

**STANDARD AGREEMENT**

AGREEMENT NUMBER

PURCHASING AUTHORITY NUMBER (if applicable)

STD 213 (Rev. 04/2020)

20-NPLH-16215

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

**CONTRACTING AGENCY NAME**

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

**CONTRACTOR'S NAME**

Crossroads Village Fresno, LP, County of Fresno, Housing on Merit, and UP Holding LLC dba UP Holdings California, LLC

2. The term of this Agreement is:

**START DATE**

Upon HCD Approval

**THROUGH END DATE**

Thirty (30) Years from Effective Date

3. The maximum amount of this Agreement is:

\$18,534,905.00

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Authority, Purpose and Scope of Work	7
Exhibit B	Loan Terms and Payment Provisions	1
Exhibit C*	State of California General Terms and Conditions	GTC - 04/2017
Exhibit D	NPLH Program General Terms and Conditions	22
Exhibit E	Special Conditions	1
<b>TOTAL NUMBER OF PAGES ATTACHED</b>		<b>31</b>

*Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.*

*These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>*

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

See Attached

CONTRACTOR BUSINESS ADDRESS

See Attached

CITY

See Attached

STATE

See Attached

ZIP

See Attached

PRINTED NAME OF PERSON SIGNING

See Attached

TITLE

See Attached

CONTRACTOR AUTHORIZED SIGNATURE

See Attached

DATE SIGNED

See Attached

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

2020 W. El Camino Ave., Suite 130

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

TITLE

Contracts Office Manager,  
Contract Services Section

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

California Department of General Services Approval (or exemption, if applicable)

Exempt per; SCM Vol. 1 4.04.A.3 (DGS memo dated 06/12/1981)

**CONTRACTOR**

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**Crossroads Village Fresno, LP**

a California limited liability company

By: HOM XXXI LLC  
a California nonprofit Corporation

Its: Managing General Partner

By: Housing on Merit  
a California nonprofit Corporation

Its: Sole Member

By: \_\_\_\_\_

Date: \_\_\_\_\_

Jennifer Litwak  
Executive Director

By: Crossroads Village Fresno LLC  
a California limited liability company

Its: Administrative General Partner

By: UP HOLDINGS, LLC, an Illinois limited liability company, d/b/a UP HOLDINGS  
a Illinois

By: \_\_\_\_\_

Date: \_\_\_\_\_

Cullen Davis  
Manager

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Address:

7370 N. Lincoln Ave, Suite A  
Lincolnwood, IL 60712

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**UP Holding LLC dba UP Holdings California, LLC**

a California For Profit limited liability company

By: \_\_\_\_\_

Date: \_\_\_\_\_

Cullen Davis  
Manager

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Address:

7370 North Lincoln Avenue, Suite A  
Fresno, CA 93711

**CONTRACTOR**

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**County of Fresno**

a County

By: \_\_\_\_\_

Date: \_\_\_\_\_

Sal Quintero

Chairman, Board of Supervisors

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Address:

2281 Tulare Street  
Fresno, CA 93721

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**Housing on Merit**

a California nonprofit public benefit corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_

Jennifer Litwak

Executive Director

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Address:

1901 Avenue of the Stars, Suite 395  
Los Angeles, CA 90067

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**EXHIBIT A**

**AUTHORITY, PURPOSE AND SCOPE OF WORK**

**1. Authority**

Pursuant to the Government Code Section 15463, Part 3.9 of division 5 (commencing with section 5849.1) of the Welfare and Institutions Code, and Section 5890 of the Welfare and Institutions Code all as amended and in effect from time to time, the State of California (the "State") has established the No Place Like Home Program (the "Program"). Pursuant to Section 5849.5 of the Welfare and Institutions Code, the State has issued Guidelines governing the Program, as amended from time to time (the "Guidelines").

This Standard Agreement, STD 213, (the "Agreement" or "Contract") is the result of the Sponsor's application (the "Application") for funding under the Program pursuant to:

- A. Section 5849.8 of the Welfare and Institutions Code
- B. The Program Guidelines dated October 23, 2020; and,
- C. The Notice of Funding Availability (the "NOFA") for (as applicable):
  - a. Noncompetitive Allocation funds dated August 15, 2018 and as amended October 30, 2018, and on October 23, 2020, as may be further amended from time to time
  - b. Competitive Allocation funds dated October 23, 2020 for Competitive Allocation funds, as may be further amended from time to time

**2. Purpose**

In accordance with the authority cited above, Sponsor's Application was made to the State for financial assistance from the Program (the "Loan" or "Award"), for the purpose of assisting in the development, operation and maintenance of a Rental Housing Development (as defined in section 3 hereof) (the "Development") on certain real property (the "Property") as described in the Application and the Project Report. The Application, including all representations made therein, and the Project Report (as defined in section 3 hereof) are hereby incorporated in this Agreement by this reference.

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NOFA Dates: August 15, 2018, as amended October 30, 2018, and on October 23, 2020 (Noncompetitive Allocation) and/or October 23, 2020 (Competitive Allocation)

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Prep. Date: 12-23-2022

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The financial assistance from the Program shall be in the form of a permanent loan to the County, Sponsor, or its approved affiliate (the “Borrower” as defined in section 3 hereof), as owner of the Development for the capital portion of the award, and (if applicable) in the form of a grant to the County, Sponsor, or its HCD approved affiliate under the direct control of the Sponsor (as set forth in Paragraph 8 below) for the portion of the award that is the Capitalized Operating Subsidy Reserve.

The purpose of the Award is to ensure that the Development is constructed, owned, managed, maintained and operated in accordance with the requirements of the Program, the requirements of the Guidelines, and the representations of the Application, and to ensure that certain residential units therein shall be occupied by eligible households at affordable rents as defined in the Guidelines for the full term of the Loan, regardless of sale or transfer of the Property or prepayment of the Loan. To further effect this purpose, if Sponsor or Borrower is an entity other than the Sponsor identified in the Application, HCD (as defined in section 3 hereof) may require the Sponsor to enter into a sponsor operating guaranty (the “Sponsor Operating Guaranty”) as a condition of closing the Loan.

By entering into this Agreement and thereby accepting the Award of Program funds, the Sponsor agrees to comply with the terms and conditions of the Guidelines, the NOFA, this Agreement, the representations contained in the Application, the Project Report and the requirements of the authorities cited above.

### **3. Definitions**

Capitalized terms herein shall have the meaning of the definitions set forth in the Guidelines, the UMR’s and in this Exhibit A as follows:

- A. “Agreement” refers to this Standard Agreement.
- B. “Borrower”, or “Ultimate Borrower” refers to the borrowing entity and owner of the Development. The Sponsor, or Development Sponsor, determined by HCD as having sufficient capacity and experience to develop, own and operate the Development, or its wholly controlled affiliate shall have continuing control of the Development. The Borrower structure shall not have more levels of organization than are allowed in accordance with UMR Section 8313.2.
- C. “COSRA” refers to the COSR (as defined below) agreement governing the terms and conditions of the disbursement of the COSR.

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- D. “Capitalized Operating Subsidy Reserve” or “COSR” refers to the capitalized operating reserve provided under Section 209 of the Guidelines.
- E. “Sponsor” or “Development Sponsor” refers to the entity or entities that made the Application to the Department for the Award for the Development (as defined below) and identified as “Contractor” on page 1 to this Agreement (STD 213). “Sponsor” also includes any affiliate or assignee of the Sponsor approved by the Department and undertaking all the obligations of the Sponsor hereunder (e.g., the Borrower). In the case of joint applicants, “Sponsor” shall refer to each applicant or the approved assignee of such applicant. Each joint applicant shall be jointly and severally liable for all obligations of a Sponsor as set forth herein.

Crossroads Village Fresno, LP (“LP”) is an affiliate of UP Holdings, LLC, DBA UP Holdings California, LLC (“LLC”) and Housing on Merit (Corp). LLC was awarded the NPLH Loan funds pursuant to the award letter, dated June 23, 2021. The Department acknowledges that the LP will be considered the Ultimate Borrower of the NPLH Loan funds and as such will execute the NPLH Loan documents as described in section 39 of Exhibit D. For the purposes of this Standard Agreement, LP, LLC and Corp will be collectively referred to herein as “Sponsor”. As such, the LP and Corp shall be jointly and severally liable for all the obligations of a Sponsor as set forth herein. Performance satisfactory to the Department by the LP of any duties and obligations under this Standard Agreement, and any other agreements as required by the Department, by either the LP or Corp will be deemed as performance by the Sponsor.

At a minimum, the sponsor-controlled general partner must solely perform the substantial management duties identified in Board of Equalization Rule 140.1(a)(10) as items (A), (H), (I) and (K).

- F. “Department” or “HCD” refers to the Department of Housing and Community Development.
- G. “Guidelines” refers to the NPLH Guidelines dated October 23, 2020.
- H. “Project Report” refers to the HCD staff report presented to and approved by the Department’s Internal Loan Committee. The Project Report sets forth the project criteria as approved by the Department at the time of the award of Program Loan funds. The information set forth in the project report may be amended only upon HCD’s written approval.

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- I. “Performance Milestones” refers to the development schedule and/or milestones proposed by the Sponsor at time of application and as set forth in the Project Report.
- J. “Program” refers to the No Place Like Home Program (NPLH).
- K. “Rental Housing Development” (the “Development”) refers to the residential rental “Affordable Housing Development” described in the Application and meeting the criteria set forth in the Project Report providing the affordable housing units, as described therein, in consideration of the No Place Like Home Loan (the “NPLH Loan”). The Rental Housing Development shall meet all criteria as set forth in the Guidelines.
- L. “TCAC” refers to the California Tax Credit Allocation Committee.
- M. Any reference to a specific “Section” or “section” of the Guidelines shall initially refer to that specific numbered section of the Guidelines adopted on and dated October 23, 2020. Notwithstanding, if and when the Department amends any portion of the Guidelines, all references herein to any such portion of the Guidelines shall be deemed to refer to the updated version of the Guidelines, either in whole or in part, as may be applicable. To the extent that any Guidelines section or sections (Section or Sections) provision is or are amended, and thereafter receive(s) a new Guidelines section number(s), any reference herein to the old Guidelines section(s) number(s) shall be interpreted to refer instead to the Guidelines section(s) that is (or are) intended to replace the content and substance of the former Guidelines section(s).

**4. Scope of Work**

The Scope of Work (“Work”) for this Agreement shall consist of the development and construction of the Development identified in the Award Letter. The Development is to be developed and constructed by the Sponsor, or by a developer on behalf of the Sponsor, as provided in the Application and shall meet the criteria set forth in the Project Report.

Further, the Sponsor shall take such actions, pay such expenses and do all things necessary to complete the Development as identified in the Award Letter and described

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in the Project Report in accordance with the schedule for completion set forth therein and the terms and conditions of this Agreement.

All written materials or alterations submitted as addenda to the original Application and the Project Report and which are approved in writing by a Division of Financial Assistance Program Manager or higher Department official, as appropriate, are part of the Application and are hereby incorporated as part of the Agreement. HCD reserves the right to review and approve all Work to be performed by the Sponsor in relation to this Agreement. Any proposed revision of the Work must be submitted in writing for review and approval by HCD. Any approval shall not be presumed unless such approval is made by HCD in writing.

**5. Evidence of Point Generating Activities**

Based on the points awarded to its Application, Sponsor assures the Department of the existence or planned aspects of all point generating activities as detailed in the Project Report.

At the request of the Department, Sponsor shall provide further and additional evidence sufficient to demonstrate the existence and/or completion of the items for which the Sponsor's Application received points. Failure to provide such evidence to the reasonable satisfaction of the Department may result in a reevaluation of the Application and the reduction or cancellation of the award, require repayments of any disbursed Program funds, and result in the disencumbrance of Program funds awarded.

**6. Special Conditions**

Sponsor shall ensure the completion of the special conditions (if any) set forth in the Project Report and in Exhibit E of this Agreement (if any), by the designated dates. Sponsor may apply to the Department for an extension on any timelines based on good cause shown and best efforts and assurances from the Sponsor for timely completion of the remaining any such special conditions.

**7. State Coordinator**

The coordinator of this Agreement for the state is the Program Manager for the No Place Like Home, Division of Financial Assistance. Any notice, report, or other communication required by this Agreement shall be mailed by first class mail to the State Program Manager at the following address:

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Department of Housing and Community Development  
Division of Financial Assistance – NOFA Unit  
P.O. Box 952054  
Sacramento, California 94252-2054

**8. Contract Coordinator(s)**

The Sponsor(s) Contract Coordinator for this Agreement is listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class or emailed to the contact at the following address:

Ultimate Borrower:	Crossroads Village Fresno, L.P.
Name:	Cullen J. Davis
Address:	1801 Avenue of the Stars, Suite 395 Los Angeles, CA 90067
Phone No.:	(773) 736-1244
Email Address:	jessica@upholdings.net

Sponsor:	UP Holdings, LLC DBA UP Holdings California, LLC
Name:	Cullen J. Davis
Address:	7370 North Lincoln Avenue, Suite A Lincolnwood, IL 60712
Phone No.:	(773) 736-1244
Email Address:	jessica@upholdings.net

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County Applicant:	County of Fresno
Name:	Sal Quintero
Address:	2281 Tulare Street, Fresno, CA 93721
Phone No.:	(559) 600-3000
Email Address:	salquintero@fresnocountyca.gov

Entity to Receive COSR Disbursements	Crossroads Village Fresno, L.P.
Name:	Cullen J. Davis
Address:	1801 Avenue of the Stars, Suite 395 Los Angeles, CA 90067
Phone No.:	(773) 736-1244
Email Address:	jessica@upholdings.net

**EXHIBIT B**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Terms of Award**

A. Principal Amount

The principal amount of the Award shall be the lesser of:

- 1) the principal amount as stated in the Application; or,
- 2) the amount later approved by the Department as consistent with the requirements of the Guidelines.

B. Interest and Payment

The portion of the Award provided as a Loan shall bear interest at the rate and be payable as provided in section 200 of the Guidelines and under the terms of the Department's promissory note to be executed at loan closing. The Loan may not be prepaid without the prior written consent of the Department.

**2. Invoicing and Payment**

- A. All loan proceeds used to finance capital costs of Assisted Units in the Development (the "Permanent Loan Proceeds") shall be disbursed through an independent escrow/title company. The Department shall prepare and submit instructions to the escrow holder, detailing the requirements for the release of Loan proceeds to the Borrower. The Permanent Loan Proceeds do not include funds awarded for a Capital Operating Subsidy Reserve (COSR) pursuant to Guidelines section 209.
- B. The Permanent Loan Proceeds shall be released through escrow upon the Sponsor's, or its assignee's, submittal of the Request for Funds form and the satisfaction of the terms of the award letter and this Agreement. HCD reserves the right to retain 10 percent of the approved loan proceeds pending receipt and acceptance of the cost audit and any remaining loan closing checklist items.
- C. COSR proceeds, if awarded, will be held by the Department and disbursed annually pursuant to Guidelines section 209.

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Approved Date: 3/9/2021

Prep. Date: 7/15/2021

**EXHIBIT D**

**NPLH PROGRAM GENERAL TERMS AND CONDITIONS**

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

This Agreement is effective upon approval by all parties and the Department, which is evidenced by the date signed by the Department on page one, Standard Agreement, STD 213 (the "Effective Date"). The Sponsor agrees that the Work shall be completed as specified in this Agreement, the Project Report, incorporated herein by reference, and subject to the Agreement expiration date specified on page 1, number 2, of this Agreement (STD 213), unless a written request for an extension is submitted and written approval by the Department, is provided within 90 days prior to the termination date of the Agreement. Any extension to the termination date shall require an amendment to this Agreement executed by all parties.

Construction Loan Closing Deadline: Per Section 200(h) of the Guidelines, the construction loan closing shall occur no later than thirty-six (36) months from the date of the Department's award letter June 23, 2021.

Permanent Loan Closing Deadline: Per Section 200(i), the permanent loan closing shall occur no later than seventy-two (72) months from the date of the Department's award letter June 23, 2021.

The Department may extend the deadlines above a total of up to twenty-four (24) months in the aggregate where it is clear to the Department, that granting an extension will enable the Project to start construction or achieve ninety (90) percent occupancy of the Assisted Units.

**2. Termination**

The Department may terminate this Agreement at any time for cause by giving at least 14 days' notice in writing to the Sponsor. Cause shall consist of violations by the Sponsor of any terms and/or special 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 under "Timing" in these General Conditions.

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**EXHIBIT D**

- B. Failure of the Sponsor to satisfy in a timely manner each of the conditions set forth in these General Conditions, Special Conditions set forth in Exhibit E of this Agreement and the award letter.
- C. Determination by the Department that: (a) any material fact or representation made or furnished to the Department by the Sponsor in connection with the Application, or the award letter have been untrue or misleading at the time that such fact or representation was made known to the Department, or subsequently becomes untrue, or (b) the Sponsor shall have concealed any material fact from the Department related to the Application or the Development.
- D. Filing a petition by Sponsor, or any affiliate or general partner of Sponsor, for relief under the Bankruptcy Code; the filing of any pleading or an answer by Sponsor, or any 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 any affiliate or general partner of Sponsor or any of its property.
- E. Failure of Sponsor, or any general partner of Sponsor, to effect a full dismissal of any involuntary petition under the Bankruptcy Code that is filed against Sponsor, or any general partner of Sponsor, or in any way restrains or limits Sponsor, or any general partner of Sponsor, or the Department regarding the 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 any 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 any general partner of Sponsor, or any proceeding challenging the legality of the Development.

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## **EXHIBIT D**

- H. Failure of Sponsor to close the Department approved construction financing on or before the date indicated under "Timing" in these General 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 set forth in the Project Report. 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 notice to proceed delivered to the contractor. If no construction lender is involved, and the project 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.
- B. This Agreement shall expire on date specified on page 1, number 2, of this Agreement (STD 213).

### **4. Disputes**

Applicable law, including the Department's and the Program's statutes, rules, regulations, and Guidelines shall apply and be enforced in the event of any conflict that becomes apparent to the Department at any time, notwithstanding the Department's preliminary prior review of Project documentation at the time of construction loan closing.

### **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 will not be unreasonably withheld or delayed, unless the same is specified as being in that party's sole discretion or other words of similar import.

## **PRE-CONSTRUCTION LOAN REQUIREMENTS**

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Unless otherwise 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):

**6. Site Control**

The Sponsor shall have 100% control of the land at time of application and through permanent loan closing, 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;
- B. A leasehold interest on the project 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 enforceable option to purchase or lease which shall extend through the anticipated date of the Program award as specified in the NOFA;
- D. An executed disposition and development agreement right of way, or irrevocable offer of dedication to a Public Agency;
- E. An executed encroachment permit for construction of improvements or facilities within the public right of way or on public land;
- F. An executed agreement with a public agency that gives the Sponsor exclusive rights to negotiate with that agency for acquisition of the site, provided that the major terms of the acquisition have been agreed to by both parties; or
- G. A land sales contract or other enforceable agreement for the acquisition of the property.
- H. Other forms of site control that give the Department assurance (equivalent to A-G above) that the applicant or developer will be able to complete the Project and all

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**EXHIBIT D**

housing designated in the application in a timely manner and in accordance with all the requirements of the Program.

- I. If the Sponsor's interest in the property is a leasehold, the lease must provide adequate security for the Program Loan and comply with the requirements of the Uniform Multifamily Regulations ("UMR"), Section 8316. The Sponsor shall provide a copy of the ground lease for the Department's approval and review of its compliance with UMR Section 8316. The lessor and lessee will be required to sign the Department's standard form Lease Rider and Estoppel Agreement, unless the lessor agrees to sign the Program Loan documents as required by the Department and encumber all its interest in the Development. Where the lessee and the lessor are affiliated or related private parties, both the lessee and the lessor must execute the Program Loan documents so as to encumber both the leasehold and fee interests in the Development.

**7. Title Report**

The Sponsor shall provide a current title report for the real 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.

**8. Site Inspection**

The Department reserves the right, upon reasonable notice, to inspect the Development site and any structures or other improvements thereon to determine whether the Development site meets the requirements of the Program Guidelines and the criteria set forth in the Project Report. If the Department reasonably determines that the site is not acceptable for the proposed Development in accordance with the Guidelines, the Department reserves the right to rescind the Award and the Loan.

**9. 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. In addition, NPLH projects shall comply with the accessibility requirements referenced in Section 213 (b) of the Program Guidelines.

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**EXHIBIT D**

**10. 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.

**11. Reserve Study**

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

**12. 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 construction lender(s)' approved development budget.

**13. 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 Guideline Section 200(a) and (b).

**14. Cost Savings**

If, upon completion of the Development, the total development funding sources exceed the total development costs, the Department will share costs in accordance with UMR Section 8313.1.

**15. Sponsor Control of Development**

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Sponsor shall provide evidence satisfactory to the Department that the Sponsor identified in the Application and who demonstrated the requisite experience, pursuant to Section 202 of the Guidelines, in the application process, has and will retain full control over the development, construction, ownership and management of the Development through control of the borrowing entity by the Sponsor either directly as Borrower, or as a managing general partner of Borrower, or as the member/manager of the general partner of the Borrower. At a minimum, the sponsor-controlled general partner must solely perform the substantial management duties identified in Board of Equalization Rule 140.1(a)(10) as items (A), (H), (I) and (K).

The same control requirement applies to any Borrower organized as a limited liability company. The failure to demonstrate the requisite control of the borrowing entity by the Sponsor may result in significant delay in the processing, or potentially the cancellation, of the Program Loan. The Sponsor which demonstrated the requisite experience of owning and developing affordable rental housing, shall execute the Department's Sponsor Operating Guaranty to ensure that the Sponsor has the resources and experience to develop, own and manage the Development. The organizational structure of the Borrower, including the control and ownership by the Sponsor or Sponsors, and any changes thereto, must be reviewed and approved by the Department and must comply with all Program requirements.

**16. Limited Partnership Agreement (LPA)**

If the Borrower is a limited partnership, the Department neither approves nor disapproves the LPA, but may require changes, if necessary to ensure, among other Program requirements, appropriate sponsor control, and that the term of the LPA is equal to or greater than the term of the Department's loan documents. In the event of any conflict between the LPA and the Department's loan documents and regulations, the Department's loan documents, Guidelines, and applicable statutes and regulations shall control.

**17. 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 conforming to the requirements of State laws and the regulations adopted by the Department in California Code of Regulations, Title 25, Section 6000 et seq prior to the beginning of

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construction or any displacement (whichever is sooner). The Development budget shall contain sufficient funds to pay all costs of relocation benefits and assistance as set forth in the relocation plan approved by the Department. Should a relocation plan not be required, Sponsor must provide documentation for Department approval that there are no relocation requirements.

**18. 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 31 of these General Conditions.

**19. 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 who is approved by or otherwise acceptable to the Department.

**20. 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 of the Sponsor's Program Loan Application. The terms and conditions of all financing shall be subject to the Department's review and approval.

**21. Senior Loan Terms and Disclosures**

The terms of loan(s) in a lien position senior to the Program Loan must comply with all the underwriting standards of UMR Sections 8310 and 8315, as may be modified by the Program Guidelines.

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

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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), as may be modified by the Program Guidelines.

**22. 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 a form acceptable to the Department. Any remediation work to be performed shall be 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.

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**23. Article XXXIV**

All Projects shall comply with Article XXXIV, Section 1 of the California Constitution (“Article XXXIV”), as clarified by the Public Housing Election Implementation Law (Health & Safety Code, §§ 37000 – 37002). Prior to the award of funds by the Department, the Sponsor shall submit documentation which shows, to the Department’s satisfaction, that the Project complies with or is exempt from Article XXXIV.

**CONSTRUCTION PHASE REQUIREMENTS**

**24. 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.

**25. 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

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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.

**26. Updated Information**

Sponsor shall provide the Department updated documentation for any change in the information previously provided relating to the Program Award, 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 the Guidelines, then the Program Award commitment will be cancelled, and all Program funds awarded to the Sponsor shall be disencumbered.

**27. Evidence of Existence of Application Selection Criteria**

Upon request, Sponsor shall provide to the Department evidence of the existence of the amenities, services, improvements, features and characteristics of the Development which were included in the Application and as set forth in the Project Report and awarded points under Section 205 of the Guidelines in the Department's rating of the Application.

**28. Signage**

Sponsor shall place signs on the construction site for the Work stating that the Department is providing financing through the NPLH Program in an appropriate location(s), typeface and size containing the following message:

**CROSSROADS VILLAGE**

**THIS PROJECT HAS BEEN MADE POSSIBLE**  
**BY FINANCING FROM**

**NO PLACE LIKE HOME PROGRAM**

**THROUGH THE**  
**CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

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The 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 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 the sign, the Sponsor shall submit a digital photograph thereof to the Department to verify compliance with these signage requirements.

### **29. 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.

## **COMPLETION OF CONSTRUCTION**

### **30. Relocation Plan Implementation Report**

**90 days prior to construction loan close or prior to any displacement, whichever is sooner, the Sponsor must comply with applicable local, state and federal relocation requirements of Government Code section 7260 et seq. and California Code of Regulations, title 25, section 6000 et seq. including a relocation plan (if necessary) approved by the Department. Should a relocation plan not be required, Sponsor must provide documentation for Department approval that there are no relocation requirements 90 days prior to construction loan close or prior to any displacement, whichever is sooner.** The Sponsor shall provide a report, in a form acceptable to the Department, summarizing the actions taken and identifying all Sponsors of relocation assistance and benefits, and the amounts paid, and benefits provided, to or on behalf of each Sponsor.

### **31. 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 form acceptable to the Department, that all construction is completed in accordance with the

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“as-built” plans and specifications and in compliance with all applicable federal, state and local laws relating to disabled accessibility.

**32. 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 not representing work done under the construction contract and to make such records available for review by the Department.

**33. 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 all the terms and conditions of the Guidelines, the NOFA, this Agreement, representations made in the Application and the criteria set forth in the Project Report, all in a manner satisfactory to the Department in its sole discretion, on or before the earlier of the Program Loan Closing, the Program Loan closing deadline or such earlier time, all as indicated herein.

**34. 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.

**35. 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

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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.

**36. 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 Sponsor and 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.

**37. Prevailing Wage Compliance**

Where applicable, prevailing wage rates shall be paid with respect to the construction work, as the term is defined in the Standard Agreement, performed in connection with the Development. Prior to closing the Program Loan, a certificate signed by the general contractor(s) and the Sponsor is required, certifying that prevailing wages have been, or will be, paid in conformance with Labor Code Section 1720 et seq., and that labor records shall be maintained and made available to any enforcement agency upon request.

**38. 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

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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.

**39. Program Loan and Grant Documents**

The Sponsor shall enter into this Standard Agreement with the Department, which shall govern the encumbrance by the Department of the funds to be used to fund the Program Award. In addition, the Sponsor shall enter into a Regulatory Agreement(s) with the Department, governing certain matters related to 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 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(s), 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. Finally, any award of the COSR shall be evidenced by a COSRA, which performance of the covenants and conditions thereof shall be secured by the 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 NPLH requirements and the terms and conditions of this Agreement. The Sponsor and any affiliate of the Sponsor which demonstrated the requisite experience of owning and developing affordable rental housing, shall execute the Department's Sponsor Operating Guaranty to ensure that the Sponsor has the resources and experience to develop, own and manage the Development.

**40. 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

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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. Other requirements governing sales, transfers, and encumbrances in Section 216 of the Program Guidelines must also be satisfied.

**41. Rental Subsidy Contract**

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

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

Sponsor may substitute a source of funding equivalent to the original rent or social service subsidy. The amount, terms and conditions of the new source of funding must provide an equivalent or greater level of subsidy to the project, acceptable to the Department.

**43. 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.

**44. 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.

**45. 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.

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**46. Operating Reserve Account**

The Sponsor shall fund an operating reserve account in accordance with Section 8308 of the UMRs and subject to the requirements thereof. The specific amount of the Operating Reserve Account shall be set forth in the Regulatory Agreement.

**47. Replacement Reserve Account**

The Sponsor shall establish a replacement reserve account in accordance with Section 8309 of the UMRs. 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 discretion, based on reserve studies performed by an independent third party at the Sponsor's expense as requested by the Department or as based on other reliable indicators of future reserve needs.

**48. 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 Award may be used to capitalize only the operating reserve accounts and in an amount required by UMRs Sections 8308 and Section 209 of the Guidelines. Proceeds of the Program Award may not be used to capitalize rental subsidy reserves, except as authorized in accordance with the above-mentioned sections.

All reserves capitalized under Section 209 of the Guidelines shall be provided by the Department in the form of a grant shall be evidenced by a COSRA, which shall be secured by a deed of trust recorded against the real property of the housing development in favor of the Department, for the purpose of securing performance of the covenants and conditions of the COSRA. The lien shall endure for the duration of the grant agreement and shall be subject to the provisions of Section 209 and other applicable provisions of the Guidelines. The security for the grant agreement shall be recorded junior only to such liens, encumbrances, and other matters of record approved by the Department and shall secure the Department's financial interest in the Project and the performance of the Applicant's Program obligations.

**49. CalHFA and HUD Funded Projects**

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Projects 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.

**50. Asset Management and Compliance Requirements**

The Sponsor shall obtain the Loan Closing Checklist in the course of closing the NPLH 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 the Department's review and approval of the above-mentioned items a) through f) 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.

**51. Supportive Services**

The County shall ensure that the supportive service requirements of Section 203 of the Program Guidelines are met. The County must provide mental health services and coordinate the provision of or referral to other supportive services, including but not limited to substance use treatment services, to NPLH tenants for a minimum of 20 years. The County's obligations pursuant to this requirement shall begin when a Project receives its certificate of occupancy, or other evidence of Project completion for Projects already occupied.

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**52. Tenant Referrals, Affirmative Fair Housing Marketing Plan, and Fair Housing Compliance**

Sponsor shall be required to use their local homeless Coordinated Entry System, or other similar referral system for persons At-Risk of Chronic Homelessness, as set forth in Section 211 of the NPLH Guidelines and their Application. 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 and other guidance for Affirmative Fair Housing Marketing Plans done with use of a Coordinated Entry System. 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 in the California Civil Code and the Fair Employment and Housing Act in the California Government Code. Occupancy restrictions must be carried out in a manner which does not violate state or federal fair housing laws. Any additional subpopulation targeting or occupancy preference for an NPLH Project beyond what is permitted under Section 206 of the Program Guidelines must be approved by the Department in writing prior to construction loan closing and must be consistent with federal and state fair housing requirements. The project integration requirements of Section 202 (e) of the Program Guidelines must also be satisfied.

Pursuant to Welfare and Institutions Code Section 5849.9 and Guidelines Section 211, Projects utilizing funds from a County's Noncompetitive Allocation shall prioritize persons with mental health supportive service needs who are Homeless or At-Risk of Chronic Homelessness.

**53. 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.

**54. TCAC and Other Regulatory Agreements**

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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.

**55. 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).

**56. 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.

**57. 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 or grant, the Department will reduce 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 or grant commitment issued by the Department may be revoked.

**58. 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.

**59. Restricted Units**

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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.

**60. Asset Management Fees**

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

**61. 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 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 Sponsor is 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 bind the Sponsor in accordance with the terms of those documents.

**62. Survival of Obligations**

The obligations of the Sponsor and any other entity designated to receive any COSR disbursements as set forth in this Agreement shall survive the Program Loan permanent closing, and these parties shall continue to cooperate with the Department and perform acts and provide documents as provided herein.

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**63. 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 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.

**64. 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.

**65. 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.

**66. 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 and any other entity designated to receive COSR disbursements 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,

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**EXHIBIT D**

records, accounts, and other material. Sponsor and any other entity designated to receive COSR disbursements 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 and any other entity designated to receive COSR disbursements 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 audited party(ies) shall submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, the audit process ends, and the Department will notify the audited party(ies) in writing. If the Department is not in agreement, the audited party(ies) 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 and any other entity designated to receive COSR disbursements shall cause all records, accounts, documentation and all other materials relevant to this Agreement to be delivered to the Department as depository.

**67. Reporting Requirements**

The County must satisfy the reporting requirements of Section 214 of the Program Guidelines as specified on forms provided by the Department. In addition, upon the Department's request, the Sponsor shall provide to the Department any and all necessary data that it is legally and factually able to provide that is required to be reported pursuant to the most recently adopted Program Guidelines.

**68. Governing Law**

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This Agreement shall be construed with and be governed by the laws of the State of California. All references to codes refer to the California Codes.

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**EXHIBIT E**

**SPECIAL CONDITIONS**

The following Special Conditions are applicable to this Standard Agreement:

1. **Payee(s)**

The authorized Payee(s) is/are as specified below:

**Capital Funds (Loan):**

Noncompetitive Amount: N/A

Payee Name: N/A

Competitive Amount: \$11,723,412

Payee Name: Blackstone Crossroads, L.P.

**COSR Funds (Grant):**

COSR Amount: \$6,811,493

Payee Name: Blackstone Crossroads, L.P.

1. The application has identified the Project has Department Assisted Units Targeting persons experiencing homelessness. AB 977 requires that Sponsors and Awardees who have been awarded Department funding in the NPLH Program enter Universal and Common Data Elements as defined by HUD on the individuals and families served into the Homeless Management Information System (HMIS), for projects that will have completed the permanent conversion of Department funds effective January 1, 2023, and later.
2. The Relocation Plan submitted is dated January 2021. Per, 25 CCR § 6038 (d) "In the event of delay of more than one year in the implementation of the relocation program, the plan shall be updated prior to implementation of that program."

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3. Certificate of Good Standing. Sponsor shall provide Certificates of Good Standing dated within 6 months of closing date for all entities within the Projects organizational structure.
4. Article XXXIV. If additional NPLH funds are added or another program's funds are added to the project where there are more units added or stacking occurs, a brand-new Article XXXIV analysis is needed.

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