



City of Santa Barbara

Community Development Department
Housing & Human Services Division

**LOCAL HOUSING TRUST FUND (LHTF) PROGRAM
REQUEST FOR PROPOSALS (RFP)**

Proposals due August 23, 2024, by 4:00 p.m.

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Questions on this Notice: contact Laura Dubbels by email at LDubbels@SantaBarbaraCA.gov or by phone at (805)564-5491

I. OVERVIEW

Background

The California Department of Housing and Community Development (“HCD”), through its Local Housing Trust Fund (“LHTF”) Program, announced the release of a Notice of Funding Availability (“NOFA”) for approximately \$53 million in funds for the LHTF Program. This funding is authorized by Health and Safety Code (“HSC”) Section 50843.5 and provides dollar-for-dollar Matching Grants to Local Housing Trust Funds established by cities and counties, Native American Tribes and incorporated 501(c)(3) nonprofit organizations.

Program Funds awarded under this NOFA shall be used to provide construction loans and/or permanent financing loans at simple interest rates of no higher than 3 percent per annum, for payment of predevelopment costs, acquisition, construction, or rehabilitation of Affordable rental housing projects, Emergency Shelters, Permanent Supportive Housing, Transitional Housing, or Affordable homebuyer/homeowner projects, including assistance to income-eligible households to purchase for-sale units. Funds may also be used to construct, convert, reconstruct, rehabilitate, and/or repair Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs).

In January 2024, the City Council of the City of Santa Barbara established a Local Housing Trust Fund (“SBLHTF”) by adopting an ordinance, which amended the Santa Barbara Municipal Code by adding Chapter 26.80. This action was taken to provide a local funding source to increase the stock of permanently affordable housing units in their jurisdiction. It also provided an opportunity to apply annually to the State LHTF Program for Matching Funds to further the financial feasibility of affordable housing projects.

The State LHTF Program has reserved fifteen percent of the funds made available by their NOFA for Local or Regional Housing Trust Funds meeting the definition of New Local Housing Trust Fund. The City’s new SBLHTF meets this criterion this year and will be eligible for consideration of these additional reserved funds.

Program Information

Proposal Applicants should read and understand the State LHTF Program, Final 2020 Guidelines (“LHTF Guidelines”), which can be accessed at the following website:

<https://www.hcd.ca.gov/grants-funding/active-funding/lhtf/docs/2020-Final-Guidelines.pdf>

Further State LHTF Program information may be accessed at HCD’s website:

<https://www.hcd.ca.gov/grants-and-funding/programs-active/local-housing-trust-fund>

Terminology

Capitalized terms not defined herein have the meaning given to them in the LHTF Guidelines.

City Applicant – means the City of Santa Barbara, a local government which has created a Local Housing Trust Fund to receive specific revenue to address local housing needs (“City”).

City website – Additional information may be found on the City’s website at: <https://santabarbaraca.gov/services/housing-human-services/affordable-housing>

Eligible Project – means any of the following:

- (1) Rental housing projects including Permanent Supportive Housing. The affordability of all units assisted by Program Funds shall be income and rent restricted for not less than 90 years according to the City of Santa Barbara’s Affordable Housing Policies and Procedures manual.
- (2) Emergency Shelters and Transitional Housing, with a required minimum term of 15 years;
- (3) Homeownership Projects of Units Within a Homeownership Project, consisting of homebuyer assistance and rehabilitation of homes owned by income-eligible owner-occupants. Homebuyer and owner-occupied rehabilitation activities may include construction, conversion, or rehabilitation of ADUs or JADUs.
- (4) Construction, conversion, or rehabilitation of ADUs or JADUs without an Eligible Homeownership Project, consisting of a loan to a homeowner to build, convert, or rehabilitate an ADU or JADU.

Matching Funds – means eligible funding according to LHTF Guidelines, Section 104 available in the SBLHTF that will be utilized to match on a dollar-for-dollar basis with LHTF Program funds.

Program Administrative Costs – means pursuant to LHTF Guidelines, Section 105(b), if an application is awarded, not more than 5 percent of the Program Funds and not more than 5 percent of the Matching Funds may be used for administrative costs.

Program Funds – means funds provided by HCD on a dollar-by-dollar match with the City’s Matching Funds for awarded project(s).

Proposal Applicant – means a private or tax-exempt 501(c)(3) non-profit organization incorporated or organized in the State of California or another state of the United States, or local units of government, who demonstrate the required experience, commitment, and capacity to carry out one or more of the eligible project criteria defined in this RFP in accordance with federal and state regulations and is submitting a proposal in response to this RFP.

Program Objective

The objective of the LHTF Program is to expand sources of funding for housing, and to expand the supply of Affordable housing through the creations of new Local Housing Trust Funds, and to support the on-going operation of existing Local Housing Trust Funds.

The objective of the SBLHTF is to provide a local funding source to increase the stock of permanently affordable housing units in the City of Santa Barbara. It also provides an opportunity to apply annually to the State LHTF Program for Matching Funds to further the financial feasibility of affordable housing projects.

Program Funding

The City of Santa Barbara (City) currently has \$2.9 million eligible for application to the LHTF Program for Matching Funds. The City is accepting proposals for eligible projects and will determine the amount of funding for application to the LHTF Program according to the project's feasibility and financial needs, as well as the amount of available Matching Funds. Program Administrative Costs will apply to each awarded project. The City may apply for up to \$2.9 million in Matching Funds, which may be utilized in combination with other sources of funding. Projects applying for LHTF Program Funds may apply for or receive other funds from the City. Funds from sources other than the City may also be used by projects as long as the requirements of the other funding source(s) are not in conflict with the requirements of the LHTF Program. The City reserves the right to allocate funding and amend the level of funding available.

Form of Program Funding

The City will provide LHTF Program and Matching Funds to successful Proposal Applicant(s) in the form of loan(s) at simple interest rate(s) of 3 percent per annum.

II. FUNDING RESTRICTIONS & ELIGIBILITY

Funding Request Restrictions

The LHTF Program has specific funding specifications:

- The minimum application amount that will be awarded is \$500,000 and the maximum is \$5 million.
- Projects must be located in the City of Santa Barbara's jurisdiction.
- Administrative expenses may not exceed 5 percent of Program Funds and Matching Funds

III. PROJECT REQUIREMENTS

Project Income Limit Restrictions

LHTF Program funds shall be allocated to Eligible Projects in compliance with all of the following:

- A minimum of 30 percent of Program Funds and Matching Funds, after deducting administrative expense, shall be expended on assistance to Extremely Low-Income Households. To comply with this requirement, dwelling units or shelter

beds must be Affordable to and restricted for Extremely Low-Income Households with household income of no more than 30 percent of Area Median Income (AMI).

- No more than 20 percent of the Program Funds and Matching Funds, after deducting administrative expense, shall be expended on assistance to Moderate-Income Households. To comply with this requirement, dwelling units must be Affordable to and restricted for Moderate-Income Households with household income of no more than 120 percent of AMI.
- The remaining Program Funds and Matching Funds shall be expended on assistance to Lower-Income Households. To comply with this requirement, dwelling units must be Affordable to and restricted for Lower-Income Households with household income of no more than 80 percent AMI.

IV. PROPOSAL PROCESS

Proposal Criteria

Proposal Applicants (including affiliates) cited for non-compliance in federal or state housing programs or in a development/program administered by the City shall not receive an approval for application for LHTF Program funds unless or until such non-compliance is cleared to the satisfaction of the City in its sole discretion.

Timeline

The proposal dates/milestones are as follows:

Date	Event
July 9, 2024	HCD LHTF Program NOFA released
August 2, 2024	SBLHTF RFP released
August 23, 2024	RFP Proposals due to the City by 4:00 p.m.
August 30, 2024	Notification to Proposal Applicant(s) of award recommendations to Council.
September 10, 2024	Finance Committee and City Council project approvals
September 17, 2024	HCD LHTF Program NOFA application deadline
December 2024	HCD LHTF Program award announcements

Proposal Materials

Complete and submit a proposal and required attachments:

- Project Type and Activity
- Project Contact Information
- Name of Project
- Detailed Project Description
- Explanation of Site Control
- Description of Land Use Approvals Obtained or Required
- Site Map, Plans and Development Renderings
- Total Number of Units and mix of number of bedrooms and bathrooms

- Total Number of Restricted Units with Income-level restrictions identified with size of units and number of bedrooms and bathrooms
- Partnership Agreement (if applicable)
- Qualifications of Development Team (e.g., resumes)
- Developer's Experience
- Developer/Partnership Financial Statements
- Developer's Corporate Status
- Project Timeline/Schedule
- Map demonstrating the development is not in a High Fire Zone (if the project is not subject to WUI building codes)
- Documentation explaining where the project is in the City's planning/building division's processes
- Market Assessment or Study
- Affirmative Marketing Plan
- Tenant Selection Plan
- Supportive Services Plan (if applicable)
- Status of CEQA and NEPA environmental reviews
- Total Development Cost Line-Item Budget and Sources and Uses Statement
- Listing of all Funding Sources Identified or Committed (and any letters of commitment obtained)
- 20-Year Operating Proforma
- Required debt coverage ratio
- Minimum projected operating expenses
- Required replacement reserve
- Required capitalized operating reserve
- Requirements for positive cash flow
- Required projected vacancy rate
- Requirements for construction contingency if construction financing is being provided with LHTF funds
- Requirements for senior lender loan types and junior lender loan types
- Leasehold security requirements

The full proposal with the Proposal Applicant's cover letter signed by the Proposal Applicant's authorized representative and attachments must be saved in a single zipped folder and submitted via email to:

LDubbels@SantaBarbaraCA.gov.

The subject line shall include the following text:

LHTF PROGRAM Proposal – Proposal Applicant's Name.

No other formats of submission will be accepted unless approved in advance by the City. Hard copies will not be required but should be kept in your files for auditing purposes.

The complete PDF of the proposal and attachments as instructed above must arrive by the deadline below:

**** PROPOSAL DEADLINE: Friday, August 23, 2024, by 4:00 p.m. ****

V. REVIEW PROCESS AND SCORING

The City's selection process will include the following reviews: eligibility review, assessment of long-term project viability, verification of financial feasibility and cost reasonableness, project timeliness and schedule, and Proposal Applicant's capacity.

Award Process

Method of Award – Complete proposals received on or before the deadline will compete against each other for recommendation of funding. Recommendations for application to the LHTF Program will be made by the City Council for one or more of the complete proposal(s). The number and funding amount of recommendations will be subject to the availability of requested funding.

Point System

Points will be awarded according to the Rating Criteria described in Section VI of this RFP.

Review Process

Proposals will be reviewed by a committee comprised of Community Development Department staff who will review and score all proposals based on the requirements and Rating Criteria described herein.

1. Communication with Contact Person. The City will communicate only with the contact person(s) listed in the proposal. Information received from persons other than the contact person(s) will be disregarded by the City.
2. Completeness. The review process will begin with a review for completeness. Proposals that are incomplete may be rejected without further review or opportunity to complete the proposal.
3. Potential City Requests for Clarification. The City may, but shall not be obligated to, follow up with a proposal's contact person during the proposal review process in a telephone conversation or in writing in order to obtain clarification should the City determine it to be advisable or necessary. Proposals should endeavor to provide thorough and complete proposals as they may not have an opportunity for subsequent communications about submitted proposals.
4. Order of Award. During the competitive proposal period, complete proposals without deficiencies (including proposals that cure deficiencies within the allowed response period), and that are determined to meet threshold requirements and comply with the requirements hereof, will be recommended as projects to the City Council in descending order of point score (subject to availability of SBLHTF

funding). The City reserves the right to reduce requested awards and number of LHTF Program-assisted units at its sole discretion.

Underwriting Review

Underwriting requirements, as shown in Appendix B of this RFP, will be used to assess project proposals.

Duplication of Benefits

The City will review proposal materials to ensure that there is no duplication of benefits. Successfully funded projects will also be reviewed for duplication of benefits by the City at the time the loan documents are executed and at project close-out.

VI. RATING CRITERIA

HCD’s Rating Criteria for City’s Application to HCD

LHTF Program applications shall be scored competitively based upon the following criteria:

Rating Criteria	Max Pts.
<p>Non-Residential Matching Funds: Extent to which the City Applicant provides Matching Funds from sources other than residential Local Impact Fees or In Lieu Fees (Guidelines Section, 106(f)(1))</p> <ul style="list-style-type: none"> • 0% – 25% from other sources ~ 5 points • 26% - 50% from other sources ~ 10 points • 51% or more from other sources ~ 15 points 	15
<p>Deeper Income Targeting: Extent to which the City Applicant commits to expend less than 20 percent of Program Funds and Matching Funds to serve Moderate-Income Households (Guidelines, Section 106(f)(2))</p> <ul style="list-style-type: none"> • 11% - 18% funding for Moderate-Income Household ~ 5 points • 6% - 10% funding for Moderate-Income Household ~ 10 points • 1% - 5% funding for Moderate-Income Household ~ 15 points • 100% funding for Lower-Income Household ~ 20 points 	20

<p>Readiness: Extent to which the City Applicant has completed a first phase funding process for multifamily rental projects and announced on its website the status of each project, including those projects that were approved to submit a final application upon award of Program Funds by the Department (Guidelines, Section 106(f)(3)).</p> <ul style="list-style-type: none"> Website posting of pipeline projects with status ~ 5 points, PLUS EITHER of the next two (2) factors: <ul style="list-style-type: none"> Projects included posting of pipeline projects with first phase funding completed representing two (2) times the application request (e.g., if requesting \$5 million, pipeline projects must total at least \$10 million) ~ 5 points OR 	15
<ul style="list-style-type: none"> Projects included public posting of pipeline projects with first phase funding completed representing three (3) times the application request (e.g., if requesting \$5 million, pipeline projects must total at least \$15 million) ~ 10 points <p>Note: applications requesting funds solely for single family activities will receive zero points in the category.</p>	

<p>Increasing the Supply of Lower-Income Rental Housing: Extent to which the City Applicant commits to use Program Funds and Matching Funds for the new construction of rental housing developments affordable and restricted to households with average incomes of no more than 60 percent of AMI (Guidelines, Section 106(f)(4))</p> <ul style="list-style-type: none"> ≤50% funding for 60% AMI or less ~ 0 points 51% - 74% funding for 60% AMI or less ~ 10 points 75% - 99% funding for 60% AMI or less ~ 15 points 100% funding for 60% AMI or less ~ 20 points 	20
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<p>Community Need: Percentage of Lower-Income Households paying more than 50 percent of their household income for rent or owner expenses, in jurisdictions to be served by the application, in comparison with jurisdictions to be served by other applications (Guidelines, Section 106(f)(5))</p> <ul style="list-style-type: none"> 0% - 25% ~ 5 points 26% - 44% ~ 10 points 45% or higher ~ 15 points <p>Note: This section will be scored by HCD using CHAS data (Comprehensive Housing Affordability Strategy): https://www.huduser.gov/portal/datasets/cp.html#2006-2016-datacollapse.</p>	15
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Performance: Extent to which City Applicants exceed the minimum 40 percent commitment threshold stated in Guidelines, Section 102(d) OR New City Applicants (no previous LHTF award) who have committed 40 percent or more of local Matching Funds.	10
Total maximum points possible:	100

Tie Breaker

In the event of tied point scores, HCD shall rank tied applications based on the extent to which the application identifies specific multifamily rental projects for which the SBLHTF has issued Letters of Intent to developers for construction or permanent financing.

City’s Rating Criteria for Proposals to this RFP

Proposals submitted to the City in response to this RFP shall be scored competitively based upon the following criteria:

A. Site Control – 25 points

Points will be allocated as follows:

- Already have site control – 25 points
- Have purchase agreement for site – 15 points
- Negotiating purchase of site (Letter of Intent or Option to Purchase the Site) – 5 points

B. Project Readiness – 35 points

(1) Proposal is Complete with all Required Attachments and Adheres to the State’s Notice of Funding Availability Guidelines Necessary to Complete the Project (20 points).

(2) Compliance with the City’s General Plan, Zoning and Permit Readiness (15 points). Points will be awarded as follows:

- 10 points for demonstrated compliance with General Plan and Zoning of the existing site
- 5 points for demonstration of permits pulled or permit-ready projects.

C. Increasing the Supply of Lower-Income Rental Housing – 20 points max.

Points will be awarded to projects prioritizing housing for households with incomes ≤ 60% AMI.

- ≤50% funding for 60% AMI or less ~ 0 points
- 51% - 74% funding for 60% AMI or less ~ 10 points
- 75% - 99% funding for 60% AMI or less ~ 15 points
- 100% funding for 60% AMI or less ~ 20 points

D. Other – 20 points max.

Past Performance (20 points). All proposals start with full points. Points will be deducted if a Proposal Applicant has negative findings on past awards with the City or with other state or federal agencies. For Proposal Applicants without previous experience with the City, demonstration of successful state/federal funding contracts, including references, will be required. The number of points deducted will be based upon the number and severity of negative findings, at the City’s discretion.

VII. LOCAL APPEAL PROCESS

For an appeal to be considered, the appeal must be made in writing, signed by the Proposal Applicant or the Proposal Applicant’s authorized representative, scanned, and submitted via email to the Housing and Human Services Division of the Community Development Department, at LDubbels@SantaBarbaraCA.gov. The City of Santa Barbara reserves the right to refuse to consider appeals that do not follow these procedures.

Appeals must be received by the Community Development Department **no later than five (5) calendar days** after the Proposal Applicant is notified of the City’s award recommendations.

Appeal Content – All appeals must include the following information:

- Name, address, and telephone number of the party appealing the decision.
- Signature of the authorized representative of the appealing party.
- Detailed and specific statement of the legal and/or factual grounds for the appeal. The Proposal Applicant must provide a detailed reference to the area or areas of the proposal that provide clarification and substantiation for the basis of the appeal. No new or additional information will be considered if this information would result in a competitive advantage to a Proposal Applicant.
- Description of the form of relief requested.

No Proposal Applicant shall have the right to appeal a decision relating to another Proposal Applicant’s proposal (e.g., eligibility, award).

The Housing and Human Services Division will review the appeal and provide a response within 5 calendar days of receipt. If the response is accepted, there is no further action required. If the Proposal Applicant is still not satisfied, the issue will be referred to the Director of the Community Development Department who will make a determination on the issue. This determination shall be final.

VIII. HCD APPROVAL

A. After review and selection of proposal(s) by the City Council, successful proposal(s) will be submitted in the City’s application to HCD for review and approval.

Proposals selected by the City are not deemed fully approved until HCD approval is received.

B. Should HCD reject an application, the City may, at its discretion, appeal the decision, in accordance with section III.D of the NOFA.

C. After award of funds by HCD, HCD will enter into a Standard Agreement with the City. The Standard Agreement contains all the relevant state and federal requirements, as well as specific information about the award and the work to be performed.

A condition of an award will be that a Standard Agreement must be executed by the awardee within 30 days (contracting period) of the awardee's receipt of the Standard Agreement(s). Failure to execute the Standard Agreement(s) within the Contracting Period may result in award cancellation. The Awardee(s) shall remain a party to the Standard Agreement for the entire term of the Standard Agreement; removal of the Awardee(s) shall be prohibited.

IX. STATE AND FEDERAL REQUIREMENTS

Climate Adaptation - Executive Order B-30-15 addressed the need for climate adaptation and ordered that:

1. All state agencies with jurisdiction over sources of greenhouse gas emissions shall implement measures, pursuant to statutory authority, to achieve reductions of greenhouse gas emissions to meet the 2030 and 2050 greenhouse gas emissions reductions targets.
2. State agencies shall take climate change into account in their planning and investment decisions and employ full life-cycle cost accounting to evaluate and compare infrastructure investments and alternatives.
3. State agencies planning and investments shall be guided by the following principles:
 - Priority should be given to actions that both build climate preparedness and reduce greenhouse gas emissions;
 - Where possible, flexible and adaptive approaches should be taken to prepare for uncertain climate impacts;
 - Actions should protect the state's most vulnerable populations; and
 - Natural infrastructure solutions should be prioritized.

In response to the Governor's Executive Order, the Department strongly encourages Awardees to implement the LHTF-funded project in a manner that reduces greenhouse gas emissions and adapts to climate change. In addition, Awardees must obtain specific information from local governments indicating the progress made in planning to adapt to climate change.

X. OTHER STATE REQUIREMENTS

A. Parking

Recipients of Program funding shall examine the feasibility of shared parking agreements to replace new parking construction or limit the number of new parking spaces that will be constructed. These requirements do not apply to proposals located on land owned or leased by the state (Gov. Code, § 65863.1, subd. (j)). An examination of the feasibility of shared parking shall include, at a minimum, identification of parking facilities on contiguous properties or nearby properties that would not require users to cross a street and then consideration of the apparent availability of those facilities for shared parking (Gov. Code, § 65863.1, subd. (i)(3)). The examination of the feasibility of shared parking shall be submitted to the Department prior to the execution and approval of the Standard Agreement. Tribal Entities are not required to examine the feasibility of shared parking for Projects located in Indian Country where an Indian tribe exercises jurisdiction.

B. Housing First practices

Housing First is an evidence-based model designed to permanently house an individual and make available optional supportive services to help them remain stably housed. Housing First means that housing is made available with very low barriers to entry and applicants are not rejected due to poor credit, financial history, lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of housing readiness. Supportive services providers shall also utilize Housing First principles and offer services as needed and/or requested on a voluntary basis. Housing shall not be contingent upon participation in services. Proposal Applicants will certify and document adherence to Housing First practices in the application, property management plan, and supportive services plan. Adherence to Housing First practices shall be subject to periodic compliance monitoring.

C. Pet Friendly Housing Act of 2017

Housing funded through the LHTF Program is subject to the Pet Friendly Housing Act of 2017 (HSC Section 50466). Each Awardee is required to submit a signed and dated certification that residents of the LHTF Program-funded housing development will be authorized to own or otherwise maintain one or more common household pets.

D. Prevailing wage law requirements

LHTF Program Funds awarded under this NOFA are subject to state prevailing wage law, as set forth in Labor Code Section 1720 et seq., and require the payment of prevailing wages unless the project meets one of the exceptions of Labor Code,

Section 1720 (c), as determined by the Department of Industrial Relations (DIR). The DIR can be contacted via its website at: <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>. Proposal Applicants are urged to seek professional advice as to how to comply with state prevailing wage law.

E. Accessibility and Non-discrimination

All projects or programs shall adhere to the accessibility requirements set forth in California Building Code, Chapter 11A and 11B and the Americans with Disabilities Act, Title II. In addition, projects or programs shall adhere to either the Uniform Federal Accessibility Standards, 24 Code of Federal Regulations (CFR) Part 8, or U.S. Department of Housing and Urban Development's (HUD) modified version of the 2010 American Disabilities Act Standards for Accessible Design (Alternative 2010 ADAS), HUD-2014-0042-0001, 79 F.R. 29671 (5/27/14) (commonly referred to as "the Alternative Standards" or "HUD Deeming Memo"). Accessible units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project and be available in a sufficient range of sizes and amenities consistent with 24 CFR, Section 8.26.

Recipients shall adopt a written non-discrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Program funds made available pursuant to this NOFA.

Recipients shall comply with the requirements contained in the Americans with Disabilities Act, the Fair Housing Amendments Act, the California Fair Employment and Housing Act, the Unruh Act, Government Code Section 11135, Section 504 of the Rehabilitation Act, and regulations promulgated pursuant to those statutes, including 24 CFR Part 100, 24 CFR Part 8, and 28 CFR Part 35, in all of the Sponsor's activities.

F. Disclosure of proposal and application

Information provided in the proposal and application will become a public record available for review by the public, pursuant to the California Public Records Act (Chapter 1473, Statutes of 1968). As such, any materials provided will be

disclosable to any person making a request under this Act. The City and HCD cautions Proposal Applicants to use discretion in providing information not specifically requested, including, but not limited to, bank account numbers, personal phone numbers, and home addresses. By providing this information to the City and HCD, the Proposal Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

XI. INSURANCE REQUIREMENTS

All recipients of City of Santa Barbara SBLHTF funds will be required to purchase and maintain at their sole cost and expense the following minimum coverage:

- A. **Commercial General Liability (CGL)**: Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits of no less than One Million Dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the aggregate limit shall apply separately to this project or location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- B. **Property insurance**: Insurance coverage against loss of or damage to the Property or equipment and fixtures thereon resulting from fire, lightning, vandalism, malicious mischief, or those risks ordinarily defined as 'all risk coverage', at full replacement cost with no coinsurance penalty provision.

The policy shall include business interruption coverage, with adequate limits to cover the term of this agreement.

In addition thereto, the insurance policy shall provide coverage for loss or damage resulting from flood, surface water, waves, tidal water, or tidal waves, overflow of streams or other bodies of water, or spray from any of the foregoing, all whether driven by wind or not and including, but not limited to, water which backs up through sewers or drains or water below the ground which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors or through doors, windows or any other openings in such sidewalks, driveways, foundations, walls or floors. Borrower's obligation to obtain flood, wave, tidal wave and earthquake casualty coverage shall be conditioned upon such coverage being readily available at commercially reasonable rates for commercially reasonable amounts of coverage. Such insurance shall be in amount equal to 100% of the full replacement cost of Improvements on the Property, other related equipment and fixtures. The insurance coverage shall be placed and maintained with one insurance company or companies which is or are acceptable to City. Such insurance shall be modified periodically to ensure that, at all times, the limits of said policies are large enough to provide coverage for one hundred percent (100%) of the replacement costs of all structures, equipment, and improvements on the Property.

City may require that Borrower submit to it at the commencement of each third calendar year during the term hereof, an appraisal of the replacement value of the

Improvements on the Property so that City can determine whether the insurance coverage is sufficient. Certificates of insurance evidencing such insurance coverage as modified shall be promptly filed with City. All such insurance policies, along with their endorsements, shall name City and Borrower as named insured, and Loss Payee.

If the Borrower maintains higher coverage limits than the amounts shown above, then the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Borrower. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Self-Insured Retentions

Self-insured retentions (SIRs) must be declared to and approved by the City. The City may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or City. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. The City may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any SIR provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. City reserves the right to obtain a copy of any policies and endorsements for verification.

OTHER INSURANCE PROVISIONS

Each insurance policy shall contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City of Santa Barbara, its officers, officials, employees, volunteers, and agents, shall be covered as additional insureds on the Commercial General Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Borrower including materials, parts, or equipment furnished in connection with such work or operations. Additional Insured coverage shall be provided in the form of an endorsement to the Lessee's insurance (at least as broad as Insurance Services Office Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later edition is used). A copy of the endorsement evidencing that the City of Santa Barbara has been added as an additional insured on the policy, must be attached to the certificate of insurance.

Primary Coverage

For any claims related to this contract, the Lessee's insurance coverage shall be primary and non-contributory at least as broad as Insurance Services Office Form CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance

or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be in excess of the Lessee's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Legal Liability Coverage

The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the leased property.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be cancelled or subject to reduction without written notice provided to the City Clerk, addressed to P.O. Box 1990, Santa Barbara, California 93102-1990.

Waiver of Subrogation

Borrower hereby grants to the City a waiver of any right to subrogation which any insurer of Borrower may acquire against the City by virtue of the payment of any loss under such insurance. Borrower agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Lessee, its employees, agents, and subcontractors.

Umbrella or Excess Policy

The Borrower may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Lessee's primary and excess liability policies are exhausted.

Acceptability of Insurers

All insurance coverage shall be placed with insurers authorized to conduct business in the State of California with a current AM Best's rating of no less than A: VII. All other insurers require prior approval of the City.

Verification of Coverage

Borrower shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Lessee's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. The City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Subcontractors

Borrower shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Borrower shall ensure that the City is an additional insured on insurance required from subcontractors.

Coverage Limits Specifications

Approval of the insurance by City or acceptance of the certificate of insurance by City shall not relieve or decrease the extent to which the Borrower may be held responsible for payment of damages resulting from Lessee's services or operation pursuant to this Agreement, nor shall it be deemed a waiver of City's rights to insurance coverage hereunder.

If, for any reason, Borrower fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. City, at its sole option, may terminate this Agreement and obtain damages from the Borrower resulting from said breach. Alternately, City may purchase such required insurance coverage, and without further notice to Lessee, City may deduct from sums due to Borrower any premium costs advanced by City for such insurance.

Use of Insurance Proceeds

Upon the occurrence of any loss, the proceeds of any insurance shall be paid to a financial institution or trust company with an office in Santa Barbara County designated by Borrower and approved by City (the 'Insurance Trustee'). In the event of such loss, to the extent of available insurance proceeds received by Borrower, Borrower shall be obligated to rebuild or replace the destroyed or damaged Improvements, equipment or fixtures in the same or better condition as they existed prior to such loss. All sums deposited with the Insurance Trustee shall be held in trust by the Insurance Trustee with the following powers and duties:

- 1) The Insurance Trustee shall pay the contractor retained by Borrower for the restoration in installments as the construction progresses. A retention fund of ten percent (10%) of the total contract price shall be established. The contractor shall be

paid the retained amount upon the completion of the restoration, acceptance of the work by the Borrower and City, payment of all costs, expiration of all applicable lien periods and proof that the Premises is free of all mechanics' liens and lienable claims.

- 2) Payments to the contractor shall be made on presentation of certificates or vouchers from the architect or engineer retained by Borrower showing the amount due. If the Insurance Trustee, in the Insurance Trustee's reasonable discretion, determines that the certificates or vouchers are being improperly approved by the architect or engineer retained by Borrower, the Insurance Trustee shall have the right to appoint an architect or engineer to supervise the construction and to make payments to the contractor on certificates or vouchers approved by the architect or engineer retained by the Insurance Trustee. The reasonable expenses and charges of the architect or engineer retained by the Insurance Trustee shall be paid by the Insurance Trustee out of the trust fund.
- 3) If the sums held by the Insurance Trustee are insufficient to pay the actual cost of the repair, restoration or replacement, Borrower shall have the right but not the obligation to deposit the amount of the deficiency with the Insurance Trustee within thirty (30) days after request by the Insurance Trustee indicating the amount of the deficiency.
- 4) Any undistributed funds following compliance with the provisions of this section shall be delivered to Borrower.
- 5) All actual costs of the Insurance Trustee shall first be paid from the insurance proceeds, then by Borrower. If the Insurance Trustee resigns or for any reason is unable or unwilling to act or continue to act in accordance with these provisions, Borrower shall substitute a new trustee for the designated trustee. The new trustee must be a financial institution or trust company with an office in Santa Barbara County approved by City.
- 6) Both Parties shall promptly execute all documents and perform all acts reasonably required by the Insurance Trustee in order for the Insurance Trustee to perform its obligations under this section.

XII. RESERVATION OF RIGHTS

The City of Santa Barbara reserves the right, at its sole discretion, to award all, a portion, or none of the available SBLHTF funding, and may reject any and all proposals based on the quality and/or merits of the proposals, or when it is determined to be in the public interest to do so. Furthermore, the City may extend deadlines and timeframes, as needed.

The City of Santa Barbara reserves the right to substantiate any Proposal Applicant's qualifications, financial information, capability to perform, availability, and past development performance.