

## EXHIBIT D

### VHHP GENERAL TERMS AND CONDITIONS

#### 1. Effective Date, Commencement of Work and Completion Dates

This Agreement is effective upon the date of the Department representative's signature on page one of the fully executed Standard Agreement, STD 213. The Sponsor agrees that development of the Affordable Rental Housing Development has not commenced as of the submission deadline for applications set forth in the NOFA. The Sponsor agrees that the Work shall be completed as and when specified in this Agreement, unless a written request for an extension and/or amendment is submitted and approved by the Department in writing at least 90 days prior to the expiration date of this Agreement. Any extension of the expiration date of this Agreement shall require an amendment to this Agreement; such amendment must be executed and delivered by and between all parties prior to the currently operative expiration date of this Agreement.

#### 2. Termination

The Department may terminate this Agreement for cause at any time by giving at least 14 days' notice in writing to the Sponsor. Such termination will not limit any other remedies that may be available to the Department under this Agreement, at law, or in equity. Cause shall consist of Sponsor's breach of, or failure to satisfy, any of the terms or conditions of this Agreement, including but not limited to:

- A. Failure of the Loan to close on or before the Loan closing deadline as stated in paragraph 3 of these VHHP General Terms and Conditions.
- B. Failure of the Sponsor to satisfy in a timely manner each of the conditions set forth in these VHHP General Terms and Conditions, the Special Conditions set forth in Exhibit E of this Agreement, the Project Report, and the Award Letter.
- C. Determination by the Department that:
  - 1) any material fact or representation, made or furnished to the Department by the Sponsor in connection with the Application or the Award Letter, shall have been untrue or misleading at the time that such fact or representation was made known to the Department, or subsequently becomes untrue or misleading; or
  - 2) the Sponsor has concealed any material fact from the Department related to the Application or the Development.

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- D. Filing of a petition by Sponsor, or any affiliate or general partner of Sponsor, for relief under the Bankruptcy Code; the filing of any pleading or answer by Sponsor, or any affiliate or general partner of Sponsor, in any involuntary proceeding under the Bankruptcy Code; a general assignment by Sponsor, or any affiliate or general partner of Sponsor, for the benefit of creditors; or the filing of an application for the appointment of a receiver, trustee, custodian or liquidator of Sponsor or any of its property, or of any affiliate or general partner of Sponsor or any of its property.
- E. Failure of Sponsor, or of any affiliate or general partner of Sponsor, to effect a full dismissal of any involuntary petition under the Bankruptcy Code that is filed against Sponsor, or any affiliate or general partner of Sponsor, or that in any way restrains or limits Sponsor, any affiliate or general partner of Sponsor, or the Department regarding the VHHP Program Loan or the Development, prior to the earlier of the entry of any court order granting relief sought in such involuntary petition, or 30 days after the date of filing of such involuntary petition.
- F. Attachment, levy, execution, or other judicial seizure of any portion of the Development, or any substantial portion of the other assets of Sponsor, or of any affiliate or general partner of Sponsor, that is not released, expunged, bonded, discharged, or dismissed within 30 days after the attachment, levy, execution, or seizure.
- G. Pendency of any proceeding challenging the legal existence or authority of Sponsor, or of any affiliate or general partner of Sponsor, or the pendency of any proceeding challenging the legality of the Development.
- H. Failure of Sponsor to close the Department-approved construction financing on or before the date indicated in paragraph 3 of these VHHP General Terms and Conditions. Any reference in this Agreement to "construction" shall include rehabilitation construction, if applicable.

**3. Timing**

- A. The Sponsor shall close the construction financing approved by the Department and commence construction of the Development in accordance with the development schedule or Performance Milestones approved by the Department. Upon the Department's request, the Sponsor shall promptly provide evidence of recorded deeds of trust for all construction financing, payment of all construction lender fees, issuance of building permits (a grading permit does not suffice to meet this requirement), and the notice to proceed delivered to the contractor. If no

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construction lender is involved, and the Development is receiving low-income housing tax credits, evidence must be submitted that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred. The Borrower shall satisfy all conditions required to close the VHHP Program Loan on or before **03/30/2026**.

- B. All Program funds shall be disbursed by **06/30/2026**.
- C. This Agreement shall expire on the date specified in this Agreement.

### 4. Disputes

In the event of any conflict between this Agreement and any Sponsor- or Borrower-controlled documents, this Agreement and the Program Requirements shall prevail, are applicable, and shall be enforceable by the Department, notwithstanding, without limitation, any prior or preliminary review or approval of any such documents by the Department at the time of construction loan closing or otherwise.

### 5. Consent

The parties agree that wherever the consent or approval of the Department or the Sponsor is required under this Agreement, such consent or approval shall not be unreasonably withheld, conditioned, or delayed, unless the same is specified as being in that party's sole and absolute discretion or other words of similar import.

### 6. Pre-Construction Loan Requirements

Unless otherwise expressly approved in writing by the Department, the following conditions require compliance prior to the close of the construction loan(s) for the Development (construction loan includes a rehabilitation loan):

### 7. Site Control

The Sponsor shall have control of the Property, and such control shall not be contingent on the approval of any other party. The status and nature of the Sponsor's title and interest in the Property shall be subject to the Department's approval. Site control may be evidenced by one of the following:

- A. Fee title.

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- B. A leasehold interest on the Property with provisions that enable the lessee to make improvements on and encumber the Property provided that the terms and conditions of any proposed lease shall permit compliance, prior to loan closing, with all Program Requirements.
- C. An executed disposition and development agreement, or irrevocable offer of dedication to a public agency.
- D. Other forms of site control that give the Department assurance (equivalent to A-C above) that the applicant or developer will be able to complete the Development in a timely manner and in accordance with all the Program Requirements.

If the Sponsor's interest in the property is a leasehold, the lease must provide adequate security for the Program Loan and must comply with UMR Section 8316. The Sponsor shall provide a copy of the ground lease for the Department's legal review and approval. The lessor and lessee will be required to sign the Department's standard lease rider, unless the lessor agrees to sign the Program Loan documents as required by the Department and encumber all its interest in the Property. Where the lessee and the lessor are affiliated or related parties, both the lessee and the lessor must execute the Program Loan documents in order to encumber both the leasehold and fee interests in the Property.

### 8. **Title Report**

The Sponsor shall provide a current title report for the Property on which the Development is located. If the Sponsor's interest in the property is leasehold, then the Sponsor shall provide a current title report for the leasehold interest and the fee interest.

### 9. **Site Inspection**

The Department reserves the right, upon reasonable notice and without obligation, to inspect the Development site and any structures or other improvements thereon to determine, investigate, or assess whether the Development site complies with this Agreement and the Program Requirements. If the Department reasonably determines that the site does not comply with this Agreement or the Program Requirements, the Department reserves the right to rescind the award and the Loan.

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**10. Adaptability and Accessibility**

The Sponsor and the Development shall comply with all applicable federal, state and local laws regarding adaptability and accessibility in the design, construction and rehabilitation of residential projects for persons with disabilities.

**11. Physical Needs Assessment**

If the Development involves rehabilitation of existing units, the Sponsor shall provide a post-rehabilitation physical needs assessment acceptable to the Department, in accordance with instructions provided by the Department.

**12. Reserve Study**

Upon request by the Department, Sponsor shall provide an independent, third-party replacement reserve study acceptable to the Department.

**13. Development Budget**

Unless otherwise approved in writing by the Department, prior to the close of any construction financing, the Sponsor shall provide to the Department, for its review and approval, a copy of the approved development budget of the construction lender(s).

**14. Reasonable Development Costs**

Sponsor shall provide to the Department evidence that total development costs are reasonable and necessary for the proposed improvements. To verify cost reasonableness, the Department may require qualified third-party verification of costs, evidence of the competitive bidding of major trades and real estate appraisals. Where the Development is a component of a larger development, the Sponsor shall submit to the Department, for its approval, a development cost sharing breakdown for the entire Development which covers all development costs for each of the individual components of the entire development and includes a discrete development budget for the Development consistent with the budget in the Application and Project Report. Eligible costs for Developments are limited to costs as specified in the Guidelines. Notwithstanding the foregoing, Program funds shall only be used for capital asset related expenses as required by Section 16727 of the Government Code.

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### 15. Cost Savings

If, upon completion of the Development, the total development funding sources exceed the total development costs, the Department shall address the resulting funding surplus as follows:

- A. If there are local public agency lenders providing construction-period financing, and the Department is providing only permanent financing, then the local public agency lenders may reduce their loans by an amount not exceeding the contingency shown in the loan documents approved by the Department at construction loan closing.
- B. In other cases, or to the extent that the surplus exceeds the budgeted contingency, the Department's Loan amount shall be reduced by an amount not less than the surplus multiplied by the ratio of the Department's Loan amount to the "total local government assistance," as defined at UMR Section 8315(c)(3).
- C. As an alternative to (A) or (B) above, the Department may approve use of the surplus funds to reduce tenant rents or for other direct tenant benefits.

### 16. Sponsor Control of Development

Sponsor shall provide evidence satisfactory to the Department that the Sponsor which was identified in the Application, and which met the application threshold requirements set forth at Section 102(i) of the Guidelines, has and will retain full control over the development, construction, ownership and management of the Affordable Rental Housing Development either directly or through its control of the Ultimate Borrower. The Department may permit the Ultimate Borrower or recipient of Department funds to be a special purpose entity formed and controlled by the Sponsor only if the Sponsor can demonstrate, to the satisfaction of the Department, that it meets all the following criteria:

- A. The Sponsor will remain as equally liable to the Department as the special purpose entity with respect to the specific performance of the obligations of the Loan documents. The Sponsor may be as equally liable to the Department as the special purpose entity with respect to the financial obligations of the Loan documents.
- B. The Sponsor shall not intentionally or in effect limit or abrogate its legal liability to the Department by utilizing the special purpose entity; and

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- C. There shall be no more than two corporate entities between the Sponsor and the special purpose entity in the corporate control and organizational structure(s). For the purposes of this subsection, "corporate entity" may include a corporation, limited liability company, business trust, limited partnership, or general partnership. For the purposes of determining "control," the Sponsor must provide, at the very minimum, evidence satisfactory to the Department that the Sponsor (or Sponsors), through direct control of the corporate entities between the Sponsor and the special purpose entity, performs the following substantial management duties on behalf of the special purpose entity:
- 1) renting, maintaining and repairing the low-income housing property (or if these duties are delegated to an agent, hiring and overseeing the agent's duties).
  - 2) acquiring, holding, assigning or disposing of property or any interest in property.
  - 3) borrowing money on behalf of the special purpose entity, encumbering the special purpose entity's assets, placing title in the name of a nominee to obtain financing, preparing items in whole or in part, in connection to refinancing, increasing, modifying or extending any obligation; and
  - 4) determining the amount and timing of distributions to partners and establishing and maintaining all required reserves.

### 17. **Limited Partnership Agreement**

If the Ultimate Borrower is a limited partnership, the Department neither approves nor disapproves the Limited Partnership Agreement (the "LPA"), but may require changes thereto to ensure that the Sponsor has sufficient control of the limited partnership entity, and that the term of the LPA is equal to or greater than the term of the Department's Loan. In the event of any conflict between the LPA and the Department's Loan documents or the Program Requirements, the Department's Loan documents, and the Program Requirements shall control and prevail.

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### 18. **Relocation Plan**

If there is or will be any residential or commercial displacement directly or indirectly caused by the Development, the Sponsor shall provide a relocation plan to the Department for review. The relocation plan must comply with the requirements of state law (Gov. Code, § 7260 et seq.) and the regulations adopted by the Department (Cal. Code Regs., tit. 25, § 6000 et seq.). The Development budget shall include enough funds to pay all costs of relocation benefits and assistance as set forth in the relocation plan accepted by the Department. If the Development will not cause any displacement, the Sponsor must provide corroborating documentation to the Department for approval. If there is federal funding of the Development, the Sponsor shall comply with federal Uniform Relocation Act requirements to the extent applicable.

### 19. **Architect Contract**

The Sponsor shall enter into a contract with an architect to provide professional services for the Development. The contract shall require an architect to supervise the construction work, conduct periodic site visits, prepare periodic inspection reports, verify the validity of the construction contractor's payment requests, prepare or review change orders, and, upon completion of construction, provide the certification described in paragraph 36 of these VHHP General Terms and Conditions.

### 20. **Appraisals**

If the property for the Development is being purchased, the Sponsor shall provide an appraisal acceptable to the Department of the as-is value of the Property, prepared by a qualified, licensed appraiser.

### 21. **Non-Department Financing**

The Sponsor shall qualify for and obtain the financial assistance, loans and grants described in the Application for both the construction and permanent periods. Final terms and conditions of the non-Department financing must substantially conform to the terms and conditions that were represented in the Sponsor's Program Loan Application. The terms and conditions of all financing shall be subject to the Department's review and approval.



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### 22. Senior Loan Terms and Disclosures

The terms of loans in a lien position senior to the Program Loan must comply with all the underwriting standards of UMR Sections 8310 and 8315.

No subordination may limit the Department's remedies and must comply with UMR Section 8315.

Balloon payments are not allowed on senior debt, except as provided pursuant to UMR Section 8310. Senior loans are prohibited from including call option language in the terms of the loan other than is reasonable in case of default, nor may Sponsor be required to remarket bonds prior to expiration of the senior loan. Financial instruments on senior loans (including but not limited to swaps, collars, and interest rate hedges) must extend for the full term of the senior loan and cannot be required to be renewed or extended prior to the end of the full term.

Sponsors must obtain an interest rate cap on any interest rate that is not fixed for the full term of the senior loan. The interest rate at the cap must not jeopardize project feasibility. Interest rate resets, renewals, extensions of letters of credit, or other senior loan provisions must not require the Sponsor to re-qualify.

All payments, lender fees, bond fees, issuer fees, trustee fees, letter of credit fees, swaps fees, hedge fees, enhancement fees, credit facility and liquidity fees, and other fees, charges and costs, in addition to principal and interest payments, must be fully disclosed to the Department in the loan closing transaction summary and in the operating budget

The Department's lien shall not be subordinated to the liens of a lender affiliated with an entity that has an ownership interest in the Project unless a covenant, regulatory agreement, or similar instrument is recorded senior to the lender's documents that includes the provisions of UMR Section 8310(f).

### 23. Environmental Conditions

The Sponsor shall provide a Phase I Environmental Site Assessment ("ESA") for the Development, in conformance with ASTM Standard Practice E 1527, evaluating whether the Development is affected by any recognized environmental conditions. In the event the Phase I ESA indicates evidence of recognized environmental conditions and the Sponsor desires to proceed with the Development, the Sponsor shall provide the Department with a Phase II report and such further reports as required by the Department in form acceptable to the Department. Any remediation work to be performed shall be

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subject to Department approval. The Sponsor shall also provide an asbestos assessment and a lead-based paint report for the Department's approval if the Development involves rehabilitation or demolition of existing improvements.

### 24. **Article XXXIV**

All Developments shall comply with article XXXIV, section 1 of the California Constitution ("Article XXXIV"), as clarified by the Public Housing Election Implementation Law (Health & Saf. Code, §§ 37000 – 37002). Prior to construction loan closing, the Sponsor shall submit documentation which shows, to the Department's satisfaction, that the Development complies with or is exempt from Article XXXIV. The Article XXXIV documentation must take all "state public body" sources of permanent financing into account, including the VHHP Loan.

### 25. **Supportive Services Plan**

For Developments containing Supportive Housing or Transitional Housing units, the Borrower shall provide the Department with an acceptable supportive services plan for review and approval by the Department and the California Department of Veterans Affairs ("CalVet"). Such plan shall meet the Program Requirements.

### 26. **Resident Services Plan**

For Developments not containing VHHP-assisted Supportive Housing or Transitional Housing units, the Borrower shall provide the Department with an updated resident services plan for the Department's review and approval. Such plan shall meet the requirements of the Program NOFA and Application.

### 27. **Disabled Veterans Business Enterprises (DVBES) Utilization Plan**

Borrower shall continue to furnish the Department with a compliant utilization plan detailing how the Development shall comply with Section 109 of the Guidelines, which requires that entities certified by the California Department of General Services as DVBES shall receive an amount at least equal to 5 percent of total construction costs for work performed or supplies provided to the Development. The utilization plan shall:

- A. identify a plan administrator responsible for implementing the plan and ensuring achievement of the five percent requirement; and
- B. include a description of outreach methods to be used to recruit DVBES.

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### 28. Market Study

As a condition of funding, the Department may require a market study to assess the Development's fiscal feasibility. If required, such market study must comply with Section 102(l)(2) of the Guidelines.

### CONSTRUCTION PHASE REQUIREMENTS

### 29. Construction Phase Information

If requested by the Department, the Sponsor shall provide the Department information during the construction period including but not limited to all change orders and modifications to the construction documents, all inspection reports prepared by the Development architect and other consultants, and information relative to Development income, expenses, occupancy, relocation benefits and expenses, contracts, operations and conditions of the Development. Upon written notice to Sponsor, Department may require its advance written approval of all future change orders and modifications. Deviations from the plans and specifications which have the effect of reducing the quality, life or utility of a specified item or system must receive the prior written approval of the Department. Should change orders be submitted to the Department for its approval, they shall be deemed accepted if not rejected in writing within 10 business days of receipt by the Department. Sponsor shall not authorize or approve any change orders rejected by the Department.

### 30. Inspection

The Department and any authorized representative of the Department shall have the right, during construction and thereafter, to enter upon and inspect the construction of the Development. Such right to inspect shall include, but shall not be limited to, the right to inspect all work done, all materials and equipment used or to be used, and all books and records, including payroll records, maintained in connection with the construction work. Such right of inspection shall be exercised in a reasonable manner. The Department shall have no affirmative duty to inspect the Development and shall incur no liability for failing to do so. Once having undertaken any inspection, neither the Department, nor any representative of the Department shall incur any liability for failing to make any such inspection properly, or for failing to complete any such inspection. The fact that such inspection may or may not have occurred shall not relieve the Sponsor, the contractor, the construction lender, the architect, the structural engineer, the locality or anyone else of any obligation to inspect the Development.

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### 31. **Updated Information**

Sponsor shall provide the Department updated documentation for any change in the information previously provided relating to the Program Loan, including updated sources and uses and income information. All changes shall be subject to Department approval. However, if the Development is changed in any way as to make it ineligible under Section 102 of the Guidelines, then the Program Loan commitment will be cancelled, and all Program Loan funds awarded to the Sponsor shall be disencumbered.

### 32. **Evidence of Existence of Application Selection Criteria**

Upon request, Sponsor shall provide the Department with documentary evidence of the Development amenities, services, improvements, features and characteristics which were proposed in the Application, awarded points during the Department's application rating process, and identified in the Project Report.

### 33. **Signage**

Sponsor shall place one or more signs on the construction site for the Work stating that the Department is providing financing through the VHHP Program. The signs must be placed at appropriate locations, and they must exhibit the message set forth in Exhibit E under provision Ex. D – E.1 in an appropriate typeface and size.

Each sign shall be maintained in a prominent location visible and legible to the public through construction completion. If the job sign includes the acknowledgment and/or logo of one or more other public lenders, the Department's acknowledgment and logo shall also be displayed in a similar size and layout. Copies of the Department logo can be obtained by contacting the Department Contract Manager.

Upon installation of each sign, the Sponsor shall submit a digital photograph thereof to the Department to verify compliance with these signage requirements.

### 34. **Photographs**

The Sponsor will provide the Department, upon request, with copies of any photographs that may be taken of the Development by or on behalf of the Sponsor or the Development's architect. The Sponsor will provide an acceptable written consent and release agreement authorizing use of said photographs, all at no expense to the Department.

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### 35. DVBEs Plan Implementation

Prior to the commencement of construction, Borrower shall submit a report to the Department and to CalVet on DVBE plan implementation. This report must include:

- A. the total amount budgeted for construction costs.
- B. the names and addresses of DVBE contractors, subcontractors and suppliers that have received or are scheduled to receive payment, together with the amount paid or scheduled to be paid to each; and
- C. if the report does not show achievement of the 5 percent minimum requirement, documentation that the Sponsor has requested DVBE recruitment assistance from CalVet, and documentation of its efforts and methods to ensure DVBE participation.

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### 36. Relocation Plan Implementation Report

The Sponsor shall provide a report, in a form acceptable to the Department, detailing its actions in implementing its relocation plan.

### 37. Architect Certification

Where required by the Department, the Sponsor shall cause the Development architect(s) or other appropriate professional to certify to the Department, in a form acceptable to the Department, that all construction is completed in accordance with the "as-built" plans and specifications and in compliance with all applicable federal, state and local laws relating to disabled accessibility.

### 38. Cost Certification

At the request of the Department, the Sponsor shall submit a Development cost certification audited by an independent certified public accountant in accordance with the requirements of the Department and TCAC, if applicable. The Sponsor (and the developer or builder if there is an identity of interest with the Sponsor) shall keep and maintain records of all construction costs in connection with the Development and shall make such records available for review by the Department.

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**39. Recorded Notice of Completion**

The Sponsor shall provide to the Department a certified copy of any Notice of Completion for the Development recorded in the county in which the Development is located.

**PROGRAM LOAN CLOSING REQUIREMENTS**

The Department shall not be obligated to close or fund the Program Loan unless the Sponsor has complied with and satisfied the Program Requirements and all the terms and conditions of this Agreement, all in a manner satisfactory to the Department in its sole and absolute discretion, on or before the earlier of the Program Loan closing, the Program Loan closing deadline, or such earlier time, all as indicated herein.

**40. Development Construction**

The Development shall be constructed in compliance with the plans and specifications, subject to any change order(s) accepted by the Department where such acceptance is required.

**41. Title Insurance**

The Sponsor shall provide an updated title report and an ALTA As-Built Survey acceptable to the Department. The Sponsor shall provide a pro forma ALTA lender's policy of title insurance if requested by Department. The Sponsor shall ensure the issuance to the Department of an ALTA lender's policy of title insurance. The condition of title, insurer, liability amount, form of policy and endorsements shall be subject to the approval of the Department. Such endorsements shall include, but not be limited to, a CLTA endorsement 100, and may include, but shall not be limited to, CLTA endorsements 105, 110.9 and 116 (modified for apartments). The policy shall insure that the Sponsor holds good and marketable fee simple title (or leasehold, if approved by Department) and that the Department holds a fee mortgage (or leasehold) lien on the Development, free and clear of all encumbrances, encroachments, other interests and exceptions to title other than as shall have been previously approved in writing by the Department. The Department's deed of trust and regulatory agreement and the other loans indicated under "Permanent Funding" in the Application shall have the lien priority as indicated in the Application.

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### 42. **Sponsor's Status**

The Sponsor shall provide the Department with copies of all organizational documents, including, but not limited to, partnership agreements, operating agreements, corporate documents, and related documents and agreements, as required by the Department. As of the date of the Program Loan closing, the Borrower shall be a duly organized and validly existing limited or general partnership, corporation, limited liability company, nonprofit public benefit corporation, or other valid legal entity under California law. The Sponsor or Sponsor-controlled Borrower has and shall have the authority to enter into the Program Loan and related Loan documents.

### 43. **Compliance with California's Prevailing Wage Law**

This Development may be subject to California's prevailing wage law (Lab. Code, § 1720 et seq.). The Sponsor is urged to seek professional legal advice about the law's requirements. Prior to closing the Program Loan, the Department will require a certification of compliance with California's prevailing wage law. The certification must verify that prevailing wages have been or will be paid (if such payment is required by law), and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the general contractor(s) and the Sponsor.

### 44. **Insurance**

The Sponsor shall obtain and maintain for the term of the Program Loan hazard and liability insurance for the Development in accordance with the Department's requirements, including flood insurance, if applicable. The Department shall be named as a loss payee or an additional insured on all such policies. Such policies also shall provide for notice to the Department in the event of any lapse of coverage and in the event of any claim thereunder. The Sponsor shall provide evidence satisfactory to the Department of compliance with these insurance requirements.

### 45. **Program Loan Documents**

The Sponsor shall enter into this Agreement with the Department, which shall govern the encumbrance of the Program Loan funds. In addition, the Sponsor shall enter into a regulatory agreement with the Department, governing the use, operation and occupancy of the Development, including, but not limited to, the imposition of certain low income occupancy requirements, regulation of rents on the low income units, audits and other

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financial controls and reserve requirements, management oversight by the Department, compliance with federal and state laws, and other Department requirements.

In addition to the regulatory agreement, the Loan shall be evidenced by a promissory note and secured by a deed of trust. The regulatory agreement shall be recorded prior to the Department's deed of trust.

The Sponsor shall execute and enter into additional agreements and documents, as the Department may deem reasonable and necessary to meet the Program Requirements and terms and conditions of this Agreement. The Sponsor, and any affiliate of the Sponsor which met the application threshold requirements of experience and capacity, must execute the Department's Sponsor Operating Guaranty to provide assurance that the Sponsor has the resources and experience to develop, own and manage the Development.

### 46. **Restrictions on Transfer and Change of Ownership**

The Sponsor shall not, without the prior written approval of the Department:

- A. sell, transfer, convey, encumber, hypothecate or pledge any of the Development or the Development property, or any portion or interest in either of them;
- B. discharge or replace any general or managing partner if Sponsor is a partnership, or amend, modify or add to its partnership agreement except that the Sponsor may sell or transfer limited partnership interests without the Department's approval;
- C. if Sponsor is a limited liability company: change the manager(s), amend, modify or add to its operating agreement or management structure.
- D. wind up, liquidate or dissolve its affairs or enter into any transaction of merger or consolidation; or
- E. change the organizational structure of the Sponsor.

### 47. **Rental Subsidy Contract**

The Sponsor shall provide the Department with full and complete copies of all contracts regarding rental subsidies to be provided to tenants in the Development.



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**48. Substitution of Rent or Social Service Subsidy**

Sponsor may substitute a source of funding for a rent or social service subsidy so long as it is acceptable to the Department. The amount, terms and conditions of the new source of funding must provide an equivalent or greater level of rent or social service subsidy to the Development.

**49. Final Certificate of Occupancy**

The Sponsor shall provide a final certificate of occupancy (or an equivalent form of occupancy certification or approval) issued by the local agency having jurisdiction over such certificates.

**50. Environmental Conditions Remedial Work**

All remedial work on recognized environmental conditions shall be completed prior to loan closing. The Sponsor shall provide the Department with an environmental update/operations and maintenance plan if remedial work was required with evidence of lead-based paint and/or asbestos-containing materials remediation if applicable.

**51. Reserve Accounts**

The Sponsor shall establish and maintain reserve accounts as required by the Department and as further described in the regulatory agreement. All withdrawals shall require prior written approval from the Department, as provided in the regulatory agreement.

**52. Operating Reserve Account**

The Sponsor shall fund an operating reserve account in accordance with UMR Section 8308. The specific amount of the Operating Reserve Account shall be set forth in the regulatory agreement.

**53. Replacement Reserve Account**

The Sponsor shall establish a replacement reserve account in accordance with UMR Section 8309. The replacement reserve account shall be funded by monthly deposits from operating income, or a combination of operating income and development sources, as indicated in the regulatory agreement. The amount of the monthly deposits may be adjusted, as determined by the Department, in its sole and absolute discretion, based on reserve studies performed by an independent third party at the Sponsor's expense as

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requested by the Department or as based on other reliable indicators of future reserve needs.

### 54. **Capitalized Reserve Accounts**

If Program funds are used to fund a reserve account, the Department shall disburse such funds in a manner to ensure the proper funding of the reserve. The proceeds of the Program Loan may be used to capitalize only operating and replacement reserve accounts and amounts required by UMR Sections 8308 and 8309. Proceeds of the Program Loan may not be used to capitalize rental subsidy reserves, except as authorized by the Guidelines, or any reserves established to pay recurring operating costs, including, but not limited to, the required 0.42 percent annual payment on the Program Loan.

### 55. **CalHFA and HUD Funded Projects**

Developments subject to the HUD Section 811 and 202 programs or receiving a permanent loan from CalHFA shall not be subject to Program reserve requirements during the time such projects are regulated by HUD or CalHFA and the Sponsor complies with the applicable CalHFA or HUD reserve requirements.

### 56. **Asset Management and Compliance Requirements**

The Sponsor shall obtain a loan closing checklist in the course of closing the VHHP Loan, and must submit all documents required, for the Department's approval, including but not limited to the following (in a format provided or approved by the Department):

- A. a proposal for management agent with management agent's qualifications attached;
- B. a management contract;
- C. a management plan;
- D. a template residential tenant lease;
- E. an initial-year operating budget and Schedule of Rental Income (SRI); and
- F. property hazard and liability insurance in accordance with the then-current HCD Insurance Guidelines. Prior to close of the Program Loan, the Sponsor shall obtain

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the Department's review and approval of the items identified in this paragraph and any additional documents required by the Department.

Furthermore, the Sponsor shall be provided links to HCD's Asset Management and Compliance webpage, which, in conjunction with the regulatory agreement, sets forth the obligations and requirements for the use, operation and occupancy of the Development, including but not limited to: annual reporting requirements which include but are not limited to budgets, SRIs, and supportive housing services plans; audit requirements; and other obligations as determined (and may be amended from time to time) by the Department and noted on the webpage.

### 57. **Affirmative Fair Housing Marketing Plan and Fair Housing Compliance**

Sponsor shall develop and implement an affirmative fair housing marketing plan satisfactory to the Department. Appropriate aspects of the initial plan shall be incorporated into the ongoing management plan to ensure positive outreach and informational efforts to those who are least likely to know about and apply for assisted units in the Development. Sponsor is encouraged to refer to HUD's guidelines for Affirmative Fair Housing Marketing Plans. Sponsor shall comply with all state and federal fair housing laws. At the Department's election, Sponsor must submit an attorney's opinion acceptable to the Department describing the intended occupancy restrictions and how they comply with the Unruh Civil Rights Act (Civ. Code, § 51) and the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.). Occupancy restrictions must be carried out in a manner which does not violate state or federal fair housing laws.

### 58. **Identification of Elderly and Veteran Units**

If applicable, Sponsor must submit a report that specifically identifies the number of units rented to the elderly. The report must also specifically identify the number of units rented to military veterans.

### 59. **TCAC and Other Regulatory Agreements**

The Sponsor shall provide the Department with a copy of the TCAC regulatory agreement if the Development budget includes tax credits and any other regulatory agreements pertaining to the Development.

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### 60. **Property Tax Exemption**

Unless expressly waived in writing by the Department, Sponsor shall provide evidence of eligibility for property tax exemption for the Development and a copy of the tax exemption application to the local tax assessor(s).

### 61. **Compliance with State and Federal Laws, Rules, Guidelines and Regulations**

The Sponsor agrees to comply with all state and federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Development, the Sponsor, its contractors or subcontractors, and any Loan activity.

### 62. **Change of Conditions**

The Department reserves the right to re-underwrite the Development based on new information or funding sources. Particular attention will be paid to the continued feasibility of the Development and the maintenance of the security position of the Program Loan. If the new information demonstrates a reduction or elimination of financing gap being addressed by the Program Loan, the Department will reduce the amount of the Loan Request stated in the Application and the amount of the Award accordingly. If the Department has underwritten the Program Loan using CalHFA or HUD requirements and the Development subsequently does not utilize the CalHFA or HUD financing, the Program Loan will be re-underwritten by the Department using Program Requirements. In the event the Department determines the Development is no longer financially feasible, the Award and any loan commitment issued by the Department may be revoked.

### 63. **Investor Commitments**

If the Development will be receiving an allocation of tax credits from TCAC, the Sponsor shall provide the Department with a copy of all tax credit investor commitments, including referenced financial projections and any amendments.

### 64. **Restricted Units**

All units designated in the Application approved by the Department as restricted units that are not also assisted units, shall be restricted on a long-term basis by a public agency at the income and rent levels shown in the Application. Similarly, all units designated in the Application as restricted units and that are not also assisted units, shall be restricted on a long-term basis by a public agency to the designated target population.

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### 65. Asset Management Fees

Asset management, partnership management, and similar fees shall be in compliance with UMR Section 8314(a)(1)(B).

### 66. Sponsor Representations

- A. Sponsor represents and warrants that as of the date of this Agreement, the Sponsor is a duly organized and validly existing entity under California law and the person signing this Agreement on behalf of Sponsor has the authority to act on behalf of and to bind the Sponsor in accordance with the terms of this Agreement.
- B. Sponsor represents and warrants that as of the date of the Program Loan closing, the Borrower may be a duly organized and validly existing limited partnership under California law and that such limited partnership will have the authority to enter into the Program Loan and related Loan documents.
- C. Sponsor further represents and warrants that as of the date of the Program Loan closing, the person(s) executing the Program Loan documents will have full authority to act on behalf of and to bind the Sponsor in accordance with the terms of those documents.

### 67. Survival of Obligations

The obligations of the Sponsor as set forth in this Agreement shall survive the Program Loan closing, and the Sponsor shall continue to cooperate with the Department and perform acts and provide documents as provided herein.

### 68. Litigation

If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole and absolute discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable. The Sponsor shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

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**69. Obligations of Sponsor with Respect to Certain Third-Party Relationships**

The Sponsor shall remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Development with respect to which assistance is being provided under this Agreement. The Sponsor shall comply with all lawful requirements of the Department necessary to ensure the completion, occupancy and use of the Development in accordance with this Agreement.

**70. Waivers**

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement or to require at any time performance by the Sponsor of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

**71. Audit/Retention and Inspection**

- A. The Department, its representatives, or employees, or its delegatee shall have the right to review, obtain, and copy all records pertaining to performance of the Agreement. Sponsor shall provide the Department or its delegatee with any relevant information requested and shall permit the Department or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material. Sponsor further agrees to maintain such records for a minimum period of four years after final payment under the Agreement unless a longer period of records retention is stipulated.
- B. At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the Development. At the Department's request, the Sponsor shall provide, at its own expense, a financial audit prepared by a certified public accountant.
- C. The audit shall be performed by a qualified State, Department, local or independent auditor. The Agreement for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
- D. If there are audit findings, the Sponsor shall submit a detailed response to the Department for each audit finding. The Department will review the response and,

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if it agrees with the response, will conclude the audit process and notify the Sponsor in writing. If the Department is not in agreement, the Sponsor will be contacted in writing and will be informed as to the corrective actions required to cure any audit deficiencies. This action could include the repayment of disallowed costs or other remediation.

- E. If so, directed by the Department upon termination of this Agreement, the Sponsor shall cause all records, accounts, documentation and all other materials relevant to this Agreement to be delivered to the Department as depository.

### 72. **Reporting Requirements**

Sponsor shall comply with all reporting requirements set forth in the Guidelines or applicable law, including, without limitation, each and all of those reporting requirements set forth in Section 117 of the Guidelines, all if, as, and to the fullest extent applicable to the Development.

### 73. **Sponsor Acknowledgment of the Pet Friendly Housing Act of 2017**

By executing this Agreement, Sponsor acknowledges that the Pet Friendly Housing Act of 2017 (Health and Safety Code, div. 31, pt. 2, ch.2, § 50466) requires each housing development, if it is financed on or after January 1, 2018 pursuant to Division 31 of the Health and Safety Code, to authorize a resident of the housing development to own or otherwise maintain one or more common household pets within the resident's dwelling unit, subject to applicable state laws and local government ordinances related to public health, animal control, and animal anticruelty.