof shall be applied in the following manner: first, to the payment of all expenses, charges, costs and fees incurred by or payable to County by Borrower pursuant to the terms of the Loan Documents (in such order and manner as County, in its sole discretion, may elect, however all Residual Receipts, prepayments and any other loan payments will be applied [**proportionally to [both]** the HOME Loan, the MHSA Loan, and the HSA Loan], as such terms are defined in the Loan Agreement, based upon the original loan amount.); second to the payment of all interest accrued to the date of such payment; and third, to the payment of the outstanding principal until paid in full. Notwithstanding anything to the contrary contained herein, after the occurrence and during the continuation of an Event of Default (as such term is defined in the Loan Agreement), all amounts received by County from any party shall be applied in such order as County, in its sole discretion, may elect.

4. Prepayments. Borrower may prepay all or part of the principal balance and accrued interest due under this Note without penalty.

5. Security. This Note is secured by, among other things, a Deed of Trust covering real and personal property including, but not limited to, the Property and the Project (as such terms are defined in the Loan Agreement).

6. Waivers.

(a) Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time at the County's sole discretion and that the County may accept security in consideration for any such extension or release any security for this Note at its sole discretion all without in any way affecting the liability of Borrower.

(b) No extension of time for payment of this Note or any installment hereof made by agreement by the County with any person now or hereafter liable for payment of this Note shall operate to release, discharge, modify, change, or affect the original liability of Borrower under this Note, either in whole or in part.

(c) The obligations of Borrower under this Note shall be absolute and Borrower waives any and all rights:

(1) to offset, deduct, or withhold any payments or charges due under this Note for any reasons whatsoever;

(2) of presentment for payment, demand, protest and notices of dishonor and protest; and

ATTACHMENT N 3

(3) of diligence in taking any action to collect any sums owing under this Note or in proceeding against any of the rights and interests in and to properties securing payment of this Note.

7. Attorney Fees and Costs. Borrower agrees that if any amounts due under this Note are not paid when due, to pay in addition, all costs and expenses of collection and reasonable attorney fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

8. Joint and Several Obligations. This Note is the joint and several obligation of all makers, sureties, guarantors, and endorsers, and shall be binding upon them and their successors and assigns.

9. Acceleration. If any of the payments required by the terms hereof shall not be paid when the same becomes due, or if the payment due on the maturity date of this Note is not paid when due, whether by acceleration or otherwise, or if an Event of Default (as defined in the Loan Agreement) occurs under the Loan Agreement or other default under any other Loan Document occurs, then, or at any time thereafter, the whole of the unpaid principal and interest owing on this Note shall, at the option of County and without notice, become immediately due and payable. This option may be exercised at any time after any such event and the acceptance of one or more installments or other payments from any person thereafter shall not constitute a waiver of County's option. County's failure to exercise said option in connection with any particular event or series of events shall not be construed as a waiver of the provisions hereof as regards that event or any subsequent event. The Loan Agreement and other Loan Documents may also contain provisions, which provide for the automatic acceleration of amounts owing under this Note upon the occurrence of certain specified events. County shall have, and be entitled to exercise, upon the occurrence of any Event of Default or other event described above, all rights and remedies available to County under the Loan Agreement, this Note, the other Loan Documents or at law or in equity. All such rights and remedies shall be cumulative.

10. Prohibition Against Transfer of Interest. The Borrower shall not make any sale, assignment or conveyance, or transfer in any other form, nor any further pledge, encumbrance, or mortgaging of the Property and/or the Project or any part thereof or of any of its interest therein, other than in accordance with the terms of this Note, the Loan Agreement, the Regulatory Agreement, the Deed of Trust and the other Loan Documents.

11. Default Interest; Default Under Other Loan Documents. All covenants, conditions, and agreements contained in this Note, the Loan Agreement, the Regulatory Agreement, the Deed of Trust and the other Loan Documents are hereby made a part of this Note, and the Borrower agrees that the unpaid balance of the then principal amount of this Note, together with all accrued interest thereon and charges owing, shall, at the option of the County hereof, become immediately due and payable, and thereafter until paid bear interest at the rate of twelve percent (12%) per annum (which rate shall in no event exceed the highest interest rate then permitted at law and if it does, it will be reduced to said lower amount) (the "Default Rate"), compounded annually upon the failure of the Borrower to make any payment hereunder as and when due (after expiration of any cure period); upon the failure of the Borrower to perform or

observe any other term or provision of this Note; or upon the occurrence of any event (whether termed default, event of default, or similar term) which (after the expiration of any cure period) under the terms of this Note, the Loan Agreement, the Regulatory Agreement, the Deed of Trust or other Loan Document shall entitle the County to exercise rights or remedies thereunder.

12. Definitions. Capitalized terms not defined in this Note shall have the same meanings as defined in the Loan Agreement, the terms of which are incorporated into this Note by this reference.

13. Governing Law. This Note shall be construed in accordance with and be governed by the laws of the State of California.

14. Severability. If any provision of this Note shall be judicially determined to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

15. Captions. The captions and headings in this Note are merely for convenience and substantively are not part of this Note.

16. JURY TRIAL WAIVER; VENUE. UNLESS PROHIBITED BY FEDERAL, STATE OR LOCAL LAWS, IN ANY JUDICIAL ACTION OR PROCEEDING ARISING FROM OR RELATING TO THE LOAN OR THE LOAN DOCUMENTS, INCLUDING ANY ACTION OR PROCEEDING INVOLVING A CLAIM BASED ON OR ARISING FROM AN ALLEGED TORT, BORROWER HEREBY WAIVES ANY RIGHT IT OR THEY MAY HAVE TO REQUEST OR DEMAND A TRIAL BY JURY. VENUE FOR ANY ACTION RELATED TO THE LOAN OR LOAN DOCUMENTS SHALL BE IN AN APPROPRIATE COURT IN ORANGE COUNTY, CALIFORNIA SELECTED BY COUNTY TO WHICH BORROWER HEREBY CONSENTS.

17. Joint and Several Liability. If Borrower consists of more than one person or entity, each shall be jointly and severally liable for the performance of Borrower's obligations under this Note.

18. Notices. All notices to be given pursuant to this Note shall be given as provided in the Loan Agreement.

19. Calculation of Interest. Interest hereunder shall be calculated on the basis of a three hundred sixty (360) day year consisting of twelve (12) months of thirty (30) days each, except that interest due and payable for a period less than a full month shall be calculated by dividing (a) the product of (i) the actual number of days elapsed in such period, (ii) the outstanding principal balance hereunder during that period and (iii) the Note interest rate in effect hereunder during that period by (b) 360.

20. Number and Gender. In this Note the singular shall include the plural and the masculine gender shall include the feminine and neuter genders, and vice versa, if the context so requires.

ATTACHMENT N 3

21. Time. Time is of the essence in this Note.

22. No Waiver by the County. No waiver of any breach, default, or failure of condition under the terms of this Note, the Loan Agreement, the Regulatory Agreement, the Deed of Trust or any other Loan Document or the obligations secured thereby shall be implied from any failure of the County to take, or any delay by the County in taking, action with respect to such breach, default or failure, or any form of previous waiver of any similar or unrelated breach, default or failure; and waiver of any term of this Note, the Loan Agreement, the Regulatory Agreement, the Deed of Trust or any other Loan Document or any of the obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver.

23. Amendments and Modifications. This Note may not be changed orally, but only by an amendment in writing signed by Borrower and the County.

24. Non-Recourse. The County will neither seek nor obtain judgment against the Borrower for payment of principal or interest under the Note or for other obligations under the Loan Documents following a judicial foreclosure (or to the extent permitted by law, a nonjudicial foreclosure of the Deed of Trust), and the County's sole recourse against the Borrower for any default in the payment of principal or interest is limited to the Property and the Project and any other collateral of the Loan; provided, however, nothing in this Paragraph 24 will be deemed to limit or prejudice the rights of County to:

(a) foreclose the Deed of Trust or enforce any of its other rights or remedies under the Loan Documents; or

(b) name the Borrower or the general partners of Borrower as a party defendant in any action, proceeding or arbitration, subject to the limitations of this Section; or

(c) assert any unpaid amounts on the Loan as a defense or offset to or against any claim or cause of action arising out of or pertaining to the Project made or alleged against the County by the Borrower or any of its general partners; or

(d) exercise self-help remedies such as set off or nonjudicial foreclosure against or sale of any real or personal property collateral or security; or

(e) proceed against any entity or person, including Borrower and the general partners of Borrower with respect to the enforcement of any leases, bonds, policies of insurance, or other agreements (other than the Loan Documents); or

(f) recover damages against Borrower or the general partners of Borrower for fraud, breach of warranty, failure to maintain insurance, waste, or material misrepresentation; or

(g) recover any condemnation proceeds or insurance proceeds or other similar funds or payments attributable to the Property and/or the Project that under the terms of the Loan Documents should have been paid to Lender; or

(h) recover any tenant security deposits, prepaid rents, or other similar sums paid to or held by Borrower or any other entity or person in connection with the Property and the Project; or

(i) recover the value of any personalty or fixtures removed by Borrower from the Project after the occurrence of an Event of Default

(j) recover the rents and profits of the Property and the Project accruing from and after the occurrence of an Event of Default that have not been applied to pay any portion of the Loan, operating, and maintenance expenses of the Property and/or the Project, insurance, premiums, impositions, deposits into a reserve for replacement, or other sums required by the Loan Documents; or

(k) recover any amounts owing to the County under indemnity provisions (including indemnity provisions pertaining to Hazardous Materials as such term is defined in the Loan Agreement) in the Loan Documents; or

(l) recover funds to reimburse County for sums expended by County for the protection or preservation of the Property, the Project or County's interest therein (including, without limitation, payment of any real property taxes, assessments or other charges which would create liens on any portion of the Property or Project

The limitation of liability set forth in this Section 24 shall be deemed void and have no force or effect if Borrower or any general partner of Borrower attempts to materially delay any foreclosure of or on the Deed of Trust or any other collateral for the Loan, or if the Borrower or any of its general partners claim that this Agreement or any related documents are invalid or unenforceable to an extent that would preclude foreclosure. Notwithstanding anything to the contrary set forth in the immediately preceding sentence, in the event Borrower contests any foreclosure proceeding in good faith and Borrower prevails in such action, or in the event Borrower and the County agree to a settlement of any such action which gave rise to the foreclosure proceeding, the Loan shall remain nonrecourse. Any liability of Borrower or any of the general partners of Borrower for any obligations arising in connection with the matters set forth in clauses (a) through (l) inclusive will be personal liability, and may be asserted against and recovered from its or their interest in the Property and/or Project as well as against any of its and their other assets. Nothing contained in this Section impairs the validity of this Note or any related documents or any lien or security interest created or perfected by it.

Signature Page to follow

IN WITNESS WHEREOF, Borrower has executed this Promissory Note as of the day and year first above written.

BORROWER:

[BORROWER BLOCK]

By:

ATTACHMENT N 3

APPROVED AS TO FORM
COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By________________________________, Deputy

Dated____________________

ATTACHMENT N 4

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

[Orange County Housing Authority]
[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705
Attn: [Executive] Director

REGULATORY AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS

By and Between

[ORANGE COUNTY HOUSING AUTHORITY,
acting solely as the Housing Successor Agency to the Orange County Development Agency,]

OR

[COUNTY OF ORANGE, a political subdivision of the State of California,]

and

[BORROWER]

ATTACHMENT N 4

REGULATORY AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (the "**Regulatory Agreement**" or "**Agreement**") is made and entered into as of _________________2023, by and between the [ORANGE COUNTY HOUSING AUTHORITY, a public corporation created pursuant to California Health and Safety Code section 34200 et. seq., acting solely as the Housing Successor Agency to the Orange County Development Agency] [COUNTY OF ORANGE, a political subdivision of the State of California] (the "**County**") and [**XXXXX]** (the "**Borrower**").

RECITALS

A. Borrower intends to construct a housing project on that certain real property located in [XXX], County of Orange, State of California, and more particularly described in Exhibit "A" attached hereto and incorporated herein (the "**Property**").

B. The Borrower has submitted to the County an application for funding of a loan for funding of the Project.

C. The Borrower further intends to operate a [XX] (XX) unit low-income residential development which shall be constructed by Borrower on the Property.

D. The County desires to provide a permanent loan to Borrower subject to the Borrower's agreement, amongst other things, to encumber the Property with certain rental restrictions, all as more particularly set forth in this Agreement and the Loan Agreement.

E. The [Orange County Board of Supervisors,] [acting as the Board of Commissioners for the Orange County Housing Authority] approved a loan to the Borrower from said funds for permanent financing on [XX].

F. Borrower is financing the acquisition of the Property and the construction of the improvements and related costs and expenses through, among others, sources listed in that certain Loan Agreement between the County and the Borrower.

G. Relevant to this Agreement, the County has agreed to loan Borrower the sum of $[XXXX] in County Funds, the repayment of which is to be secured by the Project and will be evidenced by, among other documents, a promissory note secured by a [LIEN PRIORITY] priority deed of trust.

H. The County and the Borrower now desire to enter into this Agreement to set forth their agreement regarding the affordable housing restrictions for the Project and to cause said affordable housing restrictions to run with the land.

NOW, THEREFORE, the County and the Borrower hereby agree as follows:

1. **<u>Definitions</u>**. Unless otherwise defined herein or in the Loan Agreement (as such term is defined below), capitalized terms used in this Regulatory Agreement shall have the respective meanings assigned to them in this Section 1:

1.1. **"Act"** means Chapter 8 (commencing with Section 33750) of Part 1 of Division 24 of the Health and Safety Code of the State of California, as amended.

1.2. **"Adjusted Income"** shall mean the adjusted income of all persons who intend to reside in one residential unit, calculated in the manner which complies with determinations of income for low income families under the Department of Housing and Urban Development's Section 8 Program of the United States Housing Act of 1937, as amended.

1.3. **"Area"** means Orange County.

1.4. **"Borrower"** means [XXXXX].

1.5. **"Code"** means the United States Internal Revenue Code of 1986, as amended hereafter, or any successor statute thereto.

1.6. **"County"** means the [County of Orange, a political subdivision of the state of California] or [Orange County Housing Authority, a public corporation created pursuant to California Health and Safety Code section 34200 et. seq., acting solely as the Housing Successor Agency to the Orange County Development Agency].

1.7. **"Director"** means the Orange County Housing Authority Director or her or his designee.

1.8. **"Housing Act"** means the United States Housing Act of 1937, as amended, or its successor.

1.9. **"Loan"** means the loan made by the County to the Borrower pursuant to the Loan Agreement for the purpose of financing the acquisition, construction and development of the Project.

1.10. **"Loan Agreement"** means that certain Loan Agreement between the County and the Borrower of even date herewith as it may be amended from time to time, the terms of which are hereby incorporated herein by this reference.

1.11. **"Median Income for the Area"** shall mean the median income for the Area as most recently determined by the United States Department of Housing and Urban Development ("HUD") and published by the State of California. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the County shall provide the Borrower with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HUD and the State.

1.12. **“Parties”** shall mean the County and the Borrower.

1.13. **"Project"** means collectively the Property and the structures and related buildings and other improvements located on the Property from time to time together with all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements.

1.14. **"Property"** means the real property legally described in Exhibit "A", which is attached hereto and by this reference incorporated herein, and all rights and appurtenances thereunto appertaining.

1.15. **"Qualified Project Period"** shall mean the period beginning upon fulfillment of the conditions precedent set forth in Article VI of the Loan Agreement and ending on the date which is fifty-five (55) years after the beginning of the Qualified Project Period.

1.16. **“Qualified Tenant” or “Qualified Tenants”** shall collectively mean the individuals occupying the Restricted Units with the Adjusted Incomes more particularly described in Exhibit “B” attached hereto and incorporated herein. The income of individuals shall be determined in a manner consistent with determinations of lower income households under Section 8 of the United States Housing Act of 1937, as amended (or, if such program is terminated, in a manner consistent with such determinations under such program as is in effect immediately before such termination). In no event, however, will the occupant of a Restricted Unit be considered to be a Qualified Tenant if the occupant is a student, and is not entitled to file a federal income tax return.

1.17. **"Regulations"** means the Income Tax Regulations promulgated or proposed by the Department of the Treasury pursuant to the Code from time to time.

1.18. **“Regulatory Agreement” or “Agreement”** means this Regulatory Agreement.

1.19. **“Restricted Unit” or “Restricted Units”** means the dwelling units in the Project identified on Exhibit “B” attached hereto and incorporated herein required to be rented to, or held available for occupancy by Qualified Tenants pursuant to the terms, covenants and conditions of this Agreement, including, but not limited to, the rental restrictions and other matters set forth in said Exhibit "B" and the other Loan Documents.

1.20. **“Term”** is defined under Section 8 of this Agreement.

2. **County Requirements as to Restricted Units**. The Borrower hereby represents, warrants and covenants as follows:

(a) Use of Restricted Units. Borrower shall restrict the use, occupancy and rental of the Restricted Units of the Project to Qualified Tenants during the entire Qualified Project Period at the occupancy and rental rates provided for in Exhibit "B" attached hereto and incorporated herein. Borrower shall not rent nor permit the rental of any Restricted Unit in the Project except as provided in said Exhibit "B".

(b) Notifying Qualified Tenants. Borrower shall adopt written tenant selection policies and criteria that meet all of the following requirements:

i. Are consistent with the purpose of providing housing for Qualified Tenants and families.

ii. Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease.

iii. Provide for:

A. The selection of Qualified Tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and

B. The prompt written notification to any rejected applicant of the grounds for any rejection.

iv. Carry out the affirmative marketing procedures of the County, to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market Area to the program. Borrower and the County shall cooperate to effectuate this provision prior to the initial renting, upon occurrence of a vacancy, or upon the re-renting of any Restricted Unit.

v. The Borrower agrees to provide to Qualified Tenants notice of all rent increases pursuant to applicable California law.

(c) Qualified Tenant Protections. The Restricted Units shall be rented to eligible and qualified Qualified Tenants in accordance with the following terms.

i. Lease. The Lease between Borrower and a Qualified Tenant must be for not less than one (1) year, unless otherwise agreed to in writing by both the Qualified Tenant and the Borrower.

ii. Prohibited Lease Terms. The Lease between the Borrower and any Qualified Tenant may not contain any of the following provisions:

ATTACHMENT N 4

A. Agreement to be sued. Agreement by the Qualified Tenant to be sued, to admit guilt or to a judgment in favor of the Borrower in a lawsuit brought in connection with the lease.

B. Treatment of property. Agreement by the Qualified Tenant that the Borrower may take, hold, or sell personal property of household members without notice to the Qualified Tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the Qualified Tenant concerning disposition of personal property remaining in the Restricted Unit after the Qualified Tenant has moved out of the Restricted Unit. The Borrower may dispose of this personal property in accordance with applicable state law.

C. Excusing owner from responsibility. Agreement by the Qualified Tenant not to hold the Borrower or its agents legally responsible for any action or failure to act, whether intentional or negligent.

D. Waiver of notice. Agreement of the Qualified Tenant that the Borrower may evict the Qualified Tenant or household members without notice to the Qualified Tenant.

E. Waiver of legal proceedings. Agreement by the Qualified Tenant that the Borrower may evict the Qualified Tenant or household members without instituting a civil court proceeding in which the Qualified Tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.

F. Waiver of a jury trial. Agreement by the Qualified Tenant to waive any right to a trial by jury.

G. Waiver of right to appeal court decision. Agreement by the Qualified Tenant to waive the Qualified Tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

H. Qualified Tenant chargeable with cost of legal actions regardless of outcome. Agreement by the Qualified Tenant to pay attorney's fees or other legal costs even if the Qualified Tenant wins in a court proceeding by the Borrower against the Qualified Tenant. The Qualified Tenant, however, may be obligated to pay costs if the Qualified Tenant loses.

(d) Termination of Tenancy. Borrower may not terminate the tenancy or refuse to renew the lease of a Qualified Tenant except for serious or repeated violation of the terms and conditions of the Lease; for violation of applicable federal, state, or local law; for completion of the transitional housing tenancy period (if the housing is transitional); or for other good cause. Any termination or refusal to renew must be preceded by not less than thirty (30) days by the Borrower's service upon the Qualified Tenant of a written notice specifying the grounds for the action.

(e) Nondiscrimination Covenant**.** By acceptance hereof, the Borrower agrees, for itself, its successors and assigns, to refrain from restricting the rental, or lease of the Project on the basis of race, color, creed, religion, ancestry, sex, marital status, national origin or age of any person. All leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, and this lease or sublease is made and accepted upon and subject to the following conditions: That there be no discrimination against or segregation of, any person or group of persons, on account of race, color, creed, religion, handicap, national origin, sex, sexual orientation, marital status, age or ancestry in the leasing, subleasing, transferring, use or enjoyment of the land herein leased or subleased, nor shall the lessee himself or herself, or any persons claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subleases, or subtenants in the land herein leased."

(f) Non-Qualifying Adjusted Income. Subject to the applicable requirements and provisions of, and changes to, Section 42 of the Code, if, upon recertification of the income of a Qualified Tenant of a Restricted Unit, the Borrower determines that a Qualified Tenant has an Adjusted Income exceeding 30% of Median Income for the Area, adjusted for household size in accordance with the Act, as defined in Section 1.2 above, such Qualified Tenant may be permitted to continue to occupy the Restricted Unit at the rental rate as provided for in Exhibit B, until the Qualified Tenant chooses to vacate the Restricted Unit. After the Restricted Unit is vacated, the Restricted Unit shall be re-rented to a Qualified Tenant pursuant to the terms, covenants and conditions of this Agreement.

(g) Loss of Project Based Voucher Subsidy.

i. It is anticipated that during the Qualified Project Period the Project will maintain Project Based Voucher ("**PBV**") Restricted Units, supported by Project-Based Section 8 rental subsidy payments (the "**Rental Subsidy**"). If, during the Qualified Project Period, any change in federal law or regulations occurs, or any action (or inaction) by Congress or any federal or State agency occurs, which results in a reduction, termination or nonrenewal of the Rental Subsidy through no fault of Borrower, such that the Rental Subsidy shown on the Financing Plan (as defined in the Loan Agreement) is no longer available (or available in a lesser amount), Borrower may request approval of the County to increase the rent on one or more of the PBV Restricted Units, to an adjusted income that does not exceed sixty percent (60%) of Area Median Income, adjusted for actual household size so long as the County, in its sole discretion, finds that the proposed number of PBV Restricted Units subject to the rent increase do not disrupt the County's ability to meet its Housing Successor Agency expenditure requirements found in Health and Safety Code section 34176.1 (a). Notwithstanding Section 34176.1(a), any proposed PBV Restricted Unit rent change may only be increased to an adjusted income that does not exceed sixty percent (60%) of Area Median Income, adjusted for actual household size.

The rent increase is subject to the following requirements: (a) concurrently with the request, Borrower shall provide the County with evidence of the anticipated reduction, termination, or nonrenewal of the Rental Subsidy, (b) a Management Plan (as defined in Section 1.19 of the Loan Agreement) for the Project for the County's approval pursuant to Sections 4.1 and 7.8 of the Loan Agreement, showing the impact of the loss or reduction of the Rental Subsidy, (c) a proposed operating budget reflecting the rent increases (the "**Operating Budget**"), and (d) a description of efforts to obtain alternate sources of rent. The number of PBV Restricted Units subject to the rent increase and the amount of the proposed increase may not be greater than the number or amount required to ensure that the Project generates sufficient income to cover its operating costs, required deposits to replacement reserves, and debt service on approved financing as shown on the Operating Budget, and as is necessary to maintain the financial stability of the Project. In addition, upon a reduction, termination or nonrenewal of the Rental Subsidy as described above, Borrower hereby agrees to the following:

ii. Borrower shall use good faith efforts to obtain alternative sources of rental subsidies and shall provide the County with annual progress reports on efforts to obtain alternative sources of rental subsidies that would allow the rents to be reduced. Upon receipt of any alternative rental subsidies, Borrower shall reduce the rents back to the original restrictions found in Exhibit B to the extent that the alternative rental subsidies provide sufficient income to cover the operating costs, required replacement reserves and debt service of the Project as shown on the Operating Budget.

iii. Borrower shall provide Qualified Tenants in the PBV Restricted Units with notice of any rent increase pursuant to Section 2.(g)(4), below, and shall notify the Qualified Tenant that if they have received a tenant-based voucher from the Orange County Housing Authority they may use the tenant-based voucher for their Restricted Unit.

iv. All rent increases are subject to County approval pursuant to the terms of this Section 2 (g). No later than sixty (60) days prior to the proposed implementation of any rent increase, Borrower shall submit to the County a schedule of any proposed increase in the rent. The County will disapprove a rent increase if it does not comply with the restrictions set forth in Section 2(g) (1) and (2). Notwithstanding the foregoing, rent increases for the PBV Restricted Units shall be subject to review and approval of the County.

v. Borrower shall give Qualified Tenants of all PBV Restricted Units written notice at least sixty (60) days prior to any rent increase.

3. **<u>Qualified Tenants; Records, Reports and Monitoring</u>**. During the Qualified Project Period, the Borrower shall submit to the County (i) not later than July 15, of each year, a report showing the necessary information to allow the County to determine the

Owner's compliance with this Regulatory Agreement, and (ii) within fifteen (15) days after receipt of a written request, any other information or completed forms requested by the County in order to comply with reporting requirements of HUD, or the State of California. Borrower agrees to fully comply with County's requirements for monitoring the affordability of the Project.

4. **Management**. Borrower shall manage the Restricted Units in accordance with a management plan prepared by Borrower and approved by the Director, describing Borrower's standards for operating, managing and maintaining the Restricted Units, including, but not limited to, the components listed below (the "Management Plan"). The Management Plan shall provide for occupancy standards that are appropriate for the Restricted Units. Borrower shall manage the Restricted Units in accordance with the approved Management Plan, including such amendments as may be approved in writing from time to time by the Director, for the Qualified Project Period. The components of the Management Plan shall include:

(a) Management Agent. During the Qualified Project Period, Borrower shall be the management agent or Borrower shall submit the name and qualifications of the proposed management agent. If the management agent is not Borrower, the County shall approve or disapprove the proposed management agent in writing based on the experience and qualifications of the management agent.

(b) Management Agreement. At the outset of the Qualified Project Period, Borrower shall submit a copy of the proposed management agreement specifying the amount of the management fee, and the relationship and division of responsibilities between Borrower and management agent.

(c) Marketing Plan. The marketing plan will apply to all of the units in the Project, including the Restricted Units, except the Manager's Unit. The Borrower shall submit a marketing plan for review and approval by the Director. The marketing plan must contain procedures that ensure marketing of the Restricted Units to Qualified Tenants throughout Orange County (including both unincorporated areas and other incorporated cities). Such procedures shall be applicable for initial rent-up and ongoing marketing of the units throughout the Qualified Project Period. Borrower shall advertise vacancies of the Restricted Units in general distribution newspapers that circulate throughout the County. Where the Borrower utilizes other forms of advertising, such advertising shall also be distributed throughout the County.

(d) Annual Budget and Projected Cash Flows. Concurrently with the beginning of the Qualified Project Period, and annually thereafter not later than seventy-five (75) days after the close of each calendar year (December 31) thereafter, Borrower shall submit, in a form that is acceptable to the County, a projected operating budget and cash flow for the Project to the County.

(e) County Right to Replace Management Agent. If at any time the County determines that the Project is not being managed or maintained in accordance with the approved Management Plan, Borrower shall change the management agent or the practices complained of, upon receipt of written notice from the County. The County may require Borrower to change management practices or to terminate the management contract and designate and retain a different management agent, to be approved by the County. The management agreement shall provide that it is subject to termination by Borrower without penalty, upon thirty (30) days prior written notice, at the direction of the County. Within ten (10) days following a direction of the County to replace the management agent, Borrower shall select another management agent or make other arrangements satisfactory to the County for continuing management of the Project.

5. Maintenance; Compliance with Law. During the Qualified Project Period, Borrower agrees to maintain all interior and exterior improvements, including landscaping, on the Project in good condition, repair and sanitary condition (and, as to landscaping, in a healthy condition) and in accordance with any Management Plan approved by the County under this Agreement (including without limitation any landscaping and signage), as the same may be amended from time to time, and all other applicable laws, rules, ordinances, orders, and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials. Borrower acknowledges the great emphasis the County places on quality maintenance to protect its investment and to provide quality low income housing for its constituents and to ensure that all County subsidized affordable housing projects within the County are not allowed to deteriorate due to deficient maintenance. In addition, Borrower shall keep the Project free from all graffiti and any accumulation of debris or waste material. Borrower shall promptly make all repairs and replacements necessary to keep the Project in good condition and repair and shall promptly eliminate all graffiti and replace dead and diseased plants and landscaping with comparable approved materials.

In the event that Borrower breaches any of the covenants contained in this Section 5 and such default continues for a period of five (5) days after written notice from the County (with respect to graffiti, debris, waste material, and general maintenance) or thirty (30) days after written notice from the County (with respect to landscaping and building improvements), then the County, in addition to whatever other right or remedy it may have under the Loan Agreement, the other Loan Documents, this Regulatory Agreement or at law or in equity, shall have the right to enter upon the Project and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, the County shall be permitted (but is not required) to enter upon the Project and perform all acts and work necessary to protect, maintain and preserve the improvements and landscaped areas on the Project. Borrower shall promptly pay to the County, as applicable, the amount of the expenditure arising from such acts and work of protection, maintenance, and preservation by the County and/or costs of such cure, including a fifteen percent (15%) administrative charge.

6. Consideration. The County has made the Loan for the purpose, among others, of inducing the Borrower to provide affordable housing in the County of Orange. In consideration of the Loan to the Borrower, the Borrower has entered into this Agreement and has agreed to restrict the Restricted Units of the Project on the terms and conditions set forth herein.

7. Sale or Transfer of the Project. The Borrower hereby covenants and agrees not to voluntarily sell, transfer or otherwise dispose of the Property or the Project, or any portion thereof (other than for individual tenant use as contemplated hereunder), without obtaining the prior written consent of the County. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Property or the Project in violation of this Section 7 shall be null, void and without effect, shall cause a reversion of title to the Borrower and shall be ineffective to relieve the Borrower of its obligations under this Agreement. Any transfer of the Property or the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section 7.

8. Term. This Agreement and all and each of the provisions hereof shall become effective upon its execution and delivery, shall remain in full force and effect for the period provided herein and in the Loan Agreement, and, shall terminate in its entirety at the expiration of the Qualified Project Period, it being expressly agreed and understood that the provisions hereof are intended to survive the discharge of the Loan and termination of the Loan Agreement. In the event that the Conversion Date, as defined in the Loan Agreement, does not occur and the Qualified Project period does not commence, as set forth in the Loan Agreement, the restrictions of this Agreement shall have no effect and the County shall provide the Borrower with a release of this Agreement.

9. Covenants to Run with the Land.

(a) All conditions, covenants, and restrictions contained in this Agreement shall be covenants running with the land, and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by County, its successors and assigns, against Borrower, its successors and assigns, to or of the Project or any portion thereof or any interest therein, and any party in possession or occupancy of said Project or portion thereof.

(b) In amplification and not in restriction of the provisions set forth hereinabove, it is intended and agreed that County shall be deemed a beneficiary of the agreements and covenants provided hereinabove both for and in its own right and also for the purposes of protecting the interests of the community. All covenants without regard to technical classification or designation shall be binding for the benefit of County and such covenants shall run in favor of County for the entire period during which such covenants shall be in force and effect, without regard to whether County is or remains an owner of any land or interest therein to which such covenants relate. County shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any action at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

(c) The County and its successors and assigns, and Borrower and the permitted successors and assigns of Borrower in and to all or any part of the fee title to the Project, shall jointly have the right upon written agreement signed by both parties to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, easements, or restrictions contained in this Agreement without the consent of any tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust, or any other person or entity having any interest less than a fee in the Project. The covenants contained in this Agreement, without regard to technical classification shall not benefit or be enforceable by any owner of any other real property within or outside the Project, or any person or entity having any interest in any other such realty.

(d) No breach of any of the provisions of this Agreement shall impair, defeat or render invalid the lien of any mortgage, deed of trust or like encumbrance made in good faith and for value encumbering the Property or the Project or any portion thereof.

10. Burden and Benefit. The County and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the Property and the Project in that the Borrower's legal interest in the Project is rendered less valuable thereby. The County and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touching and concerning the land is the enhancement and increased enjoyment and use of the Project by Qualified Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by the furthering of public purposes for which the Loan was made.

11. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use, development and improvement of the Project.

12. Default. Each of the following shall constitute an "Event of Default" by Borrower under this Agreement:

(a) Failure to Make Payments. Borrower fails to make any payment of due the County under this Agreement within ten (10) days after receiving written notice for said payment from the County;

(b) Non-Monetary Failure to Perform. Borrower fails to timely perform, comply with or observe any of the terms, covenants, or conditions of this Agreement (other than those provisions elsewhere referred to in this Section 12) and such failure continues uncured or without Borrower commencing to diligently cure for thirty (30) days after notice thereof in writing is given by the County to Borrower;

(c) Mortgage Loan Document Breach. Any default or breach of Borrower which continues uncured after the expiration of any applicable cure period under the Loan Agreement (including, but not limited to, the obligations of the Borrower under Article VI of the Loan Agreement), any Loan Document or any other loan document including, but not limited to, the Mortgage Loan Documents, as defined and set forth in the Loan Agreement;

(d) Voluntary Suspension. The voluntary suspension of Borrower's business or the dissolution or termination of the partnership (if any) constituting Borrower;

(e) Unauthorized Transfer. Borrower's sale or other transfer of the Project in violation of this Agreement;

(f) Fraud or Material Misstatement or Omissions. Any fraudulent act or omission of Borrower' pertaining to or made in connection with the Loan, Loan Documents or the Project;

(g) Insolvency. A court having jurisdiction shall have made or entered any decree or order (i) adjudging Borrower to be bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization of Borrower or seeking any arrangement for Borrower under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (iii) appointing a receiver, trustee, liquidator, or assignee of Borrower in bankruptcy or insolvency or for any of their properties, or (iv) directing the winding up or liquidation of Borrower, if any such decree or order described in clauses (i) to (iv), inclusive, shall have continued unstayed or undischarged for a period of sixty (60) days unless a lesser time period is permitted for cure under any other mortgage on the Property, in which event such lesser time period will apply under this subsection 8.1(h) as well; or Borrower shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive. The occurrence of any of the events of default in this paragraph shall act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note; or

(h) Project Monies. Borrower's misapplication or embezzlement of Project monies.

13. Remedies. The occurrence of any Event of Default shall, either at the option of the County or automatically where so specified, relieve the County of any obligation to make or continue the Loan and shall give the County the right to proceed with any and all remedies set forth in this Agreement and the Loan Documents or otherwise available at law or in equity or by statute (and all of the County's rights and remedies shall be cumulative), including but not limited to the following:

(a) Acceleration of Note. The County shall have the right to cause all indebtedness of the Borrower to the County under the Note, together with any accrued interest thereon, to become immediately due and payable. The Borrower waives all right to presentment, demand, protest or notice of protest, or dishonor. The County may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the County as a creditor and secured party under the law including the Uniform

Commercial Code, including foreclosure under the Deed of Trust. The Borrower shall be liable to pay the County on demand all expenses, costs and fees (including, without limitation, attorneys' fees and expenses) paid or incurred by the County in connection with the collection of the Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the Loan.

(b) Specific Performance. The County shall have the right to mandamus or other suit, action or proceeding at law or in equity to require Borrower to perform its obligations and covenants under this Agreement and/or the Loan Documents or to enjoin acts on things, which may be unlawful, or in violation of the provisions of this Agreement and/or the Loan Documents.

(c) Right to Cure at Borrower's Expense. The County shall have the right to cure any monetary default by Borrower under this Agreement. The Borrower agrees to reimburse the County for any funds advanced by the County to cure a monetary default by Borrower upon demand therefore, together with interest thereon at the rate of twelve percent (12%) per annum or the maximum rate permitted by law, whichever rate is lesser, from the date of expenditure until the date of reimbursement.

(d) Remedies Cumulative. No right, power, or remedy given to the County by the terms of this Agreement or the Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Borrower and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

(e) Waiver of Terms and Conditions. No waiver of any default or breach by Borrower hereunder shall be implied from any omission by the County to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The consent or approval by the County to or of any act by Borrower requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. The exercise of any right, power, or remedy shall in no event constitute a cure or a waiver of any default under this Agreement or the Loan Documents, nor shall it invalidate any act done pursuant to notice of default, or prejudice the County in the exercise of any right, power, or remedy hereunder or under the Loan Documents, unless in the exercise of any such right, power, or remedy all obligations of Borrower to County are paid and discharged in full.

14. **Recording and Filing**. The Borrower shall cause this Agreement, and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the County of Orange and in such other places as the County may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

15. **Governing Law**. This Agreement shall be governed by the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394

16. **Amendments**. This Agreement shall be amended only by a written instrument executed by the parties hereto, or their successors in title and duly recorded in the real property records of the County of Orange.

17. **Notices**.

(a) Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

Borrower: [BORROWER TO PROVIDE]

County: [Orange County Housing Authority]

[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705
Attn: [Executive] Director

(b) County shall endeavor to provide a courtesy copy of any notice sent to Borrower to the following addressee, however, failure to do so shall not affect the validity of any otherwise proper, timely delivered notice to Borrower:

[courtesy notices]

Notice shall be deemed given three business days after the date of mailing.

18. Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

19. Additional Terms.

(a) Indemnity. To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the County and its elected officials, officers, governing members, employees, attorneys and agents (collectively, the "Indemnified Parties"), from and against any and all losses, damages, claims, actions, liabilities, costs and expenses of any and every conceivable nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject to under any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

i. this Agreement or the execution or amendment thereof in connection with the transactions contemplated thereby;

ii. Borrower's ownership or operation of the Property and the Project or any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Property and the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation, operation or rehabilitation of, the Project or any part thereof;

iii. any lien or charge upon payments by the Borrower to the County, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the County in respect of any portion of the Project;

iv. any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Property or the Project or any part thereof;

v. any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower contained in any Loan Document or any of the documents or instruments relating to said Loan Documents that the County relied upon in making the Loan; except to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment and payment for of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement.

(b) Time. Time is of the essence in this Agreement.

(c) Construction. Except where the context otherwise requires, words imparting the singular number shall include the plural number and vice versa, words imparting persons shall include firms, associations, partnerships and corporations, and words of either gender shall include the other gender.

(d) Waiver of Jury Trial. Unless prohibited by Federal, State or local laws, each party to this Agreement hereby expressly waives any right to trial by jury of any claim, demand, action or cause of action arising under any Loan Document or in any way connected with or related or incidental to the dealings of the parties hereto or any of them with respect to any Loan Document, or the transactions related thereto, in each case whether now existing or hereafter arising, and whether sounding in contract or tort or otherwise; and each party hereby agrees and consents that any such claim, demand, action or cause of action shall be decided by court trial without a jury, and that any party to this Agreement may file an original counterpart or a copy of this section with any court as written evidence of the consent of the parties hereto to the waiver of their right to trial by jury.

(e) Nonliability. By accepting or approving anything required to be performed or given to County under this Agreement, County shall not be deemed to have warranted or represented the sufficiency or legal effect of the same, and no such acceptance or approval shall constitute a warranty or representation by County to anyone.

(f) Obligations Unconditional and Independent. Notwithstanding the existence at any time of any obligation or liability of County to Borrower, or any claim by Borrower against County, in connection with this Agreement or otherwise, Borrower hereby waives any right it might otherwise have (a) to offset any such obligation, liability or claim against Borrower's obligations under this Agreement or (b) to claim that the existence of any such obligation, liability or claim excuses the nonperformance by Borrower of any of its obligations under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

Signature Pages to Follow

ATTACHMENT N 4

BORROWER:

[PLEASE PROVIDE SIGNATURE BLOCK]

By:

Signature Page Follows

ATTACHMENT N 4

COUNTY:

[COUNTY SIGNATURE BLOCK

By:____________________________________
[NAME] [TITLE]

APPROVED AS TO FORM
COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By____________________________
Deputy

Dated___________________________

ATTACHMENT N 4

EXHIBIT A
LEGAL DESCRIPTION

ATTACHMENT N 4

EXHIBIT B

LOW AND VERY LOW QUALIFIED TENANT/UNIT MIX
[LOCATION], California

RENT & AFFORDABILITY SCHEDULE

Number of Restricted Units	Number of Bedrooms	* Gross Restricted **Rental Rate**	**Utility Allowance	Net Restricted Rental Rate	Income Limit based on Area Median Income (AMI)	Age Restriction (if any)	Project Based Section 8 Units	Number of Years Restricted
Total							Total 0	

* Restricted Rental Rate is based on the current Area Median Income (AMI) published by HUD annually and does not include the utility allowance deduction.

* * Utility allowance is based on the current utility schedule published by the Orange County Housing Authority annually.

Rent increases shall be limited to (i) the Department of Housing and Urban Development's (HUD) annually published Rent Adjustment factor for the Section 8 program, or (ii) no more than the lower of rent established as affordable based on the Median Income for the Area and the affordability restrictions set forth above, which is adjusted annually by HUD and published by the State of California, or as required by California Health & Safety Code section 50053, as referenced in the Loan Agreement Section 3.1 (d).

ATTACHMENT N 5

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

[Orange County Housing Authority]
[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor, Santa Ana, CA 92705
Attn: [Executive] Director

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "**Agreement**") is entered into this _____ day of [MONTH] 2023 by and among (i) [ORANGE COUNTY HOUSING AUTHORITY, a public corporation created pursuant to California Health and Safety Code section 34200 *et. seq*., acting solely as the Housing Successor Agency to the Orange County Development Agency] [COUNTY OF ORANGE, a political subdivision of the State of California], (the "**County**") (ii) [SUBORDINATE ENTITY] (the "**Subordinate Lender**"), and (iii) [AWARDEE] (the "**Borrower**").

Recitals

A. The County has made or is making a loan (the "**Senior Mortgage Loan**") to the Borrower in the original principal amount of $[XXX]. The Senior Mortgage Loan is or will be secured by a senior mortgage lien (the "**Senior Mortgage**") on a multifamily housing project known as [NAME OF PROJECT], located in the [CITY], CA (the "**Property**") and as more fully described in Exhibit A attached hereto. The Borrower's obligation to repay the Senior Mortgage Loan is evidenced by a Promissory Note of even date herewith (the "**Senior Mortgage Note**").

B. The Borrower and the Subordinate Lender have previously entered into two agreements pursuant to which the Subordinate Lender has agreed to allow Borrower [DESCRIPTION OF SUBORDINATE LENDER ASSISTANCE] (collectively, the "**Subordinate Loans**") which Subordinate Loans are secured by, among other things, two mortgage liens against the Property. The Subordinate Loans collectively total $[XXXXX].

C. The County has agreed to permit the Subordinate Loans to remain as subordinate mortgage liens against the Property subject to all of the conditions contained in this Agreement.

D. The Subordinate Lender has agreed to subordinate its mortgage liens to the lien of the Senior Mortgage.

ATTACHMENT N 5

NOW, THEREFORE, in consideration of for foregoing Recitals, which are incorporated herein by this reference and made a part of this Agreement, the County, the Subordinate Lender and the Borrower agree as follows:

1. Definitions.

In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

"Affiliate" means, when used with respect to a Person, any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual controlled by, under common control with, or which controls such Person (the term "control" for these purposes shall mean the ability, whether by the ownership of shares or other equity interests, by contract or otherwise, to elect a majority of the directors of a corporation, to make management decisions on behalf of, or independently to select the managing partner of, a partnership, or otherwise to have the power independently to remove and then select a majority of those individuals exercising managerial authority over an entity, and control shall be conclusively presumed in the case of the ownership of 50% or more of the equity interests).

"Borrower" means [BORROWER NAME] and any other Person (other than the County) who acquires title to the Property after the date of this Agreement.

"Business Day" means any day other than Saturday, Sunday or a day on which the County is not open for business.

"County" means the [Orange County Housing Authority, a public corporation created pursuant to California Health and Safety Code section 34200 et. seq., acting solely as the Housing Successor Agency to the Orange County Development Agency] [County Of Orange, a political subdivision of the State of California].

"Default Notice" means: (a) a copy of the written notice from the County to the Borrower stating that a Senior Mortgage Loan Default has occurred under the Senior Mortgage Loan; or (b) a copy of the written notice from the Subordinate Lender to the Borrower stating that a Subordinate Loan Default has occurred under one or both of the Subordinates Loan or that a Regulatory Agreement Default has occurred under the County Regulatory Agreement. Each Default Notice shall specify the default upon which such Default Notice is based.

"Person" means an individual, estate, trust, partnership, corporation, limited liability company, limited liability partnership, governmental department or agency or any other entity which has the legal capacity to own property.

"Regulatory Agreement Default" means a default by the Borrower in performing or observing any of the terms, covenants or conditions in the County Regulatory Agreement to be performed or observed by it, which continues beyond any applicable period provided in the County Regulatory Agreement for curing the default

"Senior Mortgage Loan Default" means the occurrence of either a default by the Borrower in performing or observing any of the terms, covenants or conditions in the Senior Mortgage Loan Documents to be performed or observed by it, which continues beyond any applicable period provided in the Senior Mortgage Loan Documents for curing the default, or an "Event of Default" as that term is defined in the Senior Mortgage Loan Documents.

"Senior Mortgage Loan Documents" means the Senior Mortgage Note and all other documents evidencing, securing or otherwise executed and delivered in connection with the Senior Mortgage Loan.

"Subordinate Lender" means the City of Placentia, acting as the Housing Successor Agency to the Placentia Redevelopment Agency, and any other Person who becomes the legal holder of the Subordinate Notes after the date of this Agreement.

"Subordinate Loan Default" means a default by the Borrower in performing or observing any of the terms, covenants or conditions in the Subordinate Loan Documents to be performed or observed by it, which continues beyond any applicable period provided in the Subordinate Loan Documents for curing the default.

"Subordinate Loan Documents" means the Subordinate Notes, the Subordinate Mortgages, and all other documents evidencing, securing or otherwise executed and delivered in connection with the Subordinate Loans, including but not limited to those certain documents set forth on Exhibit B attached hereto.

"Subordinate Mortgages" means the mortgages or deeds of trust encumbering the Property as security for the Subordinate Loans, which were previously recorded in the applicable land records.

"Subordinate Notes" means the promissory notes issued by the Borrower to the Subordinate Lender, or order, to evidence the Subordinate Loans.

2. Permission to Place Mortgage Lien Against Property.

The County has agreed and hereby consents to, notwithstanding the prohibition against inferior liens on the Property contained in the Senior Mortgage Loan Documents and subject to the provisions of this Agreement, the Subordinate Mortgages and other recordable Subordinate Loan Documents against the Property (which are subordinate in all respects to the lien of the Senior Mortgage) which secure the Borrower's obligation to repay the Subordinate Notes and all other obligations, indebtedness and liabilities of the Borrower to the Subordinate Lender under and in connection with the Subordinate Loans. Such consent is subject to the condition that each of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 are true and correct as of the date of this Agreement. If any of the representations and warranties made

ATTACHMENT N 5

by the Borrower and the Subordinate Lender in Section 3 is not true and correct as of the date of this Agreement, the provisions of the Senior Mortgage Loan Documents applicable to unpermitted liens on the Property shall apply.

ATTACHMENT N 5

3. Borrower's and Subordinate Lender's Representations and Warranties.

A. The Borrower and the Subordinate Lender each makes the following representations and warranties to the County:

(a) **Relationship of Borrower to Subordinate Lender and Borrower.** The Subordinate Lender is not an Affiliate of the Borrower and is not in possession of any facts that would lead it to believe that the Subordinate Lender is an Affiliate of the Borrower.

B. The Borrower makes the following representations and warranties to the County and City:

(a) **Subordinate Loan Documents.** The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, County prior to the date of this Agreement. Borrower shall deliver to County an executed copy of each of the Subordinate Loan Documents, certified to be true, correct and complete.

(b) **Senior Loan Documents**. The executed Senior Loan Documents are substantially in the same forms as, when applicable, those submitted to Subordinate Lender prior to the date of this Agreement. Upon execution and delivery of the Senior Loan Documents, Borrower shall deliver to Subordinate Lender an executed copy of each of the Senior Loan Documents, certified to be true, correct and complete.

4. Terms of Subordination.

(a) **Subordinate Lender Agreement to Subordinate.** The County and the Subordinate Lender agree that: (i) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement to the prior payment in full of the indebtedness evidenced by the Senior Mortgage Loan Documents, and (ii) the Subordinate Mortgages and the other Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Mortgage and the other Senior Mortgage Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the Senior Mortgage and the other Senior Mortgage Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the Senior Mortgage, curing defaults by the Borrower under the Senior Mortgage Loan Documents or for any other purpose expressly permitted by the Senior Mortgage, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Property).

(b) **Subordinate Lender Subordination of Subrogation Rights.** The Subordinate Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of the Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, it acquires by right of subrogation or otherwise a lien on the Property which (but for this subsection) would be senior to the lien of the Senior Mortgage, then, in that event, such lien shall be subject and subordinate to the lien of the Senior Mortgage.

(c) **Payments Before Senior Mortgage Loan Default.** Until the Subordinate Lender receives a Default Notice of a Senior Mortgage Loan Default from the County, the Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents.

(d) **Payments After Senior Mortgage Loan Default.** The Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a Senior Mortgage Loan Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) without the County's prior written consent. The Subordinate Lender agrees that, after it receives a Default Notice from the County with written instructions directing the Subordinate Lender not to accept payments from the Borrower on account of the Subordinate Loans, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgages) without the County's prior written consent. If the Subordinate Lender receives written notice from the County that the Senior Mortgage Loan Default which gave rise to the Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by the County, the restrictions on payment to the Subordinate Lender in this Section 4 shall terminate, and the County shall have no right to any subsequent payments made to the Subordinate Lender by the Borrower prior to the Subordinate Lender's receipt of a new Default Notice from the County in accordance with the provisions of this Section 4(d).

(e) **Remitting Subordinate Loan Payments to County.** If, after the Subordinate Lender receives a Default Notice from the County in accordance with subsection (d) above, the Subordinate Lender receives any payments under the Subordinate Loan Documents, the Subordinate Lender agrees that such payment or other distribution will be received and held in trust for the County and unless the County otherwise notifies the Subordinate Lender in writing, will be promptly remitted, in kind to the County, properly endorsed to the County, to be applied to the principal of, interest on and other amounts due under the Senior Mortgage Loan Documents in accordance with the provisions of the Senior Mortgage Loan Documents. By executing this Agreement, the Borrower specifically authorizes the Subordinate Lender to endorse and remit any such payments to the County, and specifically waives any and all rights to have such payments returned to the Borrower or credited against the Subordinate Loans. Borrower and County acknowledge and agree that payments received by the Subordinate Lender, and remitted to the County under this Section 4, shall not be applied or otherwise credited against the Subordinate Loans, nor shall the tender of such payment to the County waive any Subordinate Loan Default which may arise from the inability of the Subordinate Lender to retain such payment or apply such payment to the Subordinate Loans.

(f) **Subordinate Lender Agreement Not to Commence Bankruptcy Proceeding.** The Subordinate Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing any bankruptcy reorganization, arrangement, insolvency or liquidation proceedings with respect to the Borrower, without the County's prior written consent.

5. Default Under Subordinate Loan Documents.

(a) **Notice of Default and Cure Rights.** The Subordinate Lender shall deliver to the County a Default Notice within five (5) Business Days in each case where the Subordinate Lender has given a Default Notice to the Borrower. Failure of the Subordinate Lender to send a Default Notice to the County shall not prevent the exercise of the Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. The County shall have the right, but not the obligation, to cure any Subordinate Loan Default or Regulatory Agreement Default (as applicable) within sixty (60) days following the date of such notice; provided, however that the Subordinate Lender shall be entitled, during such sixty (60) day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents. All amounts paid by the County in accordance with the Senior Mortgage Loan Documents to cure a Subordinate Loan Default or Regulatory Agreement Default (as applicable) shall be deemed to have been advanced by the County pursuant to, and shall be secured by the lien of, the Senior Mortgage.

(b) **Subordinate Lender's Exercise of Remedies After Notice to County.** If a Subordinate Loan Default or Regulatory Agreement Default occurs and is continuing, the Subordinate Lender agrees that, without the County's prior written consent, it will not commence foreclosure proceedings with respect to the Property under the Subordinate Loan Documents or exercise any other rights or remedies it may have under the Subordinate Loan Documents, including, but not limited to accelerating one or both of the Subordinate Loans, collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder unless and until it has given the County at least sixty (60) days' prior written notice; during such sixty (60) day period, however, the Subordinate Lender shall be entitled to exercise and enforce all other rights and remedies available to the Subordinate Lender under the Subordinate Loan Documents and/or under applicable laws.

(c) **Cross Default.** The Borrower and the Subordinate Lender agree that any of a Subordinate Loan Default or Regulatory Agreement Default shall constitute a Senior Mortgage Loan Default under the Senior Mortgage Loan Documents and the County shall have the right to exercise all rights or remedies under the Senior Mortgage Loan Documents in the same manner as in the case of any other Senior Mortgage Loan Default. If the Subordinate Lender notifies the County in writing that any Subordinate Loan Default or Regulatory Agreement Default of which the County has received a Default Notice has been cured or waived, as determined by the Subordinate Lender in its sole discretion, then provided that County has not conducted a sale of the Property pursuant to its rights under the Senior Mortgage Loan Documents, any Senior Mortgage Loan Default under the Senior Mortgage Loan Documents arising solely from such Subordinate Loan Default or Regulatory Agreement Default shall be deemed cured, and the Senior Mortgage Loan shall be reinstated, provided, however, that the County shall not be required to return or otherwise credit for the benefit of the Borrower any default rate interest or other default related charges or payments received by the County during such Senior Mortgage Loan Default.

6. Default Under Senior Mortgage Loan Documents.

(a) **Notice of Default and Cure Rights.** The County shall deliver to the Subordinate Lender a Default Notice within five (5) Business Days in each case where the County has given a Default Notice to the Borrower. Failure of the County to send a Default Notice to the Subordinate Lender shall not prevent the exercise of the County's rights and remedies under the Senior Loan Documents, subject to the provisions of this Agreement. The Subordinate Lender shall have the right, but not the obligation, to cure any such Senior Mortgage Loan Default within sixty (60) days following the date of such notice; provided, however, that the County shall be entitled during such sixty (60) day period to continue to pursue its remedies under the Senior Mortgage Loan Documents. Subordinate Lender may have up to ninety (90) days from the date of the Default Notice to cure a non-monetary default if during such ninety (90) day period Subordinate Lender keeps current all payments required by the Senior Mortgage Loan Documents. In the event that such a non-monetary default creates an unacceptable level of risk relative to the Property, or County's secured position relative to the Property, as determined by County in its sole discretion, then County may exercise during such ninety (90) day period all available rights and remedies to protect and preserve the Property and the rents, revenues and other proceeds from the Property. All amounts paid by the Subordinate Lender to the County to cure a Senior Mortgage Loan Default shall be deemed to have been advanced by the Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Mortgages.

(b) **Cross Default.** The Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a Senior Mortgage Loan Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents until either (i) the County has accelerated the maturity of the Senior Mortgage Loan, or (ii) the County has taken affirmative action to exercise its rights under the Senior Mortgage to collect rent, to appoint (or seek the appointment of) a receiver or to foreclose on (or to exercise a power of sale contained in) the Senior Mortgage. At any time after a Senior Mortgage Loan Default is determined to constitute a default under the Subordinate Loan Documents, the Subordinate Lender shall be permitted to pursue its remedies for default under the Subordinate Loan Documents, subject to the restrictions and limitations of this Agreement. If at any time the Borrower cures any Senior Mortgage Loan Default to the satisfaction of the County, as evidenced by written notice from the County to the Subordinate Lender, any default under the Subordinate Loan Documents arising from such Senior Mortgage Loan Default shall be deemed cured and the Subordinate Loans shall be retroactively reinstated as if such Senior Mortgage Loan Default had never occurred.

7. Conflict.

The Borrower, the County and the Subordinate Lender each agrees that, in the event of any conflict or inconsistency between the terms of the Senior Mortgage Loan Documents, the Subordinate Loan Documents, and the terms of this Agreement, the terms of this Agreement shall govern and control solely as to the following: (a) the relative priority of the security interests of the County and the Subordinate Lender in the Property; (b) the timing of the exercise of remedies by the County and the Subordinate Lender under the Senior Mortgage and the Subordinate Mortgages, respectively; and (c) solely as between the County and the Subordinate Lender, the notice requirements, cure rights, and the other rights and obligations which the County and the Subordinate Lender have agreed to as expressly provided in this Agreement. Borrower acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: extend Borrower's time to cure any Senior Mortgage Loan Default or Subordinate Loan Default, as the case may be; give the Borrower the right to notice of any Senior Mortgage Loan Default or Subordinate Loan Default, as the case may be other than that, if any, provided, respectively under the Senior Mortgage Loan Documents, the Subordinate Loan Documents; or create any other right or benefit for Borrower as against County or Subordinate Lender.

8. Rights and Obligations of the Subordinate Lender Under the Subordinate Loan Documents and of the County under the Senior Mortgage Loan Documents.

Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Loan Documents covering the same subject matter:

(a) **Protection of Security Interest.** The Subordinate Lender shall not, without the prior written consent of the County in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Subordinate Loan Documents, except that the Subordinate Lender shall have the right to advance funds to cure Senior Mortgage Loan Defaults pursuant to Section 6(a) above and advance funds pursuant to the Subordinate Mortgages for the purpose of paying real estate taxes and insurance premiums, making necessary repairs to the Property and curing other defaults by the Borrower under the Subordinate Loan Documents.

(b) **Condemnation or Casualty.** In the event of: a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Property (collectively, a "Taking"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Property (collectively, a "Casualty"), at any time or times when the Senior Mortgage remains a lien on the Property the following provisions shall apply:

(1) The Subordinate Lender hereby agrees that its rights (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to the County's rights under the Senior Mortgage Loan Documents with respect thereto, and the Subordinate Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by the County; provided, however, this subsection and/or anything contained in this Agreement shall not limit the rights of the Subordinate Lender to file any pleadings, documents,

claims or notices with the appropriate court with jurisdiction over the proposed Taking and/or Casualty; and

(2) All proceeds received or to be received on account of a Taking or a Casualty, or both, shall be applied (either to payment of the costs and expenses of repair and restoration or to payment of the Senior Mortgage Loan) in the manner determined by the County in its sole discretion; provided, however, that if the County elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the Senior Mortgage Loan, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the Senior Mortgage Loan shall be paid to, and may be applied by, the Subordinate Lender in accordance with the applicable provisions of the Subordinate Loan Documents, provided however, the County agrees to consult with the Subordinate Lender in determining the application of Casualty proceeds, provided further however that in the event of any disagreement between the County and the Subordinate Lender over the application of Casualty proceeds, the decision of the County, in its sole discretion, shall prevail.

(c) **No Modification of Subordinate Loan Documents.** The Borrower and the Subordinate Lender each agrees that, until the principal of, interest on and all other amounts payable under the Senior Mortgage Loan Documents have been paid in full, it will not, without the prior written consent of the County in each instance, increase the amount of the Subordinate Loans, increase the required payments due under the Subordinate Loans, decrease the term of the Subordinate Loans, increase the interest rate on the Subordinate Loans, or otherwise amend the terms of the Subordinate Loans in a manner that creates an adverse effect upon the County under the Senior Mortgage Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents or assignment of the Subordinate Lender's interest in the Subordinate Loans without the County's consent shall be void ab initio and of no effect whatsoever.

9. Modification or Refinancing of Senior Mortgage Loan.

Subject to the final sentence hereof, the Subordinate Lender consents to any agreement or arrangement in which the County waives, postpones, extends, reduces or modifies any provisions of the Senior Mortgage Loan Documents, including any provision requiring the payment of money. Subordinate Lender further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Mortgage Loan (including reasonable and necessary costs associated with the closing and/or the refinancing); and that all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; and that all references to the Senior Mortgage Loan, the Senior Mortgage Note, the Senior Mortgage, the Senior Mortgage Loan Documents and County shall mean, respectively, the refinance loan, the refinance note, the mortgage securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note. Notwithstanding anything to the contrary in this Section 9, the County shall not, without the prior written consent of the Subordinate Lender in each instance, which will not be unreasonably withheld, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Senior Mortgage Loan Documents, increasing the required payments due under the Senior Mortgage Loan, decreasing the term of the Senior Mortgage Loan, or increasing the interest rate on the Senior Mortgage Loan (other than on account of regular fluctuations in the variable interest rate on the Senior Mortgage Loan or in connection with charging default rate of interest following a Senior Mortgage Loan Default), except that the Senior Lender shall have the right to advance funds to cure Subordinate Loan Defaults pursuant to Section 5(a), above, and advance funds pursuant to the Senior Mortgage Loan Documents for the purpose of paying real estate taxes and insurance premiums, making necessary repairs to the Property, curing other defaults by Borrower under the Senior Mortgage Loan Documents, or protecting the Senior Lender's security interest in the Property.

10. Default by the Subordinate Lender or County.

If the Subordinate Lender or County defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by it under this Agreement, the other, non-defaulting lender shall have the right to all available legal and equitable relief.

11. Notices.

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which the County or the Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating next Business Day delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two (2) days after mailing in the United States), addressed to the respective parties as follows:

COUNTY:

[Orange County Housing Authority]

[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705
Attn: [Executive] Director

SUBORDINATE LENDER:
[PLEASE PROVIDE]

ATTACHMENT N 5

BORROWER:

[PLEASE PROVIDE]

Either party may, by notice given pursuant to this Section, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

12. General.

(a) **Assignment/Successors.** This Agreement shall be binding upon the Borrower, the County and the Subordinate Lender and shall inure to the benefit of the respective legal successors and assigns of the County and the Subordinate Lender.

(b) **No Partnership or Joint Venture.** The County's permission for the placement of the Subordinate Loan Documents does not constitute the County as a joint venturer or partner of the Subordinate Lender. Neither party hereto shall hold itself out as a partner, agent or Affiliate of the other party hereto.

(c) **County's and Subordinate Lender's Consent.** Wherever the County's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the County in its sole and absolute discretion, unless otherwise expressly provided in this Agreement. Wherever the Subordinate Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Subordinate Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement.

(d) **Further Assurances.** The Subordinate Lender, the County and the Borrower each agree, at the Borrower's expense, to execute and deliver all additional instruments and/or documents reasonably required by any other party to this Agreement in order to (i) evidence that the Subordinate Mortgages are subordinate to the lien, covenants and conditions of the Senior Mortgage or (ii) further evidence the intent of this Agreement.

(e) **Amendment.** This Agreement shall not be amended except by written instrument signed by all parties hereto.

(f) **Governing Law.** This Agreement shall be governed by the laws of the State of California.

(g) **Severable Provisions.** If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

(h) **Term.** The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of

ATTACHMENT N 5

the principal of, interest on and other amounts payable under the Senior Mortgage Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which the Subordinate Lender is obligated to remit to the County pursuant to Section 4 hereof; (iii) the acquisition by the County of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Senior Mortgage; or (iv) the acquisition by the Subordinate Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, one of the Subordinate Mortgages, but only if such acquisition of title does not violate any of the terms of this Agreement.

ATTACHMENT N 5

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

COUNTY:

[COUNTY OF ORANGE, a political subdivision of the state of California]

[ORANGE COUNTY HOUSING AUTHORITY,
Acting as the Housing Successor Agency to the
Orange County Development Agency]

By:_________________________________
[NAME] [TITLE]

APPROVED AS TO FORM
COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By_________________________________
Deputy

- Signature Page Follows -

ATTACHMENT N 5

BORROWER:

[SIGNATURE BLOCK TO BE PROVIDED BY BORROWER]

- Signature Page Follows -

ATTACHMENT N 5

SUBORDINATE LENDER
[SIGNATURE BLOCK TO BE PROVIDED BY SUBORDINATE LENDER]

EXHIBIT A

<u>LEGAL DESCRIPTION</u>

[TO BE PROVIDED]

EXHIBIT B

SUBORDINATE LOAN DOCUMENTS

[TO BE PROVIDED BY SUBORDINATE LENDER]

ATTACHMENT N 6

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

[Orange County Housing Authority]
[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705
Attn: [Executive] Director

ASSIGNMENT OF LESSOR'S INTEREST IN LEASES, RENTS AND PROFITS

THIS ASSIGNMENT ("**Assignment**") is dated for reference purposes only as of [MONTH] _____, 20[ ] and is made by the [ORANGE COUNTY HOUSING AUTHORITY, a public corporation created pursuant to California Health and Safety Code section 34200 *et. seq*., acting solely as the Housing Successor Agency to the Orange County Development Agency][COUNTY OF ORANGE, a political subdivision of the state of California], (the "**County**") and [XXX] [BORROWER], (the "**Borrower**").

RECITALS

A. Borrower proposes to borrow from County the principal sum of the Loan as such term is defined in that separate Loan Agreement between Borrower and County of even date herewith. The Loan is evidenced by a Promissory Note ("**Note**") executed by Borrower payable to County in the principal amount of the Loan and is secured by, among other things, a Deed of Trust, Assignment of Rents and Security Agreement ("**Deed of Trust**"), encumbering certain real property and improvements currently on such property or which are to be constructed thereon, described in Exhibit "A" attached hereto and incorporated herein by this reference ("**Property**"), by the security interests granted under this Assignment and by other security instruments specified in the Note, Deed of Trust or other Loan Documents entered into relating to the Loan. Unless otherwise noted, all defined terms used in this Assignment shall have the same meaning ascribed to them under said Loan Agreement.

B. Borrower has entered into and will hereafter be entering, into Leases, as defined hereafter, regarding the Property.

C. The County Note and Deed of Trust, as well as all rights interests and remedies with respect to Leases, Rents and other collateral described in this Assignment shall at all times be subject and subordinate to the senior collateral rights and interest in such items as provided for in the Permanent Deed of Trust (as defined in the Loan Agreement).

ATTACHMENT N 6

NOW, THEREFORE, in consideration of County's agreement to make the Loan, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower covenants and agrees as follows:

1. **Assignment**. Borrower absolutely and unconditionally grants and assigns to County as of the date hereof:

(a) all of Borrower's right, title and interest in, to and under all leases, licenses and other rental agreements of any kind relating to the use or occupancy of the Property and any portion thereof, which are currently if effect for the Property or are entered into on or after the date of this Assignment (collectively referred to as "**Leases**" and each individually as a "**Lease**"). The Leases shall include (i) all guarantees of and security for lessees' performance under any and all Leases and (ii) all amendments, extensions, renewals or modifications thereto which are permitted hereunder; and

(b) all rents (and payments in lieu of rents), and tenant expense reimbursements at any time payable under any and all Leases, any and all security deposits received or to be received by Borrower pursuant to any and all Leases, and all rights and benefits accrued or to accrue to Borrower under any and all Leases (collectively, "**Rent**").

2. **Obligations Secured**. This Assignment secures the payment and performance of all present and future obligations of Borrower to County under the Note, the Deed of Trust, any Loan Documents that are executed by Borrower and under any other agreement, which recites that, it is secured hereby.

3. **License**. This Assignment shall constitute a present and absolute assignment to County. However, Borrower shall have the right under a license (the "**License**") granted hereby to collect and use at the time of, but not prior to, the date provided for payment, all of the Rent and to retain and use the same in accordance with the terms and provisions of the Note, Deed of Trust, and other Loan Documents; provided, that such license shall be revoked automatically upon the occurrence of a Default as defined below. County shall not revoke the License prior to an Event of Default.

4. **Covenants**. Borrower covenants and agrees as follows:

(a) at Borrower's sole cost to: (i) perform the duties and obligations of lessor under the Leases and to enforce performance by the lessees of the obligations contained in the Leases; (ii) enforce all remedies available to Borrower in case of default by the lessees under any of the Leases and prosecute and defend any action, arbitration or other controversy relating to any of the Leases or to Borrower's interest in any of the Leases in the ordinary course of Borrower's business; (iii) give County prompt notice of any material default by Borrower which occurs with respect to any of the Leases, and complete copies of any notice of default; (iv)

ATTACHMENT N 6

exercise Borrower's best efforts to keep all portions of the Property designated as lease property leased at all times; (v) upon County's request, deliver to County a fully executed photocopy and a counterpart original of each and every Lease; (vi) execute and record such additional assignments of any Lease, in form and substance reasonably acceptable to County, as County may request; and (vii) execute and deliver such additional documents and instruments as County may reasonably request from time to time to carry out the purpose of this Assignment; and

(b) except with County's prior written consent, which consent will not be arbitrarily withheld, not to either orally or in writing: (i) enter into any Leases after the date of this Assignment which are not in compliance with the applicable provisions of the Loan Agreement, Regulatory Agreement and other Loan Documents; (ii) execute any other assignment relating to any of the Leases or collect the rent in advance, other than to collect one (1) month in advance of the time when it becomes due; (iii) terminate, modify or amend any of the terms of the Leases or in any manner release or discharge any lessee from any obligations thereunder; (iv) consent to any assignment or subletting by any lessee of the Leases; or (v) do or permit anything to be done to impair the validity or enforceability of any of the Leases. Any such attempted action in violation of the provisions of this Paragraph 4(b) shall be null and void.

(c) to duly observe, perform, and discharge the obligations, terms, covenants, conditions and warranties of the Loan Agreement, Note and Deed of Trust or other Loan Documents entered into relating to the Loan.

5. **Representations and Warranties**. Borrower hereby represents and warrants

(a) Borrower is and will be the sole owner of lessor's interest in each Lease;

(b) each Lease, when executed and delivered, will be valid and enforceable in accordance with its terms, will constitute the entire agreement between the lessee named therein and Borrower, and there will be no amendments, written or oral, to such agreements except in the ordinary course of business, without County's prior written consent; and

(c) none of the lessor's interests in, and no Rent under, any of the Leases has been transferred or assigned except as expressly provided for in the Loan Agreement; and

(d) Borrower is the owner of the Property, and has good title to the Leases, any contracts of sale that exist or may be made relating to the sale of a portion of the Property, and any Rent, money, rights or claims under the Leases or contracts of sale, and no other person firm, or corporation has any right, title, or interest in them.

6. **Default**. "**Default**" shall mean (i) the failure to perform any obligation hereunder or the failure to be true of any representation or warranty of Borrower herein, or (ii) the existence of any "**Event of Default**" as defined in and under the Note, Deed of Trust, or any of the other Loan Documents. Any breach or Default by Borrower under this Assignment shall constitute an Event of Default under the Note, Deed of Trust, and related Loan Documents.

ATTACHMENT N 6

7. **Remedies**. In addition to the remedies contained in the Note, Deed of Trust, and other Loan Documents, County shall have the following rights and remedies upon Default:

(a) to demand, receive and enforce all Rent and other amounts arising or accruing under the Leases, and any and all amendments to each Lease, or from the Property;

(b) to collect, sue for, settle, compromise and give acquittances or releases for all of the rent and pursue all remedies for the enforcement of the Leases and Borrower's rights in and under the Leases as Borrower might have pursued, but for this Assignment;

(c) to take possession of the Property, and have, hold, manage, lease and operate the same on such terms and for such period of time as County may deem proper and, either with or without taking possession of the Property, in its own name, make from time to time all alterations, renovations, repairs or replacements thereto as County deems proper.

County may exercise the foregoing rights and remedies (i) at Borrower's cost and expense, and in the name of Borrower or County as the latter may determine in its sole discretion; (ii) prior to, simultaneously with or subsequent to the exercise of any rights or remedies under the Note, Deed of Trust, or any of the other Loan Documents; (iii) either in person or by its agent; (iv) with or without bringing any action or proceeding or having a receiver appointed; (v) without regard to the adequacy of any security held by County for the obligations secured hereby; (vi) without notice or remand on Borrower except as otherwise provided herein; and (vii) without releasing Borrower from any obligations under this Assignment, the Note, Deed of Trust, or any of the other Loan Documents.

8. **Tenants Entitled to Rely on County's Requests**. Borrower hereby irrevocably authorizes and directs each tenant and any successor to the interest of each tenant under the Leases, upon receipt of any written request of County stating that a Default or Event of Default exists in the payments due under, or in the performance of any of the terms, covenants or conditions of, this Assignment, the Note, the Deed of Trust, or any other Loan Document to pay to County the rents, royalties, issues and profits due and to become due under the Leases. Borrower agrees that such tenant shall have the right to rely upon any such statement and request by County that such tenant shall pay such rents, royalties, issues and profits to County without any obligation or right to inquire as to whether such Default or Event of Default actually exists notwithstanding any notice from or claim of Borrower to the contrary and that Borrower shall have no right or claim against such tenant for any such rents, royalties, issues and profits so paid by such tenant to County. Upon the curing of all Defaults and Events of Default, County shall give written notice thereof to such tenant and thereafter, until the possible receipt of any further similar written request of County, such tenant shall pay the rents, royalties, issues and profits to Borrower.

9. **Proceeds**. County shall apply any and all Rent collected by it, and any and all sums, which County may receive or collect pursuant to this Assignment, in the following manner:

ATTACHMENT N 6

(a) First, to pay the portion of the obligations secured by this Assignment attributable to the costs and expenses of operation and collection;

(b) Second, to pay all other obligations secured by this Assignment in any order and proportions as County in its sole discretion may choose; and

(c) Third, to remit the remainder, if any, to the person or persons entitled to it. County shall have no liability for any funds, which it does not actually receive.

10. **Indemnification and Reimbursement**. Borrower hereby indemnifies, defends and agrees to hold County harmless from and against any and all costs, expenses and attorneys' fees, including allocated costs for services of County's in-house professionals, arising out of: (a) any liability County may incur under any Lease or by reason of this Assignment; (b) County's defense of any claims or demands arising under any Lease or by reason of this Assignment; or (c) actions taken by County which it deems necessary to conserve the value of the Property.

11. **Effect of Assignment**. This Assignment shall not cause County to be: (a) a mortgagee in possession; (b) responsible or liable for the control, care, management or repair of the Property or for performing any of the terms, agreements, undertakings, obligations, representations, warranties, covenants and conditions of the Leases; or (c) responsible or liable for any waste committed on the Property by the lessees or any other parties, any dangerous or defective condition of the Property, any environmental condition or occurrence on or affecting the Property, or any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any lessee, licensee, employee, invitee or other person. County shall not directly or indirectly be liable to Borrower or any other person as a consequence of: (i) the exercise of the rights, remedies or powers granted to County in this Assignment; (ii) the failure or refusal of County to perform or discharge any obligation, duty or liability of Borrower arising under the Leases or this Assignment; or (iii) any loss sustained by Borrower or any third party resulting from County's failure to lease the Property after the occurrence of a Default or Event of Default or from any other act or omission of County in managing the Property after the occurrence of a Default or Event of Default unless such loss is caused by the gross negligence, willful misconduct or bad faith of County, and no such liability shall be asserted against or imposed upon County, all such liability being expressly waived and released by Borrower.

12. **Foreclosure**. Upon issuance of any deed pursuant to any judicial or nonjudicial foreclosure of the Deed of Trust or any deed in lieu of foreclosure, all right, title and interest of Borrower in and to the Leases and the rents shall, by virtue of this Assignment, vest in and become the absolute Property of the grantee or grantees of any such deed without any further act or assignment by Borrower. Borrower hereby irrevocably appoints County, and its successors and assigns, as its attorney-in-fact, to: (i) execute all instruments of assignment or further assurance in favor of any such grantee of any deed, as may be necessary or desirable for such purpose; and (ii) after a Default under this Assignment, take any other action permitted under Paragraph 7 hereof; provided, however, that County as such attorney-in-fact shall only be accountable for such funds as are actually received by County. Nothing contained in this Assignment shall

prevent County at County's sole discretion from terminating any subordinate Lease through such foreclosure.

13. **Release**. County may take or release security for the performance of the obligations referred to in Paragraph 2 and County may release any party primarily or secondarily liable for the performance of any such obligations, all without prejudice to any of County's rights under this Assignment.

9. Notices.

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which the County or the Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating next Business Day delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two (2) days after mailing in the United States), addressed to the respective parties as follows:

COUNTY:

[Orange County Housing Authority]

[County of Orange
OC Community Resources/
Housing & Community Development]
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705
Attn: [Executive] Director

BORROWER:

[PLEASE PROVIDE]

14. **Definitions**. The terms "lessor" and "lessors" as used in this Assignment shall include all owners, landlords, licensors and other parties in a similar position with respect to the Leases. The terms "lessee" and "lessees" shall include any tenants, licensees, occupants and any other parties in a similar position and shall also include any guarantors of or other obligors under

the Leases. Any reference in this Assignment to "Lease" or "Leases" shall be construed as including any extension, renewals, amendments or modifications thereto. The term "including" shall mean "including but not limited to."

15. **Integration**. This Assignment and the other Loan Documents contain the entire agreement of the parties and supersede any and all prior negotiations. In the event of any conflict between the terms of this Assignment and the terms of the Deed of Trust, the Deed of Trust shall control.

16. **Waiver**. No delay or omission to exercise any power or remedy accruing to County upon any breach or Default of Borrower under this Assignment shall impair any such right, power or remedy of County, nor shall such delay or omission be construed as a waiver of any such breach or Default or an acquiescence therein or in any similar breach or Default thereafter occurring; nor shall any waiver of any single breach or Default be deemed a waiver of any other previous or subsequent breach or Default. Any waiver, permit, consent or approval of any kind or character on the part of County of any provision or condition of this Assignment must be in writing and shall be effective only to the extent specifically set forth in the writing. All remedies, either under this Assignment, by law or otherwise, afforded to County, shall be cumulative and not alternative.

17. **Term**. This Assignment shall become effective as of the date of its recordation in the Official Records of Orange County and shall remain in effect until it is terminated in writing by County or the Loan is repaid in full, whichever occurs first.

18. **Successors and Assigns**. This Assignment is binding on Borrower, its heirs, successors and assigns and shall inure to the benefit of County, its successors and assigns. Notwithstanding the foregoing, this Assignment is subject to restrictions on assignment by Borrower as set forth in the Loan Documents.

19. **Prevailing Law**. This Assignment shall be governed by and construed in accordance with the laws of the State of California, without regard to the choice of law rules of that state. In the event of any legal action to enforce or interpret this Assignment, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394.

20. **Waiver of Jury Trial.** Each party acknowledges that it is aware of and has had the advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Assignment and/or any claim of injury or damage to the fullest extent permitted by applicable law.

ATTACHMENT N 6

IN WITNESS WHEREOF, Borrower has executed this Assignment as of the date first above written.

ATTACHMENT N 6

BORROWER:

[BORROWER SIGNATURE BLOCK]

By:

ATTACHMENT N 6

[COUNTY SIGNATURE BLOCK]

By_________________________________

[NAME] [TITLE]

APPROVED AS TO FORM
COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By___________________________
Deputy

Dated__________________________

ATTACHMENT N 6

EXHIBIT A

Legal Description

[TO BE PROVIDED]

ATTACHMENT N 7

SUMMARY OF LEGAL REQUIREMENTS FOR FEDERAL HOME INVESTMENT PARTNERSHIP (HOME) FUNDS

In addition to the requirements set forth in other provisions of the Agreement, Borrower shall comply, and shall cause all Borrower personnel and/or subcontractors to comply, with the following regulations and requirements.[1]

1. Use of the HOME Funds. The Loan shall be used only for eligible costs (see, e.g., 24 C.F.R. § 92.206, 92.214, 92.300(c), and 92.301), and any development work shall be completed within the times referred to in the Affordable Housing and Loan Agreement between County and Borrower.

2. Affordability. The Project units shall meet the affordability requirements of the HOME Requirements (24 C.F.R. § 92.254) or this Agreement and the Regulatory Agreement, whichever is more restrictive. If the Project units do not meet the affordability requirements of the HOME Requirements for the specified time period, Borrower shall repay the Loan to County promptly upon demand by County. In such event, Borrower shall not be released from the affordability and other covenants and restrictions set forth in this Agreement and the Regulatory Agreement, which shall continue to apply independent of the HOME Requirements.

3. Equal Opportunity and Nondiscrimination.

a. Title VI of the Civil Rights Act of 1964, as amended, including Public Law 88-352 implemented in 24 CFR Part 1. This law provides in part that no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. In regard to the sale or lease of the Property, Borrower shall cause or require a covenant running with the land to be inserted in the deed and leases prohibiting discrimination under this Title, and providing that County and the United States are beneficiaries of and entitled to enforce such covenants. Borrower shall enforce such covenant and shall not itself so discriminate.

b. Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended, including Public Law 90-234. The Fair Housing Act provides in part that there shall be no discrimination in housing practices on the basis of race, color, religion, sex, and national origin. The Fair Housing Act was amended in 1988 to provide protections from discrimination in any aspect of the sale or rental of housing for families with children and persons with disabilities. The Fair Housing Act also establishes requirements for the design and construction of new rental

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[1] **This exhibit is a list and summary of some of the applicable legal requirements and is not a complete list of all Borrower requirements. The description set forth next to a statute or regulation is a summary of certain provisions in the statute or regulation and is in no way intended to be a complete description or summary of the statute or regulation. In the event of any conflict between this summary and the requirements imposed by applicable laws, regulations, and requirements, the applicable laws, regulations, and requirements shall apply.**

or for-sale multi-family housing to ensure a minimum level of accessibility for persons with disabilities.

c. **Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, including 42 U.S.C. 5301 *et. seq.*, 42 U.S.C. 6101 *et. seq*., and 29 U.S.C. 794.** This law provides in part that no person on the grounds of race, color, national origin, sex, or religion shall be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any activity funded in whole or part with funds under this Title.

d. **Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including 42 U.S.C. 5301 *et. seq***. This law provides in part that any grant under Section 106 shall be made only if the grantee certifies to the satisfaction of the Secretary of HUD that the grantee will, among other things, affirmatively further fair housing.

e. **Executive Order 11246, as amended**. This order includes a requirement that grantees and subrecipients and their contractors and subcontractors not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

f. **Executive Order 11063, as amended, including 24 CFR Part 107.** This order and its implementing regulations include requirements that all actions necessary be taken to prevent discrimination because of race, color, religion, sex, or national origin in the use, occupancy, sale, leasing, rental, or other disposition of property assisted with Federal loans, advances, grants, or contributions.

g. **Section 504 of the Rehabilitation Act of 1973, as amended**. This Act specifies in part that no otherwise qualified individual shall solely by reason of his or her disability or handicap be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal assistance. Borrower must ensure that its programs are accessible to and usable by persons with disabilities.

h. **The Americans with Disabilities Act (ADA) of 1990, as amended.** This Act prohibits discrimination on the basis of disability in employment by state and local governments and in places of public accommodation and commercial facilities. The ADA also requires that facilities that are newly constructed or altered, by, on behalf of, or for use of a public entity, be designed and constructed in a manner that makes the facility readily accessible to and usable by persons with disabilities. The Act defines the range of conditions that qualify as disabilities and the reasonable accommodations that must be made to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities.

i. **The Age Discrimination Act of 1975, as amended**. This law provides in part that no person shall be excluded from participation in, be denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal assistance.

ATTACHMENT N 7

j. EEO/AA Statement. Borrower shall, in all solicitations or advertisements for employees placed by or on behalf of Borrower, state that it is an Equal Opportunity or Affirmative Action employer.

k. Minority/Women Business Enterprise. Borrower will use its best efforts to afford small businesses and minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of the Agreement. As used in the Agreement, the term "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women-owned business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. Borrower may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

l. Nondiscrimination. Borrower shall comply with the federal requirements and nondiscrimination provisions in 24 C.F.R. § 92.350, which include requirements on nondiscrimination and equal opportunity, disclosure requirements, debarred, suspended or ineligible contractors, and maintaining a drug-free workplace.

4. Environmental.

a. Air and Water. Borrower shall comply with the following regulations insofar as they apply to the performance of the Agreement: Clean Air Act, 42 U.S.C. 7401, *et seq*.; Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq*., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder; and the U.S. Environmental Protection County regulations pursuant to 40 CFR Part 50, as amended.

b. Flood Disaster Protection Act of 1973. Borrower shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained.

c. Lead-Based Paint. Borrower shall comply with the Lead-Based Paint Regulations referenced in 24 C.F.R. 92.355, including 24 C.F.R. Part 35, *et. al*.

d. Historic Preservation. Borrower shall comply with the historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 C.F.R. Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties and related laws and Executive Orders, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

ATTACHMENT N 7

e. Limitation on Activities Pending Clearance. In accordance with 24 C.F.R. § 58.22 entitled "Limitations on activities pending clearance," neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in 24 C.F.R. § 58.1(b) on an activity or project until HUD or the state has approved the recipient's Request for Release of Funds (RROF) and the related certifications have been approved. Neither a recipient nor any participant in the development process may commit non-HUD funds or undertake an activity or project that would have an adverse environmental impact or limit the choice of reasonable alternatives. Upon completion of environmental review or receipt of environmental clearance, County shall notify Borrower. HUD funds shall not be utilized before this requirement is satisfied. The environmental review or violation of the provisions may result in approval, modification of cancellation of the Loan. If a project or activity is exempt under 24 C.F.R. § 58.34, or is categorically excluded (except in extraordinary circumstances) under 24 C.F.R. § 58.35(b), no RROF is required and the recipient may undertake the activity immediately after the County has documented its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section by issuing a Notice to Proceed.

5. Uniform Administrative Requirements. Borrower shall comply with applicable uniform administrative requirements as described in 24 C.F.R. §§ 92.205.

6. Other Program Requirements. Borrower shall carry out each activity under the Agreement in accordance with all applicable federal laws and regulations described in Subpart H of 24 C.F.R. § 92 except for County's responsibility for initiating the environmental review process under the provisions of 24 C.F.R. Part 58.

7. Project Requirements. Borrower shall comply with all project requirements set forth in 24 C.F.R. §§ 92.250-92.258, as applicable in accordance with the type of project assisted.

8. Property Standards. Borrower shall perform any construction work and maintain the Project units in compliance with the property standards in 24 C.F.R. § 92.251 and the lead-based paint requirements in 24 C.F.R. § 92 Part 35, Subparts A, B, J, K, M and R, as applicable.

9. Records and Reports. Borrower shall provide to County all records and reports relating to the Program Activities that may be reasonably requested by County in order to enable it to perform its recordkeeping and reporting obligations pursuant to the HOME Requirements, including 24 C.F.R. §§ 92.508 and 92.509.

10. Conflict of Interest. Borrower will comply with 2 C.F.R. Part 200 and 24 C.F.R. 84.42, 85.36 and 92.356, as applicable, regarding the avoidance of conflict of interest, which provisions include (but are not limited to) the following:

i. Borrower shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

ATTACHMENT N 7

ii. No employee, officer or agent of the Borrower shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

iii. No covered persons who exercise or have exercised any functions or responsibilities with respect to HOME-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or with respect to the proceeds from the HOME-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Borrower, or any designated public agency.

11. Affirmative Marketing. If the Loan will be used for housing containing 5 or more assisted units, Borrower shall establish for County's review and approval a plan and procedures to affirmatively market the units. The objective of the plan shall be to provide information and attract eligible persons from all racial, ethnic and general groups in the housing market area to the available housing. In connection therewith, Borrower shall perform those affirmative marketing responsibilities set forth in 24 C.F.R. § 92.351(a) and the marketing plan shall include the following:

a. methods for informing the public, owners, and potential tenants about federal fair housing loans and the County's affirmative marketing policy;

b. requirements and practices Borrower must adhere to in order to carry out the affirmative marketing procedures and requirements;

c. procedures to be used by Borrower to inform and solicit applications from persons in the housing market area that are not likely to apply for the housing without special outreach;

d. records that will be kept describing actions taken by Borrower to affirmatively market units and records to assess the results of those actions; and

e. a description of how Borrower will assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

12. Displacement. Consistent with the other goals and objectives of Subpart H of 24 C.F.R. § 92, Borrower shall take all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of the Program Activities.

ATTACHMENT N 7

13. Debarment and Suspension. As required in 24 C.F.R. § 92.357, Borrower shall comply with all debarment and suspension certifications.

14. Enforcement of Agreement. In addition to the other provisions set forth in the Agreement, County shall have the authority to enforce Borrower's obligation to comply with the HOME Requirements.

15. Return of HOME Funds. Upon the completion of the Project or earlier termination of the Agreement, Borrower shall transfer to County any HOME funds on hand for which expenses have not been incurred and any accounts receivable attributable to the use of HOME funds. In addition to the foregoing, in the event the expenses for which any disbursement of Loan funds are disbursed are not incurred by Borrower within thirty (30) days after County's disbursement, or such longer time as County approves in its sole discretion, County shall have the right to require that Borrower immediately return the Loan proceeds to County.

16. Monitoring. Not less than once per year, County shall review Borrower's activities and operations under the Agreement and Borrower's compliance with the HOME Requirements. Such review may include an on-site inspection of the Project units (including unit interiors). If such an on-site inspection of the Project units is to be undertaken, County shall coordinate such inspection with Borrower. The monitoring required pursuant to this paragraph shall be in compliance with the requirements of 24 C.F.R. § 92.504.

17. Tenant Participation Plan. Borrower shall provide to County for approval the form of the lease agreement to be used for the rental units, which lease must be fair and provide for a grievance procedure. In addition, Borrower shall provide to County for approval a plan that provides for tenant participation in management decisions. (24 C.F.R § 92.303.)

18 Anti-Lobbying Certification. By its execution of the Agreement, Borrower hereby certifies that:

i. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

ATTACHMENT N 7

iii. It will require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure. At the request of County, Borrower shall execute a separate document that contains the certifications set forth above.

19. Drug-Free Workplace Requirements. Borrower shall comply with and be subject to the requirements of the federal drug-free workplace requirements, which include the following actions be taken:

i. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

ii. Establishing an ongoing drug-free awareness program to inform employees about: (a) the dangers of drug abuse in the work place; (b) the grantee's policy of maintaining a drug-free workplace; (c) any available drug counseling, rehabilitation, and employee assistance programs; and (d) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

iii. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (i).

iv. Notifying the employee in the statement required by paragraph (i) that, as a condition of employment under the grant, the employee will: (a) abide by the terms of the statement; and (b) notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

v. Notifying the agency in writing, within ten calendar days after receiving notice under sub-paragraph (iv) (b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

vi. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (iv)(b), with respect to any employee who is so convicted:

(a) taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or (b) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

vii. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (i), (ii), (iii), (iv), (v), and (vi).

20. Procurement. If applicable, Borrower will comply with the procurement standards under 24 CFR 85.36 for governmental subrecipients and 24 CFR 84.40-48 for subrecipients that are non-profit organizations. Borrower shall comply with all existing and future County policies concerning the purchase of equipment.

21. Hatch Act. The Borrower agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Title V United States Code Section 1501 et seq.

22. Labor Provisions.

a. Section 3 of the Housing and Community Development Act of 1968. Borrower shall comply with and cause its contractors and subcontractors to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701u), the HUD regulations issued pursuant thereto at 24 C.F.R, Part 135, and any applicable rules and orders of HUD issued thereunder. The Section 3 clause, set forth in 24 C.F.R § 135.38 provides:

i. 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 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

ii. The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

iii. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section

ATTACHMENT N 7

3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

iv. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.

v. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 135.

vi. Noncompliance with HUD's regulations in 24 C.F.R Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Borrower shall abide by the Section 3 clause set forth above and will also cause this Section 3 clause to be inserted in all contracts relating to the construction of the Project.

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ATTACHMENT N 8

SUMMARY OF LEGAL REQUIREMENTS FOR HOUSING SUCCESSOR AGENCY (HSA) FUNDS AND PROJECT-BASED VOUCHERS

1. **Fair Housing**. The Borrower shall affirmatively further fair housing in accordance with California Fair Employment and Housing Act (FEHA) (Gov. Code §§ 12900 et seq.) and 24 CFR 92.351, as applicable1. 24 CFR 5.105 (a) and Section 504 of the federal Rehabilitation Act.
2. **Civil Rights**.
   a. Compliance. The Borrower agrees to comply with Unruh Civil Rights Act (Section 51 of the California Civil Code, and he California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code); Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing & Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Order 11375 and 12086, as applicable.
   b. Nondiscrimination. The Borrower shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age or marital status with regard to public assistance. The Borrower will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruiting advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
   c. Rehabilitation Act. The Borrower agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 706) which prohibits discrimination against the handicapped in any federally assisted program. The County shall provide the Borrower with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.
3. **Affirmative Action**.
   a. Approved Plan. The Borrower agrees that it shall be committed to carry out pursuant to the County specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
   b. Employment Restrictions.
      i. Labor Standards. To the extent applicable, the Borrower agrees to comply with the requirements of the California Department of Industrial Relations Prevailing Wage Requirements and the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of

Contract Work Hours, the Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276, 327-333) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Borrower shall maintain documentation, which demonstrates compliance with hour, and wage requirements of this part. Such documentation shall be made available to the County for review upon request. The Borrower agrees that, except with respect to the rehabilitation or construction of residential property designed for residential use for less than twelve (12) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the County pertaining to such contracts and with the applicable requirements of the regulations of the U.S. Department of Labor, under 29 CFR, Parts 1, 3, 5, 7 and 1926 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing herein is intended to relieve the Borrower of its obligation, if any, to require payment of the higher rate. The Borrower shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph, for such contracts in excess of $10,000.00.

ii. <u>"Section 3" Clause.</u>

1. Compliance. To the extent applicable, compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued herein prior to the execution of this Agreement, shall be a condition of the federal financial assistance provided under this Agreement and binding upon the Borrower and any sub-contractor. Failure to fulfill these requirements shall subject the Borrower and any sub-contractor, their successors and assigns, to those sanctions specified by the contract through which federal assistance is provided. The Borrower certifies and agrees that no contractual or other disability exists which would prevent compliance with requirement.

All Section 3 covered contracts, as applicable, shall include the following clause (referred to as the Section 3 Clause):

"(1) The work to be performed under this contract may be subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income

ATTACHMENT N 8

persons, particularly persons who are recipients of HUD assistance for housing.

(2) The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

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

(4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

(5) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

(6) Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(7) With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and

employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b)."

2. Notifications. To the extent applicable, the Borrower agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
3. Subcontracts. To the extent applicable, the Borrower will include a Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the sub-contractor is in violation of regulations issued by the County. The Borrower will not subcontract with any sub-contractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the sub-contractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
4. Selection Process. The Borrower shall undertake to ensure that all subcontracts awarded in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all contracts shall be forwarded to the County along with documentation concerning the selection process if requested by County.

c. Conduct.

i. Assignment/Transfer. The Borrower shall not assign or transfer any interest in this Agreement without the prior written consent of the County thereto; provided, however, that claims for money due or to become due to the Borrower from the County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County.

ii. Hatch Act. The Borrower agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Title V United States Code Section 1501 et seq.

iii. Conflict of Interest. The Borrower agrees to abide by the provisions of 24 CFR 92.356 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Borrower further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Borrower herein. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the County or any designated public agency or Borrower's which are receiving funds under the Veterans Affairs Supportive Housing Project Based Voucher Program.

iv. Drug Free Workplace. Borrower certifies that it will maintain a drug-free workplace as defined by HUD on project(s) funded by this Agreement.

v. Religious Organization. The Borrower agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interest, or for the benefit of a religious organization in accordance with federal regulations specified in 24 CFR 92.257.

4. **Environmental Conditions**.

a. Air and Water. The Borrower agrees to comply with the following regulations insofar as they apply to the performance of this Agreement:

i. Clean Air Act, 42 U.S.C., 1857, et seq.

ii. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

iii. Environmental Protection Agency (EPA) regulations pursuant to 40 CFR, Parts 50 and 58, as amended.

iv. National Environmental Policy Act of 1969.

v. HUD Environmental Review Procedures (24 CFR, Part 58).

b. Flood Disaster Protection.

The Borrower agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (P.L. 2234), including as applicable any regulations set forth in 24 CFR Part 55 (implementing Executive Order 11988), in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this Agreement, as it may apply to the provisions of this Agreement.(c)

c. Lead-Based Paint.

The Borrower agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 92.355, and 24 CFR Part 35, and in particular Sub-Part B thereof. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants or properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning.

d. Historic Preservation.
The Borrower agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.
In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, State, or local historic property list.

ATTACHMENT N 9

ADDITIONAL REQUIREMENTS FOR MHSA FUNDS

1. Population. The population to be served shall include extremely low income (30% of Area Median Income for Orange County), homeless individuals with documentation of a serious mental disorder, as defined in California Welfare and Institutions Code section 5600.3(b), State Licensed Healthcare Professional (as defined in the Social Security Act-42 U.S.C Section 423).

2. Rent Restrictions. Restricted rents for the MHSA funded units shall not exceed 30% of the Area Median Income (AMI) levels for Orange County, as established by state and federal law, adjusted for designated household size (less a utility allowance unless included in the rent) with the tenants rent portion not to be more than 30% of their Social Security Income/Social Security Pension (SSI/SSP) or not more than 30% of their total gross household income (if additional income beyond SSI/SSP is received). If federally funded Project Based Vouchers are provided, the developer shall comply with the federal regulations for maximum rent and tenant rent portions.

3. Coordinated Entry System. To the greatest extent feasible, the Developer shall utilize the local coordinated entry system to screen for eligible residents currently experiencing homelessness and with a documented serious mental disorder.

4. Housing Unit General Requirements. Housing units and building features must meet the needs of the MHSA tenants to be served at the development, including privacy, housing activities and community interaction. There shall be no requirement for non-related, single, adult tenants to share bedrooms. There shall be adequate number of bedrooms to accommodate the housing composition. Units are encouraged to have at least one-bedroom and be at least 450 square feet.

5. Housing Unit Living Requirements. Housing units must have an identifiable and private living area, sleeping area, full kitchen area and a full bathroom. The kitchen area shall at a minimum include a sink, full size refrigerator, cupboard space, counter area, microwave or oven, and a two-burner stove or built-in cook top.

6. Furnishings. All units should be furnished with standard furnishings applicable to the unit type.

7. Technology. Developers are encouraged to provide units that are pre-wired for high technology and internet access.

8. Common Space. The building must include common space, such as a community room that can accommodate a variety of activities and where tenants can choose to interact with one another.

9. Office Space. The building must include a designated office space to provide services to MHSA tenants.

10. Efficiency Requirements. The design and operation of the Project shall incorporate features designed to increase efficiency and reduce ongoing expenses. The Project shall incorporate appropriate and feasible green design practices, such as the use of ENERGY STAR rated energy-efficient appliances and water-conserving fixtures and products. The Project must also utilize durable materials chosen to reduce future maintenance costs and renewable building supplies.

ATTACHMENT N 9

11. Tenants shall be provided with information to assist them to participate in environmentally friendly practices such as energy and water conservation, recycling and use of non-toxic household products.