

City of East Palo Alto
Affordable Housing Preservation Program
Program Guidelines
DRAFT
November 26, 2024

Applications are accepted through an over-the-counter process. Hard copies will not be accepted. Applications must be submitted to housing@cityofepa.org. If **you have any questions, please contact Karen Camacho at housing@cityofepa.org**.

Please be aware that under the California Public Records Act, all documents submitted in response to this program are considered part of the public record and will be made available to the public, upon request, following the application deadline.

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OVERVIEW

Program Description

The City of East Palo Alto (City) Affordable Housing Preservation Program (Program) is an ongoing, over-the-counter Program designed to prevent displacement of lower-income households and preserve long term affordability of rental units. Under this Program, the City will award funding to support 1) acquisition/rehabilitation of existing single-family and multi-family properties in East Palo Alto in order to serve lower-income households through conversion to deed-restricted affordable housing; or 2) extending the affordability term of existing deed-restricted rental properties in incorporated East Palo Alto with regulatory requirements expiring within five (5) years.

Eligible projects should mitigate the displacement of lower-income households and be in the best position to move forward with acquisition and/or rehabilitation.

The City's primary objectives for the Program are to:

- Help non-profits and tenants buy market-rate properties and deed-restrict them
- Serve vulnerable populations at-risk of displacement
- Preserve properties occupied with low-income households
- Preserve the greatest number of units possible by funding projects with the lowest per unit subsidy cost to the City

Applications will be reviewed by City staff against these objectives, as well as threshold requirements and project-specific criteria described in this document. Applicants are responsible for reviewing these Affordable Housing Preservation Program Guidelines (Guidelines) and any relevant exhibits and attachments to ensure their project's compatibility with this Program.

Eligible Costs

Costs eligible for City funds include any costs of the project such as acquisition, hard costs, soft costs, developer fees, and reserves related to the rental housing. Program funds may be used to pay off a bridge/acquisition loan for projects acquired within six (6) months of application submission. The City's funds cannot pay for commercial costs or luxury items.

Available Funding

Available funding levels and funding sources for the Program will vary over time. The City reserves the right to re-allocate Program resources, as required, to ensure that overall City goals are achieved. Applicants must review the amounts and requirements of the funding sources in the Notice of Funds Available (NOFA).

Applicants should seek out additional funds to offset the cost to East Palo Alto, Examples of sources that may be available include, but are not limited to, the following sources.

Additional Funding Sources

Applicants are strongly encouraged to seek out additional funding sources such as the following:

- **San Mateo County Affordable Housing Funds:** Projects with the intent to preserve affordability may be eligible for additional funding through the County of San Mateo's annual three Notices of Funding Availability (NOFA) funded by HUD (CDBG and HOME) or by the County (Measure K).
- **Bay Area Preservation Pilot Fund (BAPP):** BAPP is a revolving loan fund designed to assist mission-driven developers and community-based organizations with the acquisition and preservation of homes that are:
 - Unsubsidized multifamily housing;
 - Located in areas with high-frequency transit service; and
 - Considered affordable to low- and moderate-income renters.
- **The Bay's Future Fund:** This fund, overseen by LISC, provides funds for affordable housing preservation and development.

SELECTION PROCESS

Projects will be reviewed and scored on a first-come, first-served basis. All projects that meet the minimum threshold requirements will be eligible for funding. If multiple projects have applied around the same time, projects that meet the threshold will be scored against each other (see Evaluation Criteria). The City will use the Evaluation Criteria to score eligible projects to determine the priority for awarding funds.

Minimum Threshold Criteria (Applicable to All Projects)

- 1) The application must be complete.
- 2) The funding request must be within the amount available (at the time of the request). See the Notice of Funds Available (NOFA) document for the funding sources and amounts currently available.
- 3) The proposal must meet the Program requirements.
- 4) The applicant must be a nonprofit organization, local government agency, joint powers agency, a joint venture that includes a qualified nonprofit organization, or community land trust. Tenants wishing to purchase their property should be in partnership with one of the aforementioned types of organizations.
- 5) Eligible projects include existing single-family and multi-family residential rental projects with:
 - a) Units occupied by lower-income households;
 - b) Units that will be deed restricted to occupancy by lower-income households and will transition into compliance upon vacancy of units by non-lower-income tenants, which may include the sale by a homeowner of

- a single-family home to an eligible organization; or
- c) Units where affordability restrictions are set to expire within five (5) years of the application.
- 6) All units supported through this Program must serve households at or below 80% of Area Median Income (AMI), as published by the County of San Mateo annually (see <https://www.smcgov.org/housing/income-limits-and-rent-payments>). Mixed-income projects (i.e., projects that include some units over 80% Area Median Income/AMI) may be eligible, but City funds may only be used to subsidize the units at or below 80% AMI.
 - 7) Utility Allowances, as published by the County of San Mateo (see <https://www.smcgov.org/housing/utility-allowance-schedules>) must be subtracted from gross rents for any utilities paid by tenants. To determine the actual rent paid by a tenant Fees: The developer must outline any monthly fees that may be charged tenants. All required monthly fees must be included in the Utility Allowance. For projects within 0.5 miles of any existing high-quality transit corridor, parking fees can be excluded from the Utility Allowance if renting a parking space is not required.
 - 8) The applicant must commit to maintaining direct and continuing control of the project throughout the regulatory period.
 - 9) Applicants with existing City loans must be in good standing with the City's annual monitoring requirements.
 - 10) Applicants must have site control. A purchase and sale agreement, option, disposition and development agreement, exclusive negotiating agreement, or grant deed are acceptable forms of evidence of site control. Applicants with only an offer may be considered for funding, but a final approval is contingent upon having site control, as defined above.
 - 11) Requested funds must fill a financing gap or pay off short-term financing, such as a bridge loan or acquisition loan. The project must not already be fully funded with permanent financing, and the City funds cannot replace other permanent funding on the project. Exceptions to this rule will be made only when a permanent funding source is no longer financially viable.

Developer Experience

Applicants should meet the following capacity and experience requirements:

- The applicant has completed at least one (1) project similar to what is proposed in terms of scope, size, budget, financing structure, ability to obtain financing, and schedule, and that has been in service for at least three (3) years. Applicants may use key principals to qualify for experience.
- The property manager has managed at least two (2) completed projects similar

to what is proposed in terms of scope, size, and operating budget.

The applicant should provide documentation relevant to capacity and experience including the following from similar projects: two years audited financial statements, the most recent annual budget, and any legal or funding agreements, Statements are not required from key principals if they no longer have access to these documents.

Tenant organizations, community land trusts, and other non-profit organizations who do not meet the above requirements may apply, but the City may require that the applicant partner with a more experienced partner or development consultant.

City Underwriting Guidelines

Housing Preservation Program Loan Underwriting Guidelines	
Item	Requirement
Loan Term	55 years
Interest	3% annual simple interest, paid from residual receipts
Regulatory Term	55 years from when the building reaches 80% occupancy of deed-restricted units with households at targeted incomes. The developer must notify the City when this occupancy level is reached.
Income Limits	Up to 80% Area Median Income (AMI) Refer to the County website for the current income limits: https://www.smcgov.org/housing/income-limits-and-rent-payments
Maximum Rents (Including Utility Allowances)	Lower Income, as published by the County at https://www.smcgov.org/housing/income-limits-and-rent-payments
Rent Increases	Maximum rents published by the County (see above) or 5% annually, whichever is less.
City Monitoring Fee	Except where not allowed by law (AB2430), \$125/unit per year.
Developer Fee	5% to 10% of total project costs, depending on project complexity and size. Any deferred developer fees may be paid after all required operating costs and asset management fees but prior to residual receipts payments.
Replacement Reserves	Replacement reserve funding covers the cost of all repairs needed through year 15 of the project as described in a Property Needs Assessment (PNA) prepared by a qualified

	<p>third-party consultant.</p> <p>The reserve must include a 3% price escalator, if not included in the PNA, plus 20% for minimum wages.</p> <p>The reserve can be funded through an initial reserve deposit at acquisition/loan closing or through annual deposits from cash flows (or a combination thereof). A minimum of \$500 per unit per year is required if the initial reserve deposit does not cover 50% of the 15-year PNA cost.</p>
Capitalized Operating Reserves	Minimum 3 months' expenses, including: hard debt, monitoring fees, and replacement reserves
Vacancy Loss Percentage	Minimum 5% for residential units and 20% for commercial space
Debt Coverage Ratio	1.1 over the first two years of the project and 1.25 over the next 13 years of cash flow or the remaining loan term of any hard debt (whichever is longer).
Subsidy limit	\$300,000/unit
Asset management fee	Lesser of \$1,000/unit, or \$25,000/year with a 3.5% escalator.
Subordination	<p>The City will subordinate its deed of trust to lenders with a greater investment (senior lenders) and to private lenders that require it as a condition of funding.</p> <p>City will not subordinate its regulatory agreement to any deed of trust but will subordinate its regulatory agreement to a senior lender's regulatory agreement.</p>
Insurance	See Exhibit A.
Hard cost contingency	At least 20% of hard costs, including general requirements, overhead, profit, and contractor's contingency
Soft cost contingency	At least 5% of all costs except acquisition, hard costs, reserves, and developer fees
Contingency Funds	Contingency funds shall first be used to cover cost over runs and the remainder shall be deposited into the replacement reserve.
Relocation	Displacement or permanent relocation of existing tenants is not allowed. Temporary relocation during renovation is allowed. All

	relocation must follow local, state, and federal relocation laws.
Local Preference	Households who live or work in the City must be given preference to a portion of City-restricted units, provided they meet fair housing guidelines and the requirements of other funders. See the East Palo Alto Local Preference Policy. Local preferences may be waived for Project-Based Section 8 units and units filled through Coordinated Entry.
Property Welfare Tax	Budget must clearly show when the property welfare tax exemption is expected to begin.
Minimum Wage and Local Hiring	Developments must adhere to the East Palo Alto Minimum Wage (https://www.ci.east-palo-alto.ca.us/econdev/page/local-minimum-wage) and First Source Hiring (https://www.cityofepa.org/econdev/page/first-source-hiring-ordinance) ordinances

Upon the determination of the City Manager, substantive changes to these underwriting criteria must be approved by the City Council.

Schedule

The City has received approval from the City Council to administratively approve and fund projects. After City Housing staff has approved a project for funding, the project must acquire the property and/or close on rehabilitation funding within six months. An application requesting changes to these Program Guidelines cannot be considered for expedited approval at the staff level. Staff will determine whether an application seeking to deviate from the Guidelines may be brought to the City Council for approval.

The following schedule provides the timing for each segment of the Program application process, from application submission to closing of awarded City funds. The goal is to make an award within 60 days of submitting a complete application.

Program Application Process	TIMING
Application Submission	Ongoing
Staff initial review of complete applications	21 days
Submittal of additional information, if requested by staff	10 days
Staff final review	14 days
Staff notification of results/award letter issuance	14 days
City Loan Closing	Within 6 months of award

Evaluation Criteria for Scored Projects

The purpose of scoring is to prioritize how to fund multiple projects that apply at the same time and meet threshold requirements. If there is only one application, the City may not score the project.

EVALUATION CRITERIA	POSSIBLE POINTS
General Criteria	40
Nonprofit Organizations	10
Timing of Acquisition Closing/Rehabilitation Finance Closing: 20 points if within 3 months of the City's commitment, 10 points for within 6 months, 0 points if over 6 months.	20
Number of Units: If there is more than one project being evaluated at the same time, projects with more units being restricted will receive higher points. Projects with less than 10 restricted units will receive 0 points; projects with 10-20 restricted units will receive 3 points; projects with 21-40 restricted units will receive 7 points; projects with 41 or more units will receive 10 points	10
Affordability	45
100% Affordable to 80% AMI or Less: Projects where all units will be restricted to 80% of AMI or less receive 20 points.	20
60% Area Median Income: 5 points for each 20% of restricted units provided at 60% or less of AMI, up to the maximum of 10 points.	10
Full points if the applicant can document that a minimum of 75% of existing tenants have incomes at or below 80% AMI (vacant units count towards this number).	10
Full points if the applicant can document that at least 75% of existing tenants agree to be in a restricted unit and provide income certifications.	5
Budget	45
Hard costs: Full points if costs are justified by the Physical Needs Assessment.	5
Hard cost contingency: If a project requires rehabilitation, the budget must show a 10% hard cost contingency. (If the project does not require rehabilitation, full points.)	2
Relocation: If a project requires relocation, the budget must include appropriate relocation costs. (If no relocation required, full points.)	3
Replacement reserves: Replacement reserves must meet the City's standard.	3

Operating reserves: Operating reserves must meet the City's standard.	2
Cash flow: Cash flow must be positive over a 20-year period.	5
Rental/Operating subsidy: If rental/operating subsidy is needed, the developer must demonstrate that the rental/operating subsidy is committed. (If no subsidy is required, full points.)	5
Efficient Use of City Subsidies: Where per unit subsidy is: Less than \$100k = 10 points. \$100k and <\$200k = 5 points >\$200k = 0 points	10
Leverage of City's funds. City's funds that are 50% or below total development cost 5 points, 51% or more 2.5 points	5
Property tax exemption: If anticipating a property welfare tax exemption, the nonprofit entity must be formed and part of the legal owner.	5
Total Points	130

APPEALS PROCESS

Applicants that wish to appeal points awarded on their proposal may do so by submitting a written appeal via email to the Housing Project Manager at housing@cityofepa.org no later than 10 business days after applicants are notified of the City's decision. No appeals may be submitted after that date.

Basis of Appeals

- An appeal must be based on the contents of an applicant's original submission.
- An appeal must be based on the points awarded under the rating criteria in the Program. Appeals may request reevaluation of points awarded under the Program rating criteria, based on clarification of information provided in the original submission.
- Applicants may not submit new information to be considered in the award of points as part of the appeals process.
- Applicants may not appeal points awarded to or ranking of another applicant's submission.

If an appeal is received by the deadline, the Housing Project Manager will have 20 business days after receipt of the written appeal to investigate and respond to the applicant with a decision. The Housing Project Manager may request additional information from the applicant making the appeal or from other applicants.

If the applicant making the appeal is not satisfied with the Housing Project Manager's response, they may submit a written request for review/appeal to the Community & Economic Development Director within 10 business days of receiving the Housing Project Manager's response, with a copy to the Housing Project Manager. The

Community & Economic Development Director will have 20 business days to respond. The decision of the Community & Economic Development Director is final.

QUESTIONS/FAQS

All questions must be submitted to housing@cityofepa.org. The City will periodically post on its website a list of questions and answers.

APPLICATION SUBMITTAL REQUIREMENTS

Applications will be accepted anytime until funds are expended. The application should be submitted to housing@cityofepa.org.

Applications are to be straightforward, clear, concise, and specific to the information requested. For applications to be considered complete, the applicant must provide responses to all information requested. Submission to this Program is at the applicant's expense and no part of the costs of preparation shall be reimbursed by the City.

Applications in whole or in part are NOT to be marked confidential or proprietary. The City may refuse to consider any application or part thereof so marked. Applications submitted in response to this Program may be subject to public disclosure. The City shall not be liable in any way for disclosure of any such records. Under the California Public Records Act, all documents submitted in response to this Program are considered part of the public record and will be made available to the public, upon request.

Applications must include the following, in the following order:

1. Cover letter with applicant name, amount requested, project location, and project summary (max 1 page).
2. Description of the project including units, incomes served, occupancy status, special populations served (if applicable), commercial spaces (if any), on-site amenities, neighborhood amenities, and accessible units (if any) (max 2 pages).
3. Map identifying location of project.
4. Rent roll dated within 30 days of application with lease start date, rent, and subsidy information (if any).
5. Description of the applicant, including years of experience, types of projects, role in projects, and key principals with contact information (max 2 pages).
6. Organizational documents from the State, organizational chart, non-profit status (if applicable), and operating agreements for partnerships.
7. Last 3 Years of Audited Financial Statements of entity or principals. Small organizations that do not conduct audits may request a waiver but must submit

three years of their financial statements (balance sheets and annual profit and loss statements), and three most recent years of their IRS Form 990. For individuals, 3 years of tax returns may be accepted.

8. List of properties developed within the last 10 years that include developer's role, funding sources, income levels served, acquisition/new construction/rehabilitation, special populations served, and total development costs. The budget template provides the opportunity to provide this information.
9. Description of property management company, including years of experience and types of projects managed (max 2 pages).
10. Proof of site control with a date that extends through the acquisition closing (deed, purchase/option contract, lease, exclusive negotiating agreement, Disposition and Development Agreement).
11. Schedule listing key dates through turnover of over-income tenants (if applicable), full lease-up, including acquisition, funding applications (if applicable), inspections completed, acquisition closing, building permits (if applicable), rehabilitation start and completion (if applicable), etc.
12. Appraisal dated within 60 days of the application.
13. Preliminary title report dated within 60 days of the application.
14. Property inspections, as applicable (lead, asbestos, mold, seismic)
15. Proof of Planning approvals, if applicable.
16. Budget spreadsheets with unit mix by bedroom type and income restriction, development sources and uses, operating budget, 20-year cash flow, and debt coverage ratios. Applicants should use the budget template provided by the City or provide the information in a spreadsheet (not a PDF) that provides substantially similar information.
17. Financing commitments.
18. Operating subsidy commitment, if applicable.
19. Supportive services plan and budget (if applicable) including FTE, staff/client ratios, types of onsite and offsite services, memorandums of understanding between external service provider (if applicable), and funding commitment documents.
20. Relocation Plan and Budget, if applicable.
21. Physical Needs Assessment with replacement reserve analysis completed within 6 months prior to the application.

22. Signed Certifications in Exhibit B.
23. Description of any changes to the Guidelines requested.
24. Any other materials required to evaluate scoring criteria.

Due before closing:

1. Insurance as required by Exhibit A.
2. A Phase 1 environmental assessment dated within 1 year of the application.

GENERAL INFORMATION

Revisions

The City Manager or designee is authorized to make minor changes to the Guidelines; substantive changes will require City Council action.

If it becomes necessary to modify any aspect of this Program, the City will prepare an addendum and post it on the City's website and will send it out to the City's listserv.

Expense of Preparation

The City is not responsible for any expense incurred in preparation of submittals or taking any action in connection with the process, or for the costs of any services performed in connection with submittal, interviews, or approval process.

Review process

Applications will be reviewed by City staff and/or consultants for completeness, for threshold requirements, and competitiveness (as applicable).

- Incomplete applications may not be accepted.
- Staff may ask clarifying questions of applicants and include this information in the review process.
- Proposals that do not meet the basic thresholds may be rejected.
- The City reserves the right to refuse funding for any and all applications.
- The City reserves the right to award funds to more than one applicant.
- The City will administratively approve projects and execute loan documents for the closing.

Evaluation Process

To be considered for funding, projects are reviewed for basic thresholds as outlined in this Program. If there are multiple projects applying at or around the same time, projects meeting threshold will then be rated based on the scoring criteria. The City reserves the right to split available funds between projects as needed to expend funds promptly.

Interviews

The City reserves the right to conduct interviews in connection with responses submitted in response to this Program. If applicable, interviews will be conducted prior to staff final review. As such, all entities responding to this Program should be prepared to participate in a video phone call (Microsoft Teams, Zoom or similar format) upon request by the City.

Funding Award Recommendations

At the conclusion of the application evaluation process, all applicants will be notified by letter and email of the funding award recommendation(s), if any, by the City.

Reservation of Rights

The City reserves the right to conduct any investigation of the qualifications of any applicant that it deems appropriate, negotiate modifications to any of the items submitted, request additional information from any applicant, reject any or all submittals, and waive any irregularities. The City retains the right to negotiate the terms and services in any submittal.

Modifications

Applicants may not modify their submittal, except in direct response to a request from the City for clarification. Any submittal and proposed information items must be valid for at least 180 days after submission.

City Loan Documents

Available upon request.

EXHIBIT A - INSURANCE REQUIREMENTS

I. Types of Insurance

- A. Commercial General Liability Insurance: Contractor's General Liability insurance shall include contractual liability coverage. Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the Contractor's operations under this Agreement, whether such operations be by Contractor or by any sub-Contractor or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000), in aggregate or Three Million Dollars (\$3,000,000) combined single limit bodily injury and property damage for each occurrence.
- B. Automobile Liability Insurance: Contractor shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage.
- C. Worker's Compensation and Employer's Liability Insurance: Contractor shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement". This coverage may be held by the parent company if the property will be owned by an LLP or LLC with no employees.
- D. Property Coverage. Evidence of insurance demonstrating fire, lightning, and extended coverage insurance on the facility in a form of commercial property policy, in an amount equal to one hundred percent (100%) of the then current replacement cost of the facility, excluding the replacement cost of unimproved real property constituting the site.

II. Additional Requirements

- A. Broader Insurance Coverage: In the event that Contractor maintains broader coverage and/or higher limits than the City's minimum requirements, the City

requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance shall be called upon to protect it as a named insured.

- B. Additional Insured Status: The City of East Palo Alto, its subsidiary agencies, directors, officers, employees, agents, independent contractors, and volunteers shall be named as additional insureds on any such policies of comprehensive general and automobile liability insurance.
- C. Primary and Non-Contributory Coverage: Except for professional liability and worker's compensation insurance, the policies shall also contain a provision that the insurance afforded to the City, its subsidiary agencies, and their directors, officers, employees, agents, independent contractors and volunteers based on additional insured status shall be primary and non-contributory insurance to the full limits of liability of the policy, and that if the City, its subsidiary agencies and their directors, officers, employees, agents, independent contractors and volunteers have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.
- D. Certificates of Insurance: The Contractor shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language affecting coverage required by this clause).
- E. Notice of Cancellation: Contractor shall provide thirty (30) days' notice, in writing, to the City, at 2415 University Avenue, East Palo Alto, CA 94303, of any pending change or cancellation of the policy.
- F. Deductibles or Self-Insured Retentions: Prior to the execution of this Agreement, any deductibles or self-insured retentions must be declared to and approved by City.
- G. Breach: In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, City, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

EXHIBIT B - APPLICANT CERTIFICATIONS

Applicant hereby certifies:

1. Truth of Application

That the information submitted in the project application and any supporting materials is true, accurate, and complete to the best of our knowledge. Applicant acknowledges and understands that if facts and/or information herein are found to be misrepresented, it shall constitute grounds for the default of the funding from which application is being made.

2. Applicant Will Abide by Program Rules

That if Applicant is successful in receiving funds as a result of this Application, it will abide by all applicable rules and regulations governing the Program.

3. Applications are Public Records

That Applicant acknowledges that the information submitted as part of this application may be made available to the public pursuant to a request under the California Public Records Act.

4. Material Changes to Project

That Applicant acknowledges that any material changes to the project not disclosed to and approved by the City may result in termination of funding for the project. Material changes include but are not limited to: changes to the project's design, amenities, and number and size of units; changes to the development budget; changes to the proposed sales prices, rents or operating expenses; changes to the sources, amounts or terms of financing; changes to the ownership entity or key staff and consultants identified in the Application, or changes to other Application items.

5. Acknowledgement of Financing Commitment Timeline

That Applicant acknowledges their understanding that after receiving approval for the project's financing commitment, the project will be subject to commitment and expenditure deadlines as applicable to the rules and regulations governing the Program for which funding is sought.

6. Legal Authority

The signatory has the legal authority to submit this application on behalf of the entity.

7. Civil and Legal Questions (include an explanation for any questions answered "Yes")

- a. Has the applicant filed bankruptcy or receivership or had a bankruptcy or receivership commenced against it, defaulted on a loan, or been foreclosed against in the past ten years?

- b. Is the applicant currently a party to, or has been notified that it may become a party to any civil litigation that may materially and adversely affect the financial condition of the applicant's business or project in this application?
- c. Have there been any administrative or civil settlements, decisions, or judgements against the applicant within the past 10 years that materially and adversely affected the financial condition of the applicant's business or project in this application?
- d. Is the applicant currently subject to, or been notified that it may become subject to, any civil or administrative proceeding, examination, or investigation by a local, state, or federal licensing or accreditation agency, a local, state, federal taxing authority, or a local, state, or federal regulatory or enforcement agency?
- e. In the past 10 years, has the applicant been subject to any civil or administrative proceeding, examination, or investigation by a local, state, or federal licensing or accreditation agency, a local, state, or federal taxing authority, or a local, state, or federal regulatory or enforcement agency that resulted in a settlement, decision, or judgement?
- f. Is the applicant currently a party to, or the subject of, or been notified that it may become a party to or the subject of, any criminal litigation, proceeding, charge, complaint, examination, or investigation, of any kind, involving, or that could result in felony charges against the applicant?
- g. Is the applicant currently a party to, or the subject of, or been notified that it may become a party to or the subject of, any criminal litigation, proceeding, charge, complaint, examination or investigation, of any kind, involving, or that could result in misdemeanor charges against the applicant for matters relating to the conduct of the applicant's business?
- h. Is the applicant currently a party to, or the subject of, or been notified that it may become a party to or the subject of, any criminal litigation, proceeding, charge, complaint, examination or investigation, of any kind, involving, or that could result in criminal charges against the applicant for any financial or fraud related crime?
- i. Is the applicant currently a party to, or the subject of, or been notified that it may become a party to or the subject of, any criminal litigation, proceeding, charge, complaint, examination or investigation, of any kind, involving, or that could result in criminal charges against the applicant that could affect the financial condition of the applicant's business?
- j. Within the past 10 years, has the applicant been convicted of any felony?

- k. Within the past 10 years, has the applicant been convicted of any misdemeanor related to the conduct of the applicant's business?
- l. Within the past 10 years, has the applicant been convicted of any misdemeanor for any financial or fraud related crime?

Applicant Name and Title:

Organization:

Signature

Date
