

**CITY OF LOS ANGELES  
PROPOSITION HHH PERMANENT SUPPORTIVE HOUSING  
PROGRAM  
REGULATIONS, POLICIES, AND PROCEDURES**

**CALL FOR PROJECTS**

**December 13, 2017**

**HHH PERMANENT SUPPORTIVE HOUSING PROGRAM  
REGULATIONS**

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**PROPOSITION HHH PERMANENT SUPPORTIVE HOUSING PROGRAM  
DOCUMENT CHECKLIST**

<b>THRESHOLD ITEMS</b>
Applicable items from the following list must be completed and submitted with the HHH application:
Att_1.4.1 - General Partner Experience
Att_1.4.2 - Management Company Experience
Att_1.5 - LAHSA Letter of Family Referrals
Att_2.1 - Leveraging Source Application Form(s)
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Att_2.2.3[1] - Gen. Info. Notice - Residential Tenant Not to be Displaced
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Att_2.9.4[E] - Board Resolution
Att_2.12.1 - Appraisal Report
Att_2.12.2 - Phase I and/or II Reports
Att_2.12.3 - Lead & Asbestos Report(s) or Letter(s) in lieu of report(s)
Att_2.12.4 - Property Management Plan
Att_2.12.5 - Supportive Services Plan or Measure H Commitment Letter

Att_2.12.6[1] - Relocation Project Summary Assessment
Att_2.12.6[2] - Relocation Consultant's Resume / Qualifications
Att_2.12.6[3] - Relocation Tenant Rent Roll
Att_2.12.7 - Soils Report, or Affidavit from General Partners, Pertaining to Soils Report
Att_2.12.8 - Financial Statements
Att_2.13 - Identities of Interest
Att_2.16 - Conceptual Architectural Plans or Schematics
Att_2.17 - Accessibility Compliance Certification
Att_2.18 - Assurances and Conditions Form
Att_5.1 - TOD Map
Att_5.2 - SDDA Map
Att_5.3 - Service Facilities Map (Scaled Distance Map)

<b>EXHIBIT LIST</b>
Exh01 - HCIDLA Architectural Guidelines
Exh02 - Planning Department CEQA Process
Exh04 - Instruction for Completing Property Management Plan

**PROPOSITION HHH  
PERMANENT SUPPORTIVE HOUSING PROGRAM REGULATIONS**

**INTRODUCTION**

On June 29, 2016, Council adopted an ordinance and Resolution relative to placing a \$1.2 billion General Obligation bond (GO bond) proposition on the November ballot (CF# 16-1800-S2). On November 8, 2016, voters approved Proposition HHH (Prop HHH) on the State’s General Election ballot. Prop HHH provides the City with authority to issue up to \$1.2 billion in GO bonds to finance the development of permanent supportive housing (PSH), affordable housing, and facilities. PSH would be constructed primarily for chronically homeless and homeless individuals and households. PSH is housing combined with services, which may include mental health and health services, drug and alcohol treatment, education and job training. In accordance with Prop HHH, eighty percent (80%) of the GO bond proceeds are targeted for PSH units.

No more than twenty percent (20%) of the bond proceeds may be used for affordable housing, including veterans and housing for extremely low-income, very low-income, or low-income individuals and families, who are at risk of homelessness.

**Questions and Technical Assistance**

All questions (including those regarding the HHH Regulations, or the online system) must be submitted via the “Ask a Question/FAQ” function of the online CALL FOR PROJECTS application. This includes requests for any online technical assistance.

To ensure the fair and consistent distribution of information, all questions will be answered in the FAQ Section of the online application. **Questions will not be accepted via email, phone, or by any means other than the online application.** No individual answers will be provided. The FAQ page will be updated on a regular basis to ensure the prompt delivery of information.

**Submittal Deadlines**

**CALL FOR PROJECTS ONLINE APPLICATION**

The deadline to submit applications is 11:59 p.m., on December 22, 2017.

The application should include an electronic copy of schematic drawings or conceptual architectural plans (Attachment 2.16 of the online application) and an electronic copy of the application excluding attachments, for the proposed leveraging source/s that is consistent with Section 2.1 (Attachment 2.1 of the online application).

Proposals will be accepted via the online Call for Projects application only. Any modification of forms and templates provided by HCIDLA is not allowed. Applications and other application-related documents submitted after the deadline will not be accepted for processing. All applicants are encouraged to file their applications as early as possible. HCIDLA reserves the right to waive minor technical deficiencies in the application.

## **SECTION 1 GENERAL PROVISIONS**

Through this Call for Projects the Housing and Community Investment Department of Los Angeles (HCIDLA), intends to plan for, solicit, evaluate, select and fund the construction of multi-family rental housing to address the needs of primarily for chronically homeless and homeless individuals and households.

### **1.1 Funds Availability**

The PSH Loan Program will issue a Call for Projects for new PSH projects three times per fiscal year on a fixed schedule - July, October and February.

### **1.2 Financing Structure**

Applications submitted to HCID for the first time under these HHH Regulations must be structured utilizing tax-exempt bonds and 4% tax credits. HCIDLA must be the issuer of those bonds. HCIDLA may, at its sole discretion, recommend waiver of the bonding requirement if it is infeasible to syndicate equity contributions to the project and it is otherwise fully funded. Alternative structures will be reviewed and analyzed on a project-by-project basis.

Applications structured using 9% tax credit financing will only be accepted for projects that were admitted into the HCIDLA Pipeline to compete in the California Tax Credit Allocation Committee's Special Needs/SRO or Non-Profit Homeless Apportionment Set Asides and have not received a tax credit award. Submission requirements for such projects are identified on the Document Checklist.

### **1.3 Funding Commitment**

Successful applicants under the Call for Projects will receive a 24 month conditional commitment of HHH funding. The commitment will expire if project has not obtained all required financial and legal approvals necessary for construction loan closing within 24 months of the date of funding award.

### **1.4 Eligible Applicants**

Applicants must comply with HCIDLA's funding source requirements. Applications will be accepted from non-profit developers, for-profit developers, joint ventures, limited liability corporations, and limited partnerships. Development teams proposing Permanent Supportive Housing projects must meet the following criteria:

1. A lead developer that has been procured and pre-selected through the HCIDLA Land Development Program or that is the managing general partner of at least two special needs projects which include units restricted to serving homeless households, in service for more than one year (Attachment 1.4.1). "Lead Developer" will be defined as the guarantor of the tax credits financing the project being developed, as defined in the project's Limited Partnership Agreement.

2. A property manager that has experience managing four or more Special Needs projects for three years (Attachment 1.4.2).
3. A lead service provider with at least 24 months experience providing services in permanent housing to one of the target populations for the supportive housing units in the proposed project.
4. Can demonstrate the managing general partner's capacity to own and operate quality supportive housing for homeless households by providing documentation that the projects used to qualify the managing general partner's experience meet the below criteria. For details regarding projects receiving support from a Los Angeles County Health Agency, see section 2.12.5 on Supportive or Enhanced Services Plan for details.
  - a. Housing retention: Each qualifying project must meet its respective Continuum of Care's (COC) goal for housing retention utilizing the COC's formula for calculating how many households Remain in Permanent Supportive Housing or Exited to other Permanent Housing. An HMIS produced report showing aggregate data for each qualifying project will serve as documentation.
  - b. Tenant Satisfaction: The managing general partner must certify that it conducts tenant satisfaction surveys at least every 2 years for each qualifying project and provide a description of its system for reviewing survey results and responding to tenant feedback as well as a copy of the survey.
  - c. Adequate Staffing Ratios: Qualifying projects must have the full time equivalent case manager staffing ratios for its restricted supportive housing units meeting the requirements of Section 3.3 of these HHH Regulations.

## **1.5 Eligible Projects**

Proposed developments must serve extremely and very low income, chronically homeless special needs individuals and veterans, homeless families, homeless transition-aged youth (TAY), homeless seniors, homeless disabled and homeless frequent users of Los Angeles County services. At least fifty percent (50%) of all units in the project, excluding manager's units, must be reserved for individuals and households who meet the following criteria:

1. Moving from an emergency shelter; or
2. Moving from transitional housing; or
3. Currently homeless, which means:
  - a. An individual who lacks a fixed, regular and adequate nighttime residence; or
  - b. An individual who has a primary nighttime residence that is:

- i. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and Transitional Housing for the mentally ill); or
- ii. An institution that provides a temporary residence for individuals intended to be institutionalized; or
- iii. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Alternatively, at minimum, twenty units in the project, excluding managers' units, must be reserved for individuals and households who meet the criteria above. Eligible Permanent Supportive Housing (PSH) units will be funded in accordance with Section 2.4. Only the eligible PSH units will be funded with HHH proceeds.

In addition, a minimum of 50% of the units reserved for homeless individuals and households must serve persons with special needs who are chronically homeless. "Chronically homeless" is defined as follows:

- (a) Experiencing chronic homelessness as defined in 24 CFR 578.3;
- (b) Residing in a transitional housing project that will be eliminated and meets the definition of chronically homeless in effect at the time in which the individual or family entered the transitional housing project;
- (c) Residing in a place not meant for human habitation, emergency shelter, or safe haven; but the individuals or families experiencing chronic homelessness as defined in 24 CFR 578.3 had been admitted and enrolled in a permanent housing project within the last year and were unable to maintain a housing placement;
- (d) Residing in transitional housing funded by a Joint Transitional Housing and Permanent Housing Rapid Re-Housing component project and who were experiencing chronic homelessness as defined in 24 CFR 578.3 prior to entering the project;
- (e) Residing and has resided in a place not meant for human habitation, a safe haven, or emergency shelter for at least 12 months in the last three years, but has not done so on four separate occasions; or
- (f) Receiving assistance through the Department of Veterans Affairs (VA)-funded homeless assistance programs and met one of the above criteria at intake to the VA's homeless assistance system.

Projects must include a supportive services plan and budget as outlined in Sections 3.3 of these Regulations. Projects must also have a commitment for sponsor-based or project-based rental assistance for no less than fifty percent (50%) of the units in the proposed project, with a contract term of no less than five (5) years, as evidenced at minimum by a letter of intent from the appropriate governmental entity, prior to construction loan closing.



All units must have kitchen facilities, which shall minimally include a refrigerator, kitchen sink, stovetop, and storage cabinet and a full bathroom, including (at a minimum) lavatory, toilet, and shower.

Applicants seeking to include units with two or more bedrooms must submit evidence (must be received by December 22, 2017 deadline) provided by the Los Angeles Homeless Services Agency (LAHSA) that they can provide a sufficient number of referrals through the Family Coordinated Entry System for the Service Planning Area in which the project is located to reasonably fill those units within nine (9) months of completion (Attachment 1.5). Inquiries may be directed to Rhett Lesslie in the LAHSA Programs Department at: rlesslie@lahsa.org.

### **1.7 Eligible Activities**

HHH funds can generally be used for acquisition, predevelopment reimbursement construction related costs.

Funds are available for:

- New construction or adaptive reuse of non-residential structures with suitable amenities, including real property acquisition, site improvements, demolition, and other expenses, including financing costs and relocation expenses.
- Construction and permanent financing expenses including off-site public improvements, construction bonds, general contractor and subcontractor payments including overhead, profit and general conditions.

If a new construction project entails relocation or permanent displacement, at minimum, the project must net 100% more units (i.e. double) than the amount to be demolished.

### **1.8 Ineligible Activities**

Acquisition and/or rehabilitation of occupied residential structures is not eligible for HHH funding.

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### **1.10 Loan Terms and Conditions**

**1.10.1 Type** - Acquisition, Predevelopment Reimbursement, Construction or Permanent Financing only.

**1.10.2 Interest Rate** - The interest rate for all loans is three percent (3%) simple interest. HCIDLA reserves the right to negotiate a higher or lower interest rate if it is found to be beneficial to the project.

**1.10.3 Calculation of Interest** - Simple interest will be calculated on the loan amount outstanding and based upon a 365-day year and actual number of days elapsed.

**1.10.4 Payment** – Interest will be paid from residual receipts of the project. Unpaid interest will be deferred and due at maturity of the loan. Principal on the HCIDLA Loan will be deferred; interest on outstanding balance accrued during the predevelopment and construction period shall be payable to HCIDLA.

**1.10.5 Term** - 55 year term/covenant.

**1.10.6 Conditions for Conversion** – HCIDLA will not allow a construction loan to convert to a permanent loan unless the following conditions are met:

- Receipt of a Certificate of Occupancy, a Temporary Certificate of Occupancy or acceptable evidence of final sign-off from the Los Angeles Department of Building and Safety;
- Achievement of 90% occupancy;
- HCIDLA receipt of complete rent rolls;
- Evidence of application for property tax abatement if original proforma contemplated tax abatement;
- Evidence that any conventional debt for the project has closed or will close concurrently;
- Payment of the total interest on HCIDLA's Acquisition-Predevelopment/Construction Loan that shall have accrued during construction period;
- HCIDLA acceptance of a Final Accessibility Report from a State-Certified Access Specialist Program consultant (CAsp).

**1.10.7 Intentionally Left Blank**

**1.10.8 Misrepresentations or Material Changes to the Project**

Any changes regarding the borrowing entity or changes to the project's design, including but not limited to unit count, unit configuration, and/or financial structure of either the applicant or the project, subsequent to the submittal of the HHH application must receive HCIDLA's written approval; otherwise, HCIDLA reserves the right to withdraw its commitment. In the event misrepresentations are made regarding either the borrowing entity or the project, HCIDLA's commitment will be cancelled.

**1.10.9 Equity Share**

For any loan funded by the HCIDLA, if the borrower fails to perform within a specified period of time and the property is ultimately sold, HCIDLA will be entitled to a share in any appreciation that has occurred between the price paid at acquisition and the time of sale. HCIDLA's share in the appreciation will

be equal to the proportion of the HCIDLA loan amount to the original purchase price of the property. However, if the project does not proceed, at no fault of the borrower, this provision will not be invoked and HCIDLA will not require any share of the appreciated equity.

**1.10.10 Repayment**

Loans are repaid through a residual receipts note which allows the project to repay principal and accrued interest when adequate cash flow is available for distribution. HCIDLA shall receive its pro-rata share of the cash flow remaining after the following allowable deductions: (1) operating expenses calculated on a cash basis; (2) debt service on senior project debt; (3) payments to the operating reserve fund; (4) payments to the replacement reserve fund; (5) permitted supportive services payments (6) repayment of approved general partner loans; (7) deferred developer fees; and (8) related party asset management fee up to twenty five thousand dollars (\$25,000) with an increase of 3.5% compounded annually. This fee must be substantiated prior to the closing of the loan by the developer and cannot include charges for any office overhead for the development of the project or project operating expenses.

HCIDLA does not allow any other fees to be deducted prior to payment of residual receipts to the HCIDLA.

**1.10.11 Security**

The HCIDLA loans will be evidenced by a promissory note and secured by a deed of trust.

**1.10.12 Subordination**

The HCIDLA may, at its discretion, subordinate repayment, security positions and affordability covenants to a conventional lender or other public agency lender.

**1.10.13 Affordability Covenant/Regulatory Agreement**

For all proposed projects, the required term of the affordability covenant will be fifty-five (55) years from the completion of construction, or the maximum required by CTCAC, HCD, HUD or CDLAC, whichever is longer. The affordability covenant remains in effect for no less than the agreed-upon term, regardless of the date upon which the HCIDLA loan is fully repaid.

**1.10.14 Default**

The loan agreement will specify the events that may cause HCIDLA to declare the borrower in default. These events include, but are not limited to:

- Breach of rental covenants;
- Failure to maintain the property;
- Failure to make agreed-upon loan repayments;

- Failure to receive an HCIDLA approval prior to any change in ownership entity;
- Breach of affirmative action, equal opportunity, contractor responsibility, equal benefits or MBE/WBE requirements;
- Failure to submit annual financial statements certified by a certified public accountant;
- Failure to comply with State Prevailing Wage requirements;
- Failure to comply with all applicable accessibility standards, including but not limited to: Title VIII of the Civil Rights Act of 1964 as amended in 1988 by the Fair Housing Act Amendments, and the Americans with Disabilities Act Title II;
- Failure to maintain appropriate insurance coverage;
- Commencing construction (including demolition) without HCIDLA authorization;
- Failure to abide by development and/or construction schedules;
- Failure to maintain the project “in balance” during construction;
- Bankruptcy;
- Dissolution or insolvency of the ownership entity;
- Failure to adhere to construction cost limits as stated in Section 3.7 of HHH Regulations.

**1.11 Environmental Review**

Projects must meet the requirements of the California Environmental Quality Act (CEQA). Applicants are responsible for obtaining CEQA clearance from the appropriate agency prior to loan closing.

**1.12 Article XXXIV (Article 34) Requirements**

All projects, both new construction and rehabilitation, must be in compliance with Article XXXIV (Article 34) of the California State Constitution.

**1.13 Property Management**

HCIDLA reserves the right to approve the property management firm for each project. If during the life of the project, HCIDLA determines that the costs associated with management of the property are higher than those of comparable projects, or that the property management company is not acting in good faith, HCIDLA may require a change in the property management provider. Applicants must prepare a Property Management Plan (PMP) in accordance with HCIDLA requirements and receive approval of that PMP prior to lease-up. All affordable housing units must be leased within nine (9) months of completion.

**1.14 Amendment and Modification Fees**

HCIDLA will impose a \$2,500 fee to cover costs associated with modifications and amendments when they are requested at the behest of the applicant.

**1.15 Commercial Space and Calculation of Residual Receipts**

Commercial space is defined as all non-residential space that is a structurally integral part of, and within the envelope of a mixed-use development. A non-residential space that is used by the property owner primarily for the benefit of the tenants, (e.g. laundry room, community room, etc.), shall not be considered a commercial space.

The Sources and Uses of funds in the development budget as required in Section 2.11, shall contain detailed line items and apportioned amounts for its commercial component that are separate from its residential component. The financial proforma shall include cash flow projection for residential and commercial space. The income from the residential portion of the project shall not be used to support the negative cash flow of its commercial portion. Similarly, the income from the commercial portion shall not support the negative cash flow of the residential portion.

The HCIDLA reserves the right to disapprove commercial space tenants that will use the commercial space for any business that cater exclusively to adults which may lead to tenants' problems concerning safety and welfare.

**1.16 Fair Housing Policy in Regard to Disability**

Projects must follow the “Fair Housing Policy in Regard to Disability,” which details affirmative marketing, reasonable accommodations/modifications, and tenant selection requirements, as they relate to compliance with California’s Fair Employment and Housing Act (FEHA) and its Unruh Act, the federal Fair Housing Act (FHA), The Rehabilitation Act of 1973, Section 504 (§504) and the Americans with Disabilities Act (ADA).

**1.17 Building Permits**

At any escrow closing (regardless of when funds are disbursed for acquisition), the HCIDLA will accept a “Ready-To-Issue” letter in-lieu of a building permit as a condition of the HHH loan closing. This letter shall be issued by the Los Angeles Department of Building and Safety.

## SECTION 2 THRESHOLD REQUIREMENTS

For applications to be considered complete, all applicable items in the Support Documents tab must be submitted. Proposed projects must meet the minimum Call for Projects threshold requirements. If an application does not meet these threshold requirements, it will not be considered for HHH funding. Determination of completeness and compliance with thresholds shall be based entirely on the application and all documents submitted therewith as of the filing deadline. No additional documents shall be accepted subsequent to the application filing date.

### 2.1 **Leveraging Source Application**

In combination with the HCIDLA online Call for Projects application, applicants must upload **one (1) electronic version of a completed application (excluding attachments) for the proposed leveraging source; no hard copies are accepted.** The specific documents required are listed below:

If the applicant/developer will be applying for 4% LIHTC from CTCAC, then the most recent, completed “4% Tax Credit Application form” in MS Excel is required. If the applicant/developer will be applying for the State HCD, Fund, VHHP (Proposition 41 Program) Funds, or AHSCP Funds, then the following documents are required:

- A most recent Universal Application form from the California Department of Housing and Community Development;
- VHHP Application Attachment, Section C, Items 1 through 10; or Supplemental Proposition HHH PSH Loan Program (AHSC) Application Questionnaire

Regardless of the type of leveraging source, the following items must be indicated in the application:

- Amount of Federal and State LIHTC being requested
- Assumed price of Federal LIHTC;
- Total eligible basis amount;
- Total Adjusted Threshold Basis Limit Amount;
- Permanent Financing Sources (proposed and/or committed);

### 2.2 **Preliminary Title Report and Site Control**

#### 2.2.1 **Demonstration of Site Control**

Regardless of the type of site control documents that will be submitted, all applicants/developers shall submit with the application, a copy of a Preliminary Title Report on the property(ies), which is prepared within ninety (90) days from the application deadline.

A proof of site control must be submitted at the time of application. Evidence of site control may be demonstrated by any of the following documents:

- Fee title as demonstrated by a current title report;

- Long-term leasehold interest (minimum term must equal the term of HCIDLA regulatory agreement);
- Option to purchase or lease (obtaining financing shall be the sole impediment to exercising the option);
- Executed land sale contract or other enforceable agreement for acquisition of the property;
- An executed Exclusive Negotiation Agreement with a Public Agency is acceptable at application. Prior to consideration for inclusion in HCID's funding recommendation, a fully executed Disposition and Development Agreement with that agency will be received by HCID. The sole Public Agency that applicants are not required to receive a DDA from is the Los Angeles County Metropolitan Transportation Authority.

The agreement must be (1) executed by both parties, including the principal of the developer and (2) provide site control for at least sixty (60) days beginning from the deadline for submission of the Call for Projects application; the sixty (60) days can include all extensions provided in the agreement. In the event that City Council and Mayoral approval takes longer than sixty (60) days, the City will require confirmation of continuing site control prior to taking the project to City Council.

HCIDLA will make available a reasonable amount of information on the status of each application under review at several milestones, including, but not limited to, initial applicant list and release of staff recommendations to City Council, prior to the final approval by City Council and concurrence by the Mayor.

### **2.2.2 Intentionally Left Blank**

### **2.2.3 General Information Notices**

Persons living in housing where HHH will be utilized for acquisition, rehabilitation and/or redevelopment of the project, be notified that they will not or may be displaced as a result of the proposed project. A General Information Notice (GIN) (Attachment 2.2.3) must be provided as soon as feasible. For the purposes of these HHH Regulations, the term “as soon as feasible” is defined as the application deadline date for the Call for Projects. It is therefore required that copies of the General Information Notices sent to each of the tenants residing at the project site, along with proof/s that the notices were received by the intended recipients, be submitted with the Call for Projects application. In addition, the GIN must state that local and State, regulations regarding relocation or displacement payments may apply. The exception to this requirement is if the developer can provide evidence of good cause as to why it was infeasible to issue GINs and provide proof of service at the time of Call for Projects application. In this instance, the developer must submit, along with the tenant rent roll, a written statement detailing why it was not feasible to serve the GINs. However in all cases, GINs must be served prior to receipt of the loan commitment, and evidence of such notices must be received by HCIDLA within 30 days of service to the tenant/s. If the project fails to secure a funding commitment, either through the Call for Projects or the chosen leveraging source(s), all GINs must be rescinded.

**2.3 Meeting Cost Parameters**

The affordable housing development must not propose Total Eligible Basis [calculation method in 10325(c)(1)(A)] in excess of 30% of the Total Adjusted Threshold Basis Limit, pursuant to CTCAC regulations Section 10325(d) of the May 2017 TCAC Regulations. Residential Costs are those costs required to build the Residential Component of the development, excluding Land Costs/Acquisition, Reserves, and Permanent Financing Costs. Applications not meeting this criterion will be automatically rejected and will not be considered for further review during the current Call for Projects.

**2.4 Maximum Proposed HCIDLA Contribution**

The maximum HHH loan available to any one project is \$12 million, subject to the following per unit limits. The minimum loan amount shall be \$500,000. Subsidy may only be calculated for those units to be restricted at or below 60% of Area Median Income (AMI) for the Los Angeles – Long Beach CA FMR Area. In aggregate, the total outstanding loan amount to any one applicant, developer or general partner, may not exceed 5% of its HCIDLA's loan portfolio balance.

	<b>Maximum HHH Subsidy per Unit</b>	
	<b>Affordable Housing Units</b>	<b>Permanent Supportive Housing Units</b>
4% LIHTC & all other	\$100,000	\$140,000
9% HCIDLA PIPELINE	\$100,000	\$100,000
SUPPLEMENTAL FUNDING Available until June 30, 2018	\$0.00	\$80,000

**2.5 Applicant's/Borrower's Certification Statement Form** The applicant/developer shall complete and submit a signed Applicant's/Borrower's Certification Statement Form with the Call for Projects Application (Attachment 2.5).

**2.6 Maximum Projects per Developer**

In order to (1) expand and maintain developer capacity, (2) maximize product and developer diversity and (3) minimize developer concentration risk, HCIDLA will cap the number of developments one entity can participate in, at any percent of ownership interest or in any contractual form, at any one time.

The maximum number of developments one entity, or its subsidiary(ies) can participate in at any one time is seven (7); of which a maximum of four (4) can be in pre-construction and a maximum of five (5) can be in construction and/or processing Final Close-Out. Participation is defined as (1) any percentage ownership in a current or future limited partnership, LLC or their equivalent, or (2) receipt of more than 10% of the total developer fee in a current or future limited partnership, LLC or their equivalent where the



party does not have an ownership interest. Participation starts at initial application and ends at Final Close-Out. Final Close-Out is defined as a milestone when all retention to the contractor (from City funds and/or other funds) is released. Applications not meeting this criteria will be automatically rejected and will not be considered for further review during the current Call for Projects. Applications can be re-submitted in a future Call for Projects.

For a project to be considered as having completed its Final Close-Out process, and consequently, be exempted from the maximum projects cap as stated above, it shall have completed all of the milestones listed below:

- Issuance of Final Certificate of Occupancy by the L.A. Department of Building and Safety;
- Issuance of a review and certification from a State-Certified Access Specialist Program consultant (CAsp);
- HCIDLA's final release of retention.

## **2.6.1 Compliance with HCIDLA Asset Management, and Rent Stabilization Divisions**

At the time of application applicants must be in compliance with the following threshold criteria:

### **2.6.1.1 Portfolio Management**

For each proposed developer and/or sponsor, HCIDLA must not be owed more than \$10,000 in residual receipts or other fees from its entire portfolio.

### **2.6.1.2 Occupancy Monitoring**

On projects with 10 or more restricted units, no more than 15% of the restricted units can be out of compliance. Applicants will be allowed to pass threshold if they demonstrate that they have corrected all other deficiencies, including issuing documentation of having corrected rents that were over-charged to tenants, and have met all affirmative marketing requirements set forth by HCIDLA. The compliance period includes up to 5 years of occupancy compliance history.

Applications not meeting this criteria will be automatically rejected and will not be considered for further review during the current Call for Projects.

### **2.6.1.3 List of Properties**

Applicants shall submit with the Call for Projects application, a list of all residential income properties when any of the following are true: 1) the properties are owned by the applicant, or 2) the properties are owned by any of the applicants' partners, or 3) the properties are those in which any of the applicants' principals have a vested interest in them. If one of those properties has substandard or untenable units, the application will not be reviewed until the deficiencies are corrected. If

deficiencies are not resolved, the application will be denied for failure to meet threshold criteria.

**2.7 Letter of Acknowledgment**

The application for the Call for Projects must include a Letter of Acknowledgement from the Councilmember in whose district the Supportive housing development will be located. Applications not meeting this criteria will be automatically rejected and will not be considered for further review during the current Call for Projects (Attachment 2.7).

**2.8 Intentionally Left Blank**

**2.9 Organizational Documentation and Self-Certification Statements**

2.9.1 The following due diligence items are required (Attachment 2.9.1):

A. With respect to a corporation:

- 1) Certificate of Good Standing issued by the Secretary of State, issued within six months prior to the Call for Projects application deadline;
- 2) Articles of Incorporation;
- 3) By-laws, which reflect as one of its purposes, the development and/or management of affordable housing;
- 4) Current list of Board of Directors;
- 5) A certified copy of a resolution of the Board of Directors, executed within 90 days of the Call for Projects application deadline. The resolution must include:
  - a. Authorization to participate in the Call for Projects;
  - b. Authorization to enter into and execute any and all contractual obligations, including but not limited to the City of Los Angeles Land Use Regulatory Agreement, Loan Agreement, and other documentation, as may be required by the City of Los Angeles;
  - c. Names and offices of the authorized signatories who may act on behalf of the corporation, based on the required categories below.
- 6) If the borrowing entity is a not-for-profit corporation, a copy of its 501 (c) (3) or (4) designation must also be submitted

B. With respect to a California Limited Partnership:

- 1) A certified copy of the certificate of limited partnership (form LP-1), and any amendment thereto (form LP-2) recorded in public records;
- 2) A full copy of the partnership agreement and any amendments;
- 3) Satisfactory evidence of the consent of a majority in interest of the limited partners for the limited partnership to participate in the Call for Projects, and to enter into and execute any and all contractual obligations, including but not limited to the City of Los Angeles Land Use Regulatory Agreement, Loan Agreement, and other documentation, as may be required by the City.

C. With respect to Limited Liability Company:

- 1) A copy of its operating agreement and any amendments thereto

- 2) A certified copy of its Articles of Organization (LLD-1) and any certificate of correction (LLC-11), certificate of amendment (LLC-2), or restatement of article of organization (LLC-10) recorded in public records

D. With respect to a Joint Venture:

- 1) All documents in this section (as applicable) must be submitted by both parties of the joint venture.

2.9.2 Sample signature block to be used in execution of loan documents entered into with HCIDLA is required (Attachment 2.9.2).

With respect to execution of any loan documents, pursuant to California Corporations Code §313 and *Snukal v. Flightways* (2000) 23 Cal. 4<sup>th</sup> 754), all documents executed or entered into by HCIDLA with a corporation should have the signature of an officer in each of the following two categories:

- A. Chairman of the Board, President, or any Vice-President; and,
- B. Secretary, any Assistant Secretary, Chief Financial Officer, or any Assistant Treasurer;

However, the signature of the Executive Director plus a signature from either category will suffice.

2.9.3. A current Business Tax Registration Certificate issued by the City of Los Angeles is also required (Attachment 2.9.3).

2.9.4 The following documents must be submitted at the time of Call for Projects application:

- A. An organizational chart of the proposed ownership structure;
- B. List of Entities and Names of Partners;
- C. HCIDLA Credit Check Authorization;
- D. List of Board of Directors executed within 90 days of the application;
- E. Board Resolution or Evidence of Consent from Majority Partnership Interest.

## **2.10 Intentionally Left Blank**

## **2.11 Minimum Feasibility**

All projects must demonstrate financial viability supported by a development budget with a 15-year cash flow proforma which shows positive cash flow, as described in the California Tax Allocation Committee Code of Regulations Title 4, Division 17, Chapter 1, Section 10327, except for projects where a higher first year ratio is necessary to meet this requirements. Under such an exception the year-15 cash flow shall be no more than the greater of 1) two percent (2%) of the year-15 gross income or 2) the lesser of \$500 per unit or \$25,000 total), “cash flow after debt service” shall be limited to the higher of twenty-five percent (25%) of the anticipated annual must pay debt service payment or

eight percent (8%) of gross income, during each of the first three years of project operation Projects must use the respective underwriting criteria required by the identified leveraging source, in combination with HCIDLA guidelines detailed in Part 3 of these HHH Regulations.

## **2.12 Reports**

### **2.12.1 Appraisals**

All applicants must submit an appraisal prepared not more than six months prior to the date of the property's acquisition (Attachment 2.12.1). All relevant and reliable approaches to value are to be used. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches used that is sufficient to support the appraiser's opinion of value. A description of comparable sales shall include all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing. As-is appraised value means the estimate of the market value of real property in its current physical condition, use, and zoning as of the appraisal date. HCIDLA shall not accept a property valuation based on "highest and best use" or "as-built" appraisal. If the property has not been purchased, applicants must submit an appraisal prepared not more than six months prior to the date of the purchase contract. The appraisal must be prepared by a California State Certified General Appraiser. In addition, the appraisal may not determine property value based solely on comparable sales of properties financed by public agencies. If a residential income approach is not utilized, applicants may submit either a separate market study completed within the last six (6) months, or the "CTCAC Rent Comparability Matrix."

If a land is donated or leased from a public agency, an "as-is" appraisal is required at the application deadline and shall be prepared within six (6) months of 1) the transfer of ownership or 2) the Call for Projects application deadline, whichever comes first.

### **2.12.2 Phase I Environmental Assessment or Phase I with Required Phase II**

Phase I Environmental Assessments must follow the standards outlined in American Standards of Testing and Materials (ASTM) E 1527-13, to determine the potential presence of onsite and neighboring property contamination (including but not limited to lead-based paint, asbestos, and methane) (Attachment 2.12.2). The Environmental Assessment must have been completed within the six months prior to the date of the application deadline. If a project's Phase I Environmental Assessment indicates the need for further assessment, a Phase II report must be submitted. The applicant must include a cost estimate for any required remediation.

If submission of soils report will be deferred as provided under Section 2.12.7 of these Regulations, the Environmental Assessment must indicate if the site falls within an area of the City that requires special investigations or analysis on LIQUEFACTION, EARTHQUAKE-INDUCED LANDSLIDE, AND FAULT-RUPTURE HAZARD. Those areas are as follows:

1. State Mapped Zones requiring Liquefaction and Landslide investigation/mitigation per the Seismic Hazard Mapping Act, State of California Public Resources Code, Section 2690 et seq.,
2. Alquist-Priolo Earthquake Fault Zones per the State of California Public Resources Code, Section 2620 et seq, and City of Los Angeles PFRSA.

All of the zones or areas listed above are viewable on the NavigateLA website.

### **2.12.3 Lead/Asbestos**

All rehabilitation projects and new construction projects that involve demolition of existing structures in advance of the rehabilitation or new construction, must submit an asbestos assessment and lead-based paint report completed within the twelve months prior to the date of the application deadline. For new construction projects where there is complete demolition of all existing structures, the applicant may submit a letter in lieu of a lead/asbestos test report indicating that the presence of lead/asbestos is assumed and the appropriate federal, state, and local hazard abatement protocols will be followed (Attachment 2.12.3). For occupied sites, assessment must include minimally invasive sampling of readily accessible surfaces. Testing for asbestos shall be subject to AQMD standards. As it relates to lead-based paint, testing and compliance shall be consistent with those standards outlined in HUD's "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing" (June 1995), including Chapter 7, Lead-Based Paint Inspection (1997 Revision), which are the industry standard. If the assessment determines that lead and/or asbestos is present, (except for new construction with complete demolition of the existing structure demolition as indicated above), a Lead and/or Asbestos Abatement Plan must be submitted. The applicant must include a cost estimate for any required abatement.

### **2.12.4 Property Management Plan**

Skilled property management is critical to the success of affordable housing developments. Applicants/developers must submit a Property Management Plan (PMP) (Attachment 2.12.4). The PMP shall include a clear outline of how the project fits into the Los Angeles County Continuum of Care (CoC) system, including detailed information concerning outreach to the various communities interested in leasing mobility and sensory accessible units, and ongoing monitoring of the occupancy in these units (Exhibit 4). The HCIDLA shall only accept PMPs that are completed using the template supplied by HCIDLA as Exhibit 4. Any PMP that is different from the HCIDLA-supplied template will not be accepted. In addition, before HCIDLA will commit to funding any loan for a project selected through the Call for Projects process, the developer must submit the qualifications of its management entity.

### **2.12.5. Supportive or Enhanced Services Plan**

All projects must submit for HCIDLA's approval, a supportive services plan that is appropriate to the target population (Attachment 2.12.5). The plan shall contain 1) details of the services to be provided to the target population, 2) frequency of services, 3) monitoring of clients' participation in services and measurement of clients' successful completion of services. The plan must identify the supportive service provider's previous experience working with the targeted population in permanent supportive housing and its success rates. Letters of commitment and/or contractual agreements with those agencies, showing sufficient funding, must be provided.

The supportive services plan shall include a services "Sources and Uses" budget, clearly stating all anticipated income and expenses associated with the services that are being proposed for the project. The budget shall be consistent with the services commitments submitted (i.e. MOUs, contracts, letters, etc.) and should only be approved by HCIDLA if it adequately accounts for the level of service. Budgeted amount must be reasonably expected to cover the costs of the proposed level of service. The budget should specify the project's total number of chronically homeless units and/or homeless with special needs units, if there are any. In addition, the plan shall specify:

- The total number of case manager/s or service coordinator/s and including their annual salaries;
- The number of chronically homeless and/or special needs units, if there are any.

The Case Manager-to-tenant ratios shall be consistent with Section 3.3 of the Regulations and/or requirements of other outside funding sources or operating subsidies.

Developments will be required to receive applicant referrals from the County Departments and collaborate with the applicable County Departments to finalize the supportive services plan to serve this population. Developments may also use the Coordinated Entry System for applicant referrals. Applicants are encouraged to complete as much of the supportive services plan as possible and should indicate in it that they will collaborate with the County Departments on the final supportive services plan.

Any project with a commitment from a Los Angeles County Health Agency (the Departments of Health Services, Mental Health, and Public Health) to provide supportive services funded by Measure H must, at the time of application, provide a letter from the L.A. County Health Agency identifying its intent to provide services for special needs units in the proposed project. If supportive services are provided by the L.A. County Health Agency for a Special Needs population, a Supportive Service Plan is not required for that population. If you wish to have supportive services provided to your NOFA project by the L.A. County Health Agency, please contact Leepi Shimkhada at the LA County Department of Health Services, Housing for Health, for a commitment letter. Ms. Shimkhada's email is:

Ishimkhada@dhs.lacounty.gov. The commitment letter should then be included in the NOFA application.

A Supportive Service Plan with an identified lead service provider is required at the time of application for any general low-income units or Special Needs units in the proposed project that are not supported by the L.A. County Health Agency.

For projects applying for HUD-VASH PBVs, referrals must be taken from, or approved by, Veterans Affairs. Applicants must collaborate with Veterans Affairs and the County Departments on supportive services.

Details regarding the supportive service requirements must be obtained from PBV Notice of Funding Availability (NOFA) in the HACLA. For discrepancies between these HHH Regulations and HACLA's PBV NOFA requirements, the HACLA requirements will prevail.

### **2.12.6 Relocation**

If the proposed site was occupied during the six months prior to, or during purchase negotiations, a relocation assessment must be submitted (Attachment 2.12.6[1]). In addition, a copy of the relocation consultant's agreement, and the consultant's resume/qualifications must be provided (Attachment 2.12.6[2]).

Permanent displacement of the project site's residents is to be minimized. If a new construction project entails relocation or permanent displacement, the project must net a minimum of 100% more units (i.e., double) than the amount proposed to be demolished.

The relocation assessment must be completed and carried out by a qualified relocation consultant. The relocation plan must include at a minimum:

- A reasonable cost estimate;
- Identification of the number of households or businesses to be displaced;
- A current rent roll at the time of this application;
- Addresses of the required relocation notices; and,
- A description of the proposed advisory services to be provided to the displaced households/businesses.

The relocation assessment must be completed by a qualified relocation consultant and must include a detailed cost estimate based on compliance with State Regulations or the City of Los Angeles' Rent Stabilization Ordinance (RSO), whichever is applicable to each individual household and is most financially beneficial to the individual household. Please note that at minimum, the RSO relocation benefit amount must be provided to each qualifying household where the federally-prescribed relocation assistance amounts are less than the current RSO-prescribed amount; however, federal funds that are granted through these HHH Regulations can only reimburse relocation costs that are supportable by State Regulations.

A completed Relocation Tenant Rent Roll must also be included for HCIDLA's review (Attachment 2.12.6[3]).

### **2.12.7 Soils Report**

All new construction projects must submit a soils report completed within the past twenty-four (24) months of the Call for Projects application deadline, for the purposes of evaluating the geo-technical engineering characteristics of the on-site subsurface soils relative to the anticipated development. The report shall include the description of the field exploration and laboratory tests performed; evaluation of soil liquefaction potential; conclusions and recommendations relating to construction of the proposed residential development, based upon the analyses of data from exploration and testing programs; and, knowledge of the general and site-specific characteristics of the subsurface soils. Reports for sites occupied by structures must include subsurface investigations that are conducted in compliance with, and subject to, City of Los Angeles Department of Building and Safety standards (Attachment 2.12.7).

Alternatively, project sponsors may submit in lieu of a soils report, a certification that a soils report will be submitted to HCID by December 29, 2017 or an acknowledgment that the project will not be added to the annual GO Bond Project Expenditure Plan by April 1<sup>st</sup> of the Fiscal Year during which the application was received and that bond proceeds will not be available for the project until the following Fiscal Year. In which case, a soils report must be submitted to HCIDLA ninety (90) days prior to the project's CTCAC application deadline.

### **2.12.8 Financial Statements**

Financial statements for the last three years (Balance Sheet, Income Statements, and Cash Flow Statements with notes) shall be submitted with the complete Call for Projects application and as applicable, subsequent Quarterly Statement (Attachment 2.12.8).

## **2.13 Identities of Interest**

An applicant must provide identification of any persons or entities (including affiliated entities) that plan to provide development or operational services to the proposed project in more than one capacity, and full disclosure of related parties, as defined. (Attachment 2.13).

Related party is defined to include:

- The brothers, sisters, spouse, ancestors, and direct descendants of a person;
- A person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
- Two or more corporations that are connected through stock ownership with a common parent with stock possessing:
  - at least 50% of the total combined voting power of all classes that can vote, or
  - at least 50% of the total value of shares of all classes of stock of each of the corporations, or



- at least 50% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, stock owned directly by that other corporation, in computing voting power or value;
- A grantor and fiduciary of any trust;
- A fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- A fiduciary of a trust and a beneficiary of that trust;
- A fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust, or by or for a person who is a grantor of the trust;
- A person or organization and an organization that is tax-exempt under Subsection 501(a) of the Internal Revenue Code and that is affiliated with or controlled by that person or the person's family members or by that organization;
- A corporation and a partnership or joint venture if the same persons own more than:
  - 50% in value of the outstanding stock of the corporation; and
  - 50% of the capital interest, or the profits' interest, in the partnership or joint venture.

#### **2.14 Defaults, Foreclosures and Citations**

All applicants/developers, including partners and principals, must disclose bankruptcies, defaults or foreclosures, conflicts of interest or any event which could lead to a potential bankruptcy, default or foreclosure, or conflict of interest by completing and submitting the HCIDLA Credit Check Authorization (from Attachment 2.9.4[C]). For this purpose, violation of terms, conditions and/or covenants, whether or not a Notice of Default has been recorded, is deemed a default. Failure to disclose an actual or potential bankruptcy, default or foreclosure, or conflict of interest, will result in the rejection of the application and/or will be considered an event of default in HCIDLA's loan documents. All code violations and their remediation on existing projects must also be disclosed. Additionally, HCIDLA's commitment of funds may be withdrawn if any of the above-mentioned actions are discovered after the commitment is made.

If disclosure is made with respect to the above, the applicant must provide a complete explanation of the circumstances and current status. HCIDLA, in its sole discretion, will determine if the explanation is acceptable. An unacceptable history of delinquencies, bankruptcies, defaults or foreclosures, or conflicts of interest are all, singularly or in combination, grounds for rejection of the application.

#### **2.15 Intentionally Left Blank**

#### **2.16 Architecture and Design Use Criteria**

Applicants/developers must provide written rationale that explains the project design, and submit an electronic copy in Adobe Acrobat format (Pdf) of 24" x 36" Conceptual architectural plans or schematics (Attachment 2.16). The written rationale should be consistent with the submitted design. For "non-structural rehabilitation projects," applicants must provide rehabilitation plans that indicate the proposed improvements to enable HCIDLA cost estimators to locate, quantify and confirm all proposed improvements (e.g., number of doors, windows and/or fixtures to be replaced; floor, wall

and ceiling areas to be rehabilitated, indicating site work, if any, such as paved walkways, driveways, steps, landscape areas, low retaining walls to be added or replaced, etc.)

All proposed projects shall undergo an architectural review the project design should comply with HCIDLA Architectural Guidelines. CTCAC projects must score the minimum number of points according to CTCAC's Sustainable Building Methods criteria as outlined in the Architectural Guidelines (Exhibit 01).

Structures built before 1978, which require rehabilitation or demolition, will require a budget for lead and asbestos testing and abatement.

## **2.17 Accessibility Certification Requirements**

A State of California Certified Access Specialist (CASp) who is a licensed architect or engineer must be identified as part of the development team. The CASp cannot be the architect of record for the project.

Applicants/developers must work with their CASp consultants/specialists to insure that all proposed development projects comply with the following accessibility standards including, but not limited to:

- Section 504 of the Rehabilitation Act of 1973, as amended, and its implementing regulations at CFR Part 8, effective July 11, 1988 and the Uniform Federal Accessibility Standard (UFAS) 24 CFR Part 40;
- HUD's Alternative Accessibility Standard published in the Federal Register May 23, 2014 (Vol. 70 Number 100) that allows recipients of HUD funds to use the 2010 ADA Title II Standards for Accessible Design except for the eleven UFAS sections deemed by HUD to provide greater accessibility;
- The 2010 Standards for State and local governments, which consist of the Title II regulations at 28 CFR 35.151 and the 2004 ADDAG at 36 CFR part 1191, appendices B and;
- The 2010 Standards for public accommodations and commercial facilities, which consist of the Title II regulations at 28 CFR part 36, subpart D, and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.
- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin. Title VIII was amended in 1988 (effective March 13, 1991) by the Fair Housing Amendments Act that describes required construction standards for all multifamily properties. Fair Housing Act, 42 U.S.C. 3601, et seq; 24 CFR Parts 100, 103, and 104;
- California Building Code Chapters 11A & B (architect must include this note on title page of plans: "This is a publicly funded housing project and must comply with California Building Code Chapter 11B").

In addition to the project site and the buildings being accessible to people with disabilities, the development must construct at least:

- 4% of the total units in the project must be accessible to persons with sensory impairments;
- **and,**
- 10% of the total units in the project must be accessible to persons with mobility impairments.

The 4% and the 10% calculations shall be based on the total number of units in the project. Required accessible dwelling units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout projects and sites, and shall be available in a sufficient range of sizes and amenities so that a qualified individual with handicap's choice of living arrangements is, as a whole, comparable to that of other persons eligible for housing assistance under the same program.

At the time of application, an Accessibility Compliance Certification (Attachment 2.17) must be completed and signed by the applicant certifying that the development is compliant with applicable accessibility standards.

- **Accessibility Design Review Report** at construction documents review prior to the submission of plans to Los Angeles Building and Safety Department. Provide a pdf copy of plans used for the review;
- **Accessibility Progress Inspection Reports** after all rough inspections have been signed off prior to closing of walls;
- **Final Accessibility Report** at completion of construction must be approved by HCIDLA before any retention payment of certificate of occupancy can be issued.

The cost of CASp activities and certifications should be included in the application's project budget.

A list of State Certified Disabled Access Specialists can be found at the following link: [https://www.apps.dgs.ca.gov/casp/casp\\_certified\\_list.aspx](https://www.apps.dgs.ca.gov/casp/casp_certified_list.aspx)

## **2.18 Assurances and Conditions Certification**

The authorized signatory(s) for each applicant organization must read the Assurances and Conditions outlined below and submit a completed Assurances and Conditions Certification form (Attachment 2.18). By doing so, the applicant acknowledges understanding of and agreement with the following provisions that will be required at the time of contract negotiations:

**2.18.1 Affirmative Action:** The City's Administrative Code (Division 10, Chapter 1, Article 1, Section 10.8) establishes the Affirmative Action program for vendors doing business with the City. As a condition of contract award, grantees will be required to comply with the provisions of the City's Affirmative Action program, including submission of the City's Affirmative Action form with an Affirmative Action Plan.

**2.18.2 Insurance:** The chosen contractor(s) must provide evidence of minimum insurance coverage requirements.

**2.18.3 Service Contract Worker Retention Ordinance and the Living Wage Ordinance (SCWRO and LWO):** The chosen contractor(s) shall comply with all Los Angeles Administrative Code (LAAC) Sections 10.36 et seq., SCWRO and LWO. A Declaration of Compliance must be approved by the Department of Public Works, Office of Contract Compliance prior to contract execution.

**2.18.4 Equal Benefits Ordinance (EBO):** The chosen contractor(s) must be certified as complying with the Los Angeles Administrative Code Section 10.8.2.1, EBO, prior to the execution of any City Agreement. The EBO forms must be approved by the Department of Public Works, Office of Contract Compliance prior to contract execution.

**2.18.5 Certifications and Disclosure Regarding Lobbying**

Applicant(s) shall provide copies Certification and Disclosure Regarding Lobbying. Contractor(s) shall also file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure, or which materially affects the accuracy of the information contained in any Disclosure Form previously filed by the Contractor(s).

**2.18.6 Slavery Disclosure Ordinance:** Unless otherwise exempt, in accordance with the provisions of the Slavery Disclosure Ordinance, any contract awarded pursuant to these HHH Regulations will be subject to the Section 10.41 - Slavery Disclosure Ordinance of the Los Angeles Administrative Code.

**2.18.7 MBE/WBE/OBE Subcontractor/Supplier Information:** The Contractor shall submit the MBE/WBE/OBE Form and comply with the City's Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Other Business Enterprise (OBE) outreach requirements as appropriate.

**2.19 HCIDLA Business Policy**

HCIDLA has worked with a substantial number of developers over the years to create affordable housing. However, in some cases, developers exceeded their capacity to complete projects that have received City funding commitments. In response, HCIDLA received approval from the Mayor and City Council to adopt the Department's Business Policy. The Business Policy provides direction concerning specific collection steps and renders applicants and their related partnerships ineligible for City assistance, if in non-compliance with loan agreements or other contract(s) with the City. Non-compliance includes, but is not limited to, any monetary or non-monetary compliance issues, such as failure to submit payments when due, failure to submit required financial statements in a timely manner, failure to submit documents verifying adherence to rent regulatory agreements when required, failure to comply with the requirements of any rent regulatory agreement or covenant, and failure to correct any building deficiency noted by any governmental agency in a timely manner. An application is deemed ineligible to compete for funding if any member of the applicant's ownership entity has an interest in a current project or projects that are in monetary, or non-monetary default. Rehabilitation projects involving properties placed into HCIDLA's Rent Escrow Account Program (REAP)

under the current ownership and remaining out of compliance at the time of application, are also ineligible to compete for funding.

In accordance with the HCIDLA Business Policy, the applicant must provide a list of ALL residential income properties located within Los Angeles City limits that the applicant and the applicant's partners and/or principals have (or previously had) a vested interest in, including all properties currently or previously owned by any of the aforementioned parties, regardless of funding source. The list must be submitted in Microsoft Excel format. In addition, a complete and accurate list of the names of all persons and entities who are partners or principals in the project, including the name(s) of the applicant(s), must be provided.

HCIDLA will conduct a background check internally, based on the information provided to determine if any outstanding financial statements, residual receipts payments, Rent Registration or Code (SCEP), or Land Use Monitoring fees are due, if there are unpaid property taxes, lapsed insurance, Occupancy Monitoring (tenant eligibility) issues or issues concerning Affirmative Marketing due to non-listing on Housing.LACity.org, outstanding cited habitability violations, and/or if the property is in any of the City's compliance programs due to unabated habitability violations (i.e., REAP). Failure to disclose all applicable properties may result in disqualification of the application.

## **2.20 Project Feasibility**

This category will determine whether the project, as proposed, is financially feasible and demonstrates long-term viability as an affordable housing project. Projects must use the underwriting criteria required by the identified leveraging source, in combination with HCIDLA guidelines detailed in Section 3 of these HHH Regulations.

### **2.20.1 Assessment of Cost and Contractor's Cost Certification**

The reasonableness of the estimated development costs will be analyzed in relation to the type and size of the development. HCIDLA staff and consultants will perform a detailed underwriting and cost estimating review of the submitted costs. Applicants must include comprehensive notes and assumptions with financial exhibits and detailed construction cost estimates in order for HCIDLA staff to perform an adequate and fair review of development costs.

Builder overhead, profit and general conditions/requirements are limited to 14% of the construction cost. Construction contingency allowances must be allocated outside the proposed construction contract amount, and should be between 5% and 10% of the total construction costs for new construction, and between 10% and 15% for rehabilitation projects.

Please refer to Section 3.7.7.5 – *Cost Certification* for details regarding specific requirements under these HHH Regulations.

### **2.20.2 Assessment of Long-Term Viability**

For proper evaluation of construction costs, it is recommended that the developer submit all pertinent information that impacts construction cost. This may include but is not limited to the assessment of the project's long-term viability. All

projects must demonstrate viability supported by a 15-year cash flow proforma which shows positive cash flow. The reasonableness of the operating expenses, reserves, and overall assumptions will be analyzed in relation to the type and size of the development. Operating subsidies reflected in the proforma must be supported by commitments which can reasonably be relied upon. The marketability of the project, in terms of how suitable the proposed rents are relative to the market, will also be taken into account in assessing long-term viability.

**SECTION 3**  
**UNDERWRITING, COST AND PRICING GUIDELINES**

**3.1 Replacement Reserve**

A minimum replacement reserve of three hundred dollars (\$300) per unit, per year, shall be set for all unit types, except senior units, which will be set at two hundred fifty dollars (\$250) per unit, per year. However, if CTCAC, HCD or HUD should adopt regulations that differ, the HCIDLA shall re-underwrite the project prior to the closing of the loan, in order to be consistent with the identified primary leveraging source.

**3.2 Operating Reserve**

The operating reserve shall be established and capitalized up front, either by accepting the investor(s) requirements or with an amount equal to at least three (3) months of operating expenses and hard debt service. This amount must appear in the proforma development budget at the time of application submittal, and at HHH loan closing. The actual operating reserve account must be established and fully funded within 120 days of completion of construction. However, if CTCAC or HCD should adopt regulations that differ, HCIDLA will have the authority to re-underwrite the project prior to the closing of the loan, in order to be consistent with the identified primary leveraging source.

**3.3 Supportive Services Reserve Fund and Supportive Services Coordination and Case Management**

Case management must include outreach and engagement with tenants. The following Case Manager-to-tenant ratios will be used, based on the best practices of the Los Angeles County Health Agencies, by HCIDLA in evaluating project proposals:

- One Full Time Equivalent (FTE) Case Manager to no more than 20 units of chronically homeless;
- One Full Time Equivalent (FTE) Case Manager to no more than 20 units for homeless Transition-Aged-Youths;
- One Full Time Equivalent (FTE) Case Manager to no more than 30 units of homeless with special needs;
- One Full Time Equivalent (FTE) Case Manager to no more than 45 units of low income senior or other tenant populations.

To calculate the required ratio, the quotient shall be rounded up.

Applicant/developer will be permitted to pay for supportive services coordination and case management from cash flow as an Operating Expense up to the limits defined below. The applicant/developer may also establish a Supportive Services Reserve Fund for supportive services coordination and case management. To the extent that there are funds available after the 1) payment of all Operating Expenses, 2) funding the Replacement Reserve Fund, and 3) funding the Operating Reserve Fund, funds may be deposited into this Supportive Services Reserve Fund for the purposes of providing supportive services coordination and case management for the project's tenant population. In a given year, based on the target population served in each unit, the combined amounts of 1) supportive services coordination and case management costs

taken as an Operating Expense and 2) deposits to the Supportive Services Reserve Fund shall be in amounts of no more than the following:

- Up to \$4,080 per unit per year for the chronically homeless;
- Up to \$3,060 per unit per year for homeless with special needs;
- Up to \$250 per unit per year for low income senior and other tenant populations.

The maximum balance of the Supportive Services Reserve Fund may not exceed three (3) times the per unit annual limits.

Requests for disbursement from the Supportive Services Reserve Fund must be submitted in writing to HCIDLA Asset Management Division, Attention: Division Director, and will be subject to HCIDLA approval. Funds may be drawn to pay only for providing supportive services coordination and case management for the project's tenant population and when other public funding is unavailable to cover supportive services coordination and case management expenses. Funds from this account shall not be used to pay for other supportive services. For projects serving the homeless, disbursements will be contingent upon adherence to a Supportive Services Plan that is in conformance with the Plan Requirements outlined in the HACLA PBV Call for Projects, or from a government agency issuing the rental or operating subsidy, if available.

Inflation for the annual service coordination fee (on the \$250, \$3,060, or \$4,080 per unit, per year base) may be increased by five percent (5%) annually.

However, if CTCAC, HCD or HUD should adopt a fee guideline that would differ from that of the HHH Regulations, the HCIDLA shall re-underwrite the project prior to HHH loan closing to ensure consistency with the regulations of the project's primary leveraging source.

### **3.4 Minimum Debt Coverage Ratio**

The initial debt service coverage ratio must be equal to at least 1.15 to 1 in at least one of the project's first three years is required, except for FHA/HUD projects. Debt service does not include residual receipts debt payments. Except where a higher first year ratio is necessary to exhibit positive cash flow after debt service for a 15-year minimum term beginning at stabilized occupancy (under such an exception the year-15 cash flow shall be no more than the greater of 1) two percent (2%) of the year-15 gross income or 2) the lesser of \$500 per unit or \$25,000 total), "cash flow after debt service" shall be limited to the higher of twenty-five percent (25%) of the anticipated annual must pay debt service payment or eight percent (8%) of gross income, during each of the first three years of project operation, following the California Tax Credit Allocation Committee Code of Regulations Title 4, Division 17, Chapter 1 section 10327 guidelines.

### **3.5 Developer Fee**

For all projects applying for Measure HHH financing, the maximum developer fee that may be included in project costs is the relevant limit established by the California Tax



Credit Allocation Committee (CTCAC) in the California Code of Regulations, Title 4, Division 17, Chapter 1, Section 10327(c)(2)(A) and (B). Notwithstanding the CTCAC developer fee maximums, the maximum developer fee that may be paid out of development funding sources is \$2.5 million. The balance of a higher earned developer fee permissible under Section 10327(c) (2) (B) must be offset by a capital contribution of an equal amount to defray the development costs associated with the permanent supportive housing project. The project budget may not reflect, nor may the project pay out, a deferred developer fee beyond the balance owed on the \$2.5 million portion of the fee.

### **3.5.1 Small Difficult to Develop Areas (DDAs)**

For Bond/4% LIHTC projects within the 2017 federally-designated Small DDAs, HHH applicants may budget a developer fee consistent with the CCR section 10327(c)(2)(B) guidelines, whereby any balance in excess of \$2.5 million shall be deferred or contributed as equity to the project.

[https://www.huduser.gov/portal/sadda/sadda\\_qct.html](https://www.huduser.gov/portal/sadda/sadda_qct.html)

## **3.6 Consulting Fees**

Consulting fees must not exceed \$100,000 and should be dependent on the size and complexity of the project. Specific consulting services could include: preparation of tax credit applications; preparation of HCIDLA applications and other public agency applications; preparation of applications for conventional financing; as well as provision of general development services such as the selection and coordination of the development team, loan documentation, and processing local approvals. Fees required for construction management and entitlement consulting are not included in this category if they are provided by a third party.

If the developer performs development services for the project which could be contracted to a consultant (e.g., preparation of a Tax Credit application, obtaining entitlements), the developer is entitled to assign the consulting fees to its own organization.

Applicants may not make side agreements with consultants which increase the consulting fees beyond the amount shown on the consulting line item. All consultant contracts and fees charged by the developer (in excess of the development fee) to provide services to the project shall be reviewed and approved by HCIDLA for cost reasonableness.

## **3.7 Cost and Pricing Guidelines**

### **3.7.1 Purchase Price**

The maximum allowable purchase price is the lower of either the purchase price of the property or the as-is appraised value as evidenced by an appraisal that is prepared by a California State-certified general appraiser no more than six (6) months prior to the date of HCIDLA loan funding. The appraisal may not determine property value based solely on the sale of comparables financed by public agencies, as described in section 2.12.1.

Additionally, if the subject site is being sold by an entity related to the newly proposed ownership entity, any mark-up on the land costs must be clearly stated and will be subject to HCIDLA approval.

**3.7.2 Tax Credit Pricing**

A letter of interest is not required at Call for Projects application deadline. However, for underwriting purposes, HCIDLA will not approve a loan based on assumptions that are unreasonable or inconsistent with industry standards.

**3.7.3 Cost Controls**

All contracts, including but not limited to Owner/Architect, Owner/Consultants and Owner/General Contractor must be approved by HCIDLA.

Project costs should take into consideration anticipated increases in construction labor and materials costs throughout the projected construction period. Applicants should not expect HCIDLA to fill any additional financing gaps that occur as a result of rising prices.

**3.7.4 Competitive Bid – General Contractors and Subcontractors**

If at the time of application, the general contractor was not identified as part of the development team, the construction contract shall be awarded through a competitive bid process. The developer shall utilize a Request for Qualifications (RFQ) process (soliciting a minimum of three proposals). Awards should be made to the responsible firm whose proposal is most advantageous to the project with price and other factors considered. Criteria for selection should include, but not be limited to: the success of previous projects; experience and track record for completing projects on time and on budget; amount of overhead and profit; ability and/or capacity to complete the job within the time frame required; contractor integrity; and, the breadth of financial and technical resources to support the project. The general contractor, construction contract, and any change orders issued thereunder, will be subject to the HCIDLA's approval. If at the time of application, a general contractor has been selected and is identified as a member of the development team, the developer/general contractor must provide a minimum of three (3) bids for each major trade including but not limited to site work, concrete, carpentry, drywall, plaster, mechanical, electrical and plumbing.

**3.7.5 Disallowed Costs**

HCIDLA reserves the right to disallow any costs which it believes to be excessive, avoidable, unwarranted or disallowed pursuant to any and all funding guidelines. Additionally, HCIDLA will not approve a loan based on costs that are unreasonable or inconsistent with industry standards.

**3.7.6 State Prevailing Wage Requirements**

Any project funded in whole or in part with HHH funds is subject to State Prevailing Wage Requirements.

Pursuant to the California Code of regulations Section 16001(d), residential projects consist of single-family homes and apartments up to and including four stories. The residential determination applies only to the residential portion of the project meeting this definition. Construction of any structures or ancillary facilities on the project that does not meet this definition requires the payment of the general commercial prevailing wage rates.

According to the definitions contained in Title 8, Section 1504 of the California Code of regulations, the following is the definition of a building story:

“That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused underfloor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter, or is more than 12 feet above grade as defined herein at any point, such basement, cellar or unused underfloor space shall be considered as a story.”

Information regarding California’s State Prevailing Wage Determinations are as follows:

CA State Wage Determinations:

[http://www.dir.ca.gov/dlsr/statistics\\_research.html](http://www.dir.ca.gov/dlsr/statistics_research.html)

Archived CA State Determinations:

<http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>

**PENDING MAYOR AND COUNCIL APPROVAL OF FINAL REGULATIONS - SOME PROJECTS MAY BE ALSO BE SUBJECT TO A PROJECT LABOR AGREEMENT**

### **3.7.7 Contractor Accountability**

#### **3.7.7.1 Cost of the Work plus a Fee with a Guaranteed Maximum Price Contract (GMAX)**

General Contractors will be required to use a Guaranteed Maximum Price Contract (GMAX) wherein the basis for payment is the cost of the work plus a fee. The construction contract shall include an overall cost limitation of fourteen percent (14%) of the cost of construction, which shall apply to builder overhead, profit, and general requirements, excluding builder's general liability insurance. For purposes of calculating builder overhead and profit, the cost of construction includes offsite improvements, demolition and site work, structures, prevailing wage, and general requirements. For purposes of calculating general requirements,

the cost of construction includes offsite improvements, demolition and site work, structures, and prevailing wage. All construction contracts shall clearly state that the sharing of cost savings, which are above and beyond the maximum fourteen percent (14%) of the cost of construction for builders overhead, profit and general requirements are not allowed under said contracts.

### **3.7.7.2 Intentionally Left Blank**

### **3.7.7.3 Enforcement Language**

The City loan documents will enforce the 14% cap on profit, overhead and general conditions that includes penalties, fees, and possible debarment of the borrower, contractor and/or their principals.

### **3.7.7.4 LCP Tracker**

Contractors will be required to report to HCIDLA's Prevailing Wage Compliance Unit using the LCP Tracker labor compliance software, used by many public agencies to capture, monitor, and report prevailing wage compliance in projects financed with public funds. An amount equal to 0.03% of the construction contract must be paid in full by the applicant/developer within 30 days of execution of the HCIDLA loan.

### **3.7.7.5 Cost Certification**

Borrowers shall submit for HCIDLA's approval, a completed audit of construction costs by an independent Certified Public Accountant within sixty (60) calendar days after the issuance of the project's Final Certificate of Occupancy. The audit shall include the accountant's opinion on calculation of profit, overhead, and general conditions as a percentage of the total contract amount.

A construction cost breakdown must be prepared using the standard Construction Specification Institute (CSI) Division format for building components. Prices for labor must take into consideration the applicable wages. Where there is an identity of interest relationship between the general contractor and/or the owner and a subcontractor as defined in Section 2.13, HCIDLA will require a cost certification of the subcontractor. Any overhead, profit and general requirement fees paid to that subcontractor will be added to the general contractor's overhead, profit and general requirements and limited to the percentages allowable in these HHH Regulations. In these instances, the general contractor must provide to a third party Accountant:

- Copy of construction contract and any change orders;
- Listing of all subcontractors utilized on the job, with amounts paid and to be paid;
- Listing of all "other costs/fees" paid and/or incurred for the project by the contractor.

The Accountant shall select at least five other subcontractors at random or by a sampling method, and verify the amounts paid to each subcontractor by reviewing check copies, contract documents, change orders, and other supporting information to verify amounts included within the cost certification for each subcontractor selected.

Coverage should be at least 40% of total cost incurred on the construction contract. If not, the Accountant shall select additional subcontractors and perform procedures above until the 40% requirement is exceeded.

The Accountant shall perform a comparison of actual costs to the amount budgeted at the time of application and obtain explanations for significant variances.

The Contractor's Cost Certification forms must be accompanied by the unqualified opinion of the Accountant.

### **3.7.8 Utility Allowance (UA)**

Newly constructed projects in the design phase (brand new, never previously used buildings) must establish maximum monthly allowances for utilities and services (excluding telephone) by using the California Energy Commission (CEC) California Utility Allowance Calculator (CUAC), the HUD Utility Schedule Model (HUSM), or a project-specific methodology. Use of the UA established by HACLA is not allowed. Application of these standardized UAs may not represent actual utility costs, particularly in projects where tenants pay utilities directly, or projects that are built with higher energy-efficiency standards. HCIDLA requires that the signing consultant be qualified by the California Association of Building Energy Consultants' (CABEC) Certified Energy Plans Examiner (CEPE) program, and must be a certified Home Energy Rating System (HERS) Rater, or a California licensed mechanical engineer or electrical engineer.

Rehabilitation projects or projects with Project Based Section 8 Vouchers from HACLA shall use HACLA's utility allowance if approved by HUD.

If a new construction development has several units supported by Section 8 Project Based Vouchers (PBVs) from HACLA, then the project shall be allowed to use HACLA's utility allowances for the entire project.

## SECTION 4 APPLICATION PROCESS AND REQUIREMENTS

The following general rules will apply to all applications submitted under the Proposition HHH Permanent Supportive Housing Program Call for Projects:

### **4.1 General Rules:**

- 4.1.1 Only one application per project, containing one financing structure only, will be accepted by HCIDLA.
- 4.1.2 All applications must be received by the required date for each established round of Call for Projects. Applicants are encouraged to submit their projects as early as possible.
- 4.1.3 Incomplete applications will not be considered for funding. It is the responsibility of the applicant to ensure completeness of their submittal.
- 4.1.4 Staff will begin reviewing and underwriting proposals as soon as they are received.
- 4.1.5 Applicants will be subject to a background check to ensure compliance with HCIDLA Business Policy.
- 4.1.6 All information and support documents relevant to the proposed project must be submitted with the application. The completion of all applicable sections of the HCIDLA-supplied application is required.

### **4.2 Intentionally Left Blank**

### **4.3 Application Submittal and Review**

Call for Projects applicants must use the online application and forms provided or approved by HCIDLA. Application forms must not be modified. Late and/or incomplete applications will not be accepted. Applications submitted through hard copies, facsimiles or email will not be accepted.

### **4.4 Appeal Process**

#### **(a) Availability**

Unsuccessful applicants may file an appeal of a HCIDLA Staff recommendation for disqualification of application pursuant to Section 2 - Threshold Requirements;

#### **(b) Timing**

The appeal must be submitted in writing to the HCIDLA, Housing Development Bureau, to the attention of the Assistant General Manager (AGM) within seven (7) calendar days of the notice of determination. The appeal shall identify specifically, based upon previously submitted application materials, the applicant's grounds for the

appeal. Consequently, the appeal review shall be based upon the existing documentation submitted by the applicant when the application was filed. The HCIDLA AGM will respond in writing to the appeal letter within five (5) working days after receipt of the appeal letter.

**4.5 City Council and Mayoral Approval Process**

Final recommendations will be reviewed by the HHH Citizens Oversight Committee, HHH Administrative Oversight Committee, the Homelessness and Poverty Committee of the City Council, and the full City Council. Once the recommendations are adopted by the City Council, the Mayor's Office will give its final concurrence.

**4.6 Release of Funds**

Due to the contingent nature of commitments made by HCIDLA through the HHH, loan agreements will not be executed until all funding is in place or reasonably expected. However, in no event will HCIDLA be required to execute a loan agreement if after the specified funding cycles have elapsed, a funding gap exists for any reason, including cost increases, the withdrawal or reduction of a previous commitment, or deferred costs or fees.

## **SECTION 5 PROGRAM PRIORITIES**

For informational purposes, applications will be listed in all documents based on the number of the following Mayor and Council approved program priorities which the project meets:

### **5.1 Transit Oriented Developments (TOD)**

Pursuant to the Los Angeles City Planning Department's Transit Oriented Communities Affordable Housing Incentive Program (TOC) guidelines, qualified TOD projects are located no further than one-half (1/2) mile from a Transit Station/Stop served by a Major Transit Stop. "Major Transit Stop" is a site containing a rail station or the intersection of two or more bus routes with a service interval of 15 minutes or less during the morning and afternoon peak commute periods. The stations or bus routes may be existing, under construction, or included in the most recent Southern California Association of Governments (SCAG) Regional Transportation Plan. Applicants are responsible for providing Scaled Distance Map (Attachment 5.1) showing the proximity of the Major Transit Stop to the project. Projects located in Tiers III and IV will be prioritized over other TOD project proposals.

### **5.2 Geographic Distribution**

To encourage geographic distribution of projects throughout the City of Los Angeles priority will be given to projects located in Small Difficult to Develop Areas as defined in Section 3.5.1 of these regulations. Applicant must submit screenshot from following link: [https://www.huduser.gov/portal/sadda/sadda\\_qct.html](https://www.huduser.gov/portal/sadda/sadda_qct.html) (Attachment 5.2).

### **5.3 Access to Services**

Project site is located within 1/2 mile of a facility that operates to serve the population living in the development including but not limited to: a qualifying medical clinic that accepts Medi-Cal or Health Care for the Homeless payments or have an equally comprehensive subsidy program for low-income patients. Behavioral health services provided by appropriately-licensed organization or individual. Includes but is not limited to: medication management services, mental health services and treatment, substance abuse services and treatment. Other facilities delivering high-quality services designed to improve the quality of life for tenants are eligible to receive priority under this Section. Services must be appropriate to meet the needs of the tenant population served and designed to generate positive changes in the lives of tenants, such as by increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets, increasing health and well-being. Applicants must submit Scaled Distance Map (Attachment 5.3) showing the proximity of the facility to the project.



#### **5.4 Leveraging**

A project application whose total request is below the maximum permitted loan limits listed in Section 2.4 of these regulations shall be assigned a priority for each percent listed below.

5.4.1. Projects requesting less than 75% of maximum funding allowed.

5.4.2 Projects requesting less than 85% of maximum funding allowed

5.4.3 Projects requesting less than 95% of maximum funding allowed

#### **5.5. Projects containing over 50 units**

#### **5.6 Projects with more than 50% PSH units**

5.6.1 Projects with 51% to 65% PSH Units

5.6.2 Projects with 66% to 85% PSH Units

5.6.3 Projects with 86% to 100% PSH Units