STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NEWSOM, *Governor*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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March 11, 2019

MEMORANDUM FOR: All Potential Applicants and Current Award Recipients

FROM: Mark Stivers, Deputy Director
Department of Housing and Community Development

SUBJECT: Notice of Amendment to VHHP Guidelines (Rounds 1-4)

WHEREAS the Department of Housing and Community Development (Department) is authorized to adopt, promulgate, amend, repeal, and administer standards, requirements, procedures, or guidelines ("Program Guidelines") for financial assistance offered pursuant to the Veterans Housing and Homelessness Prevention Program (VHHP) authorized pursuant to the Veterans Housing and Homeless Prevention Act of 2014 (the Act), as set forth in Article 3.2 (commencing with Section 987.001) of Chapter 6 of Division 4 of the Military and Veterans Code.

WHEREAS the Department has previously offered financial assistance through the following VHHP notices of funding availability:

Round 1: February 20, 2015
Round 2: October 13, 2015
Round 3: December 14, 2016
Round 4: May 9, 2018

WHEREAS the Department has previously published Program Guidelines for VHHP on the following dates:

Round 1: February 18, 2015
Round 2: October 13, 2015
Round 3: February 4, 2017 and amended February 16, 2017
Round 4: May 9, 2018 and amended May 18, 2018 and June 22, 2018

WHEREAS pursuant to the statutory authority set forth above, the Program Guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code;

THEREFORE, by the undersigned execution of the Department's director or his

assignee, the Department hereby adopts and amends into the Program Guidelines the following addendum thereto, as if such provision were originally set forth in each publication of the foregoing Program Guidelines:

Addendum Section 1

(a) With respect to any TCAC 4% tax credit project, to the extent independent bond counsel ("Bond Counsel") has determined that a preference or restriction for military veterans may violate the general public use requirements of the TCAC 4% tax credit project's multifamily private activity bonds in accordance with 26 U.S. Code § 142 ("Public Use Violation"), and provides a written opinion or letter to the Department stating the same, the Sponsor may then, on or before April 15, 2019, request the Department's permission to: (i) reduce the number of Assisted Units at the TCAC 4% tax credit project to the maximum number of units permissible ("Revised VHHP Assisted Unit Amount") as determined by the Department in its sole discretion taking into account the Tax/Bound counsel Opinion and (ii) maintain the maximum total of Program assistance assuming the total number of Assisted Units are, in fact, restricted at the TCAC 4% tax credit project and as set forth in subsection (b).

(b) The Department may grant approval of the foregoing provided that the Department is satisfied by the reasoning set forth in the Bond Counsel opinion that the request is necessary to avoid a Public Use Violation; and the Sponsor records or causes to be recorded a covenant, provided by the Department and in favor of the Department, against a Department-approved separate multifamily housing site located in California (the "Secondary Site") for an initial term of not less than 55 years (the "Alternate Covenant"), that satisfies the terms set forth below in subdivision (c).

(c) The Alternate Covenant shall incorporate the requirements of the Program and shall include the following terms:

1. It shall restrict a number of units equal to the difference between the Assisted Units and the Revised VHHP Assisted Unit Amount, at the same aggregate level of affordability and Veteran's status for the Assisted Units, when considering the Assisted Units restricted at the TCAC 4% tax credit project and at the Secondary Site;

2. Notwithstanding the foregoing, the Alternate Covenant shall not be cross defaulted with the VHHP loan provided to the TCAC 4% tax credit project.

3. CalVet shall approve the Secondary Site Supportive Services Plan prior to the execution of the Alternate Covenant. The Secondary Site shall be compliant with all provisions described in the Supportive Services Plan submitted for the project awarded VHHP funds (the Primary Site), including but not limited to tenant selection, safety and security, tenant engagement, supportive services, budget, and accessibility to services. Program funds will not be released without CalVet approval of the

Supportive Service Plan for the Secondary Site.

(d) When the Department receives an opinion from Bond Counsel that the Public Use Violation no longer applies, then the Department's regulatory agreement recorded against the TCAC 4% tax credit project shall require the restriction of the original total number of Assisted Units at the same aggregate level of affordability and Veteran's status for the Assisted Units proposed prior to the request described in subdivision (a) and upon compliance with such restrictions, the Alternate Covenant shall be released by the Department.

If you have any questions or require assistance, please contact Mark Stivers, Acting Deputy Director for Financial Assistance at mark.stivers@hcd.ca.gov or (916) 263-1015.

Mark Stivers
Acting Deputy Director

3-11-19
Date