

# **Transit-Oriented Development (TOD) Implementation Program**

## **2026 TOD Guidelines**



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## **Article I. General**

### **Section 100. Purpose and Scope**

- (a) These Transit-Oriented Development Implementation Program (TOD or Program) Guidelines (Guidelines) implement and interpret Part 13 (commencing with Section 53560) of Division 31 of the Health and Safety Code. (*Amended by Stats. 2025, Ch. 22, Sec. 54. (AB 130) Effective June 30, 2025.*)
- (b) These Guidelines set forth rules, standards, and criteria for funds awarded through a funding announcement that references these Guidelines. The Department of Housing and Community Development (Department or HCD) adopted these Guidelines pursuant to its authority under subdivision (b) of Section 53560 of the Health and Safety Code.
- (c) The Uniform Multifamily Regulations (Cal. Code Regs., tit. 25, § 8300 et seq.) (the UMRs), effective November 15, 2017, and as subsequently amended, are hereby incorporated by reference. In the event of a conflict between any of the foregoing regulations and these Guidelines, the provisions of these Guidelines are controlling.
- (d) The Multifamily Housing Program (MHP) Final Guidelines, effective February 13, 2025, and as subsequently amended, are hereby incorporated by reference. In the event of a conflict between any of the MHP Guidelines and these Guidelines, the provisions of these Guidelines are controlling.
- (e) The CalHome Guidelines, effective December 12, 2024, and as subsequently amended (the CalHome Guidelines), are hereby incorporated by reference. In the event of a conflict between any of the CalHome Guidelines and these Guidelines, the provisions of these Guidelines are controlling.
- (f) The AB 130 Statewide Vehicle Miles Traveled (VMT) Mitigation Program Guidance (LCI Guidance), issued by the Governor’s Office of Land Use and Climate Innovation (LCI) effective June 30, 2026 and as subsequently amended, are hereby incorporated by reference.

### **Section 100.1. Program Overview**

- (a) Chapter 22, Statutes of 2025 (AB 130) authorizes the Department, under the existing TOD Program, to make loans for the development of vehicle miles traveled-efficient affordable housing, as specified, or to make grants for infrastructure necessary for the development of affordable housing, as specified. Any such loan structure is used to address administrative considerations, including gap financing and long-term monitoring, and does

not affect the treatment of mitigation contributions as fully expended for purposes of California Environmental Quality Act (CEQA) compliance.

- (b) AB 130 also authorizes the existing Transit-Oriented Development Implementation Fund (TDIF) to be used as a mitigation bank that receives funds from CEQA transportation impact mitigation contributions determined by Lead Agencies pursuant to the contribution methodology established in the LCI Guidance pursuant to subdivision (d) of Section 21080.44 of the Public Resources Code. Such mitigation contributions are then used to fund or otherwise facilitate the development of Mitigating Projects. The methodology for determining the contribution amount and where those funds may be spent is set forth in the LCI Guidance for this purpose.
- (c) The Program serves as one optional strategy an Impacting Project applicant may use to mitigate a significant transportation impact under CEQA. This approach is consistent with established practices already used at the local and regional level across the state and provides Impacting Project applicants with an additional tool to support their mitigation efforts.
- (d) Calculations for Mitigating Projects' VMT benefits are described in Section 5.0 of the LCI Guidance.
- (e) Funds deposited into the TDIF shall be available to the Department for the purpose of awarding funding for Affordable Housing Developments or Related Infrastructure Projects described in these Guidelines. The Department will provide affordable housing funding in the form of loans to developers, Local Public Entities, and Tribal Applicants, and it will provide infrastructure funding in the form of grants to Local Public Entities and Tribal Applicants.
- (f) Contributions made to the TDIF pursuant to CEQA mitigation requirements are non-refundable and do not create any right to repayment, reimbursement, or financial interest for the Impacting Project applicant.
- (g) Program funds will be allocated to Mitigating Projects as set forth in the funding announcement.
- (h) Availability of funding for the Program is ultimately dependent on decisions and determinations made by Lead Agencies (not the Department), including determinations by a given Lead Agency:
  - (1) that the Impacting Project proposed by the Lead Agency requires VMT mitigation, and;

- (2) the subsequent determination that mitigation shall be in the form of VMT mitigation funding assistance authorized per Public Resources Code section 21080.44, and in an amount calculated as provided in the LCI Guidance, that will contribute to Mitigating Projects, and;
- (3) regarding the extent of the VMT mitigation required and the calculation of the TDIF contribution associated therewith.

## **Section 101. Defined Terms**

All capitalized terms not defined below shall have the meaning ascribed to them under the UMRs or, as indicated by context, the MHP Guidelines or the CalHome Guidelines, as applicable.

**Adaptive Reuse** means the repurposing of building structures (e.g., offices, commercial spaces, business parks) for residential purposes. When referring to building structures, Adaptive Reuse means the retrofitting and repurposing of existing buildings in order to create new residential Units.

**Assisted Unit** means a housing Unit that is income-restricted to households at or below 80 percent of area median income (AMI), and that is also subject to Rent and sale restrictions as a result of financial assistance provided under the Program.

**Bus Hub** means an intersection of three or more bus routes, where one route or a combination of routes has a minimum scheduled headway of 10 minutes or at least six buses per hour during peak hours. Peak hours are limited to the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider in the 12 months preceding the Program application due date.

**Bus Transfer Station** means an arrival, departure, or transfer point for the area's intercity, intraregional, or interregional bus service having a permanent investment in multiple bus docking facilities, ticketing services, and passenger shelters.

**Disbursement Agreement** means the agreement which controls the phased disbursement of TOD RIP grant funds, and which is executed by the Recipient and the Department. The Disbursement Agreement is specified and described in more detail at Section 111 of these Guidelines.

**Enforceable Funding Commitments** means a letter or other document evidencing, to the satisfaction of the Department, a commitment of funds or a reservation of funds by a Mitigating

Project funding source for construction or permanent financing, including, but not limited to, the following:

- (a) Private financing from a lender other than a mortgage broker, the Applicant, or an entity with an identity of interest with the Applicant, unless the Applicant is a lending institution actively and regularly engaged in residential lending.
- (b) Deferred-payment financing, residual receipts payment financing, and grants from public agencies, funds awarded by another Department program. Proof of award must be issued prior to final rating and ranking of the Program application; A land donation in fee for no other consideration that is supported by an appraisal and/or purchase/sale agreement, or some other instrument of title transfer (“Land Donation”), or a local fee waiver resulting in quantifiable cost savings for the Mitigating Project where those fee waivers are not otherwise required by federal or state law (“Local Fee Waiver”), shall be considered a funding commitment. The value of the Land Donation will be the greater of either the original purchase price or the current appraised value as supported by an independent third-party appraisal prepared by a Member Appraisal Institute-qualified appraiser within one year prior to the application deadline. A funding commitment in the form of a Local Fee Waiver must be supported by written documentation from the local public agency.
- (c) Owner equity contributions or developer funds. Such contributions or funds shall not be subsequently substituted with a different funding source or forgone if committed in the application, except that a substitution may be made for up to 50 percent of the deferred Developer Fee. The Applicant shall be prepared, upon Department request, to provide evidence that the proposed amount of owner equity or developer funds is actually available at the time of application.
- (d) Funds for transportation projects, if an eligible use of Program funds must be programmed for allocation and expenditure in the applicable Project plan consistent with the terms and timeframes of the Standard Agreement.
- (e) Enforceable Funding Commitment Letters must contain the following:
  - (1) The name of the Applicant or Development Sponsor;
  - (2) The Project name;
  - (3) The Project site address, assessor’s parcel number, or legal description; and;
  - (4) The amount, interest rate (if any), and terms of the funding source.
- (f) The assistance will be deemed to be an Enforceable Funding Commitment if it has been awarded to the Project or if the Department approves other evidence that the assistance will be reliably available. The Enforceable Funding Commitment may be conditioned on

certain standard underwriting criteria, such as appraisals, but may not be generally conditional. Examples of unacceptable general conditions include phrases such as “subject to senior management approval” or a statement that omits the word “commitment” but instead indicates the lender’s “willingness to process an application” or indicates that financing is subject to loan committee approval of the Project. Contingencies in commitment documents based upon the receipt of tax-exempt bonds or low-income housing tax credits will not disqualify a source from being counted as committed.

**Existing Transit Route** means a transit route that is operational at the time the Mitigating Project applies for TOD program funds. At a minimum, the transit route must provide service on all five weekdays and stop near the mitigating site at least five times a day. On-demand/paratransit services within rural communities will be reviewed and approved by HCD on a case-by-case basis.

**Fiscal Integrity** means the total Operating Income plus funds released pursuant to the Regulatory Agreement from the operating reserve account is sufficient to:

- (a) pay all current operating expenses;
- (b) pay all current debt service (excluding deferred interest);
- (c) fully fund all reserve accounts (other than the operating reserve account) established pursuant to the Regulatory Agreement; and;
- (d) pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the permitted annual distributions shall not be considered in determining Fiscal Integrity.

**High-Quality Transit Corridor** has the same meaning as set forth in Public Resources Code section 21155, subdivision (b): a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

**Impacting Project** means a project that requires mitigation under CEQA because it is expected to have a significant VMT impact and that elects to utilize the Mitigation Program to mitigate its impact.

**Infrastructure Covenant** means an instrument which restricts the development, use, occupancy, and affordability of the AHD (either rental or homeownership), which is recorded against the fee interest of the AHD, and which runs with the land. The Infrastructure Covenant is executed and recorded as consideration for the Department’s award of TOD RIP grant funds to the Recipient. The Infrastructure Covenant is specified and described in more detail at Section 111 of these Guidelines.

**Large City Downtown** means an area designated as a downtown, central business district, or core area in local planning documents in one of the following cities: Anaheim, Bakersfield, Fresno, Irvine, Long Beach, Los Angeles, Oakland, Riverside, Sacramento, San Diego, San Francisco, San Jose, Santa Ana, and Stockton. These California cities have a population exceeding 300,000 according to California Department of Finance data.

**Lead Agency** means the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.

**Local Public Entities** means cities, counties, cities and counties, and transit agencies.

**Location-Efficient Area** means areas that will be prioritized in the allocation of VMT mitigation contributions to Mitigating Projects through the TOD program pursuant to Public Resources Code section 21080.44, subdivision (c)(1) based on a select set of criteria that contribute to VMT reductions. Specifically, a Location-Efficient Area must meet the requirements set forth in subdivision (a) of Section 102, Eligible Projects.

**Low-VMT Area** is set forth and described in Table 2 of Section 102.

**Major Transit Stop** has the same meaning as Public Resources Code section 21064.3: a site containing any of the following:

- (a) An existing rail or bus rapid transit station.
- (b) A ferry terminal served by either a bus or rail transit service.
- (c) The intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods.

**Mitigating Project** means an Affordable Housing Development or Related Infrastructure Project or both that qualifies for (and is selected to receive funding through) the TOD program.

**Mitigation Program** means the voluntary statewide VMT mitigation program established pursuant to Public Resources Code sections 21080.43 and 21080.44, which allows Lead Agencies to mitigate a project's significant CEQA VMT impacts by contributing an amount to the Transit-Oriented Development Implementation Fund for purposes of the Transit-Oriented Development Implementation Program.

**Mixed-Use Development** means a development consisting of residential units and compatible non-residential uses.

**Net Density** means the total number of dwelling Units per acre of land to be developed for residential or mixed use, excluding allowed deductible areas. Allowed deductible areas are public dedications of land which are for public streets, public sidewalks, public open space,

and public drainage facilities. Non-allowed deductible areas include utility easements, setbacks, private drives and walkways, general landscaping, common areas and facilities, off street parking, and traditional drainage facilities exclusive to a development project. Mitigations required for development will not be included in the allowed deductible areas.

**Payee** means any entity to whom the Department disburses Program funds (i.e., an AHD loan and/or a RIP grant), which entity is:

- (a) a Recipient;
- (b) a special purpose entity controlled by the Sponsor within the meaning of UMR 8313.2; or
- (c) a non-Applicant entity who is a signatory and party to an executed STD 213, Standard Agreement for the Mitigating Project, and who thereby agrees to the Department's terms and conditions for funding, including joint-and-several liability and defense and indemnification.

**Project** means the Mitigating Project proposed in the application unless otherwise specified.

**Proximity Radius** has a meaning set forth in LCI Guidance. The term is relevant to the Department's implementation of the funding priority order for Mitigation Projects set forth in section 3.2 of LCI's Guidance and at subdivision (c)(1) of Section 21080.44 of the Public Resources Code.

**Recipient** means an eligible applicant receiving a commitment of Program grant funds for a Related Infrastructure Project.

**Region** means the territory of the metropolitan planning organization within which an Impacting Project is located, or the territory of the regional transportation planning agency within which an Impacting Project is located if the Impacting Project site is located outside of the boundaries of a metropolitan planning organization.

**Regulatory Agreement** means the written agreement between the Department and the borrower/Sponsor that will be recorded as a lien against the AHD to control its use, occupancy, affordability, and maintenance for the applicable term, regardless of any prepayment of the loan. The Regulatory Agreement is specified and described in more detail at Section 111 of these Guidelines.

**Rehabilitation** is defined in accordance with Health and Safety Code section 50096, and includes improvements and repairs made to a substandard residential structure necessary to make it meet rehabilitation standards.

**Rent** has the same meaning as "gross rent," as defined in accordance with the Internal Revenue Code (IRC) (26 USC 42(g)(2)(B)). It includes all mandatory charges, other than

deposits paid by the tenant, for use and occupancy of an Assisted Unit, plus a utility allowance established in accordance with TCAC regulations, if applicable. For units assisted under the Housing Choice Voucher (HCV) or similar rental or operating subsidy program, rent includes only the tenant contribution portion of the contract rent. “Affordable rent” means the total monthly housing cost, including rent and any required tenant-paid utilities does not exceed 30 percent of the household’s gross monthly income.

**Restricted Unit** has the same meaning as defined in UMR Section 8301(q), excluding units restricted at levels above 80 percent of AMI.

**Rural Area** has the meaning set forth in Health and Safety Code section 50199.21.

**Scattered Site** means a housing development comprising multiple properties, either contiguous or non-contiguous, developed as a single unified project. The defining criteria are as specified under Section 8303 of the UMRs.

**Structured Parking** means a structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, but is entirely covered, and has a parking surface at least eight feet below grade. Structured Parking does not include surface parking, residential garages, or carports, including solar carports.

**Transit Station** means a rail or light-rail station, ferry terminal, Bus Hub, or Bus Transfer Station. Included in this definition are planned Transit Stations otherwise meeting this definition whose construction is programmed into a regional or state transportation improvement program to be completed no more than five years from the deadline for submittal of applications set forth in the funding announcement.

**Tribal Applicant** means any, all, or a combination of the eligible applicants specified in subdivision (b) of Section 50651 of the Health and Safety Code.

**Unit** has the same definition as UMR Section 8301(x). A for-sale single-family home or a condominium unit is considered to be one Unit, and a rental apartment Unit in an apartment building is considered to be one Unit regardless of the number of bedrooms within the apartment Unit.

**Urban Center** means an area other than a Large City Downtown which is served by more than one mode of transit.

**Urban Uses** is defined, in accordance with Health and Safety Code section 53559.1, subdivision (j), to mean any residential, commercial, industrial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

## Article II. Administration of Funds

### Section 102. Eligible Projects

- (a) The Mitigating Project must be wholly located in an area that meets the requirements of (1) or (2) below:
- (1) a Location-Efficient Area that meets the requirements of Section 4.1 of the LCI Guidance. Such requirements are broadly summarized in the following table for initial reference. If any one of the criteria listed below in Table 1 (and specified and described in the LCI Guidance) are met, a location would qualify as being a "Location-Efficient Area."

Table 1 Location-Efficient Areas (PRC 21080.44(c)(1)(A), (C))		
Criteria	General Metric	Specific Metric
1	Regional VMT per Capita	In a location that is 15 percent below the regional average for per-capita VMT.
2	Transit Accessibility	Within one half-mile of an existing Major Transit Stop or High-Quality Transit Corridor, with unobstructed access.
3	Transit Accessibility & Infill	Served by at least two Existing Transit Routes, each with at least one stop within one half-mile of the Mitigating Project, with unobstructed access. <b>AND</b> Mitigating Project is located on a site within an urban area (as defined by the United States Census Bureau) that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

- (2) A Low-VMT Area that meets the requirements of Section 4.2 of the LCI Guidance. Such requirements are broadly summarized in the following table for initial reference. If any two of the criteria listed below in Table 2 (and specified and described in the LCI Guidance) are met, a location would qualify as being a Low-VMT Area.

Table 2 Low- VMT-Areas (PRC 21080.44(c)(1)(B))		
Criteria	General Metric	Specific Metric
1	Regional VMT per Capita	In a location that is below the regional average for per-capita VMT.
2	Transit Accessibility	Within one mile of an existing Major Transit Stop or High-Quality Transit Corridor, with unobstructed access. <b>OR</b> Served by at least two Existing Transit Routes, each with at least one stop within one mile of the Mitigating Project, with unobstructed access.
3	Infill	Mitigating Project is located on a site where at least 50 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified Urban Uses.

(b) A Mitigating Project may include one or both of the following, subject to the relevant funding announcement:

- (1) An Affordable Housing Development (AHD) which may comprise either multifamily rental housing or owner-occupied housing.
- (2) A Related Infrastructure Project (RIP).

(c) To be eligible for funding, an AHD must consist of one or more of the following:

- (1) New construction.
- (2) Acquisition and Rehabilitation (including preservation of affordable housing at-risk of conversion to market rate) where funding is necessary to prevent the loss of Restricted Units either because of expiring affordability restrictions or habitability issues. The acquisition must be made through a bona fide arm’s-length sale or transfer from the existing ownership entity to the new ownership entity comprised of a completely disparate ownership structure, which contains no common entity interest at any level of the organizational structure.

- (3) Adaptive Reuse of one or more building structures.
- (d) Rehabilitation and new construction AHDs that contemplate the demolition or reduction of affordable units with existing affordability restrictions must comply with the following:
  - (1) The loan restructuring requirements pursuant to Health and Safety Code sections 50560 through 50562 and current Portfolio Restructuring Guidelines published by the Department. Restructuring transaction fees are set forth in UMR Section 8317.
  - (2) New construction or Rehabilitation of existing structures, which requires the demolition of existing residential units, must not result in fewer bedrooms or units unless the Department determines that the new configuration will substantially improve the livability of the remaining units, or that it will otherwise promote the development of safe and affordable housing. In all cases, any approved reduction must be capped at 25 percent fewer units.
    - (A) The new Restricted Units may exist on separate parcels provided all parcels are part of the same AHD meeting the requirements of UMR Section 8303 (b).
  - (3) Proposals must demonstrate that the development is either at risk of losing affordability because of an expiring affordability restriction or that it requires Rehabilitation for repairs that include health and safety improvements, seismic and accessibility improvements, and/or replacement of major systems with a remaining useful life of less than ten years.
- (e) Rental and homeownership AHDs must make at least 20 percent of the total Units available at an affordable rent or at an affordable housing cost to persons at or below 80 percent AMI for at least 55 years.
- (f) Rental and homeownership AHDs must have a minimum Net Density upon completion, not less than shown in the following table:

Project Location Designation	Minimum Net Density Requirements	
	Residential Only Projects	Mixed-Use Project (FAR)
Large City Downtown	60 Units/Acre	>3.0
Urban Center	40 Units/Acre	>2.0
Rural Areas	15 Units/Acre	>1.0
All Other Areas	25 Units/Acre	>1.5

(g) An AHD may:

- (1) Include residential units that are rental or homeownership, but not both.
- (2) Consist of a Scattered Site development. Rental AHDs on a Scattered Site must meet all the requirements set forth by Section 8303(b) of the UMRs. For homeownership AHDs on Scattered Sites, the individual sites must have a single owner at the time of execution of the TOD Standard Agreement. All proposed sites within a Scattered Site application must be within the same Location-Efficient Area, Low-VMT Area, or otherwise meet the same location-based requirements specified at Section 102 of these Guidelines.
- (3) Include nonresidential uses that are compatible under local zoning.

(h) A Related Infrastructure Project must:

- (1) Be integral to or necessary for the completion and proper functioning of higher density VMT-efficient affordable housing or the AHD;
- (2) Directly facilitate or support higher density VMT-efficient affordable housing or the AHD; and
- (3) Be located on or within one mile of the higher density VMT-efficient affordable housing or the AHD site.

(i) A RIP pursuant to Section 102(c) of these Guidelines may include any of the following capital improvements:

- (1) Capital improvements required by the Local Public Entity, Tribal Applicant, or special district as a condition of development, including but not limited to, sewer or water system upgrades, on-site streets and drives, or streets that improve access to transit

stops or relieve bottlenecks, construction of drainage basins, utility access, connection or relocation, and noise mitigation.

- (2) Capital improvements that clearly and substantially enhance public pedestrian or bicycle access from the AHD, including, but not limited to, pedestrian walkways, plazas, mini-parks, signal lights, streetscape improvements, security enhancements, bicycle lanes, intelligent transportation, and information systems.
- (3) Capital improvements for the construction, Rehabilitation, including improvements and repairs made to a residential structure acquired for the purpose of preserving its affordability; acquisition; or other physical improvement that is an integral part or necessary to facilitate the development of the AHD by providing the improvements or conditions required for the housing to be constructed, rehabilitated, occupied, or safely operated and does not include optional enhancements or improvements that are not necessary for the housing to be built or operated.

(j) The following are not allowed:

- (1) An AHD that contains multiple development sites when one development site receives 4 percent low-income housing tax credits and another receives 9 percent low-income housing tax credits, or when the multiple development sites each receive separate 4 percent low-income housing tax credits.
- (2) An application proposing an AHD with both 4 percent low-income housing tax credits and 9 percent low-income housing tax credits, or with multiple 4 percent low-income housing tax credits. Such an application will be disqualified during threshold review. To the extent such tax credit scenarios are contemplated, they shall constitute two separate and independent AHDs, each of which must submit an entirely separate Program application and qualify independently of the other.
- (3) Any application that proposes a single AHD, but after receiving an award letter attempts to split its single AHD into multiple AHDs with separate ownership structures or separate financing structures. Any such award will be disencumbered as it no longer meets Program requirements.

(k) To be eligible for Program funding, all components of the proposed Mitigating Project must be situated wholly within the State of California. No portion of a Project located outside California's boundaries may be funded.

### **Section 103. Eligible Applicants**

- (a) The eligible Applicant for a rental AHD loan is a Sponsor.
  - (1) The Sponsor shall be the legal entity that the Department relies upon for experience, capacity, and control of the ultimate borrowing entity and Project.
    - (A) Sponsor shall demonstrate that it has successfully developed, operated, and owned at least one (1) rental housing development of equivalent Unit type and project size (including total Units in the proposed Project not to exceed 200 percent of the Sponsor's largest rental housing development) and occupancy. Sponsor shall have satisfied this experience requirement at the time of its application for the funds. To satisfy experience requirements, Sponsor may include the experience of its controlled affiliated entities or its principals, but Sponsor shall not satisfy this experience requirement by aggregating the experience of its controlled affiliated entities and its principals, and in no event may Sponsor satisfy this experience requirement with the experience of non-management board members.
    - (B) Sponsor has "capacity" if it has adequate staff, capital, assets, and other resources to efficiently meet the operational needs of the AHD; to maintain the Fiscal Integrity of the AHD; and to satisfy all legal requirements and obligations in connection with the AHD. Evidence of capacity must be reasonably acceptable to the Department in form and substance. Sponsor shall satisfactorily demonstrate capacity at the time of its application for the funds. The Department will exercise reasonable discretion in determining capacity. In all cases, the Department will base its capacity determination on the experience, past performance, and organizational documents of the Sponsor/Applicant entity.
- (b) The eligible Applicant for a homeownership AHD loan is a Developer, that meets all the requirements set forth herein, and in the CalHome Guidelines.
  - (1) The eligible Developer shall meet the stability and capacity requirements for eligible applicants as set forth in the CalHome Guidelines.
  - (2) The eligible Applicants for Related Infrastructure Projects are Local Public Entities or Tribal Applicants.
- (c) All Applicants appearing on the application for the Project, as well as those subsequently executing and joining in on any Departmental Standard Agreement related to any ultimate award, will be held jointly and severally liable for the completion of the Project and as such, will each sign all Standard Agreements to the award of Program funds. Each

signatory of the Standard Agreement must remain liable for performing all requirements of the award of funds as set forth in the Standard Agreement. Where there are multiple signatories, all such signatories must remain jointly and severally liable to the Department for that performance. Notwithstanding the foregoing, signatories may indemnify each other by entering into side agreements with one another as to individual capital projects. In no event will any such side agreement alter, amend, or revoke each individual signatory's obligations to the Department, including the joint and several liability.

- (d) All Payees shall execute the STD 213, Standard Agreement generated in connection with the funds which they are to receive.

### **Section 103.1. Threshold Requirements**

The following list specifies applicable threshold requirements.

- (a) The application proposes an eligible Project that meets the relevant requirements of Section 102 as set forth in the funding announcement;
- (b) The proposal is submitted by an eligible Applicant pursuant to Section 103;
- (c) All proposed uses of Program funds are eligible pursuant to Section 104;
- (d) The application is sufficiently complete to assess Project feasibility and compliance with Program requirements.
- (e) The application must demonstrate that the Project is infeasible without Program funds, and the Program funds will not supplant other available funds.
- (f) Other development funding sources, including all tax credit equity generated by the Project, are insufficient to cover Project development costs.
- (g) The application must meet minimum and maximum funding limits set forth in the funding announcement to ensure that awards are sized to meaningfully close financing gaps, promote cost efficient use of limited resources, and allow the Program to fund a diverse pipeline of Mitigating Projects.
- (h) Demonstrate consistency with the applicable Sustainable Communities Strategy (SCS) or alternative planning strategy.
- (i) Where approval by a local public works department, or other responsible local agency, is required for any component of the Project, the application must demonstrate consistency with all applicable local rules, regulations, codes, policies, and plans enforced or implemented by that entity.

- (j) At time of application, the Applicant shall comply with appraisal and market study requirements as set forth in the MHP Guidelines (for rental AHD), and in the CalHome Guidelines (for homeownership AHDs).
- (k) The Applicant must document the status of applicable local land use approvals.
- (l) Applications that include a Local Public Entity as an Applicant must have submitted housing element annual progress reports to the Department as required by Government Code section 65400.
- (m) As of the date of application, the Applicant(s), the Project, or the real property on which the Project is proposed may not be party to or the subject of any claim or action in the state or federal courts that affects or potentially affects the feasibility of the Project. Further, the Applicant(s) shall disclose and describe all claims or actions undertaken by or against the Applicant(s), the Project or the property.
- (n) As of the date of application, construction of the AHD and RIP must not have commenced except for emergency repairs to existing structures necessary to mitigate documented hazards or threats to health and safety. Construction of off-site infrastructure may have commenced if part of a documented phased implementation plan.
  - (1) For the purposes of this subdivision, the commencement of construction or Rehabilitation work means the first land-disturbing activity associated with a Project, including land preparation such as clearing, grading, and filling, or the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (o) For Rehabilitation AHDs, the following additional documents are required:
  - (1) Capital Needs Assessment (CNA); and
  - (2) Lead-based paint, mold, and asbestos reports
- (p) A rental AHD shall, adhering to restricted rents: be underwritten utilizing rents less utility allowances; be feasible pursuant to the underwriting standards in UMR Section 8310; and maintain Fiscal Integrity.
  - (1) Rent standards shall be established pursuant to the MHP Guidelines.
- (q) Environmental Site Assessment (ESA) reporting:
  - (1) The Phase I ESA, and Phase II ESA when required, shall meet requirements set forth in the MHP Guidelines or CalHome Guidelines.

- (r) The Project complies with the restrictions on demolition as set forth in UMR Section 8302.
- (s) The Applicant serving as the Sponsor/Developer of a particular component of the Project must demonstrate Site Control of the property on which that Project component will be located as set forth at UMR Sections 8303 and 8316.
- (t) The Applicant and the Project comply with all applicable state and federal laws, including those set forth in the MHP Guidelines (for rental AHD) and in the CalHome Guidelines (for homeownership AHD).
- (u) In addition to meeting all threshold requirements, the Project shall achieve a minimum point score as set forth in the funding announcement.
- (v) The Project, as proposed in the application, shall be financially feasible, as evidenced by documentation such as, but not limited to, Enforceable Funding Commitments, market study, appraisal, project proforma, sources and uses statement, or other feasibility documentation that is standard industry practice for the type of proposed Project;
  - (1) Rental AHDs must meet underwriting standards set forth in the UMRs.
  - (2) Ownership AHDs must meet underwriting standards set forth in CalHome Guidelines.

**Section 104. Eligible Costs**

- (a) Eligible costs for Affordable Housing Developments:
  - (1) Eligible costs for Rental AHDs are specified in Section 7304 of the MHP Guidelines.
  - (2) Eligible costs for Ownership AHDs are specified in Section 202 of the CalHome Guidelines.
- (b) Eligible costs for Related Infrastructure Projects:
  - (1) Eligible Related Infrastructure Project costs shall cover the direct and necessary expenses related to the RIP components listed below:
    - (A) Capital improvements required by a Local Public Entity, Tribal Applicant, or special district as a condition for the development of the affordable housing, including but not limited to:
      - (i) sewer or water system upgrades;
      - (ii) streets meeting the requirements of Section 102 (i)(1);
      - (iii) construction of drainage basins;

- (iv) utility access, connection, or relocation; and
- (v) noise mitigation.

(B) Capital improvements that clearly and substantially enhance public pedestrian or bicycle access from the AHD including, but not limited to:

- (i) pedestrian walkways;
- (ii) plazas, or mini-parks;
- (iii) signal lights;
- (iv) streetscape improvements;
- (v) security enhancements;
- (vi) bicycle lanes;
- (vii) intelligent transportation; and
- (viii) information systems.

(C) Capital improvements for construction and Rehabilitation, including:

- (i) improvements and repairs made to a residential structure acquired for the purpose of preserving its affordability;
- (ii) acquisition; and/or
- (iii) other physical improvement that is an integral part or necessary to facilitate the development of the AHD.

(c) The following costs are not eligible:

- (1) Parking spaces, except for Transit Station Structured Parking spaces required to replace existing transit station patron parking spaces displaced by construction of new housing identified in the application. Awarded funds for Transit Station Structured Parking may not exceed \$50,000 per space and may not exceed 30 percent of the total Program award amount.
- (2) Soft costs related to ineligible costs.
- (3) In-lieu fees for local inclusionary programs.

### **Section 105. Cost Limitations**

(a) When calculating per unit AHD subsidy (loans for rental AHDs and homeownership AHDs), the Department will consider all other available financing and assistance, including the full amount of any tax credit equity generated by the Project. In addition, the per unit subsidy amount in the aggregate shall not exceed that amount necessary, after

factoring in all other available financing and assistance, to pay the eligible costs allocable to the Assisted Units to accomplish the following objectives:

- (1) Acquire, develop, and construct or rehabilitate the AHD;
  - (2) Ensure that rents or sale prices for Assisted Units comply with Program requirements; and
  - (3) Operate the AHD in compliance with all other Program requirements.
- (b) Developer fee amounts and limits are specified in the MHP Guidelines Section 7305. With the exception of the deferred developer fee, Department funds shall not be used to supplant other available financing, including funds committed by local jurisdictions.
- (c) All financial assistance awarded under the Program, including funding for AHDs and RIPs, shall be applied only to Assisted Units and, as applicable, to infrastructure that is necessary for, and primarily benefits, those Assisted Units. TOD funds may not be used for non-residential components of Mixed-Use Developments, unrestricted residential units, or infrastructure improvements that do not support Assisted Units.

### **Section 106. Funding Terms**

- (a) Rental AHD Loans. Rental AHD loans shall be forgivable unless it is determined that a rental AHD loan must be repayable in order to be treated as true debt for low-income housing tax credit purposes, or for a similar necessity, as approved by the Department. For a repayable loan, the Department may require an opinion of a tax professional, acceptable and addressed to the Department, as a condition of approval. The borrower/Sponsor shall bear all costs and fees associated with such opinion. The borrower/Sponsor shall provide the Department with written notice of its election for a repayable loan no less than forty-five (45) calendar days prior to construction closing.
- (1) Forgivable rental AHD loan terms shall be as follows:
    - (A) Zero percent interest for 55 years, with no residual receipts or periodic payment requirements during the life of the loan with the exception of monitoring fees as specified below.
      - (i) Annual monitoring payments of 0.42 percent of the original principal loan balance shall be payable to the Department subject to availability of operating income after payment of approved operating expenses, reserve deposits, mandatory debt service, and approved deferred developer fee. In any given year, subject to approval by the Department to maintain project

feasibility, if no operating income remains after payment of these costs, no monitoring fee is due and no unpaid monitoring fee will accrue.

- (B) The loan will be forgiven by the Department at the end of the 55-year loan term as long as all of the following are true, as determined by the Department in its sole and absolute discretion:
    - (i) The Sponsor/Borrower remains in good standing with the California Secretary of State;
    - (ii) The Project is not in default under the terms of any of the Department's loan and grant documents for that Project; and
    - (iii) Negative points have not been assessed against the Sponsor/Borrower during the previous five (5) years in connection with any Department-assisted project.
  - (C) The loan shall be immediately converted to a repayable loan subject to the repayment terms set forth in paragraph (2) below if, at any time during the 55-year term, one of the following occurs:
    - (i) The AHD is converted to market-rate housing;
    - (ii) The AHD is sold or refinanced with a distribution of net equity; or
    - (iii) Any of the conditions set forth in clause (B) immediately preceding is no longer true or satisfied.
- (2) Repayable rental AHD loan terms shall be as follows:
- (A) Zero percent interest for 55 years, with no residual receipts or periodic payment requirements during the life of the loan with the exception of monitoring fees as specified below. The total outstanding principal balance shall be due and payable in full at the end of the loan term.
    - (i) Annual monitoring payments of 0.42 percent of the original principal loan balance shall be payable to the Department subject to availability of operating income after payment of approved operating expenses, reserve deposits, mandatory debt service, and approved deferred developer fee. In any given year, subject to approval by the Department to maintain project feasibility, if no operating income remains after payment of these costs, no monitoring fee is due and no unpaid monitoring fee will accrue.

(b) Homeownership AHD Loans.

(1) Homeownership AHD loans shall be forgivable, and the terms shall be as follows:

- (A) Zero percent interest for 30 years, with no residual receipts or periodic payment requirements during the life of the TOD loan, with the exception of compliance and monitoring fees where required.
- (B) The loan will be forgiven by the Department at the end of the 30-year loan term so long as all of the following are true, as determined by the Department in its sole and absolute discretion:
  - (i) The Developer remains in good standing with the California Secretary of State;
  - (ii) The Project is not in default under the terms of any of the Department's loan documents for that Project; and
  - (iii) Negative points have not been assessed against the Developer during the previous five years in connection with any Department-assisted project.
- (C) The TOD loan shall immediately be subject to repayment if at any time during the 30-year term:
  - (i) The AHD is converted to market-rate housing;
  - (ii) The AHD is sold or refinanced with a distribution of net equity; or
  - (iii) Any of the conditions set forth in clause (B) immediately preceding is no longer true or satisfied.
- (D) Deed Restriction Requirement. Projects applying for TOD homeownership funds will be prioritized if they commit to a minimum 55-year deed restriction for affordability. Otherwise, the deed restriction must be for a term of at least 30 years. In all events, loan terms will remain at 30 years, consistent with subparagraphs (A) through (C).

- (c) AHD loan funds will be disbursed through escrow at the time of the AHD's permanent financing conversion, or as allowed by the Department's Early Disbursement Policy set forth in Administrative Notice No. 26-01, dated March 17, 2026, and as may be subsequently amended (Early Disbursement Policy). The Early Disbursement Policy does not apply to TOD RIP grants.

- (d) RIP Grants. Grants for Related Infrastructure Projects shall be subject to the following terms:
  - (1) RIP funds will be disbursed as progress payments for eligible costs paid or incurred and in accordance with the relevant Disbursement Agreement.
  - (2) Prior to the first disbursement of RIP funds, the Recipient shall cause the recordation of the Infrastructure Covenant against the AHD for the applicable affordability term.

**Section 107. Maximum Loan/Grant Amounts**

- (a) Loans for AHD shall be subject to the following limits:
  - (1) Per Unit Loan Limit:
    - (A) The per Unit funding limits shall be defined in the funding announcement, and they will be calculated based upon the Units' level of income restriction, number of bedrooms per Unit, and the county in which the AHD is located.
    - (B) For an AHD required to be constructed as a condition of approval of one or more market rate developments pursuant to an inclusionary housing ordinance, or similar local requirement, Units required under the ordinance or other requirements shall not be counted in determining applicable loan limits, except for the following:
      - (i) Units restricted under the Program at a lower rent level than required by the ordinance.
      - (ii) Units developed under a land dedication to the local government agency in which the Project is located.
    - (C) For purposes of Section 107(a)(1)(B), site-specific affordability requirements of public land sales and affordability requirements under the Surplus Land Act are not considered to be inclusionary housing ordinances or similar local requirements.
    - (D) AHDs developed pursuant to an inclusionary housing ordinance applying for any Department funds, including those meeting one of the above Section 107(a)(1)(B)(i-ii), must disclose such at application, or the Department's award to the Project will be void.

(2) Per Project Loan Limit:

(A) The Department shall establish a minimum and maximum per Project subsidy amount in the funding announcement.

(b) Grant amount limits for RIP shall be set forth in the applicable funding announcement.

### **Article III. General Requirements**

#### **Section 108. Performance Requirements**

(a) Awardees shall, within the time set forth in the Standard Agreement, but not more than two years from the date of the Program award, begin construction of the Project.

(b) Awardees shall, within the time set forth in the Standard Agreement, but not more than five years from the date of the Program award, complete construction of the Project. Completion of construction must be evidenced by a certificate of occupancy for the AHD or Statement of Completion or Certificate of Completion for the RIP, or equivalent Project completion documentation.

(c) The Standard Agreement and, if applicable, the Disbursement Agreement and Infrastructure Covenant must be executed, and where applicable recorded against the Project, within the timeframes set forth in the award letter and/or Standard Agreement. Failure to meet this requirement may result in negative points or the Department's disencumbrance or recapture of awarded funds.

(d) Program funds must be disbursed in accordance with the deadlines specified in the Standard Agreement, and subject to any applicable liquidation deadline, in no event later than the following disbursement deadlines:

(1) Program funds must be fully disbursed within five (5) years from the date of award.

(2) The maximum disbursement extension deadline is seven (7) years from the date of award.

(e) The Department may approve a disbursement extension deadline request as allowed by the Standard Agreement and pursuant to subdivision (d) immediately preceding.

(f) Failure to meet performance requirements may result in the assignment of negative points or award disencumbrance.

## **Section 109. Application Process**

- (a) Funds will be offered through a funding announcement that specifies, among other things, amount of funds available, eligible projects, application requirements, scoring and selection process, tiebreaker criteria, the deadline for submittal of applications, the schedule for rating and ranking applications and awarding funds, and the general terms and conditions of funding commitments.

## **Section 110. Application Selection Criteria**

- (a) The funding announcement will set forth a specific process for allocation of funds. TOD award selection will prioritize Mitigating Project selection according to the following:
  - (1) First priority to Mitigating Projects in Location-Efficient Areas within the same Region as the Impacting Project.
  - (2) Second priority to Mitigating Projects in Low-VMT Areas in the same Region as the Impacting Project.
  - (3) Third priority to Mitigating Projects in Location-Efficient Areas that are outside the Impacting Project Region but within an adjacent Region, provided the project site is located within the proximity radius described in Section 3.2 of the LCI Guidance.
- (b) Within each location-specific priority specified in subdivision (a) immediately preceding, the Department shall prioritize AHDs as follows:
  - (1) Affordability, with highest priority given to AHDs that include a greater percentage of units restricted to very low-, low- or lower income households, as set forth in the funding announcement.
  - (2) AHDs that result in improved VMT-efficiency with committed state or federal funding that are still in need of gap funding to begin construction.
  - (3) AHDs that demonstrate project readiness above and beyond the threshold requirements set forth in Section 103.1. Such readiness indicators include, but are not limited to, the following:
    - (A) Building plans certified by licensed architect and civil engineer to be at Design Development level.
    - (B) All other funding committed, except for tax credit equity and bond allocation.

- (C) Proof of required approvals including CEQA clearance, zoning entitlements, and design review approvals, if applicable.
- (4) AHDs proposed on publicly owned land, including state and local surplus properties, may be prioritized to maximize public benefit and reduce overall development costs.

### **Section 111. Legal Documents**

#### (a) Affordable Housing Developments:

- (1) Upon the award of Program funds to assist an AHD, the Department shall enter into one or more agreements with the Sponsor or Developer, including a Standard Agreement, which shall commit funds from the Program, subject to specified conditions, in an amount sufficient to fund the approved Program loan amount. The Standard Agreement shall contain, among other things, the following:
  - (A) A description of the approved and the permitted uses of Program funds;
  - (B) The amount and terms of the Program loan;
  - (C) The regulatory restrictions to be applied to the AHD through the Regulatory Agreement as consideration for the Program loan;
  - (D) Provisions governing the construction work and, as applicable, the acquisition of the AHD site, and the disbursement of loan proceeds;
  - (E) Special conditions imposed as part of the Department's approval of the AHD;
  - (F) Requirements for the execution and the recordation of the agreements and documents required under the Program;
  - (G) Terms and conditions required by federal or state law;
  - (H) Requirements regarding the establishment of escrow accounts for the deposit of documents and the disbursement of Program loan funds;
  - (I) The approved schedule of the AHD, including the commencement and completion of construction or rehabilitation work, and the occupancy by eligible households;
  - (J) The approved AHD budget, sources and uses of funds, and financing;
  - (K) Requirements for reporting to the Department and, as applicable, to LCI;

- (L) Terms and conditions for the inspection and monitoring of the Project in order to verify compliance with the requirements of the Program;
  - (M) Provisions regarding compliance with California's Relocation Assistance Law (Gov. Code, § 7260 et seq.) and the implementing regulations adopted by the Department (Cal. Code Regs., tit. 25, § 6000 et seq.), or to the extent applicable, compliance with federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 requirements;
  - (N) Provisions relating to the placement of a sign on or in the vicinity of the AHD site which indicates that the Department has provided financing for the AHD; or provisions relating to the Department's arrangement, in its sole and absolute discretion, for publicity of the Program loan; and
  - (O) Other provisions necessary to ensure compliance with the requirements of the Program.
- (2) For rental AHD, the Department shall enter into a Regulatory Agreement with the Sponsor for the applicable duration irrespective of the loan term. Such Regulatory Agreement shall comply with the income eligibility and affordability provisions set forth at Health and Safety Code section 53562, subdivision (c)(1). The Regulatory Agreement shall be recorded against the property of the rental AHD in such priority as approved by the Department and prior to the disbursement of funds, and it shall include, without limitation, the following:
- (A) The number, type, and income level of Restricted Units and Assisted Units;
  - (B) Standards for tenant selection pursuant to UMR Section 8305;
  - (C) Provisions regulating the terms of the rental agreement pursuant to UMR Section 8307;
  - (D) Provisions related to an annual operating budget approved by the Department pursuant to MHP Guidelines Section 7326;
  - (E) Provisions related to a management plan pursuant to MHP Guidelines Section 7324;
  - (F) Provisions relating to rent standards (e.g., rent limits, the funding of transition reserves) pursuant to MHP Guidelines Section 7312;
  - (G) Conditions and procedures for permitting Rent increases pursuant to MHP Guidelines Section 7312;

- (H) Provisions for limitations on distributions pursuant to UMR Section 8314 and on developer fees pursuant to UMR Section 8312;
  - (I) Provisions relating to annual reports, inspections, and independent audits pursuant to MHP Guidelines Section 7325;
  - (J) Provisions regarding the deposit and withdrawal of funds to and from reserve accounts in accordance with UMR Section 8308 and 8309;
  - (K) Assurances that the AHD will be maintained in a safe and sanitary condition in compliance with state and local housing codes and the management plan, pursuant to MHP Guidelines Section 7324;
  - (L) Description of the conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;
  - (M) Provisions governing use and operation of non-Restricted Units and common areas to the extent necessary to ensure compliance with Program requirements;
  - (N) Provisions relating to enforcement of Program requirements by tenants;
  - (O) Special conditions of loan approval imposed by the Department;
  - (P) Provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the Sponsor and that all sales, transfers, and encumbrances shall be subject to MHP Guidelines Section 7322; and
  - (Q) Other provisions necessary to assure compliance with the requirements of the Program.
- (3) For homeownership AHD, each Unit shall be subject to a deed restriction or other recorded agreement for a term of either 55 or 30 years, as applicable. Such agreement shall be recorded on the fee interest of the real property on which the homeownership AHD is located. Such agreement shall comply with the income eligibility and affordability provisions set forth at Health and Safety Code section 53562, subdivision (c)(1), and it shall include, among other provisions, resale and transfer restrictions. The Department does not prescribe a specific type of deed restriction for purposes of meeting this requirement but has approval rights over the same. Subject to the foregoing, applicants may utilize the form of deed restriction most appropriate to the structure and circumstances of the proposed project. For purposes of these Guidelines, the Department will reference only a “deed restriction,” without limiting the acceptable or required documentation or mechanisms that may be used to implement it.

- (4) For rental AHD loans, the Borrower shall enter into a promissory note payable to the Department secured by a deed of trust for the Department's benefit in accordance with Section 7322 of the MHP Guidelines. For homeownership AHD loans, the loan shall be evidenced by a promissory note and secured by a deed of trust as specified in Section 600 of the CalHome Guidelines. In all cases, the deed of trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the Department.

(b) Related Infrastructure Projects:

- (1) Grants for Infrastructure Projects shall be governed by a Standard Agreement or other agreement with the Recipient in a form prescribed by the Department. The agreement shall ensure that the provisions of Section 106(b) of these Guidelines are applicable to the Project covered by the agreement and enforceable by the Department. The agreement will contain such other provisions as the Department determines are necessary to meet the requirements and goals of the Program, including, but not limited to, the following:
  - (A) The amount of the grant;
  - (B) A description of the approved Project and the sources and uses of funds to finance the Project;
  - (C) Provisions governing the amount, terms and conditions of the Program grant;
  - (D) Provisions governing the construction work and, as applicable, the acquisition and preparation of the site of the Project, and the manner, timing and conditions of the disbursement of grant funds;
  - (E) A schedule for completion of the Project and a series of milestones for progress toward Project completion together with the remedies available to the Department in the event of the failure to meet such milestones;
  - (F) Program awards are subject to California's prevailing wage law (Lab. Code, § 1720 et seq.), unless the Project or Project component falls within a statutory exception to that law's requirements. Although the use of TOD Program funds does not require compliance with the federal Davis-Bacon Act, other funding sources may require compliance with the federal Davis-Bacon Act;
  - (G) Requirements for periodic reports from the Recipient on the construction and use of the Project and provisions for monitoring of the Project by the Department;

- (H) Provisions regarding compliance with California's Relocation Assistance Law (Gov. Code, § 7260 et seq.) and the implementing regulations adopted by the Department (Cal. Code Regs., tit. 25, § 6000 et seq.), or, to the extent applicable, compliance with federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 requirements;
  - (I) The Recipient's responsibilities for the development of the approved Project, including, but not limited to, construction management, maintaining of files, accounts and other records, and report requirements;
  - (J) Provisions for the completion of the AHD(s) which qualified the Project for the award of Program funds. The AHD shall be regulated by an agreement with a public agency ensuring that the Program requirements for use and occupancy by Eligible Households at affordable Rents or housing costs are met;
  - (K) Provisions relating to the placement on, or in the vicinity of, the Project site, a sign indicating that the Department has provided financing for the Project. The Department may also arrange for publicity of the grant in its sole discretion;
  - (L) Remedies available to the Department in the event of a violation, breach or default of the agreement;
  - (M) Requirements that the Recipient permit the Department or its designated agents and employees the right to inspect the Project and all books, records and documents maintained by the Recipient in connection with the Project;
  - (N) Special conditions imposed as part of Department approval of the Project;
  - (O) Terms and conditions required by federal or state law; and
  - (P) Other provisions necessary to ensure compliance with the requirements of the Program.
- (2) The Recipient and the Department shall enter into a Disbursement Agreement to ensure the timely completion of the Project as identified and described in the Standard Agreement. The Disbursement Agreement shall govern the manner, timing, and conditions of the disbursement of grant funds, and it must be fully executed prior to any disbursement of the grant funds. The Disbursement Agreement will identify the payee, and it will include those provisions that the Department determines are necessary to meet the requirements and goals of the Program. Such provisions may include, but are not limited to, the following:
- (A) General conditions of disbursement;

- (B) Conditions precedent to individual disbursements;
  - (C) Draw request procedures;
  - (D) Remedies upon an event of default; and
  - (E) A disbursement schedule.
- (3) The Recipient shall ensure that an Infrastructure Covenant is recorded on the fee interest of the Project for the benefit of the Department and in service of the requirements and goals of the Program. The Infrastructure Covenant will impose development, use, occupancy, and affordability restrictions on the real property site(s) of the AHD which is benefited by the RIP, and it must be recorded prior to any disbursement of the grant funds. The Infrastructure Covenant will ensure the affordability of the AHD for at least 55 years; other Infrastructure Covenant restrictions will be consistent with the requirements and design of the TOD Program. The Infrastructure Covenant shall be recorded on the fee interest in the real property site(s) of the AHD.

### **Section 112. State and Federal Laws, Rules, Guidelines and Regulations**

- (a) The Awardee must comply with all applicable local, state, and federal laws, constitutions, codes, standards, rules, guidelines, and regulations as set forth in the MHP Guidelines Section 7314.