

**OC COMMUNITY SERVICES  
1770 North Broadway  
Santa Ana, CA 92706**

**Karen Roper, Director  
Julia Bidwell, Deputy Director**

**John Viafora, Housing and Redevelopment Manager  
Gerald Turner, Housing Development Administrator  
Kevin Fincher, Senior Project Manager  
Joanna Chang, NOFA Program Administrator**

**TABLE of CONTENTS**

<b>Section I</b>	Introduction, Application & Selection Process _____	1 - 5
<b>Section II</b>	Program Description _____ Eligible Activities Lending Policies by Project Location Affordability Requirements Housing Choice Voucher Program (Project Based Section 8) Loan Terms & Conditions Match Requirements Maximum Loan Amount/Subsidy Limit Exceptions and Other Requirements	5 - 17
<b>Section III</b>	Special Programs _____ Acquisition Loan Program Mental Health Services Act Program	18 - 20
<b>Section IV</b>	Application & Threshold Requirements _____ Description of the NOFA Exhibits	20 - 28
<b>Section V</b>	Requirements of Funding _____ Requirements Prior to Funding	28
<b>APPLICATION</b>		
	NOFA Program Flowchart _____	29 - 30
	Submission Requirements _____	31
	Application Checklist _____	32 - 33
	Exhibits – 4.01 – 4.39 _____	34 - 119
<b>APPLICATION ATTACHMENTS</b>		
	Attachment List _____	120
	A. 2009 Orange County Income & Rent Limits _____	121
	B. Maximum Total Development Costs/Minimum Sq. Ft. Requirements _____	122
	C. Maximum Subsidy Limits _____	123
	D. Utility Allowance Schedule _____	126
	E. Property Management Plan – Requirements _____	127
	F. Insurance Requirements _____	132
	G. OC Community Services Commitment Letter – Sample _____	134
	H. Apartment Development Revenue Bond Application _____	139
	I. Instructions For Relocation Plans _____	140
	J. Target Area Maps _____	143
	K. Affordable Housing Opportunity Overlay Zone Eligible Sites _____	155
	L. Loan Closing Checklist _____	191
	M. Monitoring Policy _____	194
	N. Contact List _____	199
	O. Contracting with Minority and Women-Owned Business _____	201
	P. MHSA Eligible Population _____	207
	Q. County MHSA Guidelines for Application _____	211
	R. AB 661 Checklist _____	250



**2010 MULTI-FAMILY AFFORDABLE RENTAL HOUSING PROGRAM  
NOTICE OF FUNDING AVAILABILITY  
April 19, 2010**

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

This Notice of Funding Availability (NOFA) announces the availability of up to eight (8) million dollars to promote the acquisition, new construction, and acquisition/rehabilitation of permanent and transitional affordable rental housing<sup>1</sup> for Orange County's low, very low, and extremely low-income households by providing below market rate financing. (As of the release of the NOFA, OCDA funds are only eligible for projects located in unincorporated Orange County). OC Community Services will also provide up to one-hundred (100) Project Based Vouchers for new construction Mental Health Services Act (MHSA) and/or special needs projects. Interested and qualified developers who can successfully demonstrate their ability to acquire, build or substantially rehabilitate, and operate affordable housing are encouraged to submit proposals.

For the first twenty-eight (28) days<sup>2</sup> of the NOFA, permanent and acquisition loans will be available to projects that fulfill the subpopulation goals of the MHSA plan. OC Community Services will provide a 28-day window from the commencement of the 2010 NOFA, where only applications for MHSA developments will be accepted. During the first 14 days (days 1-14), OC Community Services will only accept applications for MHSA projects located in unincorporated Orange County and Urban County Participating Cities. During the next 14 days (days 15-28), OC Community Services will only accept applications for MHSA projects located in entitlement cities. Acquisition funds are not eligible for projects located in entitlement cities. During the next 62 days (days 29-90), OC Community Services will accept all projects located in unincorporated Orange County and participating cities and only homeless projects in entitlements cities. After the ninety (90) days, applications for all other projects throughout the County will be accepted based on the remaining eligible funding and lending policies.

The County of Orange (County) has also been allocated thirty-three (33) million dollars in State MHSA funds. Applications for State MHSA funding may be located anywhere in Orange County. These funds are authorized and accessed through the County's existing Board approved agreement to participate in the MHSA Housing Program, which is jointly administered by the Department of Mental Health and the California Housing and Finance Agency (CalHFA). Developers applying for State MHSA funds will complete a State application. OC Community Services staff in conjunction with Orange County Health Care Agency staff will review applications requesting State MHSA funds for conformance to State application criteria and underwriting requirements before forwarding the applications to CalHFA.

Developers requesting State MHSA funds will complete the State MHSA application located at <http://www.calhfa.ca.gov/multifamily/mhsa/>. In addition to the State MHSA required items, the County will require the following items to underwrite at the local level:

- Exhibit 4.03: County pro forma may be required (if applicable);
- Exhibit 4.05: Development sources and uses narrative;
- Exhibit 4.06: Impact fee worksheet; and
- Exhibit 4.20: Comparable rent data.

Licensed facilities are not eligible for MHSA funding. Please see Attachment Q for County MHSA Guidelines for Application.

To be eligible to submit a MHSA development during the first twenty-eight (28) days of the NOFA, the project

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<sup>1</sup> A Rental Housing Development is an apartment building or buildings with no less than five residential units, per CalHFA.

<sup>2</sup> Days are defined as all calendar days in the month, including weekends and holidays.

must fulfill the subpopulation goals of the MHSA plan and have completed the following MHSA Application Components:

- Submitted a MHSA development summary form and narrative (See Attachment Q)
- Attended a meeting with HCA and Housing Development to discuss the proposed MHSA project
- Submitted draft Section D.1-D.5 and draft portions of the full MHSA application (See Attachment Q)

If the proposed MHSA development has not completed all of the items listed above, OC Community Services will return the application to the applicant and encourage them to re-apply at another time.

The level of the County's financial participation will depend on the location of the development and the source of funds utilized. The sources of funds available for this NOFA are HOME Investment Partnership Act Program (HOME) funds and Orange County Development Agency's (OCDA) housing funds. (Both the project jurisdiction and the County's Housing Element must be in compliance to be eligible for OCDA funds). Funds are available until the 2010 NOFA closes, is replaced by a new NOFA, or until all available funds are committed, whichever occurs first. OC Community Services reserves the right to suspend acceptance of proposal at any time. OC Community Services reserves the right to increase or decrease the amount in this NOFA subsequent to Board of Supervisors approval. CDBG funds, County of Orange Strategic Affordable Housing funds or Orange County Housing Authority Operating Reserve funds are not anticipated for this NOFA; however, any of these sources of funds may be used if available. 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.

#### **1.01 NOFA Timeline and Application Process**

Release of Rental Housing NOFA	April 19, 2010
Applications Accepted	April 20, 2010

General technical assistance concerning the NOFA may be provided, if necessary, at a Technical Assistance Workshop, to be held at the County of Orange: OC Community Services, Third Floor, 1770 N. Broadway, Santa Ana, CA. It is not mandatory to attend the Technical Assistance Workshop; however, all potential applicants are encouraged to attend. Topics covered at the Technical Assistance Workshop and periodic updates to the NOFA will be available at the OC Community Services web site at: [www.ochousing.org](http://www.ochousing.org). Technical assistance questions should be directed to Joanna Chang at (714) 480-2993 or by email at [joanna.chang@occr.ocgov.com](mailto:joanna.chang@occr.ocgov.com).

A copy of the NOFA will be available at OC Community Services offices upon request on April 19, 2010. Additionally, the NOFA will be available on April 19, 2010 on the County's web site at: [www.ochousing.org](http://www.ochousing.org). The NOFA documents are in Word and Excel format. Please note that the application and spreadsheets, especially the financial pro forma in Exhibit 4.03, have been revised from previous NOFAs; applicants must use the forms contained in this NOFA. All forms and exhibits are dated for your convenience.

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. OC Community Services 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. (Interested applicants will be notified that the NOFA is closed through a posting of a public notice on the OC Community Services website).

Applications must be complete. Incomplete applications may not be processed. However, OC Community Services reserves the right to waive minor technical deficiencies in the application and to request minor corrections or clarifications.

Submittals must be organized in three-ring binders and in accordance to the Application Checklist. Submission must include the original proposal and four (4) signed copies. Send or deliver proposals to:

**2010 Multi-Family Affordable Rental Housing  
Notice of Funding Availability  
OC Community Services  
Attn: Housing Development  
1770 North Broadway (Fourth Floor)  
Santa Ana, CA 92706-2642**

**Submission:** Upon receipt, staff will review each application for compliance with application and threshold requirements. It is the intent of OC Community Services to review all complete applications for threshold within five (5) working days<sup>3</sup> of submission. Staff will notify the applicant in writing of any deficiencies in meeting these requirements. A Developer Interview may also be scheduled at this time. Applicants will be required to respond to all deficiencies, with exception to the 30-day items listed below, in writing within five (5) working days:

- Exhibit 4.13: Financial Statements
- Exhibit 4.21: Current Appraisal
- Exhibit 4.28: Phase I Environmental Report
- Exhibit 4.29: Lead Paint and Asbestos Report, if applicable

**Threshold:** Following receipt and satisfactory review of the project application materials, staff will make a recommendation to the Project Advisory Committee (PAC), a sub-committee of the H&CD Commission, that the project either 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 PAC evaluate the project, it goes on to the Director of OC Community Services for final consideration.

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

**Underwriting:** After Threshold Review approval by the PAC, staff will underwrite the project and prepare a final funding recommendation to the PAC. Underwriting will be based on the information provided by the applicant and the results of the Developer Interview. It is the intent of OC Community Services to underwrite all complete applications for funding within sixty (60) working days of the PAC's approval of the Threshold Review. Staff recommendations regarding loan amounts will be presented at the next scheduled PAC meeting for final consideration, before being presented to the Director. The Director has final approval of projects based upon the recommendations of PAC and staff.

**NOTE:** If requested, OC Community Services will attempt to meet special deadlines; however, this is dependent upon the completeness of the application, full cooperation of the developer, and the current workload of OC Community Services staff.

**Board Approval:** Following a positive determination from the Director, based upon the recommendations of PAC and staff, 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, staff will issue a Financing Commitment letter, which will reserve funds for the project for up to one (1) year to allow applicants sufficient time to secure all other proposed project funding. In the event that an applicant does not secure all project funding within one (1) year of the date of Board of Supervisor approval, OC Community Services reserves the right to extend or withdraw the County funding commitment.

**Permanent Financial Commitment Letter:** When all financial commitments have been secured, OC Community Services will issue a Permanent Financial Commitment letter, which will outline the terms of the loan and conditions precedent to closing which include the project receiving the other financial commitments from other identified private, city, state or federal funds as described in the project application and meeting the program guidelines set forth in this NOFA. The Permanent Commitment letter will allow the developer an additional two (2) years to complete the proposed project. OC Community Services 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 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 in the OC Community Services approved form. Copies of the OC Community Services form loan documents are available upon request.

Disbursement of loan funds will be made in accordance with County of Orange loan documents. All expenses incurred prior to an OC Community Services Environmental Clearance will not be eligible for reimbursement.

## **1.02 DISCLOSURES**

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

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<sup>3</sup> Working days are defined as all official working days for the County.

- 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 are in 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.
- Willful misrepresentation of the proposed project.
- Applications may be required to be disclosed under the Public Records Act in accordance with the applicable terms of the Public Records Act.

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 OC Community Services, or designee if authorized or by the Board of Supervisors. Failure to disclose any of the above mentioned actions after the loan commitment is made may result in the withdrawal of OC Community Services' financial commitment to the project.

Acceptance of a proposal does not constitute a contract and does not obligate OC Community Services 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 OC Community Services. OC Community Services reserves the right to withdraw this NOFA without prior notice.

Legal restrictions and requirements applicable to use of OCDA funds within incorporated cities could make OCDA funds unavailable for use for projects within incorporated cities in the County under certain circumstances. It is the responsibility of developer to be aware of these legal restrictions and requirements when responding to this NOFA. Additional legal requirements for use of OCDA funds outside the project area are included in Attachment R.

### **1.03 APPEAL PROCESS**

The applicant may appeal funding recommendations by writing to Karen Roper, Director, OC Community Services, 1770 North Broadway, Santa Ana, CA 92706.

If the recommendation to deny funds is upheld, the applicant may make an appeal, in writing, to the H&CD Commission at the same address. At this time, the applicant will have the opportunity to make their appeal directly to the H&CD Commission.

The recommendations made by the Director and the H&CD Commission will be based upon the applicant's original submission and the results of the developer interview. Applicants that do not address all of the outstanding concerns of staff, PAC and/or the Director will not be allowed to appeal based on new information or changes made 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 may be required to be disclosed under the Public Records Act at a later date. 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 affect 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 of 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 past or current contract non-compliance with the County, a termination for cause by any other funding source, 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 eight (8) million dollars in HOME and OCDA Housing funds will be set aside for multi-family affordable housing development 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. The County 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. CDBG funds, County of Orange Strategic Affordable Housing Funds or Orange County Housing Authority Operating Reserve Funds are not anticipated for this NOFA; however, any of these sources of funds may be used if available.

The County has also been allocated thirty-three (33) million dollars in State MHPA funds. These funds are authorized and accessed through the County’s existing Board approved agreement to participate in the MHPA Housing Program, which is jointly administered by the Department of Mental Health and the California Housing and Finance Agency (CalHFA). Developers applying for State MHPA funds will complete a separate application, which is administered by the State. Please see Attachment Q for County MHPA Guidelines for Application.

**2.02 PROGRAM DESCRIPTION**

This section provides a description of the underwriting policies and lending practices of OC Community Services, as approved by the Orange County Board of Supervisors for the 2010 Multi-Family Affordable Housing Program. All of the policies and processes outlined in this section are applicable to both permanent “take-out” loans and acquisition loans. Funds may be made available at the beginning of construction for projects financed under the HUD Section 202 Housing for the Elderly Program and HUD Section 811 Housing for Persons with Disabilities Program or as necessary to meet the business needs of the County.

Permanent Loan Program: Take-out financing means that funds will be 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 OC Community Services Financing Commitment letter.

The Acquisition Loan Program: Section III more fully outlines the process and policies specific to this program. Acquisition loans are only available to projects located in Urban County Participating Cities, County Unincorporated areas, and in any city when serving homeless populations on a case-by-case basis in the best interest of the County. Funds will be available at the close of escrow. All of the requirements set forth in Section III of this NOFA will apply to the Acquisition Loan Program as well as the requirements set forth in Section 3.01, which outlines the additional underwriting criteria for this program or as necessary to meet the business needs of the County.

**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 PERMANENT FINANCING**

Funds shall be used for permanent financing to develop and support affordable rental housing through:

<b>Acquisition*</b>	<ul style="list-style-type: none"> <li>Permanent financing of property acquisition in anticipation of new construction and/or rehabilitation is an eligible activity in the Urban County Participating Cities and the Unincorporated Areas only. In addition, the County has an Acquisition Loan Program that is fully outlined in Section 3.01 of this NOFA.</li> </ul>
<b>New Construction*</b>	<ul style="list-style-type: none"> <li>New construction or homeless developments may be undertaken in Urban County Participating Cities and the County Unincorporated areas.</li> </ul>

<b>Acquisition/Rehabilitation*</b>	<ul style="list-style-type: none"> <li>Acquisition and rehabilitation of existing housing is an eligible activity in the Urban County Participating Cities and Unincorporated Areas. All eligible acquisition rehabilitation projects must meet HOME guidelines.</li> </ul>
<b>Relocation</b>	<ul style="list-style-type: none"> <li>The 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.</li> </ul>
<b>Housing for Homeless Persons* (as defined in Section 10315b of California Tax Credit Allocation Committee Regulations)</b>	<ul style="list-style-type: none"> <li>New construction or rehabilitation of housing for homeless persons, may take place in Urban County Participating Cities, Unincorporated Areas and entitlement cities.</li> </ul> <p>If funding remains in the NOFA after twenty-eight days, OC Community Services will accept all projects located in unincorporated Orange County and Urban County Participating Cities and only homeless projects in entitlements cities. After 90 days, applications for all other projects throughout the County will be accepted based on the remaining eligible funding and lending policies.</p>
<b>Conversion of Commercial and Light Industrial to Residential Use*</b>	<ul style="list-style-type: none"> <li>Reconstruction of commercial property to residential use is an eligible activity in the Urban County Participating Cities and Unincorporated Areas only.</li> </ul>

\* Projects that are funded in whole or in part with State MHSA funds are an eligible activity in any area of the County of Orange.

## 2.05 ELIGIBLE COSTS – Permanent Loan Program

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 \$1,000 per unit), appraisals, architectural and engineering fees, 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.

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 \$350 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; as a matching source for other federal programs; and, refinancing of existing debt. Projects that are funded in whole or in part with State MHSA funds may be granted waivers on a case-by-case basis.

## 2.06 ELIGIBLE PROJECTS

Permanent and transitional rental housing for low, very low, and extremely low-income individuals, families, disabled, homeless, homeless persons with chronic mental illness, seniors, and single room occupancy projects are eligible under this NOFA. As defined by HUD, transitional housing is a program that is designed to provide housing and appropriate supportive services to homeless persons to facilitate movement to independent living within 24 months.

Sites located in the unincorporated Orange County Affordable Housing Opportunity Overlay Zone are eligible for NOFA funds. Refer to Attachment K for a list of eligible sites in the Orange County Affordable Housing Opportunity Overlay Zone. Please contact Ruby Maldonado at (714) 834-4414 for updates on the Affordable Housing Overlay.

## 2.07 PREFERENCES

MHSA projects, special needs projects, homeless projects, new construction, conversion of commercial/industrial property to residential use, and proposals that provide deeper affordability than the requirements of this NOFA will be given preference.

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. OC Community Services will also allow preferences for occupancy to local residents for homeless developments in Urban County Participating Cities on a case-by-case basis.

For the first twenty-eight (28) days of the NOFA, permanent and acquisition loans will be available to projects that fulfill the subpopulation goals of the MHSA plan. OC Community Services will provide a 28-day window from the commencement of the 2010 NOFA, where only applications for MHSA developments will be accepted. During the first 14 days (days 1-14), OC Community Services will only accept applications for MHSA projects located in unincorporated Orange County and Urban County Participating Cities. During the next 14 days (days 15-28), OC Community Services will only accept applications for MHSA projects located in entitlement cities. Acquisition funds are not eligible for projects located in entitlement cities. During the next 62 days (days 29-90), OC Community Services will accept all projects located in unincorporated Orange County and Urban County Participating Cities and only homeless projects in entitlements cities. After the ninety (90) days, applications for all other projects throughout the County will be accepted based on the remaining eligible funding and lending policies. Please contact Joanna Chang at (714) 480-2993 or [joanna.chang@occr.ocgov.com](mailto:joanna.chang@occr.ocgov.com) if you are anticipating applying for funding after the first ninety (90) days of the release of the NOFA.

## 2.08 LENDING POLICIES IN COUNTY CITIES

Lending policies vary depending on the location of the project.

### 2.08.01 Lending Policies for Projects that do not participate in the Urban County Participating Cities Program.

The following is a list of Entitlement Cities or Non-Participating 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, San Juan Capistrano, Santa Ana, Tustin, & Westminster.

- After 14 days from the release of the NOFA, OC Community Services will only accept applications for MHSA projects located in entitlement cities. Acquisition funds are not eligible for projects located in entitlement cities. After 28 days from the release of the NOFA, OC Community Services will accept all projects located in unincorporated Orange County and Urban County Participating Cities and only homeless projects in entitlements cities. After 90 days from the release of the NOFA, applications for all other projects throughout the County will be accepted based on the remaining eligible funding and lending policies.
- Loan funds will be made available at completion of construction and the issuance of a Certificate of Occupancy.
- Loan funds may be made available at the start of construction for housing projects funded under the HUD Section 202 Housing for the Elderly Program and HUD Section 811 Housing for Persons with Disabilities Program or as necessary to meet the business needs of the County.

- OC Community Services is a gap lender and requires an equal match of funds from the jurisdiction in which the development is located. See Section 2.16 for more details.
- Acquisition/Rehabilitation loan funds are only eligible when serving homeless individuals and families and must meet CDBG and/or HOME guidelines to be considered on a case-by-case basis in the best interest of the County.
- Developer must provide an aggressive countywide Marketing Plan. In addition, tenant selection shall not include a local preference for City residents.
- The 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.
- The City's loan must be subordinate to OC Community Services' loan.

**2.08.02 Lending Policies for Projects Located in the Urban County Participating Cities and the County Unincorporated Areas.**

The following is a list of Urban County Participating Cities: Aliso Viejo, Brea, Cypress, Dana Point, Laguna Beach, Laguna Hills, Laguna Woods, La Palma, Los Alamitos, Placentia, Seal Beach, Stanton, Villa Park, & Yorba Linda.

- Upon the release of the NOFA, OC Community Services will only accept applications for MSHA projects located in unincorporated Orange County and Urban County Participating Cities. After 28 days from the release of the NOFA, OC Community Services will accept all projects located in unincorporated Orange County and Urban County Participating Cities and only homeless projects in entitlements cities. After 90 days from the release of the NOFA, applications for all other projects throughout the County will be accepted based on the remaining eligible funding and lending policies.
- Both acquisition and permanent loans will be available for developments located in the Urban County Participating Cities and the County Unincorporated Areas. In addition, the County has an Acquisition Loan Program that is fully outlined in Section 3.01 of this NOFA.
- Loan funds may be made available at the start of construction for housing projects funded under the HUD Section 202 Housing for the Elderly Program and HUD Section 811 Housing for Persons with Disabilities Program or as necessary to meet the needs of the County.
- OC Community Services is a gap lender and requires an equal match of funds from the jurisdiction in which the development is located; however, a project located in an Urban County Participating City may request a waiver of the Match requirement. See Section 2.16 for more details.
- Acquisition with rehabilitation or new construction loan funds will be made available at the completion of construction after a certificate of occupancy has been issued.
- Acquisition/rehab shall meet CDBG and/or HOME guidelines to be eligible, including all relocation requirements (see Section 4.30 and Attachment I).
- The 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.
- The City's loan must be subordinate to OC Community Services' loan.
- The County may consider preference for local residents for homeless projects on a case-by-case basis.

**2.09 OCCUPANCY LIMITS**

Projects must also meet the following OC Community Services occupancy limits.

<b>Unit Size</b>	<b>Maximum Household Size</b>
SRO	1
Studio	2
1-BR	4
2-BR	6
3-BR	8
4-BR	10
5-BR	12

**2.10 AFFORDABILITY REQUIREMENTS**

All units assisted with OC Community Services funding through this NOFA will be required to meet minimum affordability levels as outlined below. 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. Owners are required to examine tenant incomes annually to ensure that tenants meet the income and occupancy requirements.

In addition to the affordability requirements, developers are required to provide units that are affordable to specific housing types, as shown in the following chart:

	<b>Maximum Income for All Assisted Units</b>
<b>Family Housing</b>	The Lesser of 10% Below Market Rents or 60% of AMI.
<b>Senior Housing</b>	The Lesser of 10 % Below Market Rents or 50% of AMI.
<b>Housing for the Homeless</b>	30% AMI.
<b>State MHSA Assisted Units</b>	30% AMI

\*Please see OCDA Requirements, per AB 661: Refer to Attachment R

**2.10.01 Deep Targeting Requirement: SENIOR/SPECIAL NEEDS**

*Projects with a total of less than 100 units:* At least 20% of the total number of units must have rents restricted to the lesser of 10% below market rents or must be affordable to households at or below 50% AMI. Additionally, of the restricted units, 20% must be affordable to households at or below 30% AMI.

*Projects with a total of 100 units or more:* At least 15% of the total number of units must have rents restricted to the lesser of 10% below market rents or must be affordable to households at or below 50% AMI. Additionally, of the restricted units, 20% must be affordable to households at or below 30% AMI.

**2.10.02 DEEP TARGETING REQUIREMENT: FAMILY HOUSING**

*Projects with a total of less than 100 units:* At least 20% of the total number of units must have rents restricted to the lesser of 10% below market rents or must be affordable to households at or below 60% AMI. Additionally, of the restricted units, 10% must be affordable to households at or below 30% AMI and 40% must be affordable to households at or below 50% AMI.

*Projects with a total of 100 units or more:* At least 15% of the total number of units must have rents restricted to the lesser of 10% below market rents or must be affordable to households at or below 60% AMI. Additionally, of the restricted units, 10% must be affordable to households at or below 30% AMI and 40% must be affordable to households at or below 50% AMI.

**NOTE:** To provide an incentive to developers designing projects for large families in jurisdictions with no Article 34 Authority, the maximum subsidy limit per unit will be expanded to cover the entire development without regard to the number of units restricted by OC Community Services, as long as the remaining units are rent restricted through another program and is affordable to families whose income does not exceed 60% of the AMI.

### **2.10.03 HOMELESS**

All homeless projects must have 100% of the assisted units restricted to rents that are affordable to households at or below 30% AMI. Owners are required to examine tenant incomes annually to ensure that tenants meet the income requirements.

### **2.10.04 MHSA Assisted Units**

Units funded under the State Mental Health Services Act (MHSA) Housing Program may be contained within a larger project serving other populations, or in a project serving solely the eligible population under the Mental Health Services Act. Since the goal of MHSA Housing is community integration, preference is given to projects that integrate MHSA units in low-income projects. Please see Attachment Q for County MHSA Guidelines for Application.

### **2.11 DEVELOPER FEES**

Except where financing for the project is being provided by the California Department of Housing and Community Development's (HCD) Multifamily Housing Program, developer fees shall not exceed the lesser of \$15,000 per unit or the TCAC Developer Fee Limit. Where financing is being provided by the HCD Multifamily Housing Program, the developer fee shall not exceed the amount allowed by that program. For Low Income Housing Tax Credit projects where the developer fee allowed by the California Tax Credit Allocation Committee exceeds the amount allowed by OC Community Services or HCD (where applicable), the difference shall be deferred and payable from operating cash flow. OC Community Services will allow a 25% increase from the current \$15,000 per unit maximum for developer fees (up to \$18,750 per unit) on special needs units and projects under thirty (30) units. As appropriate, the financial assumptions may include a maximum of 3% interest on any portion of the developer fee that is deferred.

### **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. A restrictive covenant will be recorded against the property to ensure affordability during the term of the agreement. Except as approved by OC Community Services, 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. 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.

### **2.13 SELECTION OF FUNDING SOURCE**

The applicant may request that a specific type of funds be used for their project; however, OC Community Services will make the final determination of the type of funds awarded. When determining the type of funds, the following will be considered: the availability of funds, program regulations, the location of the project, and the compatibility of the funds with other funding sources. (Both the project jurisdiction and the County's Housing Element must be in compliance to be eligible for OCDA funds).

### **2.14 PERMANENT LOAN TERMS & CONDITIONS**

**2.14.01 Acquisition Loan:** Funds will be available at the close of escrow. All of the requirements set forth in Section III of this NOFA will apply to the Acquisition Loan Program as well as the requirements set forth in Section 3.01, which outlines the additional underwriting criteria for this program or as necessary to meet the business needs of the County.

**2.14.02 Permanent Loan:** Loan funds will be made available at completion of construction and the issuance of a Certificate of Occupancy. Loan funds may also be made available at the start of

construction for housing projects funded under the HUD Section 202 Housing for the Elderly Program and HUD Section 811 Housing for Persons with Disabilities Program or on a case-by-case basis to meet the best interest of the County.

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

**2.14.04 Term:** Permanent Loans will be for a term of fifty-five (55) years, except as approved by OC Community Services. See Section 3.01 for Acquisition Loan terms.

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

**2.14.06 Amortized Loans:** OC Community Services 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.

**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:** Residual Receipts loan repayment will be made as follows: An amount equal to fifty percent (50%) of the net cash flow, if any, will be paid to the County and fifty percent (50%) to the developer. If a project is located in a City, which is providing funding for the project, the residual receipts may be split equally between the Developer, the City and the County. In no case shall the City's share of residual receipts exceed the County's share of residual receipts unless negotiated. At the end of the term of the loan the unpaid principal amount and all accrued, but unpaid interest shall become due and payable.

Entities Sharing the Residual Receipts					Division of Residual Receipts
County	Developer				Equal Split – 50%
County	Developer	City			Equal Split – 33%
County	Developer	City	State	Other	Negotiated

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

**2.14.09**      **Subordination:** OC Community Services may, at its sole discretion, subordinate repayment, security positions, and affordability covenants to a conventional lender or other public agency lenders such as the State of California HCD, and CalHFA or AHP loans. City loans must be subordinated to OC Community Services loans.

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

**2.14.11**      **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 pro forma. 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. OC Community Services 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	\$65 per Unit
41 – 80 Units	\$55 per Unit
81 + Units	\$45 per Unit

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

**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 type of housing and location of the proposed project. The maximum subsidy limits are shown in Attachment C. The subsidy limit charts are separated into three categories: a) family housing; b) seniors; and c) special needs or permanent and/or transitional housing for homeless including MHSA assisted units. To encourage deeply affordable units, OC Community Services has increased subsidy limits for deeper affordability.

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.

**NOTE:** To provide an incentive to developers designing projects for large families in jurisdictions with no Article 34 Authority, the maximum subsidy limit per unit will be expanded to cover the entire development without regard to the number of units restricted by OC Community Services, as long as the remaining units are rent restricted through another program and are affordable to families whose income does not exceed 60% of the AMI.

**2.16 MATCH REQUIREMENT**

With the exception of the County Unincorporated Areas, proposals must show substantial financial support from the governing jurisdiction or a plan to secure such support. For projects located in HUD Entitlement Cities and Urban County Participating Cities, such support must equal or exceed the amount of the assistance requested from the County and projects must show that they will serve residents from throughout the County.

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 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 redevelopment set-aside 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 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.

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.

Total Development Costs including land and reserves may not exceed the following per unit amounts, and must be equal to or greater than the size shown in order to utilize the cost limit for that unit size:

Unit Size	Minimum Square Feet	Maximum Cost Per Unit	Projects Serving Special Needs and MHSAs Clientele
0 Bedrooms	No less than 300*	\$234,486	\$246,210
1 Bedroom	475	\$257,088	\$269,942
2 Bedroom	700	\$295,338	\$310,105
3 Bedroom	1,000	\$358,573	\$376,501
4 Bedroom	1,200	\$385,789	\$385,789

\* 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.

Special needs and MHSAs assisted housing may exceed the maximum development cost limit by 5%. The Maximum Total Development Costs for all projects, including special needs, will be capped at the four-bedroom amount.

The County will allow a 5% increase in the Maximum Total Development Costs for urban infill projects developed on two (2) or less acres and a height of four (4) or more stories (combined parking and residential).

**2.19 EXCEPTIONS TO DEVELOPMENT COST LIMITS**

**2.19.01 Local Impact Fees**

Local impact fees such as park and recreation fees and school fees may be considered (at OC Community Services' discretion) outside of the Total Development Cost Budget when calculating the Maximum Cost Per Unit, which is in accordance with the 2010 Tax Credit Allocation Committee (TCAC) guidelines issued in February of 2010. Refer to Exhibit 4.06 to obtain a list of the impact fees that may be considered.

**2.19.02 Davis-Bacon Wages & State Prevailing Wages**

OC Community Services may consider exceptions to the Maximum Total Development Costs limits due to the inclusion of Davis-Bacon wage requirements or State Prevailing Wage Requirements in a Project's total development costs.

The applicant will be required to provide documentation that the cause for exceeding the Maximum Total Development Costs limits is due to the inclusion of Davis-Bacon or State Prevailing Wage Requirements. Documentation will include a construction cost estimate broken down by trade and by a comparison of wages before and after the inclusion of state or federal wage requirements.

**2.20 REQUIRED PROPERTY STANDARDS**

<b>Project Type</b>	<b>Minimum Property Standards</b>
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).

**2.21 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. It is the County's objective that funds provided under this NOFA develop affordable housing units available to income eligible individuals equally throughout the County and not individuals in one specified area or city. 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. OC Community Services will also allow preferences for occupancy to local residents for homeless developments in Urban County Participating Cities, which will be considered on a case-by-case basis.

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 is available upon request. Refer to Attachment E for Property Management Plan Guidelines.

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 4.35 for complete details on the requirements for this NOFA. The marketing plan must contain procedures that include marketing of the units to residents throughout Orange County including residents of unincorporated areas and other incorporated cities. For certain developments, including but not limited to those receiving Project Based Section 8 from the Cities of Anaheim, Garden Grove or Santa Ana, or are subject to special zoning ordinances requiring preference for City residents, further documentation from the developer will be required demonstrating that residents throughout the County will have equal opportunity at obtaining units in the development.

County will require final marketing and management plans prior to funding and lease up of the development. Both plans are subject to County approval.

**2.22 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 Davis-Bacon, Section 3 and State Prevailing Wage requirements.

The County will inspect projects during construction, prior to the close of escrow, and throughout the affordability period to ensure that the units are decent, safe, and sanitary and in compliance with the income and affordability requirements outlined in the Restrictive Covenant.

## **2.23 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 covered transaction. The California Contractors State License Board website for checking the status of a license is: [http://www2.cslb.ca.gov/CSLB\\_LIBRARY/Name+Request.asp](http://www2.cslb.ca.gov/CSLB_LIBRARY/Name+Request.asp). The federal site is: <http://epls.arnet.gov/epls/servlet/EPLSReportMain/1>. EPLS is the electronic version of the Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs, which identifies those parties excluded throughout the U.S. Government from receiving Federal contracts or certain subcontracts.

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

The rehabilitation or new construction of eight (8) or more units in a CDBG-assisted project, eight (8) or more units in a project assisted with Project Based Section 8 Vouchers, or twelve (12) or more units in a 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: [www.access.gpo.gov/davisbacon](http://www.access.gpo.gov/davisbacon). Projects funded only from local sources, such as OCDA (NDAPP) or OCHA Operating Reserves are exempt from the Davis-Bacon Wage Act.

As noted in Section 4.03.01 and Exhibit 4.03.01, the County does require a legal opinion to confirm that State Prevailing Wage does not apply 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. OC Community Services 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.

## **2.25 EQUAL EMPLOYMENT OPPORTUNITY**

Developer 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 or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Refer to Exhibit 4.37 for the Equal Employment Opportunity certification and requirements.

## **2.26 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.

## **2.27 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). Under Section 3, HUD requires economic opportunities be given to residents and businesses in the project area to the greatest extent feasible. The borrower must insert in its contractor and subcontractor agreements over \$100,000 the verbatim *Section 3* language at 24 CFR 135.38 "the Section 3 clause," which is:

*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 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.*

*B. 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.*

*C. 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.

D. 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.

E. 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.

F. 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.

G. 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).

## **2.28 ANNUAL AUDIT REQUIREMENTS**

Applicants that expend \$500,000 or more of federal funds in a program year shall have a single or program specific audit in the same year in which funds have been drawn from the County. HUD's program year begins on October 1 and ends September 30 of the following year. See Office of Management and Budget (OMB) Circular A-133.

In addition to the initial program specific audit, the project shall undergo an annual audit to identify any residual funds to be used toward repayment of the County's loan.

## **2.29 MINORITY BUSINESS ENTERPRISES AND WOMEN-OWNED BUSINESSES**

OC Community Services hereby establishes guidelines to affirmatively further contracting opportunities for Minority Business Enterprises (MBE's), and Women-owned Business Enterprises (WBE's). These guidelines pertain to applicants under all of OC Community Services' housing and community development programs and they are designed to:

- Promote the employment of disadvantaged businesses by providing increased opportunities to MBE's/WBE's for participation in OC Community Services projects.
- Provide OC Community Services with a process for tracking MBE's/WBE's.
- Establish and maintain a records system that clearly documents actions taken by OC Community Services, 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/WBE.

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

## **2.30 CHILD SUPPORT PROVISIONS**

Developer must comply with child support enforcement provisions of the County of Orange. For further instructions for child support enforcement compliance see Exhibit 4.38.

## **2.31 NON-DISCRIMINATION**

Developer must agree 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 must also acknowledge that a violation of this provision shall subject Developer to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.

### **2.32 INDEMNIFICATION**

Developer must agree to indemnify, defend with counsel approved in writing by OC Community Services, and hold the County of Orange, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnities") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the construction of the project contemplated, or any other actions taken pursuant to the loan documents.

### **2.33 COMPLIANCE WITH OTHER REQUIREMENTS**

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

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

**Community Development Block Grant Program (CDFA 14.218)** – Federal Register at 24 CFR Part 570

**Orange County Housing Authority Operating Reserves** - Federal Register at 24 CFR Part 982.154 and 24 CFR Part 982.155. Regulations governing the use of Operating Reserve Funds can be found in the California Health and Safety Code at 33000 et seq.

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

**Mental Health Services Act** - California Welfare and Institutions Code

In addition to any requirements described elsewhere in this proposal, the following requirements apply to all projects funded with HOME or Community Development Block Grant (CDBG) 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 HOME-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 OC Community Services web site at: [www.ochousing.org](http://www.ochousing.org) and all other federal, state or local laws which may govern the use of these funds

## SECTION III - SPECIAL PROGRAMS

### 3.01 ACQUISITION LOAN PROGRAM

All funds under this 2010 Multi-Family Affordable Housing NOFA will be available for the Acquisition Loan Program. All of the requirements set forth in Section II of this NOFA will apply to the Acquisition Loan Program as well as all of the other requirements set forth in this Section III, which outlines the additional underwriting criteria for this program.

Funds will be available to acquire vacant or substantially vacant land in anticipation of new construction or to acquire an existing building where rehabilitation is required. The 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. Applications minimally must meet the following underwriting criteria to be approved under this program, although the County reserves the right to consider any and all other factors in determining project eligibility for acquisition financing.

- Applicants must be able to demonstrate extensive experience and a positive track record in the development of similar types of projects.
- Applicants must be able to demonstrate a substantial likelihood of receiving the funding necessary to assure financial feasibility of the project within a twenty-four month period. This would include estimates of award points in competitive funding rounds.
- Applicants must demonstrate that other sources of funding are not available for site acquisition.
- Loans may not exceed the Maximum Loan Amount allowed under this NOFA.
- All planning entitlement must be substantially in place at the time the loan is funded.
- All required environmental reports shall be submitted and approved by OC Community Services staff prior to loan funding.
- Eligible activities are acquisition of land or an existing structure needing rehabilitation or demolition.
- The development must be located in any of the Urban County Program's Participating Cities or in a County Unincorporated Area unless in a city serving homeless populations. Acquisition loans in cities will be underwritten on a case-by-case basis in the best interest of the County.
- The Developer will pay for an appraisal from a mutually agreed upon firm.
- The Loan-To Value ratio of the acquisition loan cannot exceed 90%. The Developer may be required to provide equity during the acquisition loan period and when possible, our loan be secured by a First Trust Deed loan.
- Number of acquisition loans County has pending is for financing in addition to the number of loans with any one developer.

#### ACQUISITION LOAN TERMS & CONDITIONS

**3.01.01 Acquisition Loan:** Funds will be available at the close of escrow. All of the requirements set forth in Section II of this NOFA will apply to the Acquisition Loan Program as well as the requirements set forth in Section 3.01, which outlines the additional underwriting criteria for this program.

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

**3.01.03 Term:** The acquisition loan term will be for a period of two (2) years. Upon approval by the County, the loan may be subordinated to a private construction loan. At the end of construction and the issuance of the occupancy certificate, the acquisition loan may be rolled over into a permanent residual receipts loan with the same terms and conditions as set forth in Section II, Part 2.14.

**3.01.04 Loan Repayment:** The acquisition loan will be an interest bearing deferred payment loan, which is due and payable at the end of the two (2) year term unless converted into a construction and permanent loan.

### **3.02 HOUSING CHOICE VOUCHER PROGRAM (SECTION 8 PROJECT BASED VOUCHERS)**

Project proposals located within the jurisdiction of the OC Community Services Housing Development Division and the Orange County Housing Authority (OCHA) may request Project-based Vouchers (PBV) to increase the supply of deeply affordable units. Based on the availability of funds, OCHA may provide up to 100 Project Based Vouchers for new construction MHPA and/or special needs projects.

The County will select proposals that are solicited by the Notice of Funding Availability (NOFA) or were previously selected based on a NOFA competition by the OC Community Services Housing Development Division. 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. The following are general guidelines:

#### ***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 OC Community Services Housing Development 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. Detailed application and selection information will be provided at the request of interested parties.

#### ***Request for Proposals and Notice of Funding Availability for Newly Constructed Units***

OC Community Services Housing Development/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 OCCS web site.

In addition, OC Community Services Housing Development/OCHA will post the RFP/NOFA and proposal submission and rating and ranking procedures electronically on its web site.

OC Community Services Housing Development/OCHA will publish its advertisement in the OC Register at least one week prior to the release of the RFP or NOFA. 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 Housing Development Request for Proposal/Notice of Funding Availability (NOFA).***

OCHA will accept proposals for PBV program assistance from owners that were competitively selected by OC Community Services Housing Development, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

In addition to, or in place of advertising, OC Community Services Housing Development /OCHA may also directly contact specific 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. OC Community Services Housing Development/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 in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community, the 10 Year Plan to End Homelessness, and/or programs that address other special needs clients.

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

Within 15 calendar days of making the selection, OC Community Services Housing Development/OCHA will notify the selected owner in writing of the owner's selection for the PBV program. OC Community Services Housing Development/OCHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, OC Community Services Housing Development/OCHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspaper used to solicit the proposals. The announcement will

include the name of the owner that was selected for the PBV program. OC Community Services Housing Development/OCHA will also post the notice of owner selection on its electronic web site.

OC Community Services Housing Development/OCHA will make available to any interested party its rating and ranking sheets 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 selection. OC Community Services Housing Development/OCHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

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

OCHA will not use PBV assistance for high-rise elevator projects for families with children, or other ineligible units identified in 24 CFR 983.53 or 983.54 including:

- A unit subsidized with any form of tenant-based rental assistance.
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or OCHA in accordance with HUD requirements.

### **3.03 STATE MENTAL HEALTH SERVICES ACT PROGRAM**

The County has also been allocated \$33 million in State MHSA funds. These funds are authorized and accessed through the County's existing Board approved agreement to participate in the MHSA Housing Program which is jointly administered by the Department of Mental Health and the California Housing and Finance Agency (CalHFA). Developers applying for State MHSA funds will complete a separate application, which is administered by the State. OC Community Services staff in conjunction with Orange County Health Care Agency staff will review applications requesting State MHSA funds for conformance to State application criteria and underwriting requirements before forwarding the applications to CalHFA. Please see Attachment Q for County MHSA Guidelines for Application.

MHSA funds will be eligible for developments located anywhere in the County and eligible for HOME and Redevelopment funding. (Both the project jurisdiction and the County's Housing Element must be in compliance to be eligible for OCDA funds).

MHSA funds are available under the same terms and conditions as contained under this NOFA. Please see Attachment P and Q for more details.

### **SECTION IV - APPLICATION & THRESHOLD REQUIREMENTS**

Applications must be complete. Incomplete applications may not be processed. However, OC Community Services reserves the right to waive minor technical deficiencies in the application and to request minor 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 OC Community Services 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 Section II of this NOFA.

Applicants will be notified as to whether they 1) passed threshold review and staff will begin the underwriting, or 2) that the applicant has failed the threshold review and that the applicant may re-apply at a later date. 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. (MUST INCLUDE 9% AND 4% TAX CREDIT ANALYSES).

To complete this requirement you will need the financial template, provided by OC Community Services, 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 Pro formas – 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
- Acquisition Loan Request (if applicable) – Part 8

**NOTE:** All of the Exhibits and the spreadsheets in Excel format have been updated to be in compliance with the 2010 Tax Credit Application. Applicants are strongly encouraged to verify the accuracy of any calculations completed using the spreadsheet models provided in your application.

Pro formas must demonstrate project feasibility for the proposed target population. With the exception of senior projects, applicants for funds will be required to provide two financial scenarios from any of the following: 1) 9% Tax Credits, 2) 4% Tax Credits, Bonds and State MHP funds, or 3) a more appropriate alternative financing plan. Senior projects will also provide two financing scenarios but do not have to include State MHP funds.

Applicants may adapt the sample pro formas as needed to accurately reflect the proposed financial structure of the project. **Projects utilizing Low Income Housing Tax Credits are required to provide documentation on the pricing of the tax credits.** Applicants proposing HUD Section 202 or Section 811 projects are advised to consult staff regarding how to modify this Exhibit to reflect the project's financial structure.

If the applicant has not included Davis-Bacon or State Prevailing Wage requirements in their construction cost estimate, the applicant will be required to complete an estimated cost comparison located in Exhibit 4.03, (Part 9).

#### 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 \$350 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 financing for the project is being provided by the California Department of Housing and Community Development's (HCD) Multifamily Housing Program, developer fees shall not exceed the lesser of \$15,000 per unit or the TCAC Developer Fee Limit. OC Community Services will allow a 25% increase from the current \$15,000 per unit maximum for developer fees (up to \$18,750 per unit) on special needs units and projects under thirty (30) units. Where financing is being provided by the HCD Multifamily Housing Program, the developer fee shall not exceed the amount allowed by that program. For Low Income Housing Tax Credit projects where the developer fee allowed by the California Tax Credit Allocation Committee exceeds the amount allowed by OC Community Services or HCD (where applicable), the difference may be deferred and payable from operating cash flow.

Except where extraordinary circumstances require use of alternate assumptions, project pro formas shall reflect the following assumptions: (1) vacancy rate of five percent (5%) for all projects except SRO projects and special needs housing projects, which shall reflect a vacancy rate of ten percent (10%); (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; (3) operating reserve of three percent (3%) of effective gross income and (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. Tax credit factors for projects using federal tax credits shall include documentation of the proposed pricing of the tax credits.

Project Cash Flow Worksheet may include partnership management fees in an amount not to exceed \$15,000 annually and deferred developer fees will be paid above the line before the payment of residual receipts, however, they will be paid out over a ten-year period. 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 two and a half percent (2.5%). Development Cost budget line items for both Marketing and Common Area Furnishings shall not exceed \$1,000 per unit for each of those line items.

Project operating budgets shall not include fees for social services or social service coordinators in excess of \$3,000 per unit per year, 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 MHSA assisted units, applicants shall coordinate with the County of Orange Health Care Agency where additional supportive services are proposed to be provided by other entities to ensure that such services do not duplicate those being provided by a Full Service Partnership (FSP). Prior to applying, applicants must meet with County of Orange Health Care Agency staff regarding the social services budget, the services plan, and FSP requirements.

Deviations from these assumptions must be justified in Notes and Assumptions. Notes and Assumptions should follow each financial exhibit.

#### **4.05 SOURCES & USES NARRATIVE**

Provide a narrative of the development financing structure. In addition, include a description of the development's alternate financing structure. Applicants will be required to provide two financial scenarios from any of the following: 1) 9% Tax Credits, 2) 4% Tax Credits, Bonds and State MHP funds, or 3) a more appropriate alternative financing plan.

#### **4.06 IMPACT FEE WORKSHEET**

Local impact fees may be excluded in calculating compliance with Maximum Total Development Cost guidelines under this NOFA. 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 exclude such local impact fees, applicants must provide documentation that supports the amount of the fee. OC Community Services reserves the right to disallow the exclusion of any unsubstantiated fees. If you have indicated fees under the "other" category, then provide documentation showing why these fees should be considered.

#### **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.

Developments located in Cities will be required to provide a subsidy match as required in Section 2.16.

#### **THE DEVELOPMENT TEAM**

#### **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 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 no more than one year old. Subject to review of the current audited financial statements, applicants may be required to submit audited financial statements with an unqualified opinion for the past three (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.*

#### **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.

##### **4.15(A) COMMUNITY BASED DEVELOPMENT ORGANIZATION (CBDO)**

A CBDO is an association or corporation organized under State or local law, to engage in community development activities (which may include housing and economic development activities) primarily within an identified geographic area of operation within the jurisdiction of the recipient, or in the case of an urban county, the jurisdiction of the County. Complete CBDO application in Exhibit 4.15.

#### **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
- Means of Transportation
- 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

Applicants shall coordinate with the County of Orange Health Care Agency for projects requesting funds under the Mental Health Services Act.

#### **4.17 SOCIAL SERVICES OPERATING BUDGET**

If the applicant is proposing to fund services 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. For MHSA assisted units, applicants shall coordinate with the County of Orange Health Care Agency where additional supportive services are proposed to be provided by other entities to ensure that such services do not duplicate those being provided by a Full Service Partnership (FSP). Prior to applying, applicants must meet with County of Orange Health Care Agency staff regarding the social services budget, the services plan, and FSP requirements.

### **THE DEVELOPMENT SITE**

#### **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. Developer is expected to update such preliminary title report periodically, so that at the time that the loan is made OC Community Services will possess a preliminary title report that is not more than six (6) months old.

#### **4.20 COMPARABLE RENT DATA**

Provide comparable rent data from at least three developments within a two-mile radius of the proposed project. Comparables should be similar in size, unit size, location, and amenities.

#### **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 six (6) 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.

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 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 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.

Complete Exhibit 4.27. HOME and CDBG are federal funds and are subject to NEPA. Where federal funds are used, OC Community Services 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. Orange County Development Agency housing funds and OCHA Operating Reserve funds are subject

only to CEQA. The developer must provide OC Community Services with a copy of a CEQA and/or NEPA review, when it is obtained from other than OC Community Services.

#### **4.28 PHASE I ENVIRONMENTAL REPORT**

The applicant is required to provide a completed Phase I environmental review. 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. *Where a Phase I Environmental Report is not available at the time of application, applicants will be required to submit such a report within 30 days of notification that the project has been accepted as meeting threshold requirements.*

#### **4.29 LEAD PAINT AND ASBESTOS REPORTS – If Applicable**

For projects involving rehabilitation or demolition of buildings, provide a lead paint and asbestos report. *Where a Lead Paint and Asbestos Report is not available at the time of application, applicants will be required to submit such a report within 30 days of notification that the project has been accepted as meeting threshold requirements.*

OC Community Services 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/llic.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**

As noted in Section 2.04, the 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 Act and/or the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, as cited below. 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 Orange County Housing Authority (OCHA) who is responsible for the utility schedule used by the local Housing Authorities and by funding entities to estimate the average amount of money a tenant spends on utilities monthly. The applicant completes 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 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).

## LETTERS OF ACKNOWLEDGEMENT AND CERTIFICATIONS

### 4.32 LETTER OF ACKNOWLEDGEMENT

Provide evidence from the City Manager that the jurisdiction is aware of the proposed development. This letter is not intended to be an endorsement of the project. Its purpose is to verify that the city in which the development is located is aware of the proposed project and that the developer has applied for financial assistance from the County of Orange, OC Community Services Department.

### 4.33 ARTICLE 34 COMPLIANCE

Pursuant to Article 34 of the California Constitution, voters are given an opportunity to approve publicly funded development of low-rent housing projects, which are developed, constructed, or acquired in whole or in part with public funds. Referendum authority is generally required in order for the County to provide financial assistance to the development of rental housing where more than 49% of the units will be assisted. Referendum authority is not required where 49% or less of the units will be assisted or where the development consists of acquisition and/or rehabilitation of housing that was previously subject to a contract that included state or federal financial assistance.

Together with the County of Orange, several cities in the County held Article 34 referendums in the 1970's and '80's. The referendum passed in the County Unincorporated areas and twelve other cities. The result of which is that publicly funded affordable housing may be built in these jurisdictions without public vote and that said housing may be rent restricted either in full or in part by the public funding agency.

All applicants must submit evidence of compliance with Article 34. This shall consist of a letter, from the City Attorney stating that Article 34 Authority of the State Constitution is or is not available in the jurisdiction in which the development is located. If Article 34 Authority is not available, OC Community Services may only restrict up to 49% of the rental units. To provide an incentive to developers designing projects for large families in jurisdictions with no Article 34 Authority, the maximum subsidy limit per unit will be expanded to cover the entire development without regard to the number of units restricted by OC Community Services, as long as the remaining units are rent restricted through another program and are affordable to families whose income does not exceed 60% of the AMI. Subsidized units must be available for rent and income restrictions for a term of not less than 55 years. For further information regarding this requirement please contact: Joanna Chang, NOFA Program Administrator, OC Community Services, 1770 N. Broadway, Santa Ana, CA 92706-2642. Phone: (714) 480-2993 or by email at [joanna.chang@occr.ocgov.com](mailto:joanna.chang@occr.ocgov.com).

### 4.34 CONSOLIDATED PLAN CERTIFICATION

Applicants must receive certification, from the governing jurisdiction where the proposed project is located, which indicates 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: OC Community Services Department, Attn: Reza Zargham, Community Development Section, 1770 N. Broadway, Santa Ana, CA 92706-2642.

For proposals located in any of the County's Entitlement Cities, see Exhibit 4.34 for a sample certification letter and for the address and contact person to obtain certification.

### 4.35 CERTIFICATION OF COMPLIANCE WITH AFFIRMATIVE FAIR HOUSING MARKETING PLAN

Provide a preliminary affirmative marketing plan, which outlines the marketing strategy of the development, outreach, and how they will reach their targeted population including items required in Exhibit 4.35. The marketing plan must contain procedures that include marketing of the units to residents throughout Orange County including residents of unincorporated areas and other incorporated cities. For certain developments, including but not limited to those receiving Project Based Section 8 from the Cities of Anaheim, Garden Grove or Santa Ana, or are subject to special zoning ordinances requiring preference for City residents, further documentation from the developer will be required demonstrating that residents throughout the County will have equal opportunity at obtaining units in the development.

County will require the final marketing plan prior to startup. The final plan is subject to County approval. The owner will use fair housing logo or slogans in all advertisements. The HUD Fair Housing logo is available at: <http://www.hud.gov/library/bookshelf15/hudgraphics/fheologo.cfm>.

Complete Exhibit 4.35. 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.

**4.36 EQUAL OPPORTUNITY PROGRAM FOR CONTRACTORS & MINORITY BUSINESS ENTERPRISE (MBE) & WOMEN OWNED BUSINESS ENTERPRISE (WBE)**

Complete and sign Exhibit 4.36.

**4.37 EQUAL OPPORTUNITY PROGRAM FOR CONTRACTORS DOING BUSINESS WITH THE HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT**

Complete and sign Exhibit 4.37.

**4.38 COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT CERTIFICATE**

Complete and sign Exhibit 4.37 certifying that the Developer is in full compliance with all applicable Wage and Earnings Assignment Orders and Notices of Assignments.

**4.39 EVIDENCE OF COMPLIANCE WITH PREVIOUS OC Community Services OR OCHA LOANS**

If the applicant has received a loan or a grant for affordable housing development from any of the following County or County related organizations please complete and sign Exhibit 4.39.

- County of Orange
- OC Community Services Department
- Orange County Housing Authority
- Orange County Health Care Agency
- Environmental Management Agency

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

In addition to the conditions set forth in the financing commitment letter, see Attachment L for a complete list of documents that are required prior to loan closing.