

SPECIAL MEETING AGENDA
ORANGE COUNTY HOUSING FINANCE TRUST

WEDNESDAY, MAY 6, 2020, 2:00 P.M.

HALL OF ADMINISTRATION
COMMISSION ROOM, FIRST FLOOR
333 W. Santa Ana Blvd.
Santa Ana, California

JOHN MARK JENNINGS
Chair

ANDREW DO
Vice Chair

DON BARNES
Director

DOUG CHAFFEE
Director

DAVID PENALOZA
Director

JAMEY FEDERICO
Director

SHARI FREIDENRICH
Director

ED SACHS
Director

STEPHEN FAESSEL
Director

Trust Manger
Adam Eliason

Trust Counsel
Jacqueline Guzman

Clerk of the Trust
Robin Stieler

*This agenda contains a brief general description of each item to be considered. The Orange County Housing Finance Trust encourages public participation. Pursuant to the provisions of California Governor's Executive Order N-29-20, issued on March 17, 2020, this meeting will be held both by teleconference and in person following strict social distancing guidelines. To attend the meeting via teleconference please call **Audio conference: +1-415-655-0001** and enter **Access code: 808 597 194#** (once you enter this code, you should be automatically connected to the call as **No User ID** is needed; you will remain on the line until meeting begins). **PLEASE BE ADVISED; In order to ensure that staff has the ability to provide comments to the Directors in a timely manner, please submit your public comments by 5:00 p.m. Tuesday, May 5, 2020 to aeliason@ochft.org.***

**If you wish to comment on a specific agenda item, please identify the item number and your name in your email. General public comments will be addressed during the general public comment item on the agenda and read into the record.* If you attend the meeting in person and wish to speak during public comment, please complete a Speaker Request Form and deposit it in the Speaker Form Return box located next to the Clerk. Speaker Forms are located on the table next to the entrance doors. Except as otherwise provided by law, no action shall be taken on any item not appearing in the agenda. When addressing the Orange County Housing Finance Trust, please state your name for the record prior to providing your comments.*

****In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the Clerk of the Board's Office 72 hours prior to the meeting at (714) 834-2206****

*All supporting documentation is available for public review online at:
www.OCHFT.org and in the office of the Clerk of the Board of Supervisors located in the
Hall of Administration Building, 333 W. Santa Ana Blvd., 10 Civic Center Plaza, Room 465,
Santa Ana, California 92701 during regular business hours,
8:00 a.m. - 5:00 p.m., Monday through Friday.*

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CONSENT CALENDAR ITEMS (Items 1-4)

1. Approve Orange County Housing Finance Trust minutes from the January 15, 2020 Regular Meeting.
2. Approve the proposed amendments to the Orange County Housing Finance Trust Conflict of Interest Code.
3. Authorize Trust Manager to apply for Local Housing Trust Fund program grant funds from the State of California for affordable and supportive housing development.
4. Receive and file Alternative Trust Member Allocation Formula for Administrative Costs.

DISCUSSION ITEMS (Items 5-10):

At this time, members of the public may ask the Board to be heard on the following items as those items are called.

5. Receive and file Report on State Funding Advocacy Update from Platinum Advisors.
6. Approve grant agreement between the County of Orange and the Orange County Housing Finance Trust for the development of affordable and supportive housing, FY 2020 through 2025 (\$25.5 million); and approve grant agreement between the County of Orange and the Orange County Housing Finance Trust for the provision of administrative costs, FY 2020 through 2025 (\$1 million); authorize the Trust Manager to execute agreements; and authorize staff to amend agreements under certain conditions.
7. Approve Memorandum of Understanding (MOU) with the County for administrative services to the Orange County Housing Finance Trust (not to exceed \$165,550); authorize Trust Manager to execute and make non-monetary changes to the MOU without further Board approval; and authorize Trust Treasurer and Trust Auditor-Controller to file bonds (not to exceed \$25,000).
8. Approve professional services agreement with CivicStone, LLC to provide management and administrative services to the Orange County Housing Finance Trust (not to exceed \$175,000).
9. Approve Trust expense and Member allocation amounts for Fiscal Year 2020-2021.
10. Approve increase to the 2020 Orange County Housing Finance Trust – Notice of Funding Availability Mental Health Services Act (funding cap at \$163,780 per unit) and projects listed in Attachment A for project funding; and authorize Trust Manager to execute a contingent Letter of Intent to funding awardees.

HOUSING TRUST MANAGER REPORT (Item 11):

11. Oral Report from the Housing Trust Manager
 - a. League of Women Voters Observer Report from January Board Meeting

PUBLIC & TRUST COMMENTS:

At this time members of the public in attendance may address the Trust on any matter not on the agenda but within the jurisdiction of the Trust. The Trust or Chair may limit the length of time each individual may have to address the Trust.

PUBLIC COMMENTS

DIRECTOR COMMENTS

ADJOURNED:

NEXT MEETINGS: May 20, 2020 at 10:00 a.m.

**REGULAR MEETING SUMMARY ACTION MINUTES
ORANGE COUNTY HOUSING FINANCE TRUST**

WEDNESDAY, JANUARY 15, 2020, 10:00 A.M.

JOHN MARK JENNINGS
Chair

ANDREW DO
Vice Chair

DON BARNES
Director

DOUG CHAFFEE
Director

DAVID PENALOZA
Director

JAMEY FEDERICO
Director

SHARI FREIDENRICH
Director

ED SACHS
Director

STEPHEN FAESSEL
Director

Trust Manger
Adam Eliason

Trust Counsel
Jacqueline Guzman

Clerk of the Trust
Robin Stieler

ATTENDANCE: Directors Chaffee, Jennings, Barnes, Penaloza, Federico, Freidenrich, Faessel and Sachs

ABSENT: Director Do

PRESENT: Trust Manager
Trust Counsel
Clerk of the Trust

Adam Eliason
Jacqueline Guzman
Robin Stieler

CALL TO ORDER

CHAIR JENNINGS CALLED THE MEETING TO ORDER AT 10:03 A.M.

PLEDGE OF ALLEGIANCE

DIRECTOR SACHS LED THE PLEDGE OF ALLEGIANCE

ROLL CALL

THE CLERK CALLED THE ROLL AND CONFIRMED QUORUM

DISCUSSION ITEMS (Items 1-6):

1. Approve Orange County Housing Finance Trust minutes from the October 29, 2019 Regular meeting.
ON THE MOTION OF DIRECTOR FAESSEL, SECONDED BY DIRECTOR FEDERICO, BY A VOTE OF 8 TO 0, WITH VICE CHAIR DO BEING ABSENT, APPROVED THE ORANGE COUNTY HOUSING FINANCE TRUST MINUTES FROM THE OCTOBER 29, 2019 REGULAR MEETING

2. Approve Orange County Housing Finance Trust minutes from the December 19, 2019 Special Meeting.
ON THE MOTION OF DIRECTOR BARNES, SECONDED BY CHAIR JENNINGS, BY A VOTE OF 8 TO 0, WITH VICE CHAIR DO BEING ABSENT, AND DIRECTORS FEDERICO AND FREIDENRICH ABSTAINING, APPROVED THE ORANGE COUNTY HOUSING FINANCE TRUST MINUTES FROM THE DECEMBER 19, 2019 REGULAR MEETING

3. Approve Trust Strategic Plan Outline; and designate the Funding Strategy Ad Hoc Committee to work with Staff to draft the Strategic Plan.
ON THE MOTION OF CHAIR JENNINGS, SECONDED BY DIRECTOR FREIDENRICH, BY A VOTE OF 8 TO 0, WITH VICE CHAIR DO BEING ABSENT, UNANIMOUSLY APPROVED ITEM AS RECOMMENDED; DIRECTED TO ADD TO THE STRATEGIC PLAN OUTLINE:
 - **#5 – ADD MEMORANDUM OF UNDERSTANDINGS WITH THE COUNTY AND OTHERS**
 - **#6 (d) (i) – ADD “COMMUNICATIONS”**
 - **#6 (g) (i) – ADD “INDIVIDUALS” AND “CITY” COMMISSIONS TO THE COORDINATING EFFORTS**
 - **#7 (d) – ADD CALIFORNIA STATE ASSOCIATION OF COUNTIES (CSAC) TO THE LIST OF KEY STRATEGIC PARTNERS**

SUBSTITUTE MOTION BY DIRECTOR PENALOZA TO APPROVE THE TRUST STRATEGIC PLAN OUTLINE AND DENY THE EXPANDED ROLE OF THE FUNDING STRATEGY AD HOC COMMITTEE WAS WITHDRAWN

4. Approve proposed Trust Administrative Expense Allocation Formula Policy and Procedures.
ON THE MOTION OF CHAIR JENNINGS, SECONDED BY DIRECTOR FEDERICO, BY A VOTE OF 6 TO 2, WITH VICE CHAIR DO BEING ABSENT AND DIRECTORS SACHS AND BARNES VOTING NO, APPROVED ITEM AS RECOMMENDED; DIRECTED STAFF TO PROVIDE CLARIFICATION OF THE TRUST BYLAWS REGARDING PAYMENT TERMS (I.E., WHEN PAYMENTS ARE DUE, PENALTIES IMPOSED FOR NON-PAYMENT, ETC.), REVIEW THE ORANGE COUNTY COUNCIL OF GOVERNMENT’S MEMBERSHIP FORMULA WITH RESPECT TO FUTURE FUNDING STRATEGIES; AND UPDATE THE “ADMINISTRATIVE EXPENSE ALLOCATION FORMULA POLICY AND PROCEDURES” TO CLARIFY ADMINISTRATIVE EXPENSES AND GRANT DEDUCTIONS; AND TO RETURN TO THE BOARD IN MARCH, 2020

5. Direct Trust Staff to utilize Platinum Advisors as primary with Best, Best and Krieger (BB&K) as subconsultant for the purpose of securing state funding for the Trust.
ON THE MOTION OF DIRECTOR CHAFFEE, SECONDED BY DIRECTOR BARNES, BY A VOTE OF 8 TO 0, WITH VICE CHAIR DO BEING ABSENT, UNANIMOUSLY APPROVED ITEM AS RECOMMENDED; CONTRACT TO BE ISSUED AND PAID AT THE EXPENSE OF THE COUNTY GIVEN THAT THE COUNTY IS PROVIDING ADMINISTRATIVE SERVICES TO THE TRUST ENDING 6/30/20; AND REQUESTED SYRUS DEVERS FROM BEST, BEST AND KRIEGER PROVIDE A STATEMENT THAT HE HAS NO CONFLICT OF INTEREST REPRESENTING THE TRUST

6. Approve 2020 Permanent Supportive Housing Notice of Funding Availability (NOFA); and authorize issuance of NOFA on January 24, 2020.

ON THE MOTION OF CHAIR JENNGS, SECONDED BY DIRECTOR FAESSEL, BY A VOTE OF 7 TO 1, WITH VICE CHAIR DO BEING ABSENT AND DIRECTOR CHAFFEE VOTING NO, APPROVED AS AMENDED THE 2020 TRUST NOFA POLICY GUIDELINES (ATTACHMENT A) AS FOLLOWS:

- **AMENDED #2 TO READ “ALL TRUST FUNDING SHALL HAVE A PREFERENCE FOR PERMANENT SUPPORTIVE HOUSING (PSH)”**
- **AMENDED #6 TO READ “ALL UNITS MUST HAVE PROJECT-BASED RENTAL ASSISTANCE (E.G. PROJECT-BASED VOUCHERS) OR CAPITALIZED OPERATING SUBSIDY RESERVE**
- **AMENDED #11 THE MAXIMUM TRUST INVESTMENT FROM \$1,000,000/DEVELOPMENT TO \$2,500,000/DEVELOPMENT**
- **AMENDED #11 FROM “2 BEDROOM” TO “2 BEDROOM OR LARGER”**

HOUSING TRUST MANAGER REPORT (Item 7)

7. Oral Report from the Housing Trust Manager
- **COORDINATING A PUBLIC CEREMONY FOR THE TRUST RECEIPT OF \$1 MILLION FROM THE STATE; WILL SEND INVITATION TO BOARD MEMBERS TO JOIN THE CELEBRATION AND ANNOUNCEMENT**
 - **WILL BE JOINING THE ASSOCIATION OF CALIFORNIA CITIES – ORANGE COUNTY IN SACRAMENTO ON JANUARY 27-28, 2020 TO MEET WITH LEGISLATORS AND STATE DEPARTMENTS TO DISCUSS CRITICAL ISSUES AFFECTING ORANGE COUNTY, INCLUDING HOMELESSNESS, PROMOTING THE EFFORTS OF THE TRUST AND SEEKING THE SUPPORT FOR ADDITIONAL FUNDING**
 - **PROVIDED AN UPDATE AT THE HOUSING COMMITTEE OF THE SENIOR CITIZENS ADVISORY COUNCIL MEETING ON JANUARY 9, 2020**
 - **SCHEDULED TO SPEAK AT THE ASSOCIATION OF CALIFORNIA CITIES – ORANGE COUNTY EVENT ON FEBRUARY 20, 2020 AT ANAHEIM STADIUM AND AT THE SOUTH ORANGE COUNTY ASSOCIATION OF MAYORS MEETING ON JANUARY 30, 2020 TO PROVIDE AN UPDATE ON THE TRUST**

PUBLIC & TRUST COMMENTS:

PUBLIC COMMENTS

Thomas Fielder – Oral Re: Trust moving forward in obtaining funding from the State for the Trust Strategic Plan; encouraged the Trust to identify within the Strategic Plan how funds are to be spent to minimize cost per unit for construction of low income, very low income and Permanent Supportive Housing; Fairview Developmental Center meets the requirements of the Mental Health Services Act Funding Term Sheet; encouraged the Trust to utilize the Fairview Developmental Center for housing and mental health services of the homeless population

DIRECTOR COMMENTS

Director Freidenrich – Oral re: Requested staff prepare social media regarding the public ceremony celebration for the Trust receipt of \$1 million and suggested posting on Trust Member City websites, Facebook and Twitter

Director Chaffee – Oral Re: Asked if staff has reached out to the Orange County Housing Trust or its Executive Director regarding the criteria used for disbursement of monies and it compares to the Orange County Housing Trust

ADJOURNED: 11:31 P.M.

NEXT MEETINGS: March 18, 2020, 10:00 A.M.

JOHN MARK JENNINGS
Chair, Orange County Housing Finance Trust

ROBIN STIELER
Clerk of the Orange County Housing Finance Trust

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) BOARD ACTION

MEETING DATE: May 6, 2020

SUBJECT: Approve the proposed amendments to the Orange County Housing Finance Trust Conflict of Interest Code.



Adam B. Eliason, Manager

RECOMMENDED ACTION:

1. APPROVE THE PROPOSED AMENDMENTS TO THE ORANGE COUNTY HOUSING FINANCE TRUST CONFLICT OF INTEREST CODE.

BACKGROUND:

The Trust approved an initial Conflict of Interest Code (the “Code”) at its August 2019 meeting. Pursuant to the Political Reform Act, the code reviewing body must finalize the Code in order to have effect. The law grants the code reviewing body, in the case of the Trust, the County of Orange, the discretion to require certain agency positions to file directly with that body. The changes to the amended Code (Attachment A) is the Resolution that reflects code reviewing body’s exercise of its granted discretion in that regard and is reflected in a uniform format they prefer. If adopted, all required disclosures, except for Trust consultants, will be made directly with the Orange County Clerk of the Board.

ATTACHMENT

Attachment A - Resolution of the Orange County Housing Finance Trust Adopting a Conflict of Interest Code

Resolution Number 2020-

RESOLUTION OF THE ORANGE COUNTY HOUSING FINANCE TRUST
ADOPTING A CONFLICT OF INTEREST CODE
WHICH SUPERSEDES ALL PRIOR CONFLICT OF
INTEREST CODES AND AMENDMENTS
PREVIOUSLY ADOPTED

WHEREAS, the Political Reform Act of 1974, Government Code Section 81000 et. seq. (“the Act”), requires a local government agency to adopt a Conflict of Interest Code pursuant to the Act; and

WHEREAS, Orange County Housing Finance Trust has previously adopted a Conflict of Interest Code and that Code now requires updating; and

WHEREAS, amendments to the Act have in the past and foreseeably will in the future require conforming amendments to be made to the Conflict of Interest Code; and

WHEREAS, the Fair Political Practices Commission has adopted a regulation, Title 2, California Code of Regulations, Section 18730, which contains terms for a standard model Conflict of Interest Code, which, together with amendments thereto, may be adopted by public agencies and incorporated by reference to save public agencies time and money by minimizing the actions required of such agencies to keep their codes in conformity with the Political Reform Act.

NOW THEREFORE, BE IT RESOLVED:

Section 1. The terms of Title 2, California Code of Regulations, Section 18730 (Attachment A) and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, together with Exhibits A and B in

Agenda Item 2
ATTACHMENT A

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which members and employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the Orange County Housing Finance Trust.

Section 2. The provisions of all Conflict of Interest Codes and Amendments thereto previously adopted by the Orange County Housing Finance Trust and hereby superseded.

Section 3. The Filing Official/Officer is hereby authorized to forward a copy of this Resolution to the Clerk of the Orange County Board of Supervisors for review and approval by the Orange County Board of Supervisors as required by California Government Code Section 87303.

ATTACHMENT A

**CONFLICT OF INTEREST CODE FOR THE
ORANGE COUNTY HOUSING FINANCE TRUST**

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission (FPCC) has adopted a regulation (2 Cal. Code of Regs. Section 18730) which contains the terms of a standard Conflict of Interest Code, which may be incorporated by reference in an agency's code. After public notice and hearing ~~it may be amended by the Fair Political Practices Commission-FPPC may amend this Regulation~~ to conform to amendments in the Political Reform Act. Therefore, the terms of ~~2~~ California Code of Regulations, Title 2, Section 18730 and any amendments to it duly adopted by the ~~Fair Political Practices Commission FPPC~~ are hereby incorporated by reference. This regulation and the attached ~~Appendix Exhibits~~ designating officials and employees and establishing disclosure categories, shall constitute the Conflict of Interest Code of the Orange County Housing Finance Trust.

~~Officials in the positions listed in Exhibit A Designated employees~~ shall file ~~S~~ statements of ~~E~~conomic ~~i~~nterests with the ~~Clerk of the~~ Orange County ~~Board of Supervisors or the~~ agency/district's ~~Housing Finance Trust~~ Political Reform Act Filing Officer, ~~as specified in Exhibit A. The Statements of Economic Interest shall be made -Clerk of the Board of Directors who will make the statements~~ available for public inspection and reproduction pursuant to Government Code Section 81008.

OFFICIALS WHO ARE SPECIFIED IN GOVERNMENT CODE SECTION 87200

~~Officials who are specified in Government Code section 87200 (including officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18700.3 (b)), are NOT subject to the Agency's Conflict of Interest Code, but are subject to the disclosure requirements of the Political Reform Act, Government Code section 87100, et seq. Gov't Code § 87203. These positions are listed here for informational purposes only.~~

~~The positions listed below are officials who are specified in Government Code section 87200:~~
Treasurer

~~The disclosure requirements for these positions are set forth in Government Code section 87200, et. seq. They require the disclosure of interests in real property in the agency's jurisdiction, as well as investments, business positions and sources of income (including gifts, loans and travel payments). These officials file Statements of Economic Interest with the Clerk of the Orange County Board of Supervisors.~~

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ATTACHMENT A

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~~Upon receipt of the statements of and from the Directors, Executive Staff, Attorneys, Consultants, Members of any advisory committee to the OCHFT, the Orange County Housing Finance Trust Filing Officer shall make and retain a copy and forward the original of these statements to the Clerk of the Orange County Board of Supervisors as the Filing Officer for these designated positions. Statements for all other designated employees will be retained by the Orange County Housing Finance Trust Filing Officer.~~

Conflict of Interest Code EXHIBIT A

Agency: Orange County Housing Finance Trust

Position	Disclosure Category	Files With
Director	OC-01	COB
Executive Staff	OC-01	COB
Attorney	OC-01	COB
Consultant	OC-30	OCHFT
Member of any advisory committee to the OCHFT	OC-33	COB

OFFICIALS WHO ARE SPECIFIED IN GOVERNMENT CODE SECTION 87200

Officials who are specified in Government Code section 87200 (including officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18700.3 (b)), are NOT subject to the Agency’s Conflict of Interest Code, but are subject to the disclosure requirements of the Political Reform Act, Government Code section 87100, et seq. Gov’t Code § 87203. These positions are listed here for informational purposes only.

The positions listed below are officials who are specified in Government Code section 87200:
 Resolution No. 2020-, Item No. [] Exhibit A
 OCHFT COI Code Adoption

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Treasurer

Files with Clerk of the Board

Resolution No. 2020-, Item No. []
OCHFT COI Code Adoption

Exhibit A

Disclosure Descriptions EXHIBIT B

Agency: Orange County Housing Finance Trust

Disclosure Category	Disclosure Description
OC-01	All interests in real property in Orange County, the authority or the District as applicable, as well as investments, business positions and sources of income (including gifts, loans and travel payments).
OC-30	Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest category in the code subject to the following limitation: The County Department Head/Director/General Manager/Superintendent/etc. may determine that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure required. The determination of disclosure is a public record and shall be filed with the Form 700 and retained by the Filing Officer for public inspection.
OC-33	All investments in, business positions with and income (including gifts, loans and travel payments) from sources that are within the jurisdiction of the board, commission or committee.

Agenda Item 2
ATTACHMENT A

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REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) BOARD ACTION

MEETING DATE: May 6, 2020

SUBJECT: Authorize Trust Manager to apply for Local Housing Trust Fund program grant funds from the State of California for affordable and supportive housing development.



Adam B. Eliason, Manager

RECOMMENDED ACTION:

1. AUTHORIZE TRUST MANAGER TO APPLY FOR LOCAL HOUSING TRUST FUND PROGRAM GRANT FUNDS FROM THE STATE OF CALIFORNIA FOR AFFORDABLE AND SUPPORTIVE HOUSING DEVELOPMENT.

BACKGROUND:

One of the fund sources for the 2020 Trust Notice of Funding Availability (NOFA) comes from the State of California Local Housing Trust Fund Program (LHTF). The LHTF is a new source of affordable housing funds for Orange County. It provides matching dollars to regional housing trust funds dedicated to the creation, rehabilitation, or preservation of affordable housing, including supportive housing.

The Orange County Housing Finance Trust (Trust) Staff have followed closely the LHTF draft guidelines and webinars from the State. The final guidelines and application for LHTF is anticipated to be released any day now. The application will likely be due within 60 days which may be very close to the next Trust Board meeting on July 15, 2020. The application must include Letters of Intent from the Trust to developers who will receive development funding contingent upon receiving LHTF monies. The Letters of Intent will be issued based upon the Trust Board approval of Item 8 of this agenda.

The Trust will be applying for the maximum amount available, which is \$5 million. The Trust already has the matching funds necessary for the application. The LHTF draft guidelines also suggests that an “ongoing revenue” source will be required from the Trust. This requirement will be met from the agreement with the County of Orange to provide their portion of the Trust membership funds over a five-year period.

While the LHTF applications may be due in late June or early July the funding award announcement is anticipated in late September or early October 2020.

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) BOARD ACTION

MEETING DATE: May 6, 2020

SUBJECT: Receive and File Alternative Trust Member Allocation Formula for Trust Administrative Costs.



Adam B. Eliason, Manager

RECOMMENDED ACTION:

RECEIVE AND FILE ALTERNATIVE TRUST MEMBER ALLOCATION FORMULA FOR TRUST ADMINISTRATIVE COSTS.

BACKGROUND:

At the January 15, 2020 Board Meeting, the Board approved a Trust Member allocation formula for administrative costs based upon the ACCOC suggested formula and what was originally submitted to cities when considering joining the Trust.

At that meeting the Board requested Staff to calculate the Trust allocation of administrative costs based upon the Orange County Council of Governments (OCCOG) formula (Attachment A). The OCCOG calculates their membership fee based upon each member paying a base amount of one third of the total administrative budget plus a weighted population percentage, multiplied by the remaining administrative costs.

In this alternative allocation formula scenario, some members pay more, and some pay less.

FINAL TRUST BUDGET

As required in Joint Exercise of Powers Agreement, the Trust will review and approve the annual budget at the May 2020 Board Meeting. The final budget has the final allocation amounts which includes Lake Forest and Huntington Beach, who received final approval of their Housing Element.

With those two additional cities, the Trust now has 23 member cities plus the County. Therefore, the updated Board approved allocation formula reduces the member contribution to the Trust as follows:

Small cities less than 60,000 population = 5,939.93

Medium cities 60,000 – 95,000 population = \$11,879.86

Large cities greater than 95,000 population = \$23,759.72

At the January 15, 2020 Board Meeting a request was made to clarify the Joint Powers Agreement (JPA) language regarding a waiver provision for Member contributions.

JPA Section 7(c)(1) Financial Provisions – Contribution of the Parties – Administrative Cost Contributions – states the following: *“By unanimous vote the Board of Directors may waive a parties’ contribution toward OCHFT’s administrative costs.”*

JPA Section 10(b)(1) Admission and Withdrawal of Parties has no provision for the Board to waive the notice requirement. Therefore, if a Member wishes to terminate, they would still need to put their request in writing and request in writing the waiver of financial contribution even if they have not already paid that amount.

At the same January 15, 2020 Board Meeting several edits to the Administrative Expenses Allocation Formula Policy and Procedures were approved. It was further requested that the updated version of that document be presented for informational purposes only at the March Board Meeting. Attachment B contains a clean version of the policy and Attachment C contains the redlined version of those changes.

ATTACHMENT:

Attachment A – Alternative Trust Member Allocation Formula of Trust Administrative Costs

Attachment B – Administrative Expense Allocation Formula Policy and Procedures (Clean version)

Attachment C – Administrative Expense Allocation Formula Policy and Procedures (Redline version)

Orange County | Housing Finance Trust

Alternative Trust Member Allocation Formula

TOTAL CITY MEMBERS CONTRIBUTION	POPULATION	%	1/3 Base	Weighted Fee % of Population	OCCOG Formula Allocation Total	Total ACC-OC Allocation	Difference
<i>Aliso Viejo</i>	51,950	2.11%	\$3,968.17	\$3,352	\$7,320.07	4,630.00	(2,690.07)
<i>Anaheim</i>	357,084	14.51%	\$3,968.17	\$23,040	\$27,007.83	18,520.00	(8,487.83)
<i>Buena Park</i>	83,995	3.41%	\$3,968.17	\$5,419	\$9,387.67	9,260.00	(127.67)
<i>Costa Mesa</i>	115,296	4.69%	\$3,968.17	\$7,439	\$11,407.26	18,520.00	7,112.74
<i>Dana Point</i>	34,071	1.38%	\$3,968.17	\$2,198	\$6,166.49	4,630.00	(1,536.49)
<i>Fountain Valley</i>	56,920	2.31%	\$3,968.17	\$3,673	\$7,640.75	4,630.00	(3,010.75)
<i>Fullerton</i>	144,214	5.86%	\$3,968.17	\$9,305	\$13,273.10	18,520.00	5,246.90
<i>Garden Grove</i>	176,896	7.19%	\$3,968.17	\$11,414	\$15,381.80	18,520.00	3,138.20
<i>Huntington Beach</i>	202,648	8.24%	\$3,968.17	\$13,075	\$17,043.36	18,520.00	1,476.64
<i>La Habra</i>	62,850	2.55%	\$3,968.17	\$4,055	\$8,023.36	9,260.00	1,236.64
<i>Laguna Beach</i>	23,309	0.95%	\$3,968.17	\$1,504	\$5,472.11	4,630.00	(842.11)
<i>Laguna Hills</i>	31,818	1.29%	\$3,968.17	\$2,053	\$6,021.12	4,630.00	(1,391.12)
<i>Laguna Niguel</i>	65,377	2.66%	\$3,968.17	\$4,218	\$8,186.41	9,260.00	1,073.59
<i>Lake Forest</i>	84,845	3.45%	\$3,968.17	\$5,474	\$9,442.51	9,260.00	(182.51)
<i>Mission Viejo</i>	95,987	3.90%	\$3,968.17	\$6,193	\$10,161.41	18,520.00	8,358.59
<i>Newport Beach</i>	87,182	3.54%	\$3,968.17	\$5,625	\$9,593.30	9,260.00	(333.30)
<i>Orange</i>	141,952	5.77%	\$3,968.17	\$9,159	\$13,127.15	18,520.00	5,392.85
<i>Placentia</i>	52,755	2.14%	\$3,968.17	\$3,404	\$7,372.01	4,630.00	(2,742.01)
<i>San Juan Capistrano</i>	36,759	1.49%	\$3,968.17	\$2,372	\$6,339.93	4,630.00	(1,709.93)
<i>Santa Ana</i>	338,247	13.75%	\$3,968.17	\$21,824	\$25,792.43	18,520.00	(7,272.43)
<i>Stanton</i>	39,470	1.60%	\$3,968.17	\$2,547	\$6,514.84	4,630.00	(1,884.84)
<i>Tustin</i>	82,344	3.35%	\$3,968.17	\$5,313	\$9,281.15	9,260.00	(21.15)
<i>Westminster</i>	94,476	3.84%	\$3,968.17	\$6,096	\$10,063.92	9,260.00	(803.92)
TOTAL MEMBER FUNDING	2,460,445	100%	\$ 91,268	\$ 158,752			
	Total Member Contribution (less County)			\$ 250,020			

ORANGE COUNTY HOUSING FINANCE TRUST (Trust)

Administrative Expense Allocation Formula Policy and Procedures

March 18, 2020

1. The County shall pay 4/9th and Member Cities shall pay 5/9th of the annual Trust administrative expenses after any grant or donated funds approved for administrative expenses, or other Trust reserve funds approved by the Board have been deducted.
2. Member Cities shall pay their 5/9th allocation based upon the following formula allocation:
 - a. Small Cities shall be cities with a population size less than 60,000.
 - b. Medium Cities shall be cities with a population size between 60,000 and 95,000 and shall pay twice as much as Small Cities.
 - c. Large Cities shall be cities with a population size greater than 95,000 and shall pay twice as much as Medium Cities
3. Annual Member contribution amounts shall be reviewed and approved by the Board at the May Board Meeting.
4. Annual Member contributions will be invoiced to Trust Members no later than June 1st and due July 1st of each year.
5. If membership payment is not received by August 1st, Trust membership will be terminated and any project funding, including those with contingent letters of commitment, will be canceled.
6. Member contributions to the Trust administrative costs shall be in the form of money, unless the Board approves another form of contribution such as services, personal property or use of real or personal property, or other in-kind contributions. The acceptance and valuation of any such non-monetary contributions shall be determined by the Board in advance of such services. (JPA Section 7(c)(1))
7. In the case of a voluntary withdrawal of any Member from the Trust, written notice shall be given to the Trust six months prior to the effective date of withdrawal (JPA Section 10(b)(1)).
8. Unless otherwise provided by a unanimous vote of the Board of Directors, withdrawal from the Trust shall result in the forfeiture of that Members rights and claims relating to distribution of property and funds upon termination (JPA Section 10(b)(2)).

9. Non-Member cities that join the Trust after the annual May Board Meeting will pay a pro-rated amount based upon the most recent allocation formula approved by the Board and based upon their size category. The pro-rated amount will be calculated based upon their Council date approving membership with the Trust and through June 30th.
10. Initial date of Trust membership requires the payment of the pro-rated Member contribution.

Agenda Item 4

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DRAFT

ORANGE COUNTY HOUSING FINANCE TRUST (Trust)

Administrative Expense Allocation Formula Policy and Procedures

DRAFT January 15, March 18, May 6, 2020

1. The County shall pay 4/9th and Member Cities shall pay 5/9th of the annual Trust administrative expenses after ~~less~~ any grant or donated funds approved for administrative expenses, or other Trust reserve funds approved by the Board have been deducted.
2. Member Cities shall pay their 5/9th allocation based upon the following formula allocation:
 - a. Small Cities shall be cities with a population size less than 60,000.
 - b. Medium Cities shall be cities with a population size between 60,000 and 95,000 and shall pay twice as much as Small Cities.
 - c. Large Cities shall be cities with a population size greater than 95,000 and shall pay twice as much as Medium Cities
3. Annual Member contribution amounts shall be reviewed and approved by the Board at the May Board Meeting.
4. Annual Member contributions will be invoiced to Trust Members no later than June 1st and due July 1st of each year.
- 4-5. If membership payment is not received by August 1st, Trust membership will be terminated and any project funding, including those with contingent letters of commitment, will be canceled.
- 5-6. Member contributions to the Trust administrative costs shall be in the form of money, unless the Board approves another form of contribution such as services, personal property or use of real or personal property, or other in-kind contributions. The acceptance and valuation of any such non-monetary contributions shall be determined by the Board in advance of such services. (JPA Section 7(c)(1))
- 6-7. In the case of a voluntary withdrawal of any Member from the Trust, written notice shall be given to the Trust six months prior to the effective date of withdrawal (JPA Section 10(b)(1)).
- 7-8. Unless otherwise provided by a unanimous vote of the Board of Directors, withdrawal from the Trust shall result in the forfeiture of that Members rights and

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Agenda Item 10

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claims relating to distribution of property and funds upon termination (JPA Section 10(b)(2)).

8-9. Non-Member cities that join the Trust after the annual May Board Meeting will pay a pro-rated amount based upon the most recent allocation formula approved by the Board and based upon their size category. The pro-rated amount will be calculated based upon their Council date approving membership with the Trust and through June 30th.

9-10. Initial date of Trust membership requires the payment of the pro-rated Member contribution.

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) BOARD ACTION

MEETING DATE: May 6, 2020

SUBJECT: Receive and file Report on State Funding Advocacy Update from Platinum Advisors.



Adam B. Eliason, Manager

RECOMMENDED ACTION:

RECEIVE AND FILE REPORT OF STATE FUNDING ADVOCACY UPDATE FROM PLATINUM ADVISORS.

BACKGROUND:

The Trust Board will receive an update on funding advocacy efforts from Platinum Advisors. Attachment A is a memo summarizing these efforts to date.

ATTACHMENT:

Attachment A – Memo from Platinum Advisors - OCHFT State Budget Request Progress

PLATINUM | ADVISORS

April 24, 2020

To: Adam Eliason
Orange County Housing Finance Trust

From: Darius Anderson
Nick Garcia
Syrus Devers

Subject: Update on OCHFT State Budget Request

Since your last Board of Directors meeting, suffice to say that the world has changed. The outbreak of COVID-19 and the current global pandemic has drastically altered governments' futures. The State of California, as the nation's most populous state, is reeling from the economic impacts.

Following a successful Trust lobby day in March, our combined teams secured the support of Assemblyman Tom Daly to lead our efforts for a \$35 million State Budget request for the Trust. As the author of the enabling legislation, Mr. Daly is aware of the Trust's goals and value it brings to the Orange County. He and his staff began reaching out to their respective peers within the Orange County legislative delegation to gain full support from each elected official. At the same time, we were meeting and talking with legislators and staff to secure the signature on a letter of support to the Senate and Assembly Budget Committee chairs.

Then COVID-19 hit, and the state went into lockdown.

The pandemic outbreak changed the way that we work but didn't change our goals. Since the start of the outbreak, the state has been thrust into an unknown vortex on how to legislate, estimate revenue, and determine when our economy recovers. As of today, here's what we know and where we are headed:

- The State of California estimates that it will spend upwards of \$7 billion on COVID-19 response. Although the state had a healthy budget reserve of roughly \$17 billion, the Legislative Analyst believes it will all be spent in the next one or two budget years.
- The State Constitution requires that the Legislature pass a balanced budget by June 15 of each year. The Governor has announced that he will release his revised budget plan on May 14 and to expect many of his ambitious proposals to be curtailed.

- Assemblyman Phil Ting, the Assembly's budget chair, believes that the legislature will meet to pass a "working budget" by June 15 and then return following summer recess in August to do a deeper budget evaluation to determine if more cuts or revenues are needed. They are targeting August given the deferment of the annual tax deadline to July 15.
- The Assembly is still targeting May 4 for return to the Capitol. The Senate just announced that it will reconvene on May 18. Both dates still seem to be in flux. Staff in both houses are still working on committee hearing options.

Despite all of this unknown, we continue to work hard to find a successful path to achieve the Trust's budget request.

- We continue to hold weekly calls with the Trust team to deliver real-time information for our conversations and Zoom meetings with legislators and staff.
- We have spoken with the Governor's Office on countless occasions to get direction from them on homelessness and housing options.
- Strategizing with your staff, we worked in concert to shift the Trust's request into a COVID-19 related ask. We are now in receipt of the Orange County Budget Request letter. This collaborative and innovative strategy is to transform the Project Roomkey beds into lasting housing options. We will now work with the Governor's Office and Orange County Legislative Delegation to move the request forward.
- We are exploring federal funding options currently coming into the state as well as COVID-19 disaster funds.
- We are starting to schedule legislative Zoom briefings with Trust staff and legislators to discuss the collaborative and innovative strategy contained in the Orange County Budget Request letter.

As always, we are available for further discussion when needed. If there is anything immediate, please contact Nick Garcia at 916-215-3621.

Thank you!

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) BOARD ACTION

MEETING DATE: May 6, 2020

SUBJECT: Approve grant agreement between the County of Orange and the Orange County Housing Finance Trust for the development of affordable and supportive housing, FY 2020 through 2025 (\$25.5 million); and approve grant agreement between the County of Orange and the Orange County Housing Finance Trust for the provision of administrative costs, FY 2020 through 2025 (\$1 million); authorize the Trust Manager to execute both agreements; and authorize staff to amend agreements under certain conditions.



Adam B. Eliason, Manager

RECOMMENDED ACTION:

1. APPROVE THE GRANT AGREEMENT BETWEEN THE COUNTY OF ORANGE AND THE ORANGE COUNTY HOUSING FINANCE TRUST FOR THE DEVELOPMENT OF AFFORDABLE AND SUPPORTIVE HOUSING, FY 2020 THROUGH 2025 (FOR \$25.5 MILLION).
2. APPROVE THE GRANT AGREEMENT BETWEEN THE COUNTY OF ORANGE AND THE ORANGE COUNTY HOUSING FINANCE TRUST FOR THE PROVISION OF ADMINISTRATIVE COSTS, FY 2020 THROUGH 2025 (FOR \$1 MILLION).
3. AUTHORIZE TRUST MANAGER TO EXECUTE BOTH AGREEMENTS.
4. AUTHORIZE TRUST STAFF TO MAKE MINISTERIAL CHANGES TO BOTH AGREEMENTS BASED ON FURTHER FEEDBACK FROM COUNTY STAFF.

Grant Agreement Between the County of Orange and the Orange County Housing Finance Trust:

Attachment A is the Grant Agreement Between the County of Orange and the Orange County Housing Finance Trust which includes allocation to the Trust of \$20.5 million in Mental Health Services Act (MHSA) funding and \$5 million in County general funds for the development of affordable and supportive housing.

This funding will be used for the development of affordable and supportive housing over the next five years and thereby be the source of matching funds required for annual applications to the State Local Housing Trust Fund Program. The matching funds from the State will be a new source of funding the Trust is bringing into Orange County and will be available for both affordable and/or supportive housing.

Attachment B is the Grant Agreement Between the County of Orange and the Orange County Housing Finance Trust for the Provision of Administrative Costs.

The Trust will be applying for the State Local Housing Trust Fund Program (LHTF) in the amount of \$5 million. The LHTF Program provides matching funds to local and regional housing trust funds for a variety of uses including the creation or rehabilitation of affordable housing and supportive housing.

The draft LHTF guidelines establish rules regarding applicant eligibility, matching fund requirements, and terms, conditions, and procedures for applicants to submit applications to the State for grants from the LHTF. The applications for the LHTF grant program are anticipated to be available in April 2020 and due in June 2020. Funding awards are anticipated in September 2020.

One of the guideline rules states that the Trust must have a legal binding commitment of ongoing revenues from one or more sources totaling a minimum of \$100,000 per year that is dedicated for a minimum of five years.

The Trust Board previously approved their own administrative cost allocation formula which specified that the County would contribute 4/9th of the Trust administrative costs. Attachment B is considered a legal binding agreement and commits the County to provide \$200,000 per year for a five-year period and thus exceeds the requirement of the LHTF Program.

An executed version of the Administrative Cost Agreement will be an attachment to the Trust application for LHTF funding.

Staff recommends approval of this agenda item.

ATTACHMENT:

Attachment A – Grant Agreement Between the County of Orange and the OCHFT for \$25.5 million for the development of affordable and supportive housing

Attachment B – Grant Agreement Between the County of Orange and the OCHFT for \$1 million for the Provision of Administrative Costs

**GRANT AGREEMENT BETWEEN THE COUNTY OF ORANGE AND
THE ORANGE COUNTY HOUSING FINANCE TRUST**

This Grant Agreement (the “**Agreement**”) entered into as of _____, 2020 is made by and between the County of Orange, a political subdivision of the State of California (the “**County**”) and the Orange County Housing Finance Trust, a California joint powers public entity formed pursuant to California Government Code section 6500 *et. seq.* (the “**Trust**” or “**Grantee**”), with the County and Trust sometimes referred to as “**Party,**” or collectively as “**Parties.**”

WHEREAS, the Trust was created pursuant to California Government Code section 6539.5 for the purpose of: (1) funding the planning and construction of housing of all types and tenures for the homeless population and persons and families of extremely low, very low, and low income, as defined in Section 50093 of the Health and Safety Code, including, but not limited to, permanent supportive housing; and (2) receiving public and private financing and funds; and

WHEREAS, the County became a member of the Trust on March 12, 2019; and

WHEREAS, On June 25, 2019, the County Board of Supervisors appropriated \$5 million as part of the approved 2019-2020 Fiscal Year Budget; and

WHEREAS, on December 17, 2019 the Board of Supervisors amended the Mental Health Services Act (“**MHSA**”) Spending Plan for allocation of \$20.5 million to the Trust; and

WHEREAS, in seeking to receive public funds, the Trust anticipates applying for a grant under the state Local Housing Trust Fund Matching Grant Program (“**Program**”) established pursuant California Health & Safety Code section 50842 *et. seq.*; and

WHEREAS, the Program guidelines require that an applicant demonstrate ongoing revenues from a public or private source totaling a minimum of \$100,000 per year that is dedicated for a minimum of 5 years as local matching funds (“**Matching Funds**”) for Program grant eligibility; and

WHEREAS, pursuant to Program guidelines, the dedicated local Matching Funds must be in the form of a legally binding commitment that specifies the source(s) of the Matching Funds, the amount of the Matching Funds, and its source(s), the date upon which the funds will be deposited into the Trust’s account, and remedies for not depositing the Matching Funds on that date; and

WHEREAS, the County supports and is willing to fund the Trust’s efforts in securing a Program grant toward the development of affordable and permanent supportive housing in Orange County.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **COUNTY GRANTS.** The County hereby grants the Trust the following Grant amounts (collectively, “**Grant Funds**”):

- a. \$5 million dollars from the County’s General Fund (“**General Fund Grant**”); and
 - b. \$20.5 million dollars from the County’s Mental Health Services Act Fund (“**MHSA Fund Grant**”).
2. DISBURSEMENT OF COUNTY GENERAL FUND GRANT. The County shall transfer the grant amount set forth in Section 1.a., above, to the Trust as follows:
 - a. No later than June 30, 2020: \$1 million dollars; and
 - b. On July 15, 2021, and annually, on July 15, until the total General Fund Grant amount is exhausted: \$1 million dollars.
3. DISBURSEMENT OF COUNTY MHSA FUND GRANT. The County shall transfer the grant amount set forth in Section 1.b., above, to the Trust as follows:
 - a. No later than June 30, 2020: \$4.5 million dollars; and
 - b. On July 15, 2021, and annually, on July 15, until the total MHSA Fund Grant, amount is exhausted: \$4 million dollars.
4. COUNTY BOARD OF SUPERVISOR PROJECT APPROVAL. The Trust shall submit proposed projects utilizing General Fund Grant monies and/or MHSA Fund Grant monies to the County Board of Supervisors for approval prior to approving and disbursing such funds for a project.
5. TERM OF GRANT AGREEMENT. The term of this Agreement begins on the date when fully executed by the parties, and terminates on July 31, 2025, or when all of the Parties’ obligations under this Agreement are fully satisfied, whichever occurs earlier.
6. TERMINATION. In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Agreement without penalty for cause or after 30 days’ written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Grantee. Exercise by County of its right to terminate the Agreement shall relieve County of all further obligation. The Grantee shall return all unexpended and/or unencumbered Grant Funds remaining of the Grant amounts within 180 days of the date of termination of this Agreement under Paragraph 2 or within 30 days of date of termination under this Paragraph 6, Paragraphs 7, 8 and 13 shall survive the termination of this Agreement.
7. ELIGIBLE USES.
 - a. GENERAL FUND GRANT. The Grantee shall utilize the General Fund Grant amounts toward financing capital development loans for affordable and/or permanent supportive

housing. The Grantee may not use the Grant amounts to pay for overhead or administration of the Trust.

- b. **MHSA FUND GRANT:** The Grantee shall utilize the MHSA Fund Grant amounts toward financing capital development loans for permanent supportive housing, as specified under **Exhibit A**. The County, through OC Community Resources, shall provide an annual update to Exhibit A, as necessary, to reflect changes in the law, policy, or current lending practices. The Grantee may not use the Grant amounts to pay for overhead or administration of the Trust.
8. **GRANT INCOME.** Grantee shall utilize any Program Income derived from both the General Fund Grant and the MHSA Fund Grant in the same manner as outlined in Section 7.a. or 7.b., respectively. For purposes of this paragraph, “Program Income” means gross income that is directly generated from Grant Funds and may include, but is not limited to: any interest accrued on the original grant amounts on deposit with the Trust, any recapture of Grant Funds, or payments of principal and interest on loans made using Grant Funds to the Trust.
 9. **PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS.** The Grantee shall be responsible for requiring all Grant Funds subrecipients to obtain any and all permits, licenses, and approvals required for performing any work pursuant to the use of these funds, including those necessary to perform. The Grantee shall be responsible for observing and complying with any applicable federal, state, and local laws, rules or regulations affecting the source of both the Grant Funds. The Grantee shall provide copies of permits and approvals to the County upon request.
 10. **SUBMISSION OF REPORTS –MHSA Fund Grant.** The submittal and approval of all reports is a requirement for the successful completion of this Agreement. Reports shall meet generally accepted professional standards for technical reporting and shall be proofread for content, numerical accuracy, spelling, and grammar prior to submittal to the County. All reports shall be submitted to the OC Community Resources. If requested, the Grantee shall promptly provide any additional information deemed necessary by the County for the approval of reports. Reports shall be presented in the formats described in the applicable portion of **Exhibit B** and shall separately identify the Grantee’s use of MHSA Grant funds.

1) **Progress Reports:** The Grantee shall submit progress reports on an annual basis no later than July 31 of each year. The progress reports shall be sent to Orange County Community Resources. The progress reports shall provide a brief description of the work performed during the reporting period including: the Grantee’s activities, milestones achieved, any accomplishments, and any problems encountered in the performance of the work under this Agreement and contain all of the information required under 25 CCR § 7160.

2) **Grant Completion Report:** The Grantee shall prepare and submit to the County a grant projects completion report (“**Grant Completion Report**”) upon the earlier of (a)

ninety (90) calendar days of the termination of this Agreement or (b) the exhaustion of the Grant amounts. The Grant Completion Report shall include, in part, a description of actual work done, any changes or amendments to the project, and a final schedule showing actual progress versus planned progress, copies of any final documents or reports generated or utilized during a project. The Grant Completion Report shall include all of the information required under 25 CCR § 7160, and a summary spreadsheet listing Eligible Projects assisted during the reporting period by unit, including the project name, type of housing, number of units, income levels restricted in each unit, bedroom count of each unit, and amount of MHSA Grant Funds expended per unit.

11. **SUBMISSION OF REPORTS –General Fund Grant.** The submittal and approval of all reports is a requirement for the successful completion of this Agreement. Reports shall meet generally accepted professional standards for technical reporting and shall be proofread for content, numerical accuracy, spelling, and grammar prior to submittal to the County. All reports shall be submitted to the County’s OC Community Resources. If requested, the Grantee shall promptly provide any additional information deemed necessary by the County for the approval of reports. Reports shall be presented in the formats described in the applicable portion of **Exhibit B** and shall separately identify the Grantee’s use of General Fund Grant funds.

1) **Progress Reports:** The Grantee shall submit progress reports on an annual basis no later than July 31 of each year. The progress reports shall be sent to OC Community Resources. The progress reports shall provide a brief description of the work performed during the reporting period including: the Grantee’s activities, milestones achieved, any accomplishments, and any problems encountered in the performance of the work under this Agreement and contain all of the information required under 25 CCR § 7160.

2) **Grant Completion Report:** The Grantee shall prepare and submit to the County a grant projects completion report (“Grant Completion Report”) upon the earlier of (a) ninety (90) calendar days of the termination of this Agreement or (b) the exhaustion of the Grant amounts. The Grant Completion Report shall include, in part, a description of actual work done, any changes or amendments to the project, and a final schedule showing actual progress versus planned progress, copies of any final documents or reports generated or utilized during a project. The Grant Completion Report shall include all of the information required under 25 CCR § 7160, and a summary spreadsheet listing Eligible Projects assisted during the reporting period by unit, including the project name, type of housing, number of units, income levels restricted in each unit, bedroom count of each unit, and amount of General Fund Grant funds expended per unit.

12. **GRANT RECORDS.** The Grantee is required to maintain all financial records associated with the projects funded by both Grants in accordance with **Exhibit C** Audit Document Requirements. These records shall be stored in Orange County for a period of three (3) years after the termination of this Agreement.

13. AUDITS. At any time during Grantee's business hours and upon reasonable notice by the County, the Grantee shall allow County staff or contractors to evaluate, audit, inspect and monitor its facilities, program operations, and records maintained in connection with this Agreement. The inspection methods that may be used include:

- 1) On-site visits
- 2) Interviews of Grantee's staff and program participants
- 3) Review, examination or audit of case files/records, receipts, client/user complaints, monthly/quarterly reports, and fiscal records including employee timesheets.
- 4) Inspection of Grantee's internal monitoring and evaluation system

With respect to inspection of Grantee's records, the County may require that Grantee provide supporting documentation to substantiate Grantee expenses with respect to the Grantee's use or expenditure of the Grant amounts.

14. INDEPENDENT CONTRACTOR. The Grantee shall be considered an independent contractor and neither the Grantee, its employees, nor anyone working under the Grantee shall be considered an agent or an employee of County. Neither the Grantee, its employees nor anyone working under the Grantee shall qualify for workers' compensation or other fringe benefits of any kind through County.

15. CONTINGENCY OF GRANT FUNDS: Trust acknowledges that funding or portions of funding for this Agreement may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Agreement. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Agreement without penalty.

16. BREACH OF CONTRACT:

- a. Breach by the Trust. The failure of the Trust to comply with any of the provisions, covenants or conditions of this Agreement shall be a material breach of this Agreement. In such event the County may, and in addition to any other remedies specified in this Agreement:
 - i. Afford the Grantee written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Agreement within which to cure the breach;
 - ii. Discontinue payment to the Grantee for and during the period in which the Grantee is in breach; and
 - iii. Offset against any monies billed by the Grantee but yet unpaid by the County those monies disallowed pursuant to the above.

b. Breach by the County. The failure of the County to comply with any of the provisions, covenants or conditions of this Agreement shall be a material breach of this Agreement. In such event the Trust may, and in addition to any other remedies specified in this Agreement:

- i. Afford the County written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Agreement within which to cure the breach.

Parties agree that failure of the Board of Supervisors to approve, fund or appropriate as provided in Section 15 herein shall not constitute a breach of contract under this Agreement.

17. REMEDIES NOT EXCLUSIVE: The remedies for breach set forth in this Agreement are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Agreement does not preclude resort by either party to any other remedies provided by law.

18. INDEMNITY. The Grantee agrees to indemnify, defend with counsel approved in writing by County, and hold County, 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 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 Grantee's receipt of the Grant amounts or performance under this Agreement.

19. CONFLICT OF INTEREST – TRUST PERSONNEL. The Grantee shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Grantee; the Grantee's employees, agents, and subcontractors associated with accomplishing work and services hereunder. The Grantee's efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.

20. CONFLICT OF INTEREST – COUNTY PERSONNEL. The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Grantee shall not, during the period of this Agreement, employ any County employee for any purpose.

21. NOTICES. Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the parties' contacts identified under this Paragraph 22. Any written communications shall

be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

Trust:

Orange County Housing Finance Trust
Attn: Housing Trust Manager
1501 E. St. Andrew Place, 1st Floor
Santa Ana, CA 92705

County:

OC Community Resources
Director, Housing & Community Development
1501 E. St. Andrew Place, 1st Floor,
Santa Ana, CA 92705

22. ATTORNEY FEES. In any action or proceeding to enforce or interpret any provision of this Agreement, each party shall bear their own attorney's fees, costs and expenses.
23. ENTIRE CONTRACT: This Agreement contains the entire contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Agreements by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County Executive Officer.
24. AMENDMENTS. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year dated below.

--Signature Pages Follow--

ORANGE COUNTY HOUSING FINANCE
TRUST

a California joint powers public entity formed
pursuant to California Government Code section
6500 *et. seq.*

By: _____
Adam Eliason
Housing Trust Manager

APPROVED AS FORM:

By: _____
Trust Counsel

EXHIBIT A

MHSA FUND GRANT PROJECT REQUIREMENTS

1. General Loan Program Requirements

- a. Trust will: (a) select the development(s) to receive loans from the Funds in accordance with Article 8, herein; (b) approve the location of the development(s); (c) determine the maximum amount of loan to be offered from the Funds for the development(s); (d) identify the number and size of Regulated Units (bedroom count) and their maximum rent (not to exceed 30% of 30% AMI); (e) if applicable, the number of COSR Assisted Units, the maximum COSR funding available, and the maximum COSR subsidy term for the COSR-Assisted Units; (f) determine any use or occupancy restrictions on the Regulated Units or unit sizes; (g) ensure that the Orange County Health Care Agency's tenant plan is in compliance with all local, state and federal fair housing laws; and (h) determine lien priority of the loan documents.
- b. Trust will underwrite each development proposal and recommend the maximum loan and, as applicable, minimum COSR's needed to subsidize all or a portion of the Regulated Units for a minimum. This will include preparation of a financial analysis to determine the anticipated COSR needed to subsidize the COSR-Assisted Units for the term requested by the Trust.
- c. Trust will coordinate with applicants to schedule a Concept Meeting with OC Community Resources and the Orange County Health Care Agency after receipt of a complete loan application. The Concept Meeting is held to provide an overview of the development proposal, including the eligible client supportive service needs, the experience of the property manager and primary service provider, and proximity to other resident service needs.
- d. Trust will coordinate the creation of the Regulatory Agreement, which shall: (a) identify the number, size (number of bedrooms), and use or occupancy restrictions of the regulated units; (b) specify the maximum rents for the regulated units; and (c) be recorded senior to the loan deed of trust.
- e. Trust will monitor the rehabilitation and construction of each development on a biennial basis.
- f. Trust may only use the funds in the Permanent Loan Conversion phase of the development and require borrower to submit all appropriate documentation to fund in during this phase. For purposes of this paragraph, "Permanent Loan Conversion" means the conversion of construction loans to permanent status and may include payment in full or part of the principal of a construction loan or the funding of additional loans upon completion of construction. Permanent Loan Conversion may be subject to additional due diligence requirements.
- g. Trust will provide the asset management services as follows:

- Review and approval of the following required borrower submittals: (a) evidence of property and liability insurance; (b) Regulated Unit rent rolls and proposed rent increases; (c) current local Housing Authority utility allowances by unit size;; (d) evidence of rental subsidies; (e) annual development audits showing actual rents and operating costs for the prior year; and (f) COSR draw requests (if applicable).
- h. Trust will hold, control and approve disbursements of development reserve accounts and COSR, as applicable.
 - i. Trust will perform periodic reviews regarding the adequacy, use, disbursements, and need for COSR on any given development, and annually provide the results of such reviews to the County.
 - j. Trust will perform inspections and/or monitor developments and prepare physical inspection reports biennially or more frequently as deemed necessary by the County. Inspections more frequent than on an biennial basis shall require written notice, as provided for in this Agreement.
 - k. Trust shall provide concurrently to County and the borrower of these funds any statutory notices of default under the loan documents.
 - l. Trust shall keep such books and records of the operation of the loans and the development(s), pursuant to common accounting principles, practices and state laws.
 - m. Trust shall not commingle the MHSA Grant Funds. Trust shall deposit accrued interest and principal payments on a loan funded with the MHSA Grant Funds in a separate fund and use such interest and payments consistent with Section 8 of this Agreement (“Grant Income”).

2. General Loan Terms and Conditions

The following additional requirements shall apply to all of the MHSA funded units:

- a. **Eligible applicants** include non-profit and for-profit organizations, joint ventures, or partnerships that serve the identified purpose of the NOFA.
- b. **Eligible Projects** are those which provide a minimum of five (5) new permanent rental homes with supportive services for extremely low- income individuals with a serious mental illness experiencing homelessness; these projects may result from new construction, acquisition or acquisition and rehabilitation. Conversion of commercial and light industrial use buildings to residential use may be eligible on a case-by-case basis as determined by HCD. Eligible projects may include occupancy restrictions, including preference or other restrictions, such as units for seniors, veterans, and/or transitional aged youth.
- c. **Population.** The population to be served shall include extremely low income (30% of Area Median Income for Orange County), homeless individuals who has a serious mental disorder as defined in WIC 5600.3, verified by a State Licensed Mental Healthcare Professional and has been deemed to meet the MHSA Housing Program eligibility (MHSA Certified) by Health Care Agency MHSA Housing Program staff.
- d. **Rent Restrictions.** Restricted rents for the MHSA funded units shall not exceed 30% of the HUD-published 30% Area Median Income (AMI) levels for Orange County, adjusted for designated household size (less a utility allowance unless included in the rent) with the tenants rent portion not to be more than 30% of their Social Security

- Income/Social Security Pension (SSI/SSP) or not more than 30% of their total gross household income (if additional income beyond SSI/SSP is received). If federally funded Project Based Vouchers are provided, the developer shall comply with the federal regulations for maximum rent and tenant rent portions.
- e. **Coordinated Entry System.** To the greatest extent feasible, the Developer shall utilize the local coordinated entry system to screen for eligible residents currently experiencing homelessness and with a documented serious mental disorder.
 - f. **Housing Unit General Requirements.** Housing units and building features must meet the needs of the MHSA tenants to be served at the development, including privacy, housing activities and community interaction. There shall be no requirement for non-related, single, adult tenants to share bedrooms. There shall be adequate number of bedrooms to accommodate the housing composition. Units are encouraged to have at least one-bedroom and be at least 450 square feet.
 - g. **Housing Unit Living Requirements.** Housing units must have an identifiable and private living area, sleeping area, full kitchen area and a full bathroom. The kitchen area shall at a minimum include a sink, full size refrigerator, cupboard space, counter area, microwave or oven, and a two burner stove or built-in cook top.
 - h. **Furnishings.** All units should be furnished with standard furnishings applicable to the unit type.
 - i. **Technology.** Developers are encouraged to provide units that are pre-wired for high technology and internet access.
 - j. **Common Space.** The building must include common space, such as a community room that can accommodate a variety of activities and where tenants can choose to interact with one another.
 - k. **Office Space.** The building must include a designated office space to provide services to MHSA tenants.
 - l. **Efficiency Requirements.** The design and operation of the Project shall incorporate features designed to increase efficiency and reduce ongoing expenses. The Project shall incorporate appropriate and feasible green design practices, such as the use of ENERGY STAR rated energy-efficient appliances and water-conserving fixtures and products. The Project must also utilize durable materials chosen to reduce future maintenance costs and renewable building supplies.
 - m. **Environmental Information.** Tenants shall be provided with information to assist them to participate in environmentally friendly practices such as energy and water conservation, recycling and use of non-toxic household products.

3. Required Operating, Replacement and Subsidy Reserves

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

- a. Capitalized operating expense reserve. At a minimum, capitalized operating expense reserve shall equal 25% of the first year's approved operating and reserve budget.
- b. Capitalized replacement reserve. For rehabilitation projects, capitalized replacement reserve shall be based on a physical needs assessment and/or one or more Building Inspection Reports and a Replacement Reserve Needs Analysis. New construction

- projects shall have a capitalized replacement reserve of at least \$500 per unit/annually for all units in a project, increasing by 5% every five years.
- c. Capitalized operating subsidy reserve. Capitalized operating subsidy reserve (“COSR”) shall be required for projects without rental assistance vouchers (or other rental subsidies) to subsidize operating costs for the MSHA Regulated Units. COSR’s must be funded to allow for operating cost subsidies for a minimum of 17 full years unless waived by HCD. The recommended maximum COSR limit is \$163,780 per assisted unit (with a suggested increase up to 4% per year).
 - d. Tenant Rent & Utility Reserve. Tenant rent and utility reserve (the “Reserve”) may be required by the Trust to be funded by the Developer by Certificate of Occupancy for the development. This Reserve is used to assist MSHA eligible clients with rent and utility payments while waiting to get approved for SSI/SSP and/or rental assistance. The Reserve should provide 2 to 3 years rental income for the MSHA-assisted units (assuming rents that include utilities at 30% of SSI/SSP). This Reserve is held by Borrower as a revolving fund and is intended to be replenished over time from tenant rent back payments once the tenants qualify for SSI/SSP.

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

4. Application and Loan Commitment Notes

Upon review of the borrower application and a decision to loan MSHA funds, the following will be determined by the Trust and set forth in a commitment letter: 1) the per regulated unit loan amount; 2) the percent of MSHA regulated units as it relates to the entire Project; 3) the size of the regulated units to best meet MSHA client needs (bedroom count); 4) any permissible occupancy preferences (adults; seniors; transition age youth); 5) the maximum COSR (if applicable) to carry the project through the first 17 years of operations; 6) whether Developer must fund a tenant rent reserve (for COSR assisted Projects only); 8) any permissible developer fees for non-tax credit transactions; and 9) permissible overlaying occupancy, rent or income restrictions from other financing or tax credit sources.

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

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

All units assisted with MSHA funding shall include supportive services provided by the Orange County Health Care Agency (HCA) as the lead service provider, or an HCA-contracted service provider. A supportive services plan means specific supportive services plan for a project,

developed by HCA MHSA Housing Program in partnership with the developer, supportive service provider(s), and the property manager. Primary supportive services shall be provided on site to meet the specific needs of the population to be served.

All MHSA funded loans shall require annual residual receipt payments in accordance with the promissory note, and a regulatory agreement with a minimum term of 20 years.

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

All MHSA funded projects where the provision of mental health services is to be provided by the Orange County Behavioral Health Department must be approved by the County Board of Supervisors prior to Trust project approval.

EXHIBIT B

GRANT REPORT FORMATS AND REQUIREMENTS

The following reporting formats should be utilized. Please obtain County approval prior to submitting a report in an alternative format.

PROGRESS REPORTS

Progress reports shall generally use the following format. This format may be modified as necessary to effectively communicate information. The report shall contain the following:

- (a) A description of program expenses and the use of the Grant funds.
- (b) A narrative summary of Trust activities including:
 - (1) Work undertaken or completed in the reporting period, including the number, type and size unit count of projects receiving the proceeds of Trust Funds.
 - (2) Activities planned to be undertaken in the next reporting period.
 - (3) Description of problems encountered in Trust program implementation; and a description of the solution and when it will be implemented.
 - (4) Description of how problems may impact the ability to complete or fulfill obligations under any applications or agreements for the receipt for Local Housing Trust Fund matching fund programs.
 - (5) Photo documentation, as appropriate.
- (c) Financial summary including:
 - (1) Amount of Trust funds (by Eligible Project and by activity type) available at the beginning of the reporting period, the amount drawn down to date, amount expended on Eligible Projects restricted to Extremely Low-Income households, amount expended on Eligible Projects restricted to Moderate-Income households, and the remaining balance.
 - (2) Documentation of matching funds received from the State, including the amount by source, expended on each Eligible Project during the reporting period.
 - (3) If requested by the County, the Trust shall obtain a report from a qualified, licensed third party that certifies to the amounts of disbursement and identifies the specific Eligible Projects for which the disbursements were made.
 - (4) "Eligible Project" shall have the same meaning as "Eligible Project" as defined in 25 CCR § 7151, subdivision (e), and any subsequent guidelines issued by the Department of Housing and Community Development regarding the Local Housing Trust Fund programs.

ADDITIONAL REPORTING REQUIREMENTS FOR MHSA GRANT: To the extent not included above, the Trust shall include the following information as it relates to the MHSA Grant:

- (a) the costs associated with the loans and development(s),
- (b) the amount of funds held by Trust at the beginning of the reporting term;
- (c) the amount of funds received from loan repayments or unused COSR deposits to the MHSA fund maintained by the Trust;
- (d) the amount of interest earned on the funds in the MHSA fund maintained by the Trust by date posted;
- (e) the amount in the MHSA fund maintained by the Trust at the end of the reporting term; and
- (f) a report on the total amount of committed and uncommitted funds in the MHSA fund maintained by the Trust by development.

GRANT COMPLETION REPORT

The Grant Completion Report shall generally use the following format. This format may be modified as necessary to effectively communicate information on the activities funded by this Agreement, and includes the following:

Executive Summary

Reports and/or products

- Summary of the work completed.
- An estimate of the population of eligible individuals served by the project.
- A summary of the clients who received services through the use of the Grant amounts.
- A description of the housing facilities used to provide housing for eligible individuals.

Cost & Disposition of Funds Information

- A summary of final funds disbursement for the project.

EXHIBIT C

AUDIT DOCUMENT REQUIREMENTS

Audit Document Requirements

The list below details the documents/records that County Auditors may review in the event the Agreement being audited. The Grantee should ensure that such records are maintained.

Internal Controls:

1. Organization chart (e.g., Grantee's overall organization chart and organization chart for this Agreement's funded project).
2. Written internal procedures and flowcharts for the following:
 - a) Receipts and deposits
 - b) Disbursements
 - c) Guidelines, policy(ies), and procedures on the Grant funded program.
3. Audit reports of the Grantee's internal control structure and/or financial statements within the last two years.

Agreements:

1. All subcontractor and consultant contracts and related agreements, if applicable.
2. Agreements between the Grantee, and project partners as related to the County funded Program/Project.

Invoices:

1. Invoices from vendors and subcontractors for expenditures under the Agreement, if applicable.
2. Documentation linking subcontractor invoices to the Agreement, as applicable.

Cash Documents (as applicable):

1. Receipts (copies of warrants) showing payments received from the County.
2. Deposit slips or bank statements showing deposit of the payments received from the County.
3. Cancelled checks or disbursement documents showing payments made to vendors, subcontractors, consultants, and/or agents under the Agreement.

Accounting Records:

1. Ledgers showing receipts and cash disbursement entries of County funding.
2. Ledgers showing receipts and cash disbursement entries of other funding sources.
3. Bridging documents that tie the general ledger to the expenditure of the Grant amounts.

Administration Costs:

1. Supporting documents showing the calculation of administration costs.

Personnel:

1. List of all contractors and Grantee staff that worked on the County funded program.
2. Payroll records including timesheets for Grantee and contractor staff.

Project Files:

1. All supporting documentation maintained in the Grant funded program files.
2. All Agreement related correspondence.

**GRANT AGREEMENT BETWEEN THE COUNTY OF ORANGE AND
THE ORANGE COUNTY HOUSING FINANCE TRUST FOR THE PROVISION OF
ADMINISTRATIVE COSTS**

This Grant Agreement (the “**Agreement**”) entered into as of _____, 2020 is made by and between the County of Orange, a political subdivision of the State of California (the “**County**”) and the Orange County Housing Finance Trust, a California joint powers public entity formed pursuant to California Government Code section 6500 *et. seq.* (the “**Trust**” or “**Grantee**”), with the County and Trust sometimes referred to as “**Party**,” or collectively as “**Parties**.”

WHEREAS, the Trust was created pursuant to California Government Code section 6539.5 for the purpose of: (1) funding the planning and construction of housing of all types and tenures for the homeless population and persons and families of extremely low, very low, and low income, as defined in Section 50093 of the Health and Safety Code, including, but not limited to, permanent supportive housing; and (2) receiving public and private financing and funds; and

WHEREAS, the County approved and executed the Joint Exercise of Powers Agreement for the Trust, and became a member of the Trust, on or about March 12, 2019; and

WHEREAS, the Joint Exercise of Powers Agreement required the County to pay for the Trust’s administrative costs for the year following its creation and thereafter requires other Parties to the Trust to make annual contributions towards budgeted administrative costs pursuant to a cost allocation formula adopted by the Board of Directors; and

WHEREAS, the Board of Directors adopted a cost allocation formula (“**Formula**”) on January 15, 2020 under which City members pay five ninths (5/9ths) of the administrative costs (“**City Contribution**”) and the County contributing four ninths (4/9ths) of the total administrative costs (“**County Contribution**”); and

WHEREAS, the City Contribution actual amount is subject to change based on the Trust’s receipt of outside funding towards administrative costs; and

WHEREAS, in its effort to support the Trust’s efforts toward the development of affordable housing in Orange County, the County has agreed to a set County Contribution amount for the next five fiscal years regardless of any receipt of outside funding toward administrative costs by the Trust.

NOW, THEREFORE, the Parties mutually agree as follows:

1. COUNTY ADMINISTRATIVE COSTS GRANT. The County hereby grants the Trust the following Grant amount:
 - a. \$1,000,000 towards the Trust’s administrative costs (“**Administrative Costs Grant**”).
2. DISBURSEMENT OF COUNTY ADMINISTRATIVE COSTS GRANT. The County shall transfer the grant amount set forth in Section 1.a., above, to the Trust as follows:

- a. By July 15, 2020: \$200,000; and
 - b. On July 15, 2021, and annually on July 15th of each subsequent year, with the last payment being made on July 15, 2024, until the total Administrative Costs Grant amount is exhausted: \$200,000.
3. TERM OF GRANT AGREEMENT. The term of this Agreement begins on the date when fully executed by the parties, and terminates on July 31, 2025.
 4. TERMINATION. In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Agreement without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Grantee. Exercise by County of its right to terminate the Agreement shall relieve County of all further obligation. The Grantee shall return all unexpended funds remaining of the Grant amounts within (30) thirty days of the date of termination of this Agreement under this Paragraph 4.
 5. ELIGIBLE COSTS. The Grantee shall utilize the Administrative Costs Grant amounts toward the Trust's administrative costs, including any expenses incurred by the Trust in planning, organizing, and managing the Trust.
 6. SUBMISSION OF REPORTS. The submittal and approval of all reports is a requirement for the successful completion of this Agreement. Reports shall meet generally accepted professional standards for technical reporting and shall be proofread for content, numerical accuracy, spelling, and grammar prior to submittal to the County. All reports shall be submitted to the County's Director of OC Community Resources. Reports shall be presented in the formats described in the applicable portion of **Exhibit A**.
 - 1) Progress Reports: The Grantee shall submit progress reports on an annual basis no later than July 31 of each year. The progress reports shall be sent to the County's Director of OC Community Resources. The progress reports shall provide a schedule of monthly and year to date expenses that are chargeable against the Administrative Costs Grant and contain all of the information required under 25 CCR § 7160.
 - 2) Grant Completion Report: The Grantee shall prepare and submit to the County a grant projects completion report ("**Grant Completion Report**") upon the earlier of (a) ninety (90) calendar days of the termination of this Agreement or (b) the exhaustion of the Grant amounts. The Grant Completion Report shall include, in part, a summary of the expenses that were charged against the County Administrative Costs Grant, all of the information required under 25 CCR § 7160, and a summary spreadsheet listing Eligible Projects assisted during the reporting period by unit, including the project name, type of housing, number of units, income levels restricted in each unit, bedroom count of each unit, and amount of Trust Funds expended per unit.

7. GRANT RECORDS. The Grantee is required to maintain all financial records associated with the expenditure of the Administrative Cost Grant in accordance with **Exhibit B** Audit Document Requirements. These records shall be stored in Orange County for a period of three (3) years after the termination of this Agreement.
8. AUDITS. At any time during Grantee's business hours and upon reasonable notice by the County, the Grantee shall allow County staff or contractors to evaluate, audit, inspect and monitor its program operations, and records maintained in connection with this Agreement. The inspection methods that may be used include:
 - 1) On-site visits
 - 2) Interviews of Grantee's staff and program participants
 - 3) Review, examination or audit of case files/records, receipts, client/user complaints, monthly/quarterly reports, and fiscal records including employee timesheets
 - 4) Inspection of Grantee's internal monitoring and evaluation system

With respect to inspection of Grantee's records, the County may require that Grantee provide supporting documentation to substantiate Grantee expenses with respect to the Grantee's use or expenditure of the Grant amounts.

9. INDEPENDENT CONTRACTOR. The Grantee shall be considered an independent contractor and neither the Grantee, its employees, nor anyone working under the Grantee shall be considered an agent or an employee of County. Neither the Grantee, its employees nor anyone working under the Grantee shall qualify for workers' compensation or other fringe benefits of any kind through County.
10. CONTINGENCY OF FUNDS: Trust acknowledges that funding or portions of funding for this Agreement may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Agreement. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Agreement without penalty.
11. BREACH OF CONTRACT:
 - a. Breach by the Trust. The failure of the Trust to comply with any of the provisions, covenants or conditions of this Agreement shall be a material breach of this Agreement. In such event the County may, and in addition to any other remedies specified in this Agreement:
 - i. Terminate the Agreement immediately, pursuant to Section 4 herein;

- ii. Afford the Grantee written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Agreement within which to cure the breach;
- iii. Discontinue payment to the Grantee for and during the period in which the Grantee is in breach; and
- iv. Offset against any monies billed by the Grantee but yet unpaid by the County those monies disallowed pursuant to the above.

b. Breach by the County. The failure of the County to comply with any of the provisions, covenants or conditions of this Agreement shall be a material breach of this Agreement. In such event the Trust may, and in addition to any other remedies specified in this Agreement:

- i. Afford the County written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Agreement within which to cure the breach.

Parties agree that failure of the Board of Supervisors to approve, fund or appropriate as provided in Section 10 herein shall not constitute a breach of contract under this Agreement.

12. REMEDIES NOT EXCLUSIVE: The remedies for breach set forth in this Agreement are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Agreement does not preclude resort by either party to any other remedies provided by law.

13. INDEMNITY. The Grantee agrees to indemnify, defend with counsel approved in writing by County, and hold County, 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 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 Grantee's receipt of the Grant amounts or performance under this Agreement.

14. CONFLICT OF INTEREST – TRUST PERSONNEL. The Grantee shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Grantee; the Grantee's employees, agents, and subcontractors associated with accomplishing work and services hereunder. The Grantee's efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.

15. CONFLICT OF INTEREST – COUNTY PERSONNEL. The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Grantee shall not, during the period of this Agreement, employ any County employee for any purpose.

16. NOTICES. Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to parties' contacts identified under this Paragraph 17. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

Trust:

Orange County Housing Finance Trust
Attn: Housing Trust Manager
1501 E. St. Andrew Place, 1st Floor
Santa Ana, CA 92705

County:

Orange County Community Resources
Attn: Director, Housing & Community Development
1501 E. St. Andrew Place, 1st Floor
Santa Ana, CA 92705

17. ATTORNEY FEES. In any action or proceeding to enforce or interpret any provision of this Agreement, each party shall bear their own attorney's fees, costs and expenses.

18. ENTIRE CONTRACT: This Agreement contains the entire contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Agreements by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County Executive Officer.

19. AMENDMENTS. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year dated below.

--Signature Pages Follow--

ORANGE COUNTY HOUSING FINANCE
TRUST

a California joint powers public entity formed
pursuant to California Government Code section
6500 *et. seq.*

By: _____

Adam Eliason
Housing Trust Manager

APPROVED AS FORM:

By: _____

Trust Counsel

EXHIBIT A

REPORT FORMATS AND REQUIREMENTS

The following reporting formats should be utilized. Please obtain County approval prior to submitting a report in an alternative format.

PROGRESS REPORTS

Progress reports shall generally use the following format. This format may be modified as necessary to effectively communicate information. The report shall contain the following:

- (a) A description of program expenses and the use the Grant amounts.
- (b) A narrative summary of Trust activities including:
 - (1) Work undertaken or completed in the reporting period, including the number, type and size unit count of projects receiving the proceeds of Trust Funds.
 - (2) Activities planned to be undertaken in the next reporting period.
 - (3) Description of problems encountered in Trust program implementation; and a description of the solution and when it will be implemented.
 - (4) Description of how problems may impact the ability to complete or fulfill obligations under any applications or agreements for the receipt for Local Housing Trust Fund matching fund programs.
 - (5) Photo documentation, as appropriate.
- (c) Financial summary including:
 - (1) Amount of Trust funds (by Eligible Project and by activity type) available at the beginning of the reporting period, the amount drawn down to date, amount expended on Eligible Projects restricted to Extremely Low-Income households, amount expended on Eligible Projects restricted to Moderate-Income households, and the remaining balance.
 - (2) Documentation of matching funds received from the State, including the amount by source, expended on each Eligible Project during the reporting period.
 - (3) If requested by the County, the Trust shall obtain a report from a qualified, licensed third party that certifies to the amounts of disbursement and identifies the specific Eligible Projects for which the disbursements were made.
 - (4) "Eligible Project" shall have the same meaning as "Eligible Project" as defined in 25 CCR § 7151, subdivision (e), and any subsequent guidelines issued by the Department of Housing and Community Development regarding the Local Housing Trust Fund programs.

GRANT COMPLETION REPORT

The Grant Completion Report shall generally use the following format. This format may be modified as necessary to effectively communicate information on the activities funded by this Agreement, and includes the following:

Executive Summary

Reports and/or products

- A summary of the work completed.
- The information specified above with respect to Progress Reports.
- An estimate of the population of eligible individuals served by the project.

- A summary of the clients who received services through the use of the Grant amounts.
- A description of the housing facilities used to provide housing for eligible individuals.

Cost & Disposition of Funds Information

- A summary of final funds disbursement for the project.

EXHIBIT B

AUDIT DOCUMENT REQUIREMENTS

Audit Document Requirements

The list below details the documents/records that County Auditors may review in the event the Agreement is audited. The Grantee should ensure that such records are maintained.

Internal Controls:

1. Organization chart (e.g., Grantee's overall organization chart and organization chart for this Agreement's funded project).
2. Written internal procedures and flowcharts for the following:
 - a) Receipts and deposits
 - b) Disbursements
 - c) Guidelines, policy(ies), and procedures on the Grant funded program.
3. Audit reports of the Grantee's internal control structure and/or financial statements within the last two years.

Agreements:

1. All subcontractor and consultant contracts and related agreements, if applicable.
2. Agreements between the Grantee, and project partners as related to the County funded Program/Project.

Invoices:

1. Invoices from vendors and subcontractors for expenditures under the Agreement, if applicable.
2. Documentation linking subcontractor invoices to the Agreement, as applicable.

Cash Documents (as applicable):

1. Receipts (copies of warrants) showing payments received from the County.
2. Deposit slips or bank statements showing deposit of the payments received from the County.
3. Cancelled checks or disbursement documents showing payments made to vendors, subcontractors, consultants, and/or agents under the Agreement.

Accounting Records:

1. Ledgers showing receipts and cash disbursement entries of County funding.
2. Ledgers showing receipts and cash disbursement entries of other funding sources.
3. Bridging documents that tie the general ledger to the expenditure of the Grant amounts.

Administration Costs:

1. Supporting documents showing the calculation of administration costs.

Personnel:

1. List of all contractors and Grantee staff that worked on the County funded program.
2. Payroll records including timesheets for Grantee and contractor staff.

Project Files:

1. All supporting documentation maintained in the Grant funded program files.
2. All Agreement related correspondence.

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (OCHFT) BOARD ACTION

MEETING DATE: May 6, 2020

SUBJECT: Approve Memorandum of Understanding (MOU) with the County for administrative services to the Orange County Housing Finance Trust (not to exceed \$165,550); authorize Trust Manager to execute and make non-monetary changes to the MOU without further Board approval; and direct the Trust Treasurer and Auditor-Controller to file bonds (not to exceed \$15,000).



Adam B. Eliason, Manager

RECOMMENDED ACTION:

1. APPROVE MEMORANDUM OF UNDERSTANDING (MOU) WITH THE COUNTY OF ORANGE FOR ADMINISTRATIVE SERVICES TO THE ORANGE COUNTY HOUSING FINANCE TRUST (NOT TO EXCEED \$165,550); AND AUTHORIZE TRUST MANAGER EXECUTE AND MAKE MINISTERIAL NON-MONETARY CHANGES TO THE MOU WITHOUT FURTHER BOARD APPROVAL.
2. DIRECT THE TRUST TREASURER AND TRUST AUDITOR-CONTROLLER TO FILE BONDS (NOT TO EXCEED \$15,000).

BACKGROUND:

Under the powers conferred by the Joint Powers Agreement (the "Agreement"), approved March 12, 2019, the Board of Directors may contract with any party to provide the necessary administrative services to the Orange County Housing Finance Trust (the "Trust").

As established in the initial Memorandum of Understanding (MOU) approved retroactively on October 29, 2019, the County of Orange (the "County") provides and pays for administrative services during the Trust's first year. Effective July 1, 2020, the County Trust will no longer be required to pay for all costs for administrative services. Pursuant to Section 7(c)(1) of the Agreement, Member contributions will pay for costs incurred for the Trust with the County paying 4/9th and Member Cities paying 5/9th of the annual Trust administrative expenses after

any grant or donated funds approved for administrative expenses, or other Trust reserve funds approved by the Board have been deducted.

In order to set up for a smooth transition for the Trust's second year, it is recommended that the County continue to provide certain administrative services that would be reimbursed by the Trust. Attachment A is a Memorandum of Understanding between the County of Orange and the Orange County Housing Finance Trust for the Provision of Services. Included in the MOU is a Scope of Services for the Agencies/Departments within the County of Orange that Trust staff recommends the Trust continue to contract with for those services. Agencies/Departments include:

1. Auditor/Controller
2. Treasurer-Tax Collector
3. County Counsel
4. Clerk of the Board of Supervisors
5. OC Sheriff Department
6. Orange County Community Resources

It is further recommended that the Trust outsource or pursue other alternatives for additional services not included in the County MOU. The recommended services for the Trust to outsource, or to pursue other alternatives include:

1. Trust Administrative Services
2. Publishing Services
3. Website and Other Information Technology Services
4. Mailing Services
5. Parking Services
6. Lobbying Services
7. Marketing Services
8. NOFA Application Underwriting Services and Escrow Services.

At the October 29, 2020 meeting, the Board appointed Director Freidenrich as \ Treasurer and Frank Davies as Auditor-Controller for the Trust and directed both parties to file an official bond if their existing bonds are not extended to cover their obligations to the Trust. Staff has been informed that the existing bonds do not extend to cover obligations to the Trust. Pursuant to the Joint Powers Agreement, the Board of Directors must set the amount of the Trust. Staff recommends that the bond amount be set at \$15,000.

Staff recommends approval of this agenda item.

ATTACHMENT

Attachment A - Memorandum of Understanding Between the County of Orange and the Orange County Housing Finance Trust for the Provision of Services

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF ORANGE AND
THE
ORANGE COUNTY HOUSING FINANCE TRUST
FOR THE PROVISION OF SERVICES**

This Memorandum of Understanding (MOU) is entered into on _____ between the County of Orange ("County"), a political subdivision of the State of California, and the Orange County Housing Finance Trust (the "Trust"), a California public agency formed pursuant to California Government Code section 6500 *et. seq.*

RECITALS

WHEREAS, the Trust requests that the County, through certain County departments, provide the Trust certain services as specified in this MOU; and

WHEREAS, County is willing and able to provide said services to the Trust and the Trust agrees to pay County for said services; and

WHEREAS, the services which the County will provide to the Trust will be at a rate that shall not exceed the costs of providing same or similar services to County departments; and

WHEREAS, the County and the Trust desire to set forth certain policies, procedures, and provisions of such County services.

NOW, THEREFORE, County and the Trust agree as follows:

I. PURPOSE

This MOU, including Attachments A through F, outlines the understanding between County and the Trust related to the provision of certain services ("Services") by County to the Trust.

II. TERM

This MOU for Services (as described in Section III.) provided by County to the Trust ("Parties" collectively) will commence on July 1, 2020. The MOU shall remain in full effect until termination as provided herein.

III. SERVICES PROVIDED BY COUNTY

The Trust requests County to perform the following Services in the same manner as for County departments except as the Trust otherwise approves:

- A. Auditor-Controller Attachment A

B.	Treasurer.....	Attachment B
C.	County Counsel	Attachment C
D.	Clerk of the Board	Attachment D
E.	OC Sherriff	Attachment E
F.	OC Community Resources.....	Attachment F

County shall provide the Services at the levels specified and defined in Attachments A through F County shall allocate the resources and perform the duties, and fulfill the responsibilities set forth in Attachments A through F The provision of Services under this MOU shall be under the administrative supervision and direction of the Trust Executive Director on behalf of the Trust and the County Executive Officer on behalf of County.

IV. RECORDS

All records generated by or as a result of this MOU shall become and remain the property of County; provided that the Trust shall be entitled to obtain copies of such records at the same rates as those charged to County departments and special districts.

V. COMPENSATION FOR SERVICES

Where applicable, the County will provide the Trust the estimated annual cost of providing the Services described in Attachments A through F In an amount not to exceed \$165,550 annually.

The County will provide this information to the Trust on or before March 31 of each year for the next fiscal year. The rates charged to the Trust for such Services provided shall be the same rates as those charged to County departments and special districts for the same or similar Services, and shall be subject to adjustment annually at the sole and exclusive discretion of the County. The Trust agrees to compensate County at such rates in consideration for the Services provided by the County. Failure to provide the estimated annual cost to the Trust shall not constitute a waiver by the County to increase its rates in the following fiscal year; provided that, and despite anything to the contrary, (1) no such increase shall be effective until and unless the Trust receives written notice of such increase at least one hundred twenty (120) days before the effective date of the increase, and (2), within thirty (30) days after receipt of such notice of increase in rates, the Trust may terminate this MOU upon ninety (90) days written notice to County . The termination provision in this section applies only to rate increases subsequent to the start of the Trust fiscal year.

VI. PAYMENT

The County will bill OCHFT for services provided by the County by issuing an invoice. Once the invoice is approved by OCHFT within 5 business days after the 15th day following the month of Services rendered to record payment; the County will collect payment via Journal Voucher. County failure to follow the deadlines specified above shall not constitute a waiver of the County's right to issue an invoice and receive payment from the Trust for Services rendered under this MOU. All journal vouchers for Services provided as part of this MOU shall be posted to the Trust Fund Number 163.

The Parties agree to act in good faith and to use their best efforts to resolve all questions

regarding invoices within thirty (30) days following either Party's notification to the other Party that there is dispute regarding an invoice and identifying the invoice and the basis of the dispute. Disputes shall be resolved using the dispute resolution process set forth in this MOU.

Enhanced routine backup documentation beyond that customarily submitted to County departments and special districts will be provided by mutual consent of the County and Trust, at a reasonable cost to Trust. However, nothing in the above shall limit the Trust's right to request and receive from the County, additional supporting information from a Service department for billings which contain significant, unexplained anomalies that are inconsistent with the annual usage and expected cost plan for that given Service. Any such additional information required shall be provided at a reasonable cost to Trust. Trust and County shall agree upon appropriate audit procedures and testing should any Service become the subject of an audit.

The Trust will receive an invoice for any Service not included in this MOU at the same rate that County departments or special districts are billed for the same Service.

VII. CHANGES, EXTRA WORK, AMENDMENTS

Neither Party shall make changes to this MOU without the other Party's written consent. Such changes shall be incorporated into an amendment to be signed by both Parties before becoming effective. Such an amendment may be authorized by the County Executive Officer or designee and the Trust if the changes are merely ministerial, but will be subject to approval by the County Board of Supervisors and the Trust Board of Directors if material changes are involved.

VIII. TERMINATION

Except as provided herein or as may otherwise be provided by law, either Party may terminate this MOU or the provision of all or any of the Services under it by giving notice to the other Party in the manner specified in this Section. Written notice shall be given at least ninety (90) days prior to the end of the fiscal year and shall become effective only upon the first day of the succeeding fiscal year. After receipt of a Notice of Termination, and except as otherwise agreed:

- A. The County shall no longer be obligated to perform the Services required of it under this MOU on the date specified and to the extent specified in the Notice of Termination even if Trust should thereafter request that said Services be performed under this MOU.
- B. Upon termination, Trust agrees to pay County in accordance with this MOU for all Services performed to the date of termination, as well as Services rendered during any transition to a new Service provider.
- C. It is understood and agreed that change in membership of the Trust's Board of Directors or a member of the County's Board of Supervisors during the term of this MOU shall not affect the enforceability or cause the termination of this MOU.

The above termination provision does not apply to those Services in which the County is otherwise required to provide under Business and Professions Code Section 6361.

IX. DELEGATION, ASSIGNMENT AND SUBCONTRACTING

Neither Party may delegate performance of its obligations hereunder, either in whole or in part, without the prior written consent of the other Party provided; however, that obligations undertaken by County pursuant to this MOU may be carried out by means of subcontracts which meet the requirements of this MOU as they relate to the Service or activity under subcontract subject to the written consent of the Trust which shall not be unreasonably withheld or delayed. No subcontract shall terminate or alter the responsibilities of either Party pursuant to this MOU. Trust may not assign its rights hereunder, either in whole or in part, without prior written consent of the County.

X. INDEMNIFICATION

- A. Pursuant to Government Code section 895.4, the Parties hereby waive the pro rata (per capita) risk allocation provided by Government Code section 895.6.
- B. Each Party (referred to herein in such capacity as Indemnitor) shall defend, indemnify, and hold the other Party, and its officers, board members, employees, representatives, and agents (as indemnitees) harmless, to the maximum extent permitted by law, from all claims, damages, expenses, or liabilities, including attorney fees and costs, that arise out of the performance by Indemnitor of its duties or obligations under this MOU, or the performance of Indemnitor's officers, board members, employees, representatives, or agents under this MOU, or out of the negligence or willful misconduct of Indemnitor, or of Indemnitor's officers, board members, employees, representatives, or agents, under this MOU.

XI. INDEPENDENT CONTRACTOR

County shall perform this MOU as an independent contractor, exercising due care and shall provide the Services with such skill as is customarily employed by providers of such Services. County and the officers, agents and employees of County are not, and shall not be deemed, Trust employees for any purpose, including workers' compensation and shall not be entitled to any of the benefits accorded to Trust employees, if any. County shall determine, at its own risk and expense, the method and manner by which the duties imposed on County in general by this MOU shall be performed. Trust shall not deduct or withhold any amounts whatsoever from the reimbursement paid to County, including, but not limited to amounts required to be withheld for state and federal taxes or employee benefits. County alone shall be responsible for all such payments.

XII. NOTICES

Where required to be given under this MOU, notice shall be in writing and deemed given when delivered personally or deposited in the United States mail, postage prepaid, certified, addressed as follows:

County's address: County of Orange
County Executive Office/Budget 333
West Santa Ana Boulevard Santa Ana,
CA 92701

Trust's address: Orange County Housing Finance Trust
Housing Trust Manager
P.O. Box 1452
Chino Hills, CA 91709

XIII. ENTIRE AGREEMENT

This MOU contains the entire and complete understanding of the Parties with respect to the provision of services as specified and defined in Attachments A through F of this MOU.

XIV. COMPLIANCE WITH LAW

Notwithstanding anything to the contrary contained in this MOU, the Parties agree that no provision of this MOU shall require any Party to violate any applicable statute, rule of law or regulation.

XV. DISPUTE RESOLUTION

Whenever County and Trust disagree as to any matter governed by this MOU, the dispute resolution process set forth discussed in this Section shall govern. Until the dispute is resolved, County shall continue to provide the Services and Trust shall continue to make payment for the non-disputed portion of each invoice.

If after thirty (30) days, Trust and County cannot resolve any dispute, either Party may give the other Party a written request for a meeting between the Trust Manager and the County Executive Officer for the purpose of resolving a disagreement between the Parties. If such meeting is requested, the meeting shall be held within ten (10) business days of the receipt of such request.

If after the meeting between the Trust Manager and the County Executive Officer the dispute between the Parties is not resolved, the dispute shall be submitted to non-binding mediation in the City of Santa Ana, California, pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The Parties shall equally share the cost of mediation. If a dispute between the Parties regarding the interpretation or performance of this MOU is not resolved by non-binding mediation, either Party may bring legal action to interpret or enforce this MOU.

XVI. CONFIDENTIAL INFORMATION

Each Party may disclose the other Party's Confidential Information on a "need to know" basis to its own employees that are working on a project, or its own employees who are involved in the Services under this MOU. Additionally, each Party may disclose the Confidential Information, to the extent necessary to (i) comply with any applicable law, rule, regulation, or ruling; (ii) respond to any enforceable summons, subpoena, or request for public records; or (iii) enforce its rights under this MOU, provided that Party shall give advance written notification to the other Party that such disclosure is being made.

XVII. NEGOTIATED INSTRUMENT

This MOU was negotiated at arms-length between the Trust and County, and neither Party

"prepared" this MOU for purposes of California Civil Code §1654. Any ambiguity will not be construed against the drafter, but rather the terms and provisions will be given a reasonable interpretation.

XVIII. APPROPRIATION/CONTINGENCY OF FUNDS

All obligations of the County herein are subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the term of this MOU.

XIX. RESERVATION OF RIGHTS

Each party reserves all rights and remedies arising under other contracts, if any, and/or under the law, including, without limitation, obligations imposed by statute, and/or obligations arising by reason of the application of principles of equitable and/or promissory estoppel. Nothing in this MOU releases or relieves either party from any obligation otherwise imposed by contract and/or law.

XX. AUTHORIZED SIGNATURES

Both Parties to this agreement represent that the signatories executing this document are fully authorized to enter into this MOU.

--Signatures Follow on Next Page --

County of Orange

Frank Kim
County Executive Officer

APPROVED AS TO FORM
COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By _____
Deputy

Dated _____

**Orange County
Housing Finance Trust**

Adam B. Eliason
Manager

**APPROVED AS TO FORM
TRUST COUNSEL**

By _____


Dated _____
4/29/2020

AUDITOR-CONTROLLER

I. SCOPE OF SERVICES

The services described below to be provided to the Trust by the County of Orange Auditor-Controller are intended to be the same type of services as provided to County departments and agencies as of July 1, 2020. Additional services are not included and will be charged to TRUST in accordance with Subparagraph IV.

A. Claims and Disbursing Services

The County of Orange Auditor-Controller shall serve as the Auditor-Controller for TRUST with respect to auditing and payment of claims. Any late fees or interest resulting from untimely transmittal documentation from the TRUST will be the responsibility of the TRUST. Normal vendor claims and trust payments will be paid for TRUST by the OCCR Accounting Section of the Auditor-Controller in accordance with their normal procedures for auditing and allowing claims for OCCR. TRUST shall use the CAPS+ Finance and Purchasing System to process and authorize purchase order contracts in a manner consistent with the County's decentralized purchasing program. For other contracts, TRUST shall generally comply with the County's Contract Policy Manual. Where Board of Directors approval is required for contracts, TRUST shall submit such contracts for Board approval, since the Board of Directors is the governing body of TRUST. Items that would normally require County department head approval will be approved by the Executive Director of TRUST. TRUST shall continue to process employee reimbursement claims in a manner consistent with the County's existing procedures.

B. Check Writing Services

The Check Writing Unit will process payments and release/mail checks for payment of accounts payable and trust payments for TRUST, including follow-up and processing of checks returned due to bad addresses or other reasons.

C. General Accounting Services

The General Accounting Section will include services provided by the OCCR Accounting Unit, including maintenance of accounting records for TRUST's expenditures, encumbrances, revenues, and balance sheet accounts through the accounting system, approve and/or input of transactions affecting TRUST's financial records to the accounting system, and provision of standard reports and on-line reports as normally provided to other County departments and agencies through the CAPS+ Finance and Purchasing System. The Trust shall timely

issue 1099 Forms and report 1099 information to the IRS and Franchise Tax Board for reportable payments. Any additional reports or system modifications required by TRUST will be charged at incremental cost, including system and labor costs in accordance with Subparagraph VI.

D. Cost, Revenue, and Budget Services

The Cost, Revenue, and Budget Unit of the Auditor-Controller will include TRUST’s annual budget in the County’s Adopted Budget and ensure that TRUST’s budget is balanced, in the same manner as services provided to County departments and agencies.

E. Financial Reporting

The Financial Reporting and Mandated Costs Unit of the Auditor-Controller prepares the County’s Comprehensive Annual Financial Report (CAFR) and Single Audit Report. Since TRUST is a private purpose trust fund within the County’s fund structure, it will be included in the County’s CAFR and Single Audit Reports in accordance with standards issued by the Governmental Accounting Standards Board, and will be charged a share of the cost of preparing and auditing those reports, which includes the cost of Financial Reporting staff and the cost of the contracted outside audit firm.

F. Information Technology

The Information Technology Section maintains CAPS+ in support of services identified in the preceding Subparagraphs A. through E This includes all of the CAPS+ Finance and Purchasing System and the Performance Budgeting System (PB), but excludes the CAPS+ HR and Payroll System since TRUST employees are not County employees and are not utilizing County payroll and personnel systems.

II. COST OF SERVICES

The estimated annual cost of each service to be provided to TRUST by the County Auditor-Controller is not to exceed \$13,193 and is as detailed in Subparagraph II as follows:

<u>Service Description</u>	<u>Estimated Annual Cost</u>
OCCR Accounting Services	\$5,000.00
Indirect (13.86% of \$5,000)	693.00
Auditor Controller Bond	<u>\$7,500.00</u>
TOTAL	\$13,193.00

These amounts are estimates only. All costs billed will be based on actual costs incurred by OCCR Accounting.

Indirect costs shall include the allocated administrative charges and the proportionate share of the Countywide Cost Allocation Plan (CWCAP), approved by the State, for the prior fiscal year. For example, the FY 2020-21 billing will be based on the FY

2019-20 CWCAP using FY 2017-18 costs.

In the event the MOU is terminated, the COUNTY will compute a final adjustment within one year from which services are last received from the County. The adjustment is needed to reflect the actual costs of services provided since the CWCAP costs are two (2) years in arrears. This adjustment will be invoiced or refunded to TRUST as applicable. If an audit or review identifies that a transaction would result in an adjustment to TRUST, then the adjustment should be provided to TRUST regardless of the number of days after which the services were received from the County.

Although the annual costs provided are estimates, in the event the actuals costs projected or incurred exceed the estimates, the Trust shall be notified.

On or before February 15 of the current fiscal year, written notice of the estimated annual cost shall be given to TRUST for the following fiscal year.

III. PAYMENT PROCESS

Payment for Auditor-Controller services shall be made via journal voucher charging the same rate that county departments or special districts are charged for the same service for the total amount specified in Subparagraph II.

IV. ADDITIONAL ACCOUNTING ASSISTANCE

A. If TRUST requests additional professional accounting assistance from the Auditor-Controller over and above the standard accounting systems and procedures training and accounting systems orientation support provided to County departments and agencies, TRUST shall pay for the total additional time at an hourly rate calculated based on the current year's rates published in the CEO Budget Policy and Instruction Manual. For example, the rate of \$108.16 per hour for FY 2020-21 billing will be based on the FY 2020-21 CEO Budget Policy and Instruction Manual. The billing will be performed at the completion of such additional services.

B. If TRUST requests additional accounting or budgetary reports from the Auditor-Controller in addition to the standard reports provided to all County departments and agencies, the costs of such additional reports will be charged to TRUST at the actual cost of designing, programming, preparing, producing, and distributing such additional reports, including all related systems costs.

TREASURER-TAX COLLECTOR

I. SCOPE OF SERVICES

The Services described below are intended to be the same type of Services as provided to the Trust prior to this agreement. If the Trust requests additional Services, costs for those Services will be charged to the Trust in accordance with the MOU.

I. Banking Services:

- A. Bank relationship management
- B. Cash management services

II. Investment Services including investment of all monies on deposit with the Treasurer in accordance with the current Orange County Treasurer Investment Policy Statement

III. Fund accounting and bank reconciliation Services

The Services to the Trust will continue to automatically renew on its anniversary date until the parties agree to any modification or changes to this MOU or until termination as provided in the MOU.

II. COST OF SERVICES

Cost of Services is not to exceed \$7,800 and is determined by two methodologies:

- A. Pass-through of actual costs charged by processors for credit card fees, debit card fees, and actual costs charged by armored car service providers in an amount not to exceed \$300 annually.
- B. Actual administrative costs associated with investing, depositing or handling of funds and distributing interest or income authorized by California Government Code Section 27013, will be charged via a basis point calculation on the average monthly cash balance of Trust funds on deposit with the Treasurer. Cost of Treasurer Bond in an amount not to exceed \$7,500 annually.

III. PAYMENT PROCESS

- A. Actual costs for Services identified in Section II, Paragraph 1 of this Attachment B will be charged to the Trust using an invoice. These invoices will be processed on a monthly basis and will include appropriate back up documentation.

ATTACHMENT B

- B. Costs as identified in Section II, Paragraph 2 of this Attachment B will be charged to the Trust using an invoice. These invoices will be processed as part of the interest earnings apportionment process on a monthly basis using the current basis point estimate. A fiscal year-end accounting of the actual cost for these Services is expected to be completed within six (6) months of the County's year-end. At that time, charges will be adjusted, positively or negatively, to reflect the actual cost of Services.

COUNTY COUNSEL

I. SCOPE OF SERVICES

The Legal Services described below are intended to be the same type of Legal Services as provided to the Trust prior to this agreement. If the Trust requests additional Legal Services, costs for those Services will be charged to the Trust in accordance with the MOU.

- A. ATTORNEYS shall provide the Trust with the necessary representation by staff qualified to perform the legal tasks.
- B. ATTORNEYS shall provide all legal services requested by The Trust within the Scope of Services described below.
 - 1. Advise Trust staff as to procedures, legality of documents, policy concerns, and legal implications concerning the Trust activities.
 - 2. Prepare resolutions, notices, pleadings, and other legal documents necessary for the Trust activities.
 - 3. Provide representation in hearings, arbitration, mediation, and any related litigation, as necessary, arising out of the Trust activities.
 - 4. Attend all Trust meetings and advise the Trust Directors to procedures, legality of documents, policy concerns, and legal implications concerning the Trust actions.
 - 5. Coordinate and contract with outside counsel for specialized matters.

II. COST OF SERVICES

County Counsel billing rate for Services is \$208.10 per hour in an amount not to exceed \$42,969 annually. Trust staff shall inform County Counsel when it has reached 75% of the not to exceed amount.

The Trust will be billed the administration fee associated with this Attachment C at the same rate as County Departments or other special districts.

III. PAYMENT PROCESS

Reimbursement to County Counsel for Legal Services is handled through the biweekly payroll process, and via the invoice method, as needed. For example, missed deductions during the biweekly process for an employee on a leave of absence would be reimbursed to the County via the invoice method.

CLERK OF THE BOARD OF DIRECTORS

I. SCOPE OF SERVICES

The Services described below are intended to be the same type of Services as provided to the Trust prior to this agreement. If the Trust requests additional Services, costs for those Services will be charged to the Trust in accordance with the MOU.

A. Administrative Preparation of Regular and Special Meeting Agendas

The Clerk of the Board or designee as the primary clerk and a deputy clerk assigned as the back-up clerk will perform the administrative preparation of agendas pursuant to the Ralph M. Brown Act, Government Code Section 54950 et seq.

1. Collaborate with the Housing Trust Manager for the filing of agenda items with the Clerk of the Board.
2. Prepare and update agendas in compliance with the Ralph M. Brown Act for regular and special meetings of the Trust.
3. Distribute agenda packets to the Board of Directors electronically and make available for review to the general public. Copies of all documents submitted to the Trust will be on file with the Clerk of the Board's office and will be posted on the Trust's website.
4. Prepare list of directives from Trust members (if applicable).
5. Process legal publication requirements for the Trust prior to a meeting, as required.

B. Administrative Preparation and Clerking of Meetings

The Clerk of the Board or designee as the primary clerk and a deputy clerk assigned as the back-up clerk shall attend each meeting of the Trust and maintain a record of all proceedings as required by law.

1. Prepare and set up meeting room.
2. Attend and clerk each meeting, capturing votes/action taken during meetings.
3. Facility where meetings are held must provide audio and/or video services.
4. Meetings should take place during regular business hours. Travel to and from meetings located at a site other than the Hall of Administration will be subject to mileage reimbursement for travel to and from meetings and parking fees (if applicable).

C. Administrative Preparation of Regular and Special Meeting Summary Action Minutes

The Clerk shall prepare and distribute Summary Action Minutes of meetings.

ATTACHMENT D

The minutes shall consist of the brief statement of each item posted on the agenda and supplemental agenda items plus all motions, resolutions, and ordinance numbers related to the item, all votes recorded and the final action taken by the Orange County Housing Finance Trust.

1. Prepare the Summary Action Minutes after each meeting and schedule for Trust approval at their next scheduled meeting.
2. Distribute the approved Summary Action Minutes to the Trust members and make available for review to the general public.
3. Process legal publication requirements for the Trust after a meeting, as required.

D. Other Administrative Matters

1. Maintain the official records for the Orange County Housing Finance Trust.
2. Assist the public and the Trust departments/agencies with research of records and respond to public records act requests.
3. Provide Oath of Office to Board of Directors of the Trust.
4. Handle noticing and posting requirements for the Trust as required.
5. Order supplies for meetings of the Trust.
6. Perform the services as the filing official for the Trust.
7. Ensure submission of Form 700 filing for both County employed Trust Board Directors and Non-County employed Trust Board Directors

II. Cost of Services

The Trust will be billed the administration fee associated with this Attachment D at the same rate as County Departments or other special districts. The estimated annual cost of each service to be provided to TRUST by the Clerk of the Board of Supervisors as detailed in Subparagraph I. is not to exceed \$7,200 annually.

III. Payment Process

Billings for actual cost will be made via the invoice billing method and will use fund codes designated for the Trust.

ORANGE COUNTY SHERIFF DEPARTMENT

I. SCOPE OF SERVICES

The Communications Services described below are intended to be the same type of Services as provided to the Trust prior to this agreement. If the Trust requests additional Services, costs for those Services will be charged to the Trust in accordance with the MOU.

A. Live Meeting Audio Services

1. Set up for meeting room before each Trust meeting to ensure speakers and sound volume are working properly.
2. Monitor audio during the Trust Board Meeting
3. Provide recorded audio file for inclusion on Trust website.

B. Virtual Meeting Broadcast

1. Before each Trust meeting work with staff to ensure speakers, sound volume and conference software are working and interfacing properly for recording system.
2. Monitor audio during the Trust Board Meeting
3. Provide recorded audio file for inclusion on Trust website.

II. Cost of Services

The Trust will be billed the administration fee associated with this Attachment E at the same rate as County Departments or other special districts. The Orange County Sheriff Department shall bill the Trust monthly in arrears for services provided in the previous month.. The billing rate is \$88.00 per hour, for an amount not to exceed \$1,803 annually.

Any meeting beyond regular business hours require deputy clerks covered under the Orange County Employees Association - Office Services Unit to be compensated at one and one-half (1 ½) times the regular hourly rate. In addition, two staff members are required to attend after hours meetings.

III. Payment Process

Billings for actual cost will be made via the invoice billing method and will use fund codes designated for the Trust.

OC COMMUNITY RESOURCES

I. SCOPE OF SERVICES

The Services described below are intended to be the same type of Services as provided to the Trust prior to this agreement. If the Trust requests additional Services, costs for those Services will be charged to the Trust in accordance with the MOU.

Contractor shall provide consulting services to support the newly formed OCHFT on an as-needed basis. The actual scope of work will be based upon mutual agreement between the County and Contractor. Contractor services may include the following:

- A. Facilitate and manage OCHFT Team Meetings to discuss and determine action items needed prior to presentation to the OCHTF Board or Advisory Board. The OCHFT Team shall include the following:
 - 1. County Representative(s).
 - 2. Assigned person from the Clerk of the Board to assist with agendas, minutes, and administrative duties.
 - 3. Assigned person from the Treasurer/Tax Collector to assist with the budget and audit issues.
 - 4. Assigned person from County Counsel to opine on legal matters related to the organization and others as deemed necessary.
 - 5. Assigned person from County Counsel to opine on legal matters related to the organization and others as deemed necessary.
 - 6. Assigned person from Auditor Controller
 - 7. Other invitees as deemed necessary by the Team.

- B. OCCR staff shall provide coordination services to support the OCHFT on an as-needed basis. The actual scope of work will be based upon mutual agreement between the Trust and OCCR. Staff services may include the following:
 - 1. Coordinate with Trust staff on Trust Items for Regular, Special, Ad Hoc and Advisory meetings
 - 2. Coordinate for Trust Board actions going to County Board of Supervisors when required
 - 3. Oversight of MOU for all county departments including Invoice Tracking for Projects and for County Scope of Services MOU:
 - i. Auditor Controller
 - ii. Treasurer - Investment Services
 - iii. County Counsel
 - iv. Clerk of the Board - coordinate scheduling of Regular and Special Trust Board Meetings

ATTACHMENT F

- v. OC Sherriff - Coordinate with Audio team before, during and after Trust Board meetings
- vi. Health Care Agency - Coordinate with Health Care Agency on Supportive Services - including review of NOFA application to ensure MHSA compliance)

II. COST OF SERVICES

OCCR shall bill the Trust for Services rendered up to a. not to exceed amount of \$92,585 annually. The Trust will be billed the administration fee associated with this Attachment F at the same rate as County Departments or other special districts.

OC Community Resources (OCCR) shall bill the Trust monthly in arrears for services provided in the previous month at the rates approved by the County of Orange Board of Supervisors for the applicable fiscal year. All Staff Costs to be fully burdened (Including benefits, indirect costs like Information Technology to support OCCR staff that are applied to all County Staff.) Any additional services requested will be billed in addition to services covered in this MOU.

Any meeting beyond regular business hours require OCCR staff covered under the Orange County Employees Association - Office Services Unit to be compensated at one and one-half (1 ½) times the regular hourly rate.

III. PAYMENT PROCESS

Payment for OCCR services shall be made via the invoice method as specified in the MOU.

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (OCHFT) BOARD ACTION

MEETING DATE: May 6, 2020

SUBJECT: Approve professional services agreement with CivicStone, LLC to provide management and administrative services to the Orange County Housing Finance Trust (not to exceed \$175,000).



Adam B. Eliason, Manager

RECOMMENDED ACTION:

1. APPROVE PROFESSIONAL SERVICES AGREEMENT WITH CIVICSTONE, LLC TO PROVIDE MANAGEMENT AND ADMINISTRATIVE SERVICES TO THE ORANGE COUNTY HOUSING FINANCE TRUST (NOT TO EXCEED \$175,000).

BACKGROUND:

In April 2019, the County of Orange contracted with CivicStone, LLC to provide the initial startup and management services needed for the Orange County Housing Finance Trust (Trust). Since then CivicStone, LLC has initiated and accomplished the following tasks:

- Prepared agendas/staff reports and conducted Board Meetings.
- Coordinated \$1,000,000 grant award application from the State of CA (HCD) to Trust for the development of Permanent Supportive Housing (PSH).
- Prepared \$155,000 State of CA (HCD) grant application that funded Trust administrative costs. This grant offset County general fund money during the first year of Trust.
- Conducted Trust election of officers.
- Facilitated Bylaw Ad Hoc Committee and finalized Trust Bylaws.
- Prepared Notice of Funding Availability (NOFA) for \$11.45 million towards PSH and affordable housing.
- Created Trust website.
- Created PSH mapping tool to track County goal of 2,700 PSH.

- Represented Trust at city council meetings, regional housing forum, seminars, workshops, committee meetings, etc.
- Responded to developer and city inquiries regarding Trust. Trust now has 24 members.
- Initiated Trust budget planning process.
- Initiated Trust 5-year strategic plan process.
- Created Funding Strategy Ad Hoc Committee and initiated efforts to work with Trust lobbyists and State legislators to obtain additional State funding for Orange County.

The Agreement contains the scope of services, fee proposal and other supporting information in order to continue their work into 2020-2021 fiscal year. It is anticipated that the 2020-2021 fiscal year for the Trust will include significant events and accomplishments. At the present time they include the following:

- Finalize the award of the 2020 Trust NOFA for \$11.45 million and coordinate the preparation of Trust loan documents and loan closings.
- Initiate and manage the 2nd Trust NOFA (\$10 million) for the development of affordable and supportive housing.
- Research and apply for State funding eligible to the Trust.
- Continue to work on legislative and/or lobbying efforts to secure additional funding from the State for administrative and development funding.
- Manage the Ad Hoc Formation Committee to explore Trust tax-exempt donations to fund more affordable and supportive housing.
- Finalize the Trust 5 Year Business/Strategic Plan. This document will identify the strategies that will best enable the Trust to advance its mission. It will examine the strengths, weaknesses, opportunities and threats. It will help guide the organizations long-range goals. It will provide an organizational and financial plan for the next 5 years.
- Work closely with Trust Auditor/Controller on the formation and management of the Trust Budget.
- Prepare and/or coordinate all items for Trust Board meetings including the coordination with various County MOU Departments such as OCCR Staff, County Counsel and Clerk of the Board.
- Continue to establish policies and procedures for the Trust including various compliance monitoring Trust funded projects.
- Continue to manage and update the Trust website.
- Continue to represent the Trust at city council meetings, housing forums, seminars, workshops, committee meetings, various regional and stakeholder meetings to collaborate and explore solutions to the housing crisis in Orange County.

- Other duties and assignments as may be deemed necessary and requested by the Chair or Trust Board.

QUALIFICATIONS

Mr. Eliason has been Manager of the Trust since inception. As Principal of CivicStone, his experience as an affordable housing consultant began in 1998 and has included clients in 18 cities and 7 non-profits, with several lasting many years. Mr. Eliason's background and education includes architecture, real estate finance, real estate development, and a master's degree in public administration. He has worked in both the public and private housing sector.

Over the years Mr. Eliason has developed and administered affordable housing programs and projects, served as Executive Director for an Inland Empire JPA related to a lease to own program, performed real estate market analysis for redevelopment agencies, prepared presentations on city affordable housing efforts, prepared several successful grants for non-profit affordable housing agencies, and completed award winning city housing strategies.

After completing the City of Irvine Housing Strategy in 2005, Mr. Eliason carried out the City initiated organizational startup of the Irvine Community Land Trust (ICLT) in 2006. Since then Mr. Eliason has continued as Deputy Director for the ICLT and helped create 327 units of permanent affordable housing units spanning various levels of low-income families and those with special needs. Currently, Mr. Eliason is working on an 80-unit tax credit apartment project and a 68-unit ownership townhome project slated to both open in 2021.

Most recently, Mr. Eliason was hired by the City of Costa Mesa to assist in the acquisition and project management of a temporary and permanent Homeless Emergency Shelter.

Mr. Eliason is a licensed real estate broker and served as Planning Commissioner for the City of Chino Hills for 17 years.

FEE

Based upon the Scope of Work CivicStone proposes an initial not to exceed amount of \$175,000.

ATTACHMENT

Attachment A – Professional Services Agreement between the Trust and CivicStone, LLC

**AGREEMENT BETWEEN
ORANGE COUNTY HOUSING FINANCE TRUST
AND CIVICSTONE, LLC FOR CONSULTING SERVICES**

This Agreement for Consulting Services, (hereinafter referred to as “Contract”), is made and entered into as of the date fully executed by and between the Orange County Housing Finance Trust, a California public agency formed pursuant to California Government Code section 6500 et. seq., with a place of business at 1501 East St. Andrew Place, 1st Floor, Santa Ana, CA 92705; (hereinafter referred to as “OCHFT” or “Trust”), and CivicStone, LLC, with a place of business at 14071 Peyton Drive, #1452 , Chino Hills, CA 91709; (hereinafter referred to as “Contractor”), with OCHFT and Contractor sometimes individually referred to as “Party” or collectively referred to as “Parties”.

ATTACHMENTS

This Contract is comprised of this document and the following Attachments, which are incorporated by reference into this Contract as if fully set forth:

Attachment A – Scope of Work
Attachment B – Compensation / Payment

RECITALS

WHEREAS, OCHFT desires to enter into a Contract with Contractor for Consulting Services, as more fully described in Attachment A – Scope of Work; and

WHEREAS, Contractor is willing to provide the services as specified in Attachment A, in accordance with the Terms and Conditions of this Contract; and

WHEREAS, OCHFT agrees to pay Contractor the fees as further set forth in Compensation / Payment, attached hereto as Attachment B and incorporated herein;

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

I. General Terms and Conditions:

- A. Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
- B. Entire Contract:** This Contract, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on OCHFT unless authorized by OCHFT in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any OCHFT employee or agent, including but not limited to installers of software, shall not be valid or binding on

OCHFTH unless accepted in writing by OCHFTH's Purchasing Agent or his designee, hereinafter "Purchasing Agent."

- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on OCHFTH unless authorized by OCHFTH in writing.
- D. Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
- E. Delivery:** Time of delivery of services is of the essence in this Contract. OCHFTH reserves the right to refuse any services and to cancel all or any part of the services that do not conform to the prescribed statement of work. Delivery shall not be deemed to be complete until all services have actually been received and accepted in writing by OCHFTH.
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by the OCHFTH, 1) acceptance shall not be deemed complete unless in writing and until all the services have actually been received to the satisfaction of OCHFTH, and 2) payment shall be made in arrears after satisfactory acceptance and in accordance with Attachment B.
- G. Warranty:** Contractor expressly warrants that the goods/services covered by this Contract are fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold OCHFTH and its indemnities as identified in paragraph "Z" below, and as more fully described in paragraph "Z", harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by OCHFTH by reason of the failure of the services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. Patent/Copyright Materials/Proprietary Infringement:** Intentionally Omitted
- I. Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by Contractor without the express written consent of OCHFTH. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of OCHFTH shall be invalid and shall constitute a breach of this Contract.
- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties pursuant to Section 1741 of the California Labor Code.
- K. Termination:** In addition to any other remedies or rights it may have by law, OCHFTH has the right to terminate this Contract without penalty for cause or after thirty (30) days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by OCHFTH of its right to terminate the Contract shall relieve OCHFTH of all further obligations.
- L. Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

- M. Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees nor anyone working under Contractor shall be considered an agent or an employee of OCHFT. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through OCHFT.
- N. Performance:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to OCHFT's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of OCHFT required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.
- O. Insurance Provision:** Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the OCHFT that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the OCHFT during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by OCHFT from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by OCHFT representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the OCHFT's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the OCHFT harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the OCHFT at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the OCHFT was the insured.

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

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the

Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

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

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

Coverage	Minimum Limits
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence
Professional Liability Insurance	\$1,000,000 per claims-made \$1,000,000 aggregate

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

1. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***Orange County Housing Finance Trust its elected and appointed officials, officers, agents and employees*** as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***
2. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the OCHFT shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***Orange County Housing Finance Trust, its elected and appointed officials, officers, employees and agents,*** or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***

All insurance policies required by this Contract shall waive all rights of subrogation against the OCHFT, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.

Contractor shall notify OCHFT in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to OCHFT. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the OCHFT may suspend or terminate this Contract.

If Contractor's Professional Liability is "Claims-Made" policy, Contractor shall agree to maintain coverage for two (2) years following the completion of the Contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on this Contract.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified Offeror.

OCHFT expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by OCHFT Risk Manager as appropriate to adequately protect OCHFT.

OCHFT shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with OCHFT incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and OCHFT shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

P. Changes: Contractor shall make no changes in the work or perform any additional work without the OCHFT's specific written approval.

Q. Change of Ownership/Name, Litigation Status, Conflicts with OCHFT Interests: Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the OCHFT agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the OCHFT.

OCHFT reserves the right to immediately terminate the Contract in the event the OCHFT determines that the assignee is not qualified or is otherwise unacceptable to the OCHFT for the provision of services under the Contract.

In addition, Contractor has the duty to notify the OCHFT in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the OCHFT in writing if the Contractor becomes a party to any litigation against the OCHFT, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and OCHFT that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the OCHFT any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the OCHFT of its status in these areas whenever requested by the OCHFT.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with OCHFT interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing

rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence OCHFT staff or elected officers in the performance of their duties.

- R. Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to OCHFT within thirty-six (36) hours of the start of the delay and Contractor avails himself of any available remedies.
- S. Confidentiality:** Contractor agrees to maintain the confidentiality of all OCHFT and OCHFT-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- T. Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by OCHFT in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by OCHFT. Contractor acknowledges that OCHFT is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, Contractor agrees that it shall defend, indemnify and hold OCHFT and OCHFT Indemnitees harmless from all liability, damages, costs, and expenses arising from or related to a violation of such laws.
- U. Freight (F.O.B. Destination):** Intentionally Omitted
- V. Severability:** If any term, covenant, condition, or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney's fees, costs and expenses.
- X. Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the parties and this Contract.
- Y. Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees, consultants and subcontractors performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employee, consultants and subcontractors for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by OCHFT, and hold harmless, the OCHFT, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the OCHFT

or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

Z. Indemnification Provisions: Contractor agrees to indemnify, defend with counsel approved in writing by OCHFT, and hold OCHFT, its elected and appointed officials, officers, employees, agents and those special districts and agencies which OCHFT's Board Members acts as the governing Board ("OCHFT Indemnitees") 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 services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and OCHFT by a court of competent jurisdiction because of the concurrent active negligence of OCHFT or OCHFT Indemnitees, Contractor and OCHFT agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

AA. Audits/Inspections: Contractor agrees to permit the OCHFT's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the OCHFT) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The OCHFT will provide reasonable notice of such an audit or inspection.

The OCHFT reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the OCHFT to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the OCHFT Chair.

BB. Contingency of Funds: Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to OCHFT; and inclusion of sufficient funding for the services hereunder in the budget approved by OCHFT's Board Members for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, OCHFT may immediately terminate or modify this Contract without penalty.

CC. Expenditure Limit: The Contractor shall notify the OCHFT Chair in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The OCHFT will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

II. Additional Terms and Conditions

- 1. Scope of Contract:** This Contract specifies the contractual terms and conditions by which the OCHFT will procure consultant services from Contractor as further detailed in the Scope of Work, identified and incorporated herein by this reference as "Attachment A".
- 2. Term of Contract:** This Contract shall commence on July 1, 2020 or upon execution of all necessary signatures by Parties, whichever comes later, and continue for one calendar year from that date, unless otherwise terminated by OCHFT.

3. **Adjustments – Scope of Work:** No adjustments made to the scope of work will be authorized without prior written approval of the OCHFT Board
4. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the OCHFT may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - i. Terminate the Contract immediately, pursuant to Section K herein;
 - ii. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - iii. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - iv. Offset against any monies billed by the Contractor but yet unpaid by the OCHFT those monies disallowed pursuant to the above.
5. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
6. **Conflict of Interest – Contractor’s Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the OCHFT. This obligation shall apply to the Contractor; the Contractor’s employees and agents, associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the OCHFT.
7. **Conflict of Interest – OCHFT Personnel:** The OCHFT Board policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any OCHFT employee for any purpose.
8. **Contractor’s Expense:** The Contractor will be responsible for all costs related to individual/mobile telephone communications, electronic communication, and fax communications for the performance of work and services under this Contract. The OCHFT will not provide free parking for any service.
9. **Contractor’s Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Project Manager shall be subject to approval by the OCHFT and shall not be changed without the written consent of the OCHFT Chair, which consent shall not be unreasonably withheld.

The Contractor’s Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The OCHFT Chair shall have the right to require the removal and replacement of the Contractor’s Project Manager from providing services to the OCHFT under this Contract. The OCHFT Chair shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice by the OCHFT Chair. The OCHFT Chair shall review and approve the appointment of the replacement for the Contractor’s Project Manager. The OCHFT is not required to provide any additional information, reason or rationale in the event it The OCHFT is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor’s Project Manager from providing further services under the Contract.
10. **Contractor’s Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally

accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the OCHFT.

11. **Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the OCHFT. The OCHFT assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the OCHFT are expressly stated in the Contract.
12. **Data – Title To:** All materials, documents, data or information obtained from the OCHFT data files or any OCHFT medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the OCHFT. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the OCHFT. All materials, documents, data or information, including copies, must be returned to the OCHFT at the end of this Contract.
13. **Debarment:** Contractor certifies that neither Contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any Federal department or agency. Where Contractor as the recipient of federal funds, is unable to certify to any of the statements in the certification, Contractor must include an explanation with the bid/proposal. Debarment pending debarment, declared ineligibility or voluntary exclusion from participation by any Federal department of agency may result in the bid/proposal being deemed non-responsible.
14. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the OCHFT. Contractor agrees that OCHFT review is discretionary and Contractor shall not assume that the OCHFT will discover errors and/or omissions. If the OCHFT discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the OCHFT or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after OCHFT approval thereof, OCHFT approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the OCHFT and Contractor, and the reports, files or documents will be returned to Contractor for correction.
15. **Gratuities:** The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the OCHFT with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the OCHFT shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the OCHFT in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the OCHFT provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
16. **News/Information Release:** The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the OCHFT through the Chair.
17. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned

Deputy Purchasing Agent (DPA), except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

For Contractor: CivicStone, LLC
Attn: Adam Eliason
14071 Peyton Drive, #1452
Chino Hills, CA 91709
Email: adam@civicstone.com
Phone: 909-706-7193

For OCHFT Orange County Housing Finance Trust
Attn: Board Chair
1501 East St. Andrew Place, 1st Floor
Santa Ana, CA 92705

18. **Ownership of Documents:** The OCHFT has permanent ownership of all directly connected and derivative materials produced under this contract by the contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remains the sole property of the OCHFT and may be used by the OCHFT as it may require without additional cost to the OCHFT. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the OCHFT.
19. **Precedence:** The Contract documents consist of this Contract and its exhibits and attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the attachments and exhibits.
20. **Reports/Meetings:** The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The OCHFT Chair and the Contractor's Project Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the OCHFT for the purpose of monitoring progress under this Contract.
21. **Subcontracting:** No performance of this Contract or any portion thereof may be subcontracted by the Contractor without the express written consent of the OCHFT. Any attempt by the Contractor to subcontract any performance of this Contract without the express written consent of the OCHFT shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the OCHFT to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall incorporate by reference the terms of this Contract. The OCHFT shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the OCHFT.

22. **Usage:** No guarantee is given by the OCHFT to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services requested and/or commodities requested, as needed by the OCHFT, at rates/prices listed in the Contract, regardless of quantity requested.

23. **Taxpayer ID Number:** The Contractor shall include its taxpayer ID number on all invoices submitted to the OCHFT for payment to ensure compliance with IRS requirements and to expedite payment processing.
24. **Termination – Orderly:** After receipt of a termination notice from the OCHFT, the Contractor may submit to the OCHFT a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the OCHFT upon written request of the Contractor. Upon termination OCHFT agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Contract.
25. **Waivers – Contract:** The failure of the OCHFT in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.

Signature Page

IN WITNESS WHEREOF, the Parties hereto certify that they have read and understand all the terms and conditions contained herein and have hereby caused this Contract to be executed.

CIVICSTONE, LLC

By: _____

Name: _____

Title: _____

Dated: _____

*For Subrecipients that are corporations, signature requirements are as follows: 1) One signature by the Chairman of the Board, the President or any Vice President; and 2) One signature by the secretary, any Assistant secretary, the Chief Financial Officer or an Assistant Treasurer.

For Subrecipients that are not corporations, the person who has authority to bind the Subrecipient to a contract, must sign on one of the lines above.

ORANGE COUNTY HOUSING FINANCE TRUST

By: _____

Dated: _____

John Mark Jennings, Chair
Orange County Housing Finance Trust

**APPROVED AS TO FORM
TRUST COUNSEL**

By: _____

Dated: _____

TRUST COUNSEL

ATTACHMENT A

SCOPE OF WORK

I. BACKGROUND

In its efforts to address affordable housing and homelessness, the Orange County Board of Supervisors (“Board”) co-sponsored Assembly Bill 448, which authorizes the County and cities in Orange County to create the Orange County Housing Finance Trust (OCHFT). OCHFT will provide and receive funds for housing for those experiencing homelessness and those who are of extremely low, very low and low income within Orange County.

On March 12, 2019, the Board approved the OCHFT Joint Powers Agreement (JPA). The management and administrative support services provided by Contractor in this Contract will continue to implement the Board’s leadership related to the passage of Assembly Bill 448, the JPA, Bylaws, and the future 5-year Strategic Plan.

The County of Orange, OC Community Resource’s Housing Funding Strategy set an initial goal of 2,700 new supportive housing units and affordable housing units within six years. Since its inception, OCHFT has created Permanent Supportive Housing (PSH) mapping tool to track this goal.

II. OBJECTIVES

To continue the OCHFT regional collaborative effort for affordable housing, to work with key stakeholders dedicated to improving the humanity and quality of life throughout the communities in Orange County, and continue to align with the State goals to deploy funding to finance the development of more affordable and supportive housing.

III. SCOPE OF SERVICES

Contractor shall perform management and administrative support services described in this Contract to support OCHFT on an as-needed basis. Due to varying degree and complexities to fulfill the service requirements of this Contract, the actual scope of services including tasks, deliverables, project timeline/schedule and fees will require mutual approval from Parties in accordance with the Service Request Procedures identified in this Contract. Contractor services shall include, but are not limited to, the following:

1. Finalize the award of the 2020 Trust Notice of Funding Availability (NOFA) for \$11.45 million and coordinate the preparation of Trust loan documents and loan closings.
2. Initiate and manage the 2nd Trust NOFA (\$10 million) for the development of affordable and supportive housing.
3. Research and apply for State funding eligible to the Trust.
4. Continue to work on legislative and/or lobbying efforts to secure additional funding from the State for administrative and development funding.
5. Manage the Ad Hoc Formation Committee to explore Trust tax-exempt donations to fund more affordable and supportive housing.
6. Finalize the Trust 5 Year Business/Strategic Plan. This document will identify the strategies that will best enable the Trust to advance its mission. It will examine the strengths, weaknesses, opportunities

and threats. It will help guide the organizations long-range goals. It will provide an organizational and financial plan for the next 5 years.

7. Work closely with Auditor/Controller on the formation and management of the Trust Budget.
8. Prepare and/or coordinate all items for Trust Board meetings including the coordination with various County Memorandum of Understanding (MOU) Departments such as OCCR Staff, County Counsel and Clerk of the Board.
9. Continue to establish policies and procedures for the Trust including various compliance monitoring Trust funded projects.
10. Continue to manage and update the Trust website.
11. Continue to represent the Trust at city council meetings, housing forums, seminars, workshops, committee meetings, various regional and stakeholder meetings to collaborate and explore solutions to the housing crisis in Orange County.
12. Other duties and assignments as may be deemed necessary and requested by the OCHFT Board through the Chair (“Chair”) or.

IV. SERVICE REQUEST PROCEDURES

The Chair or Trust Board shall have the right to request all services and work provided for under this Contract. Contractor shall timely perform all such requested services and work as requested. All request for services shall require review and/or approval from the Chair or designee.

A. Contractor Responsibilities

1. Contractor shall be required to submit a written quote to the Chair with detailed tasks, deliverables, timeline, and not to exceed hours binding the Contractor for all work in response to a request for services.
2. Contractor shall discuss all required services to be performed with the Chair or key designated personnel prior to the start of work.
3. Contractor shall perform all the necessary work in a professional manner and notify the Chair or designee upon project completion.

B. Change Management

1. No changes to an approved request for services (tasks, deliverables, timeline, and not to exceed hours, etc.) shall be permitted without a change request in writing submitted by the Contractor and approved in writing by the OCHFT Board.

C. Communication Management

1. All communication for any work performed in this Contract will be directed to the Trust Board through the Chair.

V. OCHFT RESPONSIBILITIES

1. The Trust Board, through its Chair or Trust’s designee, shall assign, review and approve all Contractor services provided in this Contract.
2. OCHFT will provide meeting facilities, as needed.

VI. SUBCONTRACTORS

In accordance with Article I, Assignment, the following subcontractor(s) shall assist Contractor to provide services on this Contract.

NAME	Project Function
Grant Henninger	Executive Assistant
John Trauth	Sub-Consultant

Assignment of additional key personnel shall be subject to OCHFT approval. OCHFT reserves the right to have any of Contractor personnel removed from providing services to OCHFT under this Contract. OCHFT is not required to provide any reason for the request for removal of any Contractor personnel.

ATTACHMENT B
COMPENSATION / PAYMENT

I. COMPENSATION: This is a fixed-fee Contract between the OCHFT and the Contractor for Consulting Services as set forth in Attachment A – Scope of Work. The total Contract amount shall not exceed **\$175,000.00** for the services provided in Attachment A, Scope of Work. **Excluded from this fixed fee is time spent locating responsive records and responding record requests under the California Public Records Act. Such requests shall be billed at a rate of \$165.00 per hour. Contractor shall seek to subcontract pursuant to Section 21 of this Contract to reduce the costs associated with California Public Records Act requests.**

The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing labor, insurance requirements and taxes required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The Contractor shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. The OCHFT shall have no obligation to pay any sum in excess of the fixed rates specified herein unless authorized by amendment in accordance with Article C of this Contract.

II. CONTRACTOR FEES: OCHFT shall pay Contractor at the fixed hourly rate specified herein, based on the number of actual hours expended by Contractor to complete the services in this Contract; provided, however, that the total of such payments, including reimbursable expenses, shall not exceed the total Contract amount.

Fixed Rate:

STAFF NAME TITLE	RATE PER HOUR
Adam Eliason Principal	\$165.00
John Trauth Sub Consultant	\$165.00
Grant Henninger Executive Assistant	\$145.00

III. FIRM DISCOUNT AND PRICING STRUCTURE: Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to the OCHFT during the term of this Contract not otherwise specified and provided for within this Contract.

IV. CONTRACTOR’S EXPENSE: Contractor shall furnish all materials, supplies, computer equipment, and labor to provide the requested services in this Contract.

Contractor will be responsible for all costs related to individual/mobile telephone communications, travel within Orange County, parking, and any and all “out of pocket” expenses incurred by the Contractor while on OCHFT sites during the performance of work and services under this Contract, unless otherwise specified. The Contractor shall be responsible for payment of all parking costs and expenses incurred at an OCHFT facility while performing work under this Contract, except to the extent the OCHFT facility has free parking available to the public and the Contractor makes appropriate use of this free parking. However, the OCHFT will not provide free parking to the Contractor.

Contractor's travel expenses conducted outside of Orange County for airfare, lodging, car rental/ride share, car rental gas, toll expenses, airport parking fees, and conference/meeting fees will be paid on a reimbursement basis with receipts attached to monthly invoice. Office expenses such as messenger services, copy service, notary, overnight shipping/express mail costs, will be paid on a reimbursement basis with receipts attached to monthly invoice.

Travel outside of Orange County shall not be reimbursed without prior authorization from Trust Board. Authorization must be done in writing. Written authorization may be in a form including fax or email confirmation.

- V. PAYMENT TERMS:** Invoices are submitted monthly in arrears for services rendered. The invoice(s) shall be submitted to the user agency/department to the bill-to address, unless otherwise directed in this Contract. The Contractor shall reference the Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the OCHFT and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services not previously invoiced. The Contractor shall reimburse the OCHFT for any monies paid to the Contractor for services not provided or when services do not meet the Contract requirements.

Payments made by the OCHFT shall not preclude the right of the OCHFT from thereafter disputing any services involved or billed under this Contract and shall not be construed as acceptance of any part of the services.

- VI. INVOICE/PAYMENT INSTRUCTIONS:** The Contractor will provide an invoice on the Contractor's letterhead for services rendered. Each invoice will have a number and will include the following information:

1. Contractor's name and address
2. Contractor's remittance address
3. Contractor's Taxpayer ID number
4. Name of Trust – **OC Housing Finance Trust**
5. Contract Number, if any
6. Dates services rendered
7. Service description.
8. Date specific and total time and billable cost.

Invoices and supporting documentation are to be sent to:

Orange County Housing Finance Trust
Attn: Board Chair
1501 East St. Andrew Place, 1st Floor
Santa Ana, CA 92705

Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

- VII. PAYMENT (ELECTRONIC FUNDS TRANSFER [EFT]):** The OCHFT offers Contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the

payment details via e-mail. An e-mail address will need to be provided to the OCHFT via an EFT Authorization Form. To request a form, please contact the agency/department DPA listed in the Contract. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.

VIII. TAX ID NUMBER: The Contractor shall include its taxpayer ID number on all invoices submitted to the OCHFT for payment to ensure compliance with IRS requirements and to expedite payment processing

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) BOARD ACTION

MEETING DATE: May 6, 2020

SUBJECT: Receive and Approve Trust expense and Member allocation amounts for Fiscal Year 2020-2021.



Adam B. Eliason, Manager

RECOMMENDED ACTION:

1. APPROVE TRUST EXPENSE AND MEMBER ALLOCATION AMOUNTS FOR FISCAL YEAR 2020-2021.

BACKGROUND:

The approved Trust Joint Powers Agreement (JPA) and Bylaw's specify financial accounting, reporting, budget, and audit requirements. Particularly, the JPA requires the Board of Directors to adopt a general budget in May or June of each year in advance of the start of the Trust's fiscal year, which runs from July 1st to June 30th.

The JPA specifies that the members to the Trust have agreed to make annual contributions towards the budgeted administrative costs of the Trust in accordance with Director approved cost allocation formula. That cost allocation formula was approved at the January 15, 2020 Board Meeting.

The JPA specifies that a parties (Member's) contribution to the Trust's administrative costs shall be in the form of money unless the Board approves another form of contribution such as services, personal property, or use of real or personal property, or other in-kind contributions. The acceptance and valuation of any such non-monetary contributions shall be determined by the Board.

The Budget includes general operating costs for such items as website fees, office supplies, copying costs, parking validations, travel expenses, equipment, meeting expenses, etc. The

Budget also includes consultant costs for the administrative functions including the Executive Director and Executive Assistant, County Counsel, County Clerk of the Board, financial consultant, auditing consultant, and advocacy/lobbying services and other services.

The Trust Budget expenses are totaled (Attachment A -FY 2020-21 Estimated Annual Expenses) and included in the Membership Allocation formula (Attachment B – FY 2020-21 Member Allocation Amounts) to determine the amount each Member is responsible to pay.

In future years there will be an Estimated Annual Revenue that will account for various administrative funding the Trust will obtain that will lower the Member contributions. However, this is the first year for the Trust and no administrative funding is available to the Trust until the end of 2020. The total annual expenses equal \$450,000. Therefore, the amount owed by the different Member categories are as follows:

- Large City \$18,520.00
- Medium City \$ 9,260.00
- Small City \$ 4,630.00

Staff recommends that the Board approve the attached FY 2020-21 Expense and Allocation Amounts.

ATTACHMENT

Attachment A – FY 2020-2021 Estimated Annual Expenses

Attachment B – FY 2020-2021 Member Allocation Amounts

Orange County | Housing Finance Trust

FY 2020-21 Estimated Annual Expenses

DESCRIPTION	CONTRACT STAFF
GENERAL OPERATING COSTS	
<i>Board Member Parking Validations</i>	\$750
<i>Memberships/Subscriptions/Dues/Website/Email</i>	\$2,500
<i>Taxes/ Business Licenses/Fees (state/gov agency)</i>	\$1,200
<i>Office Supplies/Mailing/Equipment/Software/Copying</i>	\$8,000
<i>Conference-Registration Fees/Travel Expenses/Business Meeting</i>	\$4,000
TOTAL GENERAL OPERATING COSTS	\$16,450
CONSULTANT COSTS	
<i>Executive Director & Executive Assistant</i>	\$175,000
<i>County Counsel</i>	\$42,969
<i>County Clerk of the Board</i>	\$7,200
<i>County Sheriff (Board Meeting Audio/Video)</i>	\$1,803
<i>County Treasurer</i>	\$7,800
<i>Auditor Controller</i>	\$13,193
<i>County Community Resources (including accounting/invoices)</i>	\$92,585
<i>Financial Consultant (NOFA application underwriting)</i>	\$30,000
<i>Auditing Consultant</i>	\$15,000
<i>Advocacy/Lobbying Services</i>	\$38,000
<i>Marketing & Communication Services</i>	\$10,000
TOTAL CONSULTANT CONTRACTS	\$433,550
ESTIMATED ANNUAL EXPENSES	\$450,000

Orange County Housing Finance Trust

FY 2020-2021 Member Allocation Amounts

TOTAL FUNDING NEEDED	\$450,000
OUTSIDE FUNDING SOURCES	
TOTAL OUTSIDE FUNDING SOURCES	\$0
TOTAL MEMBER FUNDING NEEDED	\$450,000
LESS COUNTY MEMBER CONTRIBUTION	\$199,980
TOTAL CITY MEMBERS CONTRIBUTION	\$250,020
<i>Aliso Viejo</i>	\$4,630
<i>Anaheim</i>	\$18,520
<i>Buena Park</i>	\$9,260
<i>Costa Mesa</i>	\$18,520
<i>Dana Point</i>	\$4,630
<i>Fountain Valley</i>	\$4,630
<i>Fullerton</i>	\$18,520
<i>Garden Grove</i>	\$18,520
<i>Huntington Beach</i>	\$18,520
<i>La Habra</i>	\$9,260
<i>Laguna Beach</i>	\$4,630
<i>Laguna Hills</i>	\$4,630
<i>Laguna Niguel</i>	\$9,260
<i>Lake Forest</i>	\$9,260
<i>Mission Viejo</i>	\$18,520
<i>Newport Beach</i>	\$9,260
<i>Orange</i>	\$18,520
<i>Placentia</i>	\$4,630
<i>San Juan Capistrano</i>	\$4,630
<i>Santa Ana</i>	\$18,520
<i>Stanton</i>	\$4,630
<i>Tustin</i>	\$9,260
<i>Westminster</i>	\$9,260
TOTAL MEMBER FUNDING	\$250,020

100.00%
44.44%
55.56%

Total City Members Funding Needed				\$ 250,020
CITY SIZE	POPULATION	QUANTITY	EACH TOTAL	TOTAL
SMALL	<60,000	8	\$4,630.00	\$ 37,040
MEDIUM	60,000-95,000	7	\$9,260.00	\$ 64,820
LARGE	>95,000	8	\$18,520.00	\$ 148,160
		23	Total	\$ 250,020

POPULATION	SMALL	MEDIUM	LARGE
51,950	1		
357,084			1
83,995		1	
115,296			1
34,071	1		
56,920	1		
144,214			1
176,896			1
202,648			1
62,850		1	
23,309	1		
31,818	1		
65,377		1	
84,845		1	
95,987			1
87,182		1	
141,952			1
52,755	1		
36,759	1		
338,247			1
39,470	1		
82,344		1	
94,476		1	
	8	7	8

REQUEST FOR ORANGE COUNTY HOUSING FINANCE TRUST (TRUST) BOARD ACTION

MEETING DATE: May 6, 2020

SUBJECT: Approve increase to the 2020 Orange County Housing Finance Trust – Notice of Funding Availability Mental Health Services Act (funding cap at \$163,780 per unit) and projects listed in Attachment A for project funding; and authorize Trust Manager to execute a contingent Letter of Intent to funding awardees.



Adam B. Eliason, Manager

RECOMMENDED ACTION:

1. APPROVE INCREASE TO THE 2020 ORANGE COUNTY HOUSING FINANCE TRUST – NOTICE OF FUNDING AVAILABILITY MENTAL HEALTH SERVICES ACT (FUNDING CAP TO \$163,780 PER UNIT).
2. APPROVE THE 2020 ORANGE COUNTY HOUSING FINANCE TRUST – NOTICE OF FUNDING AVAILABILITY PROJECTS LISTED IN ATTACHMENT A FOR PROJECT FUNDING.
3. AUTHORIZE TRUST MANAGER TO EXECUTE A CONTINGENT LETTER OF INTENT TO FUNDING AWARDEES.

BACKGROUND:

On January 24, 2020 the Trust released the 2020 Notice of Funding Availability (NOFA). The Trust used the County Developer contact list to send an informational email and a link to the NOFA document on the Trust website. Trust Staff also announced the NOFA at several housing workshops and committee meetings. On February 13, 2020, Trust Staff met with Developers for a NOFA presentation and question and answer session. Following that meeting, the questions and answers were posted to the Trust website for all to review.

The NOFA deadline was March 25, 2020 and a total of thirteen (13) applications were received requesting \$22 million in funding.

2020 TRUST NOFA REVIEW PANEL

The applications were reviewed by the following panel:

- Overall application review
 - Manager, Orange County Housing Finance Trust
 - Program Manager I, OC Health Care Agency
 - OCCR, Affordable Housing Development Administrator
- Project Proforma – Corporation for Supportive Housing (CSH)
- Financial Statements - Accounting Manager from the OC Auditor-Controller office

2020 TRUST NOFA SOURCE OF FUNDS

1. County MHSA Funds	\$4,500,000
2. County General Funds	\$1,000,000
3. State General Funds	\$950,000
4. State Local Housing Trust Funds	<u>\$5,000,000</u>
TOTAL	\$11,450,000

One source of funds for the Trust NOFA is contingent upon the Trust receiving an award from the State of California Local Housing Trust Fund Program (LHTF). The maximum amount per year the Trust can receive is \$5 million. This is a matching grant program and in order to qualify, a Trust must have a dollar-for-dollar matching amount from non-housing dedicated funds.

For the 2020 LHTF application, the matching funds will come from the County of Orange MHSA funds (\$4.5 million) and Trust funds previously received from the State of CA General Fund (\$950,000) and County of Orange General Fund (\$1.0 million).

PROPOSED INCREASE TO MHSA FUNDING

It became apparent as the Trust NOFA applications were reviewed and discussed with developers, that they would rather apply for the County NOFA to obtain MHSA funds at the higher amount allowed under the MHSA Terms Sheet of \$163,780/unit, than be limited to the amounts set in the Trust NOFA which are capped at \$90,000/\$100,000/\$110,000 depending upon bedroom count.

Some of the developers misunderstood and thought they could apply for the maximum amount from the County MHSA NOFA (\$163,780/unit) and then additionally apply for the Trust MHSA NOFA funds. Once the maximum amount of \$163,780/unit is achieved no matter the funding source, that same unit cannot receive any further funding. Consequently, the Cartwright Family Apartments and Villa St. Joseph withdrew their applications because their applications requested additional MHSA funds from the Trust although they had already received the maximum funding limit.

In the end the Trust NOFA applications didn't have enough funding requests to utilize the \$4.5 million available in MHSA funding using the current Trust NOFA limits. Therefore, Trust Staff

proposes an increase to the funding subsidy for only the MHSA units to match the same amount the County NOFA allows for MHSA funding. That amount is \$163,780/unit. This is consistent with the Health Care Agency MHSA Term Sheet maximum funding amount per regulated unit.

All the developers were given an opportunity to revise their application with the possibility that the Trust Board may increase the MHSA funding limit per regulated unit. Some of the developers submitted revisions to their original application and others were already at the maximum allowable MHSA amount of funding per unit or could not support additional MHSA units at the project.

PROJECT FUNDING RECOMMENDATIONS

The Review Panel considered four selection criteria mentioned in the NOFA. They are presented here in the following priority order.

1. **MHSA:** Any applications that requested Trust MHSA funding are recommended because the Trust has \$4.5 million in MHSA specific funding and there were only \$3,215,000 in Trust MHSA funding requests.
2. **SPA:** The NOFA specified that funding would be initially available equally among the three County Service Planning Areas (SPA). Only one qualified project was submitted in the South SPA. Therefore, according to the approved NOFA guidelines, the remaining funds are available to the North and Central SPA's at the complete discretion of the Board.
3. **START DATE:** The NOFA stated under Section 3.06 – Threshold Requirements/Financial Commitments, that projects must have all financing committed within 18 months of the Trust's award letter or risk losing their project funding. The Trust reserves the right to extend this time limit at its sole discretion. The Review Panel is using the Construction Start Date as the means to determine full financing commitment. Some of the projects have dates past the 18-month period. The Trust MHSA funded projects are an exception because that funding source did not commit the total amount available. Therefore, applications with a start date longer than 18 months were less a priority than those that could start sooner.
4. **SCORING:** The NOFA specified that applications will be competitively scored and ranked against other projects located within the same County Service Planning Area (SPA). The NOFA further stated that scoring serves as a basis to compare applications but ultimately the decision to award funds is based upon the Trust Board approval. Projects were evaluated based upon the NOFA scoring points in several categories such as project readiness, experience, and proximity to community amenities such as grocery stores, medical care, community centers, public parks/libraries, and transit.

The seven (7) recommended projects (See Attachment A) have a total of 466 affordable units of which 43 are Trust affordable units and 40 are Trust MHSA units. All the Trust funded units have a household area median income between 25% and 30%. The total Trust funded units equal 83.

Non-MHSA Projects that were not recommended for funding had various reasons for denial.

1. Orange Corporate Yard: This application had the latest Start Date and least amount of points in North SPA
2. Villa St Joseph: Withdrew their application because it was only for MHSA funds and they have already received the maximum funding limit from the County MHSA NOFA and were not interested in adding more MHSA units.
3. WISEPlace: Has a Start Date beyond the 18-month limit even though it scored at the top for the Central SPA.
4. Huntington Beach Senior: Has a Start Date beyond the 18-month limit even though it scored higher than FX Residences.
5. Westview House: Has a Start Date beyond the 18-month limit and had the lowest score of Non-MHSA projects in Central SPA.
6. Cartwright Family Apartments: Withdrew their application because it was only for MHSA funds and they have already received the maximum funding limit from the County MHSA NOFA and were not interested in adding more MHSA units.

In the end the Trust 2020 NOFA had 13 applications and a funding request that was almost double the amount available. The Trust looks forward to issuing another NOFA for at least \$10 million in early 2021 and hopes denied applications will apply for funding again.

Staff recommends approval of this agenda item.

ATTACHMENTS: Attachment A – OCHFT - 2020 NOFA Recommended Projects for Funding

Orange County Housing Finance Trust - 2020 NOFA Recommended Projects for Funding

Project Name	Applicant Name	Project City	Construction Commencement Date	SPA	Score	Total Project Units	TRUST FUNDED UNITS		SOURCE OF MATCHING FUNDS			LHTF	TOTAL
							Affordable Units	MHSA Units	County General Fund \$	State General Fund \$	County MHSA \$		
Center of Hope Phase 1	Salvation Army	Anaheim	May-21	North	80	100	0	16			\$1,250,000	\$1,250,000	\$2,500,000
Airport Inn Apartments	Jamboree Housing Corporation	Buena Park	Dec-20	North	72	57	16	0	\$395,000	\$400,000		\$629,640	\$1,424,640
Orchard View Senior Gardens	National Community Renaissance of CA	Buena Park	Dec-21	North	67	66	0	5			\$409,450	\$409,450	\$818,900
Santa Angelina Senior Community	National Community Renaissance of CA	Placentia	Mar-22	North	67	65	0	5			\$409,450	\$409,450	\$818,900
Orange Corporate Yard	National Community Renaissance of CA	Orange	Feb-21	North	48	62							
Villa St. Joseph	Mercy Housing California	Orange	Jun-21	North	87	50							
WISEPlace	Jamboree Housing Corporation	Santa Ana	Dec-21	Central	82	53							
North Harbor Village	Jamboree Housing Corporation	Santa Ana	Mar-21	Central	77	90	0	14			\$1,146,460	\$1,146,460	\$2,292,920
Huntington Beach Senior Housing	Jamboree Housing Corporation	Huntington Beach	Dec-21	Central	77	43							
FX Residences	HomeAid Orange County, Inc.	Santa Ana	Feb-21	Central	71	17	16	0		\$550,000		\$550,000	\$1,100,000
Westview House	Community Development Partners	Santa Ana	Mar-22	Central	59	85							
Mountain View	National Community Renaissance of CA	Lake Forest	Jul-21	South	75	71	11	0	\$605,000			\$605,000	\$1,210,000
Cartwright Family Apartments	Cartwright CCR LLC	Irvine	Feb-21	South	46	60							

Note: **bolded** projects are recommended for funding

43 40 \$1,000,000 \$950,000 \$3,215,360 \$5,000,000 \$10,165,360

League of Women Voters

OC Housing Finance Trust of January 15

General Meeting Information

Did the meeting start on time? Yes

Were all members present? No

Supervisor Andrew Do was absent. The chair announced that he was sick that day.

Did the members appear to have done their homework? Yes

Were members courteous to each other and the public? Yes

Brown Act

Was the agenda sent/posted 72 hours before this meeting? Yes

Did items clearly described what was discussed? Yes

Was there adequate opportunity for public input? Yes

Was there the appearance that some action items were discussed in closed rather than open session? No

Was background information available to the public? Yes

LWV Action Item

Were any issues on the agenda relevant to any LWVC positions or programs? Yes

The Strategic Plan proposals appear to track the League's supportive position on funding permanent supportive housing for the homeless.

Do you recommend local League action on any of these items? No

Do you have other concerns or comments? No