

**Portfolio Restructuring Guidelines**  
California Department of Housing & Community Development  
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## **Article 1. Provisions for Restructuring Guidelines**

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## **Article 1. Provisions for Restructuring Section 100. Purpose and Scope**

The purpose of these guidelines (“Guidelines”) is to implement and interpret Sections 50406.4, 50406.7, 50468, 50560, 50561 and, 50562, and 50565, Chapter 3.9 of Part 2 of Division 31 of the Health and Safety Code (“LPR Statute”).

- (a) These Guidelines are also known as the Loan Portfolio Restructuring (LPR) Guidelines.
- (b) Upon their effective date and subject to Section 100(c), these Guidelines amend the September 9, 2019, LPR Guidelines and incorporate changes made pursuant to enactment of AB 2562 (Chapter 3.9), 765, Statutes 2018), AB 130 (Chapter 22, Statutes 2025), SB 686 (Chapter 523, Statutes 2025), and SB 21 (Chapter 511, Statutes 2025).
- ~~(a) Chapter 3.9, also known as AB 1699, was enacted in 2012. It authorizes the California Department of Housing and Community Development (Department), under specified loan programs stated in subsection (e), to extend the term of existing multifamily housing loans, subordinate a Department loan to new debt and authorize an investment of tax credit equity in developments with Department loans.~~
- ~~(c) These Guidelines are applicable to the Restructurings, (as defined in Section 101 below, whose loan documents are recorded after the effective date of these guidelines.) under the following conditions:~~
  - ~~(b) Upon its effective date, these guidelines replace the provisions of SB 707 (Statutes of 2007), and the guidelines adopted to implement that legislation. Project restructurings closed under SB 707 rules will continue to be bound by those rules. Projects originally financed by the California Housing Finance Agency will also continue to be governed by the provisions of SB 707. For transactions substantially underway under the provisions of SB 707 on the effective date of these guidelines, the Department may elect to close under either SB 707 or these guidelines.~~
    - (1) For LPR Projects closing within one year of the adoption of these Guidelines, the Borrower may submit, no earlier than 90 days in advance of closing, a written request to the Department electing to close under the Guidelines in effect at the time of the Notice of Acceptance. For all other LPR Projects, these Guidelines shall apply.
    - (2) For LPR Projects that have closed construction prior to the effective date of these Guidelines, but not converted to permanent financing, Borrower may submit, no earlier than 90 days in advance of closing, a request to amend the Department Loan Documents to reflect these Guidelines, subject to HCD’s written approval and payment of the fee provided in Section 113(c)(3) prior to, or concurrent with, the close of escrow.

- (d) These Guidelines apply exclusively to Restructuring of loans originally funded under the following Department programs:
- (1) Rental Housing Construction Program Original (RHCP-O) established by Chapter 9 (commencing with Section 50735);
  - (2) ~~the~~ Special User Housing Rehabilitation Program (SUHRP) established by Chapter 6.5 (commencing with Section 50670);
  - (3) ~~the~~ Deferred Payment Rehabilitation Loan Program (DPRLP) established by Chapter 6.5 (commencing with Section 50660);
  - (4) The rental component of the California Natural Disaster Assistance Program (CALDAP) established by Chapter 6.5 (commencing with Section 50671);
  - (5) ~~the~~ State Earthquake Rehabilitation Assistance Program (SERA), established by Chapter 6.5 (commencing with Section 50671);
  - (6) The rental component of the California Housing Rehabilitation Program (CHRP-R) established by Section 50668.5;
  - (7) The component of the Rental Housing Construction Program funded with bond proceeds, (RHCP-B) pursuant to Section 50771.1;
  - (8) ~~the~~ Family Housing Demonstration Program (FHDP) established by Chapter 15 (commencing with Section 50880; and

- (9) ~~the Families Moving to Work Program (FMTW) established by Chapter 15 (commencing with Section 50880-);~~
  - (10) Housing Loan Conversion Program (HLCP) established by Section 50560;
  - (11) Loan Portfolio Restructuring Program (LPR) established by Section 50561;
  - (12) Multifamily Housing Program (MHP) established by Chapter 6.7 commencing with Section 50675);
  - (13) Multifamily Housing Program – Supportive Housing (SHMHP) established by Section 50675;
  - (14) Multifamily Housing Program – Homeless Youth (HYMHP) established by Section 50675; and
  - (15) Multifamily Housing Program – Governor’s Homeless Initiative (GHI) established by Section 50675.
- (e) Unless contradictory to any other express provision in ~~the Portfolio Restructuring~~ these Guidelines or prohibited by any other applicable statutory authority, all references in ~~the Portfolio Restructuring~~ these Guidelines to any specific or general provision of the Uniform Multifamily Regulations (California Code of Regulations Title 25, Division 1, Chapter 7, subchapter 19, § 8300 et seq.) ~~(UMRs)(UMR)~~ and the Multifamily Housing Program Guidelines dated June 19, 2019 (MHP Guidelines) shall be interpreted to incorporate such provisions.
- (f) The following administrative notices, policies, and guidance (collectively “Memoranda”) are hereby incorporated herein by reference and shall be deemed to have the same force and effect as if set forth in full herein:
- (1) The Department’s “Pooled Transition Reserve Policy” (Administrative Notice No. 23-01), dated January 3, 2023, as amended on August 8, 2023.
  - (2) The Department’s “Notice of Omnibus Program Guideline Amendments Supportive Services Costs Limits ~~provision (of the 2017 enacted UMRs) and any future amendment thereto.~~” (Administrative Notice No. 24-05) dated October 7, 2024.
- (g) Where there is a conflict between the provisions of the UMRs, MHP Guidelines, or Memoranda, and these Guidelines, the provisions of these Guidelines shall prevail.
- (h) Under the authority of Health and Safety Code Section 50560(a), the Department may approve a Restructuring of any and all State funded multifamily housing loans funded or monitored by the Department. The Department may apply these

Guidelines to any such State funded multifamily housing loan to the extent that the Guidelines are not in conflict with the Original Program loan statutes and regulations, including any applicable federal requirements.

- (i) To ensure alignment and compatibility with future program iterations, these Guidelines are expected to be revised after the Housing Development and Finance Committee (HDFC) adopts its guidelines.

*NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50560(a-c), Section 50561(g), Section 50565, and Section 50515.2(h), Health and Safety Code.*

## **Section 101. Definitions**

In addition to the definitions found in Part 1 of Division 1 of the Health and Safety Code, and Health and Safety Code Section 50675.2, the following definitions and those found in the ~~Uniform Multifamily Regulations (UMRs)~~ (commencing with 25 CCR 8301) and the ~~Multifamily Housing Program (2019 MHP) Regulations~~ Guidelines (25 CCR Section 7301) shall apply.

- (a) ~~“Early Special Rent Increase” means a Special Rent Increase occurring prior to the closing of the Restructuring transaction, pursuant to Section 108(b)(4)(A).~~
- (a) “Applicable Federal Rate” (AFR) means the annually compounding, “long term” federal interest rate charged on a loan, as published by the United States Internal Revenue Service for the month in which the Restructuring escrow closing occurs.
- (b) “Borrower” is the entity that is under continuous control of the Department approved Sponsor (as defined by UMR Section 8301 and further described in Section 103(e) of these Guidelines) that receives a Department program award. Where a Borrower has multiple layers in its organizational structure, the requirements of UMR Section 8313.2 must be satisfied.
- (c) “Department” or “HCD” means the California State Department of Housing and Community Development.
- (d) “Department Loan Documents” or “LPR Loan Documents” means any legal documents required by the Department that are necessary to process and finalize a Restructuring.
- (e) “Donee Project” Donee means a Project that receives Extracted Equity from another HCD-assisted Project.

- (f) “Donor Project” means the HCD-assisted Project from which Extracted Equity is derived.
- (g) “Eligible Project” is defined as a Project meeting all the criteria of Section 102.
- (h) “Existing Household/” or “Existing Tenant” means a household/ or tenant residing in the Project ~~on~~ prior to and including the date the Department issues the Notice of Acceptance.
- (i) “Extracted Equity” means adding new debt to a Department regulated Project, through a Restructuring, that is not used for the following purposes:
- (1) The Department approved rehabilitation or repair of the Donor Project if a Scattered Sites Project as defined in Section 102(d);
  - (2) The ~~that an application for~~ payoff of existing debt on the Donor Project or properties if it’s a Scattered Site Project, excluding any Sponsor affiliated debt;
  - (3) The replenishment of Department approved reserve accounts and amounts for the Donor Project or Donor Projects if a Scattered Sites Project;
  - (4) Other Department-approved specific uses for the Donor Project if a Scattered Sites Project, that are essential to the restructuring, ~~on Department forms, is received by the Department process or contribute directly to improving living conditions or long-term affordability for tenants, subject to the sole discretion of the Department and approval in writing. Examples include but are not limited to (a) establishment of a capitalized operating subsidy reserve, (b) installation of energy efficiency improvements, or (c) the improvement or addition of onsite amenities.~~
- (j) “Fiscal Integrity” means that the total Operating Income plus funds released pursuant to the Regulatory Agreement from the operating reserve account is sufficient to: ~~(1) pay all current~~(1) Operating Expenses; (2) ~~pay all current~~mandatory debt service (excluding deferred interest); (3) Department monitoring fees pursuant to Section 113(d), (4) other extraordinary costs approved by the Department and (5) fully fund all reserve accounts (other than the operating reserve account) established pursuant to as required by the Regulatory Agreement. The ability to pay any or all of the permitted ~~annual Distributions~~uses identified in UMR Section 8314 shall not be considered in determining Fiscal Integrity.
- (k) “Household Income” means the income of the household occupying an Assisted Unit (as defined at 8301(a) of the UMRs), as calculated in accordance with rules and procedures adopted by the California Tax Credit Allocation Committee (TCAC),

- including TCAC's rules for determining the placed in service date-, unless it directly conflicts with the Project's Original Program rules or regulations (e.g. VHHP).  
"Net Developer Fee" means developer fee paid less contributions
- (l) "Legacy Programs" collectively refers to the RHCP-O, SUHRP, DPRLP, CALDAP, SERA, CHRP-R, RHCP-B, FHDP and FMTW programs.
  - (m) "LIHTC" means the Low-Income Housing Tax Credit program.
  - (n) "LPR Regulatory Agreement" (or "Department Regulatory Agreement") means the written agreement between the Department and Sponsor that will be recorded as a lien on the Project of cash or realto control the use and maintenance of the Project, including restricting the rent and occupancy of the Assisted Units.
  - (o) "LPR Senior Regulatory Agreement" is a version of the LPR Regulatory Agreement that contains the affordability provisions of the LPR Regulatory Agreement recorded in a position that is senior to all debt and secured against the fee interest of the property, except for Projects assisted by the sponsor or their affiliateU.S. Department of Housing and Urban Development (HUD). The Senior Regulatory Agreement shall ensure the continued restriction of the Project to the same affordability level for all occupants, rents or amounts charged pursuant thereto, the reporting requirements related to either tenant occupancy or affordability, including special population(s), and affordability, and level of operations and maintenance.
  - (p) "MHP Family of Programs" collectively refers to the MHP, SHMHP, HYMHP and GHI programs.
  - (q) "New Tenant" means a tenant that first occupies a unit in the Project after the Notice of Acceptance has been issued by the Department.
  - (r) "Notice of Acceptance" is the Department's letter to a Borrower/Sponsor that indicates the minimum requirements of Section 111 have been met and the LPR application can proceed to underwriting. The date of this letter is used to delineate between an Existing Tenant and a New Tenant.
  - (s) "Original Program" means the Department funded program that initially provided State financial assistance to the Project as listed in Section 100(ed) or any other Projects restructured pursuant to Section 100(g).
  - (t) "Qualifying Unpaid Matured Loan" shall mean either of the following:
    - (1) a loan made pursuant to an Original Program that is in material compliance with all loan terms and conditions, as determined by the Department, including but not limited to, those required by the Original Program loan documents or applicable statutes and regulations, or otherwise required by

the Department, other than having reached the maturity date of its promissory note without being paid, or

- (2) a matured loan that is not in compliance, as described in subparagraph (t)(1) above, and is being transferred to another Borrower approved by the Department.
- (u) “Redraw” means reissuing the Department Loan Documents due to outdated escrow instructions or a change in the Department Loan Documents requested by any entity other than the Department. A fee shall be charged for the Redraw, as described in Section 113. The fee shall be paid through escrow or directly to the Department prior to its execution of the new loan documents.
- (v) “Remaining Useful Life” means the period during which the physical characteristics/components of the Project are projected to comply with habitability standards applicable to the Low-Income Housing Tax Credit program as based on a third-party physical needs assessment or property condition assessment which has been reviewed and approved by the Department.
- (w) “Rent” means the same as “Gross Rent”, as defined in the Internal Revenue Code (26 USC 42(g)(2)(B-)). It includes all mandatory charges, other than deposits, paid by the tenant for the use and occupancy of an Assisted Unit, and plus a utility allowance established in accordance with these Guidelines and TCAC Regulations. For units assisted under the HUD Section 8 or similar rental subsidy programs, Rent includes only the tenant contribution portion of the contract rent.
- (b) “Restructuring” means one or more of the following: actions involving a Project that is subject to an existing Department loan (but not a Department grant): the extension of the Department’s Department loan term (or terms, if there are multiple Department loans),
- (x) (s), reinstatement of a Qualifying Unpaid Matured Loan, subordination of the Department’s loan or loans Department Loan Documents to a new senior loan or loans(s), the payoff of a Department loan prior to maturity, the utilization of Extracted Equity from an Donor Project, and/or the syndication or resyndication of a Project with tax credit investment under this Article credits. Other transactions, such as those limited to the placement of new junior public agency debt without required payments and assignments of limited partner interests do not constitute a Restructuring. The date of Restructuring shall be considered to be The date of recordation of a new the Department regulatory agreement. Loan Documents shall be considered the date of Restructuring.
- “Special Rent Increase”
- (c) “Schedule of Rental Income” (SRI) means a rent increase greater than the amount permitted under the Original Program’s regulations Schedule of Rental Income prepared and statute.

- (y) ~~“Sponsor” is the entity relied upon~~submitted on a form, provided by the Department for ~~experience and capacity and which, used to identify all Existing Tenants. Vacant units are also included in the SRI forms submitted to the Department~~expects to maintain control over the Project. In a project with multiple layers of ownership, the Sponsor cannot have more than one entity between itself and the Borrower. For example, if the Borrower is a limited partnership with a limited liability company as the general partner, the Sponsor must either be a member of the company or a non-member manager.
- (d) ~~“Unit” means a residential unit that is used as a primary residence by its occupants, including efficiency units and residential hotel units.~~
- (z) “State” means the State of California.

*NOTE: Authority cited: Section 50406.4, 50560(h), and Section 50565, Health and Safety Code. Reference: Section 50560(d), Section 50561(g), and Section 50565, Health and Safety Code.*

## Section 102. Eligible Projects

Eligible Projects must meet all of the following criteria:

- (a) The Project must have a loan made under one or more of the Original Programs.
- (a) The , or any State multifamily housing loan funded or monitored by the Department must determine that the Remaining Useful Life of the Project, upon completion of rehabilitation, if any, and as based in part on a third party physical needs assessment, equals or exceeds the extended loan term. Department grants do not constitute as loans and are expressly excluded from the scope of these guidelines.
- (b) The Department's determination based on documentation provided by the Sponsor that the Project has, or will have after rehabilitation or repairs, a potential Remaining Useful Life equal to or greater than the term of the Restructuring. At the Department's request, the Sponsor may be required to conduct and submit a Physical Needs Assessment, performed by a certified inspector, at the Project's cost or provide another source of documentation to the Department's satisfaction.
- (c) The Sponsor and Borrower may not be in breach or default of must be in compliance, as determined by the Department, with the Original Program loan documents nor under and with any other Department programs. However, and under its general workout authority, the Department will consider requests for Restructuring in accordance with these guidelines where the only uncured breach Project(s) funded by the Department. A Project with a Qualifying Unpaid Matured Loan is that the loan maturity date has passed an Eligible Project.
- (d) If the Restructuring results in the creation of a scattered-site Project, the number of sites shall be limited to five, unless the HCD director ("Director") approves a higher number, and all sites shall be either within the boundaries of the same city or within a 10-mile diameter circle within the same county ("Scattered Sites Project"), demonstrated by a scaled map and submitted with the application. The Project must also meet the requirements of UMR Section 8303(b). If any of the developments include federal funding that requires U.S. Department of Housing and Urban Development (HUD) approval, such approval must be obtained and submitted with the LPR application.
- (e) Projects involving rehabilitation must provide a relocation plan. This relocation plan must detail a plan for eligible households displaced (e.g., households that have been temporarily, not permanently, relocated and are program eligible to reside in the Project) to obtain first priority in occupying comparable units in the rehabilitated development from which they were displaced. The relocation plan must contain provisions for tenants, temporarily or permanently displaced, to receive relocation benefits pursuant to the requirements of Government Code Title 1, Division 7,

Chapter 16, commencing with Section 7260, and Title 25 California Code of Regulations, Subchapter 1, Chapter 6, commencing with Section 6000, and include a development budget allocating resources to provide such benefits. The relocation plan must also meet the requirements of MHP Section 7315 and be approved by the Department in writing prior to the commencement of any construction or the start of any displacement of any tenants, whichever is sooner.

- (f) There shall be no reduction in the number of Assisted Units. However, the Department may approve exceptions for the following: a local ordinance or building code requirement, rehabilitations that substantially improve the livability of the remaining units, or to meet some other compelling public policy objective. For example, the Department may approve a reduction in the number of single room occupancy (SRO) units where necessary to add private cooking and bathing facilities, or a reduction in the number of bedrooms in public housing necessary to meet federal requirements.
- (b) ~~Notwithstanding the above if the Restructuring involves combining the Department-assisted development with other developments, the following conditions must be satisfied:~~
- (g) eligibility requirements, where a project involves single-room occupancy units that will be rehabilitated or replaced, Sponsor shall comply with Government Code Sections 66300.6(b)(3-5) and 66300.6.5(b)(6).
  - (1) ~~All of the developments in the combined Project must have a single owner and property manager;~~

~~When the developments have been combined, there may be at most one lender with required payments senior to the Department's loan;~~

- (2) ~~There must be a single audit and annual report covering all sites;~~
- (3) ~~The Department must be secured against all sites, with lien priority relative to local public agency lenders and use of cash flow available for residual receipts loan payments determined in accordance with Section 8315 of the Uniform Multifamily Regulations, except that the formula for calculating the Department's share of residual receipts payments may be adjusted to avoid a reduction in projected payments to local public agency lenders;~~
- (4) ~~The Department must be named on insurance policies covering all sites, with coverage meeting Department requirements; and~~

~~There shall be no reduction in the number of Assisted Units.~~

*NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50560(a), Section 50560(d), Section 50561(a), Section 50565, Health and Safety Code., 25 CCR Section 8303, Government Code Sections 66300.6(b)(3-5) and 66300.6.5(b)(6).*

### Section 103. ~~Requirements for Loan Extensions Only~~

~~The following requirements apply solely to Projects that only involve an extension of the Department's loan, without a new tax credit investment or the Department loan being subordinated to new debt.~~

- ~~(a) The extension must be for at least 10 years, but not more than 55 years;~~
- ~~(a) The Special Rent Increases set forth in Section 108 are not permitted in cases where the Department loan is only being extended, except that Rents for Existing Households in RHCP-O projects may be adjusted in accordance with subsection 108(c)(3) and Section 109;~~

~~Starting at the time of the extension of the Department's loan, the Project must achieve Fiscal Integrity for at least 15 years, or the length of the extension if the extension is shorter than 15 years;~~Provisions

- (a) ~~The operating reserve requirements of Section 8308(b) do not apply. The Project shall be required to maintain the operating reserve deposit requirements of its Original Program Regulatory Agreement until the balance in the operating reserve equals four months of required debt service, plus eligible operating expenses, plus required deposits to replacement reserve. Once this balance is achieved, the requirements of Section 8308(c) shall apply.~~

*NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50561(a-b), Section 50561(g), Health and Safety Code.*

#### **Section 104. Requirements Pertaining to All Projects Restructured under this Chapter**

~~After completion of the~~Upon Restructuring of an Eligible Project under these guidelines, the Original Program statutes and regulations, and loan documents of those programs shall no longer apply to the Project, ~~except as specifically noted in these guidelines, and instead be governed by the LPR Statute, these Guidelines, and the Department Loan Documents. If an Original Program had requirements in addition to Rent restrictions, the Department Loan Documents shall restate any such requirements (i.e. special needs, supportive housing, senior, at high risk, etc.).~~

~~The Sponsor of an Eligible Project which requests a Restructuring of the Project and Borrower shall execute new~~Department Loan Documents reflecting the terms of the restructured loan as required by the Department and consistent with these Guidelines. The principal amount of the new loan shall be the amount of the outstanding principal balance on the original loan. Interest accrued on the old loan shall carry over as accrued interest on the new loan. Such terms shall include language specifically importing and preserving third-party beneficiary rights for Existing Tenants.

- (a) ~~All new Regulatory agreements for Projects entered into under these Guidelines shall include language~~ setting standards for tenant selection to ensure occupancy by the eligible households required by each Project's Original Program.
- (b) ~~All specifically importing loans shall be evidenced by a promissory note payable to the Department in the principal amount of the loan, including any accrued interest, in accordance with Section 103(f) of these Guidelines, and preserving a defined maturity date of the note pursuant to these Guidelines, except those third party projects that fall under Section 109(a)(6) and 110 of these Guidelines. The note shall be secured by a deed of trust on the subject property naming the Department as beneficiary rights provided for in the Original Program regulatory agreement. The~~

~~preservation of third party beneficiary rights will only accrue to tenancies that existed before or contemporaneous with the recordation of the new regulatory agreement. After the new regulatory agreement is by other security acceptable to the Department; this deed of trust or other security shall be recorded, new tenancies resulting from any cause will be regulated solely by the new regulatory agreement and shall secure the Department's financial interest in the Project and the performance of the Sponsor's obligations.~~

- (c) Borrower shall obtain the consent and ~~signature~~ approvals of all lien holders/lienholders, including, but not limited, to governmental agencies (federal, State, and local entities), and any other third parties required/necessary to complete the Department Loan Documents.
- (d) The ~~loan~~ Senior LPR Regulatory Agreement must be recorded in a position that is senior to all debt and secured against the property, except for Projects assisted by the U.S. Department of Housing and Urban Development (HUD). In the event project-based rental assistance is terminated, the affordability provisions may include a provision allowing rents to increase to the minimum extent required for maintaining Fiscal Integrity, but in no event shall rents exceed 30 percent of 60 percent of AMI. For Projects involving Extracted Equity, the Department's entire LPR Regulatory Agreement, not the Senior LPR Regulatory Agreement, must be recorded senior to all other debt (excluding HUD) as detailed in Section 109 of these Guidelines.
- (e) Sponsor(s) as defined by UMR 8301(s), must demonstrate to the Department's satisfaction, experience and capacity relevant to owning, operating, and if performing a rehabilitation, developing affordable rental housing. However, an applying Sponsor that is the original or a subsequently HCD-approved Sponsor for the Restructuring project is exempt from the experience and capacity requirements in this subsection, provided they are in good standing and compliant with all applicable HCD requirements.
- (f) Experience is evidenced through successful prior ownership and development of affordable housing development(s) of equivalent unit type and project size and occupancy. Sponsor (including any Co-Sponsor(s)) shall satisfactorily demonstrate experience at the time of application.
  - (1) For purposes of this subdivision, an entity has "capacity" if it has adequate staff, offices, capital, assets, and other resources to efficiently meet the operational needs of the Rental Housing Development; to maintain the Fiscal Integrity of the Rental Housing Development; and to satisfy all legal requirements and obligation with the Rental Housing Development. Sponsor (including any Co-Sponsor(s)) shall satisfactorily demonstrate capacity at the time of application. 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 as required by the Department of the Sponsor entity. Where necessary to clarify ambiguities in the application, the Department may request, during application review, any of the following:

- (A) Staff rosters, which include the job titles and duty statements of all staff positions, and/or payroll records;
- (B) Certified audited financial statements for the past three (3) consecutive years; and
- (C) Any other documentary evidence that reasonably supports the Sponsor's ability to satisfy the capacity requirement.

(2) Certificates of good standing from the California Secretary of State, the California Franchise Tax Board, and/or the relevant regulatory agencies of foreign jurisdictions

(g) Principal Loan Amount.

The Borrower must elect one of the following options to determine the principal amount of the loan:

(1) The amount of the unpaid principal balance on the Original Program loan remains the same and the interest accrued shall carry over as accrued interest on the new loan.

(2) The accrued interest is added to the unpaid principal balance of the Original Program loan.

(h) Interest Rate Determination

Loans shall bear simple interest on the unpaid principal balance at 3 percent (3%) per annum. However, if a project has received an allocation of federal or State tax credits:

(1) The Borrower may apply for a reduction of the rate to the maximum rate that allows, as determined by the Department, the Program loan to be treated as debt for federal or State low-income housing tax credit purposes (the "True Debt Test"), or that avoids the inability to syndicate, as determined by the Department, due to projected negative capital account balances, but not less than 0.42 percent, and only if the change in interest rate:

- (A) Materially increases the feasibility of the Project (as determined by the Department); and
- (B) Ensures long term affordability for the residents.

The Department may require a third-party tax professional to verify the determination of the necessity for reducing the interest rate below 3 percent (3%) due to an inability to syndicate due to the projected negative capital account balance, or an inability of the Program loan to be treated as debt for federal or State low-income housing tax credit purposes.

The cost of the verification shall be borne by the Sponsor. The Sponsor shall be required to submit all supporting documentation as required by the Department.

- (2) Only LIHTC Projects with allocations made on or after January 1, 2014, may elect to use the AFR, which may exceed 3 percent (3%).
  - (i) Any forgivable component of an Original Program loan may be retained as forgivable in the LPR loan documents.
  - (j) The deferral of accrued interest shall be permitted in accordance with the LPR Loan Documents and subject to UMR Section 8314(a)(2).
  - (k) Projects with a leasehold estate must meet the requirements of UMR Section 8316.

*NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50560(b), Section 50562(a-b), Section 50406.7 Health and Safety Code. 25 CCR Section 8316.*

#### **Section 104. Provisions Specific to Loan Extensions Only**

The following requirements apply solely to Projects that do not involve a new tax credit syndication or the subordination of a Department loan to new debt.

- (b) The extension must be for at least 10 years, but not more than 55 years;
- (c) The Project must submit a cash flow proforma as part of the application. Department loans may be extended if one of the following is met:
  - (1) For extensions 15 years and over, the Borrower must achieve Fiscal Integrity for at least 15 years, or,

- (2) For extensions 10 years to 15 years, the Borrower must achieve Fiscal Integrity for at least the duration of said extension.
- (d) The Project shall fund an operating reserve account with a minimum balance that equals four months of Operating Expenses (excluding the cost of on-site Supportive Services coordination), four months of required replacement reserve deposits, and four months of non-contingent debt service. The operating reserve shall be capitalized through the existing operating reserve account, annual deposits from Project cash flow, and/or other sources available to the Borrower, within six (6) fiscal years from the date of the Restructuring. Borrower shall receive no Distributions until the minimum balance is met. Once this balance is achieved, the requirements of UMR Section 8308 shall apply.

NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50561(a-b), Section 50561(g), Health and Safety Code, 25 CCR Section 8308.

### **Section 105. Requirements for Provisions Specific to Projects Being Refinanced and/or Syndicated**

~~The following requirements apply to Projects that are being Refinanced and/or Syndicated as part of the Restructuring:~~

- (a) ~~Projects must be eligible as set forth in Section 102;~~
- (b) ~~Restructuring requirements contained in Section 104 must be met;~~
- (c) The Project must achieve Fiscal Integrity for at least 15 years or the remaining term of the Department Loan Documents if less than 15 years after the Restructuring, the Project must achieve Fiscal Integrity for at least 15 years, as evidenced by a multiyear pro forma approved by the Department;
- (a) ~~If the Project's Department loan is extended, the extension must be proforma approved by the Department prior to the maturity date of the Original Program loan, and the extension must be for at least 10 years, but not more than 55 years (or 58 years if tax credit restrictions require this term);~~
- (d) ~~The new and/or modified loans from other lenders are required to comply with Sections 106 and 107, and with Section 8315 of the Uniform Multifamily Regulations;~~
- (e) ~~Rent and income restrictions must comply with Section 108;~~
- (f) ~~Requirements for relocated Existing Households contained in Section 110 must be met;~~
- (g) ~~The Project must comply with the underwriting requirements set forth in Section 112;~~
- (h) ~~A complete application form and all required documents, including a relocation plan, are needed in order for the Department to begin evaluation of the Project with these requirements, and the application requirements set forth in Section 111 must be complied with.~~

~~NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50560(a), 50561(a-g), Health and Safety Code.~~

#### ~~Section 106. Conditions on Subordination to Senior Loans~~

- (a) ~~If the Restructuring will not involve rehabilitation, the Department may subordinate to new senior debt resulting in lower debt service, needed to pay off an existing senior loan with a balloon payment, or that otherwise increases feasibility.~~

(b) ~~If the Restructuring will involve rehabilitation and a Special Rent Increase:~~

(1) ~~The Department may subordinate to new senior debt only as necessary for the feasibility of the rehabilitation project.~~

(2) ~~In evaluating feasibility, the costs of the rehabilitation project shall include costs of refinancing of existing debt (including closing costs, prepayment penalties, and yield maintenance charges), developer fee and other soft costs, and the rehabilitation work itself, but not reimbursements for past contributions to the project by the borrower, or for costs not directly related to the rehabilitation, such as limited partner buy-out costs.~~

(3) ~~The rehabilitation work shall be limited to:~~

(A) ~~Replacements documented as needed by a third party physical needs assessment and approved by the Department as necessary based on the Department's inspection of the Project and review of the third party study;~~

(1) ~~Cost effective energy improvements; and~~

(B) ~~Other improvements as approved by the Department.~~

(4) ~~The rehabilitation shall be modest in size, scope and cost, as set forth in Section 7314 of the Multifamily Housing If the Original Program Regulations.~~

~~If the Restructuring will involve rehabilitation loan term is extended, the extension must be for at least 10 years, but not a Special Rent Increase: more than 55 years or 58 years~~

~~The Department may subordinate to new senior debt necessary for the feasibility of the contemplated rehabilitation project, as described in subsection 106(b)(1) and (b)(2) match the term of LIHTC~~

(b) ~~If the principal amount of the new senior debt does not exceed the original principal amount of the senior debt being paid off, the Department may also allow reimbursement of costs the borrower incurred for capital improvements made in the twenty four (24) months prior to the Restructuring, subject to documentation through a construction contract and/or receipts paid to unaffiliated businesses, and reimbursement of operating deficits that are documented by a third party audit and incurred within the 24 months prior to the Restructuring, and not reimbursed through reserve withdrawals or other sources.~~

*NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50560(d-g), Health and Safety Code.*

### **Section 107. 106. Provisions Specific to Senior Loans**

Requirements for senior loans are set forth in UMR Sections 8310 and 8315. Furthermore, the following conditions shall apply:

(a) ~~Projects that are securing a new senior loan must demonstrate that they will have~~

~~sufficient operating income to be able to support all required loan payments;~~

- (a) ~~Senior loans and bond financing are prohibited from including call option provisions allowing the call of the loan or the bond prior to its maturity other than in case of default. Nor may Sponsor be required to remarket bonds prior to expiration of the senior loan.~~ Bond financing shall not include remarketing provisions;
- (b) ~~All payments, lender fees, including bond fees, issuer fees, and trustee fees, escalators and any other fees, charges and costs, in addition to principal and interest payments, payments must be fully disclosed to and approved by the Department in the loan closing transaction summary and in the pro forma in the LPR application, proforma and operating budget; with as approved by the Department. Any adjustments thereto shall be fully disclosed before loan closing;~~
- (b) ~~Senior loans must have an interest rate cap prior to, reflected on any interest rate that is not fixed for the full term. The interest rate at the cap must not jeopardize Fiscal Integrity, as determined by the Department.~~ all legal documents associated with the LPR Loan Documents upon recordation or loan closing, and approved in writing;
- (c) Interest rate resets, renewals, and extensions of letter(s) of credit related to senior loans must not require the Sponsor to re-qualify pursuant to the senior lender's then-existing underwriting criteria;
- (d) Financial instruments on senior loans (including but not limited to, swaps, collars, rate caps, letters of credit, credit enhancement agreements, facility provider agreements, and interest rate hedges) must extend for the full term of the senior loan or must be renewable or extendable under terms and conditions acceptable to the Department;
- (e) If the Restructuring will not involve rehabilitation, the Department may subordinate its loan to refinance existing senior debt only as necessary for purposes of a rate and term refinancing resulting in lower debt service, paying off an existing senior loan, or other activity resulting in decreased debt to the Project.
- (f) If the Restructuring will involve rehabilitation or repairs, the Department may subordinate to new senior debt for rehabilitation or repairs that shall be limited to the following:
  - (2) Necessary capital improvements to the Project as determined by a third-party property condition assessment, or similar third-party report including soft costs, subject to the Department's review and inspection of the Project;
  - (3) Cost effective energy improvements; and
  - (4) Other necessary improvements as approved by the Department.

- (c) If the principal amount of the new senior debt does not exceed the original principal amount of the senior debt being paid off, The Department may deviate from the requirements of this section where it determines that the risk to Fiscal Integrity is low and financial market conditions do not allow the requirements to be met.
- (g) reimbursements to the Sponsor or any related party for advances, predevelopment costs, capital improvements and operating deficits may be allowed, subject to the Department's prior written approval. Costs to be reimbursed:
- (1) Must have been incurred in the 24 months prior to the Notice of Acceptance, and up to the date of recordation of the LPR Loan Documents;
  - (2) Are subject to acceptable documentation through a construction contract and/or receipts paid to a business that are documented by a third-party audit, as determined by the Department;
  - (3) Shall not have been previously reimbursed through reserve withdrawals or any other sources.
  - (4) Projects subject to Section 106(g) are not subject to provisions in Section 109 (Provisions for Extracted Equity).

*NOTE: Authority cited: Section 50560(d-h), Health and Safety Code. Reference: Section 50564(50560(d-g), Health and Safety Code. 25 CCR Sections 8310 and Section 8315.*

## **Section 107. Program-Specific Requirements**

### **RHCP-OSection 108. Rent Restrictions for Assisted Units**

- (a) ~~If Special Rent Increases are not approved by the Department, annual Rent increases for Assisted Units shall be limited in accordance with the requirements of the Original Program.~~
- (b) ~~Special Rent Increases may be allowed only if all of the requirements of this section are met:~~

- (1) ~~The amount of the Special Rent Increase is the minimum amount necessary to support new debt, including construction financing, to pay for the rehabilitation;~~
- (a) ~~The rehabilitation meets the requirements of Section 106(b);~~
  - (1) Projects with an expired RHCP-O Regulatory Agreement are ineligible to receive annuity payments and are subject to the requirements in Section 108.
  - (2) ~~The necessary rehabilitation is at a level that equals or exceeds the minimum per-unit rehabilitation cost standards under the low-income housing tax credit program. This minimum shall be calculated by averaging the amount applicable under TCAC regulations to competitive 9% tax credits (as specified for 2014 in Section 10325(f)(10) of the TCAC regulations) and the amount applicable to non-competitive 4% tax credits (as specified for 2014 in Section 10326(g)(7) of the TCAC regulations).~~
  - (3) ~~The Special Rent Increase shall not occur until the first regularly scheduled Rent increase after the closing of the Restructured loan and in compliance with the notice provisions to Existing Households, as set forth in subsection (c)(1)(A)(vi) and (c)(2)(A)(vi).~~
    - (A) ~~Early Special Rent Increase exception. If Borrower (1) submits an application required by this subsection and (2) obtains a specific, Department approved plan to undertake a rehabilitation that meets the requirements of Section 106 of these Guidelines, the Department may approve the implementation of an Early Special Rent Increase up to five years prior to the expected closing of the Restructured loan subject to the following additional conditions:~~
      - (i) ~~Borrower provides the Department with documentation including but not limited to: a letter of interest from a lender outlining their current terms applicable to projects of this nature, and detailing how they would size the loan based on operating income realized at the time of closing and thereafter,, a preliminary scope of work, a physical needs assessment prepared by a third party, a preliminary construction cost estimate prepared by a general contractor, a preliminary development budget, a sources and uses of funds, a preliminary title report, a multi-year pro forma, a proposed operating budget, a complete report showing all existing tenants by unit number, unit size, household incomes as reported in an income recertification performed in accordance with the requirements of the low-income housing tax credit program within the past three months,~~

~~household size, current rent and subsidies and utility allowance, and date of annual rent increase, and any other documents the Department requires to evaluate the Project.~~

- (ii) ~~Borrower provides a proposal listing the specific Special Rent Increases to be imposed on Existing Tenants and the specific adjustments to be made for vacant assisted and non-assisted units, clearly demonstrating that without implementation of the Early Special Rent Increase the Project will not comply with senior lender underwriting requirements. Borrower must make best efforts to identify, apply for and pursue any and all existing or eligible rent subsidies.~~
- (iii) ~~The additional rental income collected as a result of the Early Special Rent Increase must be deposited with HCD or in a segregated account held by a third party, as selected by the Department. Funds from this account may only be used for rehabilitation expenses incurred after the closing of the Restructured loan, or, prior to that date, for urgently needed repairs that cannot be funded from the replacement reserve or operating income. If the planned rehabilitation fails to occur within five years of the recordation of the new Regulatory Agreement, the funds in this account may only be used as required by subsection (vi).~~
- (iv) ~~Borrower will execute a new Regulatory Agreement and secure consents and subordination agreements from lenders and applicable third parties, including third party beneficiaries.~~
- (v) ~~Borrower certifies compliance with relocation and other applicable laws.~~
- (vi) ~~The Department approves a plan for use of the additional rental income collected for the most critical repairs and replacements and subsidizing tenant Rents should the planned rehabilitation fail to occur within five years of the execution of the new Regulatory Agreement. In addition, if the planned rehabilitation does not occur within the five year timeframe, Rents shall be reduced to the level that would have been permissible without a Special Rent Increase.~~
- (vii) ~~Prior to the implementation of the Early Special Rent Increase, Borrower shall provide Existing Tenants with the following notifications of the Early Special Rent Increases:~~
  - (a) ~~Notice six months prior to the scheduled Early Special~~

Rent Increase with an estimate of the amount of the increase;

- (b) ~~Notice 90 days prior to the actual Early Special Rent Increase with the exact amount of the new Rent.~~
    - (viii) ~~Net Developer Fee shall not exceed 50 percent of the maximum otherwise allowed pursuant to Section 112(f).~~
  - (4) ~~Borrower certifies that any necessary consent(s) from any appropriate third party beneficiaries have been obtained.~~
- (c) ~~Special Rent Increases are limited as follows:~~
  - (1) ~~For Projects originally funded under RHCP B and FHDP:~~
    - (A) ~~For Existing Tenants: Special Rent Increases, including Early Special Rent Increases, shall be limited as follows:~~
      - (i) ~~For Existing Tenants with incomes not exceeding 35 percent of area median income, as determined at the time of Department approval of the Restructuring, Special Rent Increases shall be limited to a maximum of 5 percent per year, until the Rents reach the levels specified in subsection 108(c)(1)(B) below;~~
      - (ii) ~~For Existing Tenants with incomes exceeding 35 percent of area median income as determined at the time of Department approval of the Restructuring, Special Rent Increases shall be limited to a maximum of 10 percent per year, until the Rents reach the levels specified in subsection 108(c)(1)(B) below;~~
      - (iii) ~~The amount of the Special Rent Increase shall not be greater than the minimum amount necessary to ensure compliance with Section 112, projecting a positive cash flow for at least 20 years, instead of the 15 years specified in Section 8310(hi);~~
      - (iv) ~~Rent shall not exceed 50 percent of each Existing Tenant's actual Household Income, as determined at the time an application for restructuring is approved by the Department, until Rent reaches the lesser of 50 percent of each Existing Tenant's actual Household Income, as determined at the time an application for restructuring is approved by the Department, or the level applicable to the unit upon vacancy, as specified in subsection 108(c)(1)(B);~~

(v) ~~Once Rent reaches the lesser of the 50 percent of actual Household Income determined at the time the application for restructuring is approved or the level applicable to the unit upon vacancy, annual rent increases shall be limited based on increases in area median income, using the rules of the low income housing tax credit program. However, no annual rent increase under this subsection (c)(1)(A)(v) shall be implemented where the increase would result in Rent for an Existing Tenant exceeding 50 percent of actual Household Income, as determined through the most recent income certification;~~

(vi) ~~The Borrower shall provide Existing Tenants with the following notifications of the Special Rent Increases:~~

(a) ~~Notice six months prior to the scheduled Special Rent Increase with an estimate of the amount of the increase;~~

(b) ~~Notice 90 days prior to the actual Special Rent Increase with the exact amount of the new Rent;~~

(vii) ~~Notwithstanding the above, the Borrower shall comply with the requirements of the California Relocation Law, Government Code Section 7260 et seq., with regards to any rent increases to Existing Tenants who are temporarily displaced as the result of rehabilitation performed in connection with the Restructuring.~~

(B) ~~For vacant or vacated Units:~~

(i) ~~Rents shall be restricted at a maximum of 30 percent of 35 percent of area median income, calculated in accordance with the rules of the low income housing tax credit program, for the number of Units designated in the Project's Original Program Regulatory Agreement as very low income Units;~~

(ii) ~~Rents may be increased up to a maximum of 30 percent of 60 percent of area median income, calculated in accordance with the rules of the low income housing tax credit program, for the number of Units designated in the Project's Original Program Regulatory Agreement as lower income Units;~~

(iii) ~~Regulated Rents set forth in the unit mix shall not exceed the minimum amount necessary to ensure compliance with~~

~~Section 112, projecting a positive cash flow for at least 20 years, instead of the 15 years specified in Section 8310(hi).~~

~~For Projects originally funded under SUHRP, DPRLP, CHRP-R, CALDAP, SERA, and FMTW:~~

~~(C) For Existing Tenants: Special Rent Increases, including Early Special Rent Increases, shall be limited as follows:~~

~~For existing tenants with incomes not exceeding 35 percent of area median income, as determined at the time of Department approval of the Restructuring, Special Rent Increases shall be limited to a maximum of 5 percent per year, until the Rents reach the levels specified in subsection 108(c)(2)(B) below;~~

- ~~(i) For existing tenants with incomes exceeding 35 percent of area median income as determined at the time of Department approval of the Restructuring, Special Rent Increases shall be limited to a maximum of 10 percent per year, until the Rents reach the levels set under subsection 108(c)(2)(B) below;~~
- ~~(ii) The amount of the Special Rent Increase shall not be greater than the minimum amount necessary to ensure compliance with Section 112, projecting a positive cash flow for at least 20 years, instead of the 15 years specified in Section 8310(hi);~~
- ~~(iii) Rent shall not exceed 50 percent of each Existing Tenant's actual Household Income determined at the time an application for Restructuring is approved by the Department, until Rent reaches the lesser of 50 percent of each Existing Tenant's actual Household Income, as determined at the time an application for Restructuring is approved by the Department, or the level applicable to the unit upon vacancy, as specified in subsection 108(c)(2)(B);~~
- ~~(iv) Once Rent reaches the lesser of 50 percent of actual Household Income determined at the time the application for Restructuring is approved, or the level applicable to the unit upon vacancy, annual rent increases shall be limited based on increases in area median income, using the rules of the low income housing tax credit program. However, no annual Rent increase under this subsection (c)(2)(A)(v) shall be implemented where the increase would result in Rent for an~~

~~Existing Tenant exceeding 50 percent of actual Household Income, as determined through the most recent income certification;~~

~~(v) The Borrower shall provide Existing Tenants with the following notifications of the Special Rent Increases:~~

~~(a) Notice six months prior to the scheduled Special Rent Increase with an estimate of the amount of the increase;~~

~~Notice 90 days prior to the actual Special Rent Increase with the exact amount of the new Rent;~~

~~Notwithstanding the above, the Borrower shall comply with the requirements of the California Relocation Law, Government Code Section 7260 et seq., with regards to any rent increases to Existing Tenants who are temporarily displaced as the result of rehabilitation performed in connection with the Restructuring.~~

~~(D) For vacant or vacated Units:~~

~~(i) Rents for at least 35 percent of Assisted Units, or as specified in the Original Program Regulatory Agreement, whichever is greater, shall be restricted to the midlevel target used by the Multifamily Housing Program. For purposes of this paragraph, "midlevel target used by the Multifamily Housing Program" shall mean either of the following:~~

~~(a) For counties with an area median income of 110 percent or less of state median income, it shall mean 30 percent of 30 percent of state median income, expressed as a percentage of area median income;~~

~~(b) For counties with an area median income that exceeds 110 percent of the state median income, it shall mean 30 percent of 35 percent of state median income, expressed as a percentage of area median income;~~

~~(ii) Rents for the remainder of the Assisted Units may be increased up to a maximum of 30 percent of 60 percent of area median income;~~

- (iii) ~~Regulated Rents shall not exceed the minimum amount necessary to ensure compliance with Section 112, projecting a positive cash flow for at least 20 years, instead of the 15 years specified in Section 8310(h).~~
- (E) ~~The Rent Restrictions set forth in this subsection may require some Unit Rents to be decreased in order to comply with the Chapter 3.9 requirement for at least 35 percent of the Assisted Units to be restricted to the midlevel target of the MHP Program.~~
- (2) ~~For Projects originally funded under RHCP-O:~~
  - (A) ~~For Existing Tenants: Rents for tenants living in assisted units at the time of restructuring pursuant to this chapter may be increased to 30 percent of Household Income pursuant to Section 109(b), for as long as the Department continues to provide annuity payments, Rent for these tenants shall be the greater of 30% of Household Income or the "base rent" as defined under Section 7806 of the RHCP-O regulations. Upon termination of the annuity payments, any Special Rent Increases shall be limited in accordance with Section 108(c)(2)(A).~~
  - (B) ~~For vacant or vacated Units, Rents shall be limited in accordance with Section 108(c)(2)(B).~~

~~NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50561(b-e), Health and Safety Code.~~

#### ~~Section 109 – RHCP-O Annuity~~

~~annuity payments provided to Borrower under the RHCP-O program shall be continued only, at the Department's discretion, for Existing Tenants designated at low- or very low-income Existing Households who were occupying Assisted Units at the time until either the end of the Restructuring and only to the extent that funds are available to RHCP-O Regulatory Agreement term, as memorialized in the Department for such payments and LPR Regulatory Agreement, or until the Department determines that they are needed to preserve project feasibility.~~

- (2) ~~In order to preserve the RHCP-O annuity funds are depleted, whichever occurs first. Once either of these conditions have been met, Rents for RHCP-O Assisted Units shall be subject to Section 108.~~
- (3) ~~Projects that continue to receive annuity funds after Restructuring may adjust Rent as follows:~~

- (A) Upon the greatest length of time possible, first income recertification and Rent adjustment after the Restructuring, Rent shall for Existing Tenants may increase up to 30 percent of Household Income upon, as calculated consistent with the next income recertification after method used under the closing MHP Guidelines. However, if an Existing Tenant is paying more than 30 percent of Household Income, the Restructuring Borrower is not required to reduce the Rent unless it is greater than 50 percent of Household Income. Sponsor shall provide 90 days' notice of the Rent increase to the Existing Households in compliance with Section 108(b)(7).
  - (B) At the time of subsequent annual income recertification, Rent adjustments for Existing Tenants shall continue to be based on 30 percent of Household Income as calculated under the MHP Guidelines.
  - (C) For Existing Tenants occupying units subsidized by the annuity, at the time the annuity is no longer provided, Rents shall comply with Section 108(b).
  - (D) For New Tenants occupying units subsidized by the annuity, rents shall comply with Section 108(c).
- (b) All Special Needs Populations, Supportive Housing Units, tenant selection criteria and required supportive housing services shall remain in effect at least until reaching the maturity date of the Original Program Regulatory Agreement. These requirements may be extended. All requirements shall be reflected in the Department Loan Documents.
  - (c) If a Project is funded by multiple Department funding sources and there is a conflict between definitions, the definitions from the most recent funding source shall prevail.

*NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50561(h), Health and Safety Code.*

#### **Section 110. Reserved for Future Use 108. Rent Restrictions for Assisted Units**

For Restructurings involving Extracted Equity, the Rent standards in Section 109(j) shall apply to Existing Tenants for the duration of their tenancy. Thereafter, and for all other transactions, the Department may establish new Rent standards, upon Restructuring, for Assisted Units funded under the Original Program.

- (b) The unit mix, as captured in the Department's LPR Regulatory Agreement, must comply with the following:

- (1) developments originally financed under the bond-funded component of the RHCP and FHDP, the unit mix in the LPR Regulatory Agreement shall be as follows:
- (A) Units designated in the development's Original Program Regulatory Agreement as "Very Low Income" (VLI) may be designated up to a maximum of 30 percent of 35 percent of AMI;
  - (B) Units designated in the development's Original Program Regulatory Agreement as "Lower Income" (LI) units, may be designated up to a maximum of 30 percent of 60 percent of AMI. If the Borrower elects to designate units at less than 60 percent AMI, the LPR Regulatory Agreement Unit Mix will reflect the lower AMI levels.
- (2) For developments originally financed under the other Original Programs, except for RHCP-O, the unit mix in the LPR Regulatory Agreement shall be as follows:
- (A) At least 35 percent of the Assisted Units or the number of Assisted Units in the Original Program Regulatory Agreement which have Rent levels that are restricted to the equivalent of the Midlevel Target, whichever is greater, shall be restricted to the Midlevel Target, as defined in subsection D below.
  - (B) The balance of the Assisted Units may be increased up to a maximum of 30 percent of 60 percent of AMI. If the Borrower elects to designate units at less than 60 percent AMI, the LPR Regulatory Agreement Unit Mix will reflect the maximum allowable AMI levels.
  - (C) An example of a 20-unit Project using the Midlevel Target as defined below:
    - (1) If the Original Program Regulatory Agreement has 10 units restricted at the equivalent Midlevel Target, then 35 percent of the total units (20 x 35 percent = 7 units) or the existing 10 Midlevel Target units, whichever is greater, shall be designated at the Midlevel Target. Therefore, the LPR Regulatory Agreement will designate 10 units at the Midlevel Target, and the remaining 10 units may be designated up to 60 percent AMI.
    - (2) If the Original Program Regulatory Agreement has zero units designated at the equivalent Midlevel Target, then 35 percent of the total units (20 x 35 percent = 7 units) would be designated at the Midlevel Target. The remaining 13 units may be designated up to 60 percent AMI.
  - (D) Midlevel Target shall mean either of the following:

- (1) For counties with an AMI of 110 percent or less of State Median Income (SMI), it shall mean 30 percent of 30 percent of SMI, expressed as a percentage of AMI.
  - (2) For counties with an AMI that exceeds 110 percent of the SMI, it shall mean 30 percent of 35 percent of SMI, expressed as a percentage of AMI.
  - (3) For developments originally financed under other programs that calculate income levels and rent limits consistent with the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program, the income and rent limits under those programs shall be preserved in accordance with the applicable requirements of those programs, and rent increases shall be subject to the applicable requirements of those programs, all to the extent that the income, rent, and rent increase requirements continue to apply to the developments under those programs.
- (c) Rent Increases for Existing Tenants
- (1) Upon Restructuring and thereafter, for Existing Tenants with:
    - (A) Certified incomes not exceeding 35 percent of AMI, Rent increases shall be limited to 5 percent per year until they reach the AMI based rents as outlined in Unit Mix Chart 2 of Exhibit B of the LPR Regulatory Agreement, as may be adjusted annually.
    - (B) Certified incomes exceeding 35 percent of AMI, Rent increases shall be limited to 10 percent per year until they reach the AMI based rents as outlined in unit mix Chart 2 of Exhibit B of the LPR Regulatory Agreement, as may be adjusted annually.
  - (2) Rents for Existing Tenants paying in excess of the maximum AMI Rent levels, as set forth in the annually adjusted MHP State and federal income, Rent, and loan/value limits (the "Department Income and Rent Limit Publication"), shall not be increased. Rents, however, may be maintained until Rents conform with the AMI level, which corresponds with the household's actual income.
  - (3) Notwithstanding the above, in no case shall the Rent of an Existing Tenant in an Assisted Unit exceed 50 percent of the household's actual income.
  - (4) Prior to achieving the maximum Rent levels noted above, Sponsor(s) shall, on a form provided by the Department, report annually on the status of Existing Tenants.

- (5) For all Existing Tenants, once Rents reach the AMI based limits corresponding with the year of the Project's LPR transaction closing, as outlined in the unit mix chart of Exhibit B of the LPR Regulatory Agreement, Rents shall be calculated consistent with the method used under the MHP Guidelines and Rent increases shall be allowed up to the designated AMI Rent limit.
- (6) An Existing Tenant in an LPR-Assisted Unit shall remain identified as such and may not be re-designated as a non-assisted tenant for as long as the tenant resides in the Project.
- (7) Borrower shall provide Existing Tenants with notification of the initial Rent increase scheduled to be implemented after Restructuring as follows:
  - (A) Notice six months prior to the scheduled Rent increase with an estimate of the amount of the increase; and
  - (B) Notice no less than 90 days prior to the actual Rent increase with the exact amount of the new Rent.
- (d) Rents may only be adjusted once annually.
- (e) New Tenants
  - (1) Rents, income levels and Rent limits (AMI levels) for Assisted Units with New Tenants shall be calculated consistent with the calculation method used under the MHP Guidelines and Rent increases shall be based on increases in the AMI in accordance with the unit mix in Exhibit B of the Regulatory Agreement.
  - (2) All prospective New Tenants must be provided appropriate notice in accordance with relocation law, prior to executing rental agreements. Until completion of rehabilitation, New Tenants must be provided a move-in notice that states, at a minimum, the following:
    - (A) Displacement may occur;
    - (B) Temporary relocation may be required;
    - (C) No payments or assistance shall be provided to New Tenants for any cost or expense incurred in connection with a move or a Rent increase; and
    - (D) Rent may increase.
- (f) Upon vacancy of any unit, the Rent and occupancy requirements for that unit shall adhere to the levels specified in the LPR Regulatory Agreement Exhibit B.

- (g) Where a Project is receiving project-based rental or operating assistance, the Sponsor shall in good faith apply for and accept all renewals available. In addition:
- (1) For units receiving HUD's Housing Choice Voucher or similar rental assistance, the rules of the rental assistance program pertaining to Rent or Rent increases will prevail for as long as the rental assistance remains in place.
  - (2) If the project-based rental assistance is terminated, rents for units previously covered by this assistance may be increased, as approved by the Department, to the levels indicated in the unit mix specified in the LPR Regulatory Agreement, and per the MHP Guidelines at Section 7312(f).
- (h) Notwithstanding the above rent restrictions, where a project involves single-room occupancy units that will be rehabilitated or replaced, rents shall comply with Government Code Section 66300.6 and 66300.6.5 and Health and Safety Code Section 50406.6.

NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Sections 50561(b) through (f) and 50406.6, Health and Safety Code; and Sections 66300.6 and 66300.6.5, Government Code.

### **Section 109. Provisions for Extracted Equity**

The following requirements apply solely to Projects involving Extracted Equity.

- (a) Notwithstanding any other law, and to the extent permitted under federal law and the California Constitution, the Department shall allow Extracted Equity to be:
- (1) contributed to other Donee Project(s), subject to the Department's written approval, that increase or improve the supply of affordable housing serving low-income households that are subject to a deed restriction or regulatory agreement with the State of California. This Extracted Equity shall be held in a restricted account and contributed to the Donee Project during the construction period or at permanent loan conversion. All funds must remain with the Donee Project as permanent financing and may not be withdrawn or reallocated for any other purpose. Any withdrawal from such restricted account may require the Department's prior written approval.
    - (A) For rehabilitation Donee Projects, a property condition assessment, physical needs assessment, or other third-party report will be required to support the usage of Extracted Equity.

- (B) For the establishment or replenishment of Department-approved Donee Project reserves, including but not limited to capitalized operating reserves and replacement reserves, the Department shall require documentation demonstrating the need for reserve funding.
- (2) utilized to purchase the limited partner interest and any exit taxes in a tax credit Donor Project after the initial 15 year tax credit compliance period or in accordance with the terms specified in any right of first refusal or purchase option. Purchase of the limited partner interest and any exit taxes in a tax credit Donor Project must have occurred on or after July 1, 2025.
- (3) utilized to reimburse the Sponsor or any related party advances for predevelopment costs, capital improvements and operating deficits attributable to the Donor Project or same Sponsor's other projects with a recorded Department regulatory agreement associated with a Department loan, subject to the Department's prior written approval. Costs to be reimbursed:
  - (A) Must have been incurred in the 60 months prior to the Notice of Acceptance issued on or before December 31, 2028, or 36 months prior to Notice of Acceptance issued after December 31, 2028, and up to the date of recordation of the LPR Loan Documents;
  - (B) Are subject to acceptable documentation through a construction contract and/or receipts paid to a business that are documented by a third-party audit, as determined by the Department;
  - (C) Shall not have been previously reimbursed through reserve withdrawals or any other sources.
- (4) utilized to pay any unpaid deferred developer fee on the Donor Project in which the deferred developer fee was not limited to repayment solely from Distributions, as defined in UMR Section 8301(h);
- (5) utilized to support Sponsor's verifiable and reasonably necessary organizational activities, including, but not limited to, payroll, staff training, or other critical needs and not for discretionary bonuses, incentive payments, or similar costs, in an amount not to exceed ten percent (10%) of the total amount of Extracted Equity requested in Sections 109(a)(1) through 109(a)(4), and/or;
- (6) utilized for other uses as approved by the Department. Any Extracted Equity pursuant to this subsection shall be subject to a housing reinvestment fee,

payable upon recordation of the Department Loan Documents, and be subject to Section 109(b). The housing reinvestment fee shall be calculated as 50 percent (50%) of the Extracted Equity, with 50 percent (50%) retained by the Sponsor and 50 percent (50%) payable to the Department. Any such fees collected shall be reinvested by the Department in other State affordable housing projects.

- (b) For Section 109(a)(6) Extracted Equity requests, the Original Program loan(s), with all accrued interest, must be repaid in full. Notwithstanding any other loans, all net cashflow may be paid to Borrower for so long as the Borrower remains in compliance with the HCD Loan Documents.
- (c) Upon recordation of the Department Loan Documents, the Department shall charge an annual monitoring fee that continues until the end of the term of the LPR regulatory agreement recorded against the Donor Project. The monitoring fee shall be sized pursuant to Section 113(d) and shall be evidenced by a promissory note, which will remain in effect for the duration of the HCD Loan Documents.
- (d) For projects with fully paid-off Department loan(s) on the Donor Project, the Department shall record a monitoring fee deed of trust against the Donor Project to secure both (1) the payment of the ongoing monitoring fee specified in Section 109(c) and (2) the performance under the Department Loan Documents. The monitoring fee deed of trust may be subordinated to any debt when the Department determines that such subordination is necessary to ensure the financial feasibility of the Donor Project.
- (e) In addition to the LPR Regulatory Agreement, a Department approved Extracted Equity LPR senior regulatory agreement, must be recorded senior and shall not be subordinated to any form of debt including but not limited to deeds of trust or other security instruments.
- (f) In addition to the LPR Regulatory Agreement, a Department approved Extracted Equity LPR senior regulatory agreement, shall also not be subordinated to any other affordability or regulatory agreements. However, the Department may grant an exception if subordination is required by law for federal, other State, or local funding sources, or any land-use approvals, including California's density bonus law and local land-use ordinances that incentivize affordable housing production.
- (g) The Donor Project must achieve Fiscal Integrity and maintain a minimum 1.15 debt-service coverage ratio for the first 15 years consecutively.
- (h) The Donor Project shall be ineligible to apply for and receive additional funding from the Department for a period of 15 years after the recordation of the Restructuring

transaction. This ineligibility restriction shall be recorded against the property title, either within the LPR regulatory agreement or in a separate recorded instrument.

- (i) Restructurings that have outstanding HCD funding awards that are not fully disbursed are ineligible.
- (j) The Rent standards for the Original Program loan shall apply to Existing Tenants of the Donor Project for the duration of their tenancy. Upon vacancy, the Department may establish new Rent standards for Assisted Units funded under the Original Program pursuant to Section 108.
- (k) Misuse of Extracted Equity. If the Department determines that Extracted Equity funds were used for purposes not approved by the Department or in violation of applicable statutes or program guidelines, the following penalties shall apply:
  - (1) Negative points in accordance with a negative points policy adopted by the Department, which may affect the Sponsor's eligibility and competitiveness in future HCD funding rounds.
  - (2) Restriction on Future Cash-Out Transactions. The Sponsor shall be prohibited from receiving additional Extracted Equity from any Donor Project, unless the Sponsor repays 110% of the misused amount, as calculated by the Department. This repayment includes a 10% penalty.

*NOTE: Authority cited: Section 50560(h), Section 50406.4 Health and Safety Code. Reference: Section 50561(h), Section 50406.4 Health and Safety Code.*

### **Section 110. Provisions for Early Payoff and Post-Payoff Requirements for Department Loans**

- (a) Payoff of an existing Department loan prior to the end of its original term is subject to the prior written consent of the Department in its reasonable discretion. Any such transaction must be processed through this LPR program and shall be subject to all applicable provisions of these Guidelines.
- (b) Upon recordation of the new Department Loan Documents, the Department shall charge an annual monitoring fee, as required in Section 113(d), that continues until the end of the new regulatory term. The monitoring fee shall be evidenced by an LPR promissory note and be secured by an LPR monitoring fee deed of trust.
- (c) On fully paid off loans, all net cashflow may be paid to Borrower for so long as the Borrower remains in compliance with the HCD Loan Documents.
- (d) The LPR monitoring fee deed of trust and the LPR Regulatory Agreement, but not the LPR Senior Regulatory Agreement, may be subordinated per UMR 8315.

- (e) Projects with paid off Original Program loan(s) shall be subject to the requirements in Section 110(b).
- (f) For any Projects that have fully paid off all Department loan(s), but have remaining time on the recorded Regulatory Agreement(s), unless waived in writing by the Department, the requirements for occupancy and financial reporting, financial audits, and the governance of operating income and Project reserves by the Department shall continue. Any Department approved waiver of these requirements may be rescinded in the sole determination of the Department at any time.
- (g) This section does not apply to the following scenarios, which shall be processed under the terms of the Original Program:
  - (1) Maturity Payoffs - Where the Department loan is fully repaid at the scheduled maturity date with no Restructuring activity involved.
  - (2) Residual Receipt Payoffs – Where the Department loan is fully repaid through residual receipts in accordance with the original loan documents, with no Restructuring activity involved.

NOTE: Authority cited: Section 50560 (a), Section 50562, Health and Safety Code.

## **Section 111. Application Process**

The Sponsor shall submit an application for Restructuring on forms made available by the Department, ~~including all required~~ and provide the applicable supporting documentation, ~~including but not limited to: a third party physical needs assessment and replacement reserve study, scope of work, development budget, sources and uses of funds, relocation plan, a preliminary title report, loan documents from proposed junior and senior lenders and all other sources of funds (as they become available), a complete report showing all existing tenants by unit number, unit size, household incomes as reported~~ specified in an income recertification performed in accordance with the requirements of the low income housing tax credit program within the past three months, household size, current rent and subsidies and utility allowance, and date of annual rent increase, proposed operating budget, 15-year pro forma, and any other documents the Department requires to evaluate the Project;

- (a) ~~An application shall be deemed complete when the Department is able to review the application and assess whether the project complies with Section 50560, 50561, and 50562 of the Health and Safety Code and these guidelines;~~

- (a) ~~Depending on the volume of applications and the complexity of the requested Restructurings, the Department will set minimum processing times for approval of the Restructurings and will post these on the Department's website; closing checklist ("Closing Checklist"), as may be amended. For purposes of issuing a Notice of Acceptance, the following is required, as applicable:~~
- (b) ~~In order for the Department to complete a Restructuring under these guidelines in a timely manner prior to the maturity date of the Original Program loan, the Sponsor must submit a complete application to the Department no later than six months before the maturity date of the Original Program promissory note. If an application is submitted to the Department less than six months before the maturity date, the late submission is not a bar to Restructuring under these guidelines;~~

The Department will

- (1) Non-refundable application fee;
- (2) Diagram of organizational structure for both the existing and proposed Borrower(s);
- (3) All applicable organizational documents, resolutions, authorizations, and any amendments thereto;
- (4) Signature blocks for both the existing and proposed Borrowers;
- (5) Evidence of welfare property tax exemption;
- (6) Proof of 501(c)(3) eligibility status;
- (7) Consent acknowledgement(s) in writing for all parties as specified in Section 103(c);
- (8) Copies of all existing loan documents associated with the Project;
- (9) Proposed construction and permanent development budgets;
- (10) Proposed sources and uses;
- (11) Proposed operating budget;
- (12) SRI;
- (13) Preliminary title report dated within 30 days of application;
- (14) In the case of a Scattered Sites Project, a 10-mile-radius scaled map indicating the location of the Scattered Sites Project.
- (15) A preliminary draft of the relocation plan;

- (16) Property condition assessment(s); and
- (17) Proposed sources and uses for any Extracted Equity (if applicable).
- (b) An application shall NOT be deemed complete until the Department receives and approves the supporting documentation as specified in the Closing Checklist. The Department recommends that completed applications be submitted no later than six months prior to the anticipated closing date.
- (c) Original Program loans that mature prior to the completion of the Restructuring must meet the definition of a Qualifying Unpaid Matured Loan.
- (d) The Department may use available documentation contained in its files or any other source to determine~~confirm~~ the accuracy and reasonableness of information contained in the application;
- (c) ~~Prior to closing the transaction, the current Sponsor or new Sponsor, as applicable, shall submit additional information, documents, instruments and certifications as deemed necessary by the Department.~~

*NOTE: Authority cited: Section 50560(h), Section 50406.4 Health and Safety Code.  
Reference: Section 50560, ~~50564~~Section 50561, Section 50562, Section 50565, Health and Safety Code.*

### **Section 112. ~~Section 112.~~ Underwriting and Other Requirements**

The underwriting requirements for ~~Sponsors of Projects requesting a Restructuring~~ shall be those contained in the ~~Uniform Multifamily Regulations, UMRs,~~ set forth in 25 CCR ~~Section~~Sections 8301, 8303, 8308, 8309, 8310, 8311, ~~8312 and to~~8313, 8313.2, 8314, 8315, 8316, 8317 and the MHP Guidelines Sections 7301, 7303, 7308, 7309, 7312, 7313, 7315, 7326, except for the following:

- (a) ~~New replacement reserve deposit requirements shall be based on a third party physical needs assessment and replacement reserve analysis projecting the replacement costs, adjusted for inflation, over 20 years of operations;~~
- (a) Commercial vacancy assumptions shall be based on the operating history, including and/or current leases and master leases, of the Project;
- (b) Any income from Commercial Space, or from commercial use, shall be included with residential income (including non-assisted unit income) for purposes of calculating Operating Income;
- (c) Operating expenses shall be based on the actual operating history of the Project, as evidenced by the Project's previously submitted annual reports and audits, ~~as well as the minimum expense requirements stated in CCR title 4, Division 17, Chapter 1,~~

~~Section 10327. However, Operating Expenses shall~~may be adjusted to reflect efficiencies realized through the creation of a Scattered Site Project or to reflect improvements that are being made through the~~any~~ rehabilitation, which may reduce operating expenses;

- (b) ~~Except for transactions involving Extracted Equity, there is no minimum or maximum debt service coverage ratio for Projects that do not request a Special Rent Increase. For Projects that do request Special Rent Increases, the debt service coverage ratio must comply with the UMRs. At its sole discretion, the Department may allow an exception, but only where necessary to meet a reasonable requirement of another funding source; but Fiscal Integrity must be achieved~~
- (d) ~~Where a Project is receiving project-based rental or operating assistance that is terminated by the subsidy provider, Rents for Assisted Units previously covered by this assistance, and that are restricted pursuant to Section 108 to a level below 30 percent of 50 percent of area median income, may be increased above the levels stipulated in Section 108, but only to the minimum extent required for Fiscal Integrity, as determined by the Department, and in no event exceeding 30 percent of 50 percent of area median income;~~105(a).

Net developer Fee

- (e) ~~For tax credit Projects, Developer fees shall not exceed the amount that may~~only be included~~payable~~ in basis under the event of a resyndication involving major rehabilitation, as defined by the Low-Income Housing California Tax Credit Program Allocation Committee in regulations.
- (f) The limits on developer fees shall be as follows:
- (1) For non-tax credit Projects, no greater than 25% of the actual rehabilitation costs;
  - (2) For 9 percent tax credit rules if a Special Rent Increase is requested. If a Special Rent Increase is not requested, the developer fee is not limited by these Guidelines but must comply with limitationsProjects, UMR Section 8312(b) shall apply;
  - (3) For Projects utilizing 4 percent tax credits, the UMR Section 8312(c) shall apply;
  - (4) For all Projects, UMR Section 8312(d) does not apply and UMR Section 8312(e) shall apply.

Notwithstanding the foregoing, more restrictive limits imposed by other funding sources; shall apply.

- (g) UMR 8310(f) shall apply except that balloon payments of less than 15 years are prohibited unless if they mature during the Project demonstrates term of the Department loan.
  
- (c) Any Sponsor loan or carryback financing shall be junior to the Department's satisfaction, that it will have sufficient operating income, Department Loan Documents and income obtained through refinancing or other means, to be able to pay off the balloon payment;  
be payable only out of Distributions (
- (h) Except as noted in this subsection, Project sales described in UMR Section 8314(a)(2)) or with available funds at the termination of the Department LPR Regulatory Agreement and full repayment of the Department loan.
  
- (d) Except for transactions involving Extracted Equity which are subject to the requirements of Section 109, Restructurings shall not involve a cash payment to the selling party, or to any party related to or affiliated with the selling

- (i) ~~party. The~~ Sponsor, seller, or buyer. Projects may not cash out their equity. The exception to this rule applies to cases where a cash payment to the seller is held in a restricted account, is contributed to the Project during the development period, and remains with the Project as permanent funding. ~~In addition, any Sponsor loans related to the Restructuring, including carryback financing, shall be payable only out of sponsor distributions.~~
- (j) The original lien priority of the Original Program loan established between the Department and any locality will be retained when there is no new funding from the locality.
- (k) MHP Section 7312(f)(2) shall not apply.
- (l) Notwithstanding the above underwriting requirements, where a project involves single-room occupancy units that will be rehabilitated or replaced, rents shall comply with Government Code Section 66300.6 and 66300.6.5 and Health and Safety Code Section 50406.6.

*NOTE: Authority cited: ~~Section~~ Sections 50406.6, 50560(h), Health and Safety Code. Reference: Section and 50561(g), Health and Safety Code; Sections 66300.6 and 66300.6.5, Government Code; and Sections 8301, 8303, 8309, 8310, 8311, 8313, 8313.2, 8314, 8315, 8316, 8317, 7301, 7303, 7308, 7309, 7312, 7313, 7315, and 7326, Title 25, California Code of Regulations.*

### **Section 113. Department Fees**

- (a) ~~If a Restructuring involves an extension of the Department's loan or loans, The~~ Department shall charge a non-refundable fee payable at application submittal. Applications that are deemed inactive by the Department shall be terminated and any subsequent applications shall be subject to a new application fee. The following fees are due upon application:
  - (1) \$2,500 for a single Project site with one Department program loan or grant and each of the following as applicable;
  - (2) \$1,500 for each additional Project site;
  - (3) \$1,500 for each additional Department loan or grant;
  - (4) \$1,500 for each leasehold estate

#### Example 1:

An application with one leasehold site and three Department loans or grants would have an initial non-refundable fee of \$7,000.

Type of Fee	Quantity	Amount
One Project site with a single Department loan or grant	1	\$2,500
Each additional Department loan or grant	2	\$3,000
Leasehold	1	\$1,500
Total		\$7,000

Example 2:

An application with three sites and a total of five Department loans or grants amongst the three sites would have an initial non-refundable application fee of \$11,500.

Type of Fee	Quantity	Amount
One Project site with a single Department loan or grant	1	\$2,500
Each additional Project site	2	\$3,000
Each additional Department loan or grant	4	\$6,000
Total		\$11,500

(b) monitoring  
Closing Fees

The Department shall charge a fee payable prior to or upon Restructuring as follows:

- (1) A \$9,000 fee shall apply to the following:
  - (A) an extension only; or
  - (B) loan payoff pursuant to Section 110 that does not involve Extracted Equity or subordination of the Department Loan Documents.
- (2) For Restructurings involving of any of the following: tax credits, subordination of Department Loan Documents to new debt that does not involve the creation of a new Scattered Site Project, a \$55,000 fee shall apply.
- (3) For Restructurings that result in the creation of a new Scattered Site Project pursuant to Section 102(d), a \$65,000 fee shall apply.
- (4) For Restructurings that involve Extracted Equity, a \$75,000.00 fee shall apply in addition to any applicable fee(s) as specified in Section 109.

(c) Miscellaneous Fees:

In addition to the fees above, the following may apply:

- (1) \$5,000 for each Redraw, due upon transaction closing;
- (2) \$2,500 for each additional document the Department is requested to produce, review and/or approve prior to permanent loan conversion, such as, but not limited to, a letter of good standing, estoppel, junior lender approval, general partner substitution, etc. The Borrower or Sponsor must submit the payment prior to production of any such document(s).

(d) Monitoring Fees:

- (1) The Department shall charge a fee to cover its monitoring costs for the period of the extension all Restructuring transactions. This fee may monitoring fee is a mandatory operating expense, effective upon recordation of the Department Loan Documents, which is to be paid annually or through a single payment made at prior to determining the time use of cash flow pursuant to UMR Section 8314, for the Restructuring. The fee may also be waived or deferred by entire term of the Department, in accordance with the provisions of subsection (f) below LPR Regulatory Agreement, regardless of any loan pay-down or repayment. If the Department has Restructuring more than one loan on a single Project, it shall charge only one fee a single monitoring fee. This LPR monitoring fee shall be in addition to any mandatory payments required by the Department for loans not being restructured under LPR.
- (2) For Original Program loans that included a mandatory debt service payment to the Department:
- (A) The Original Program annual debt service payment shall be prorated through the date of Restructuring, paid upon Restructuring, and applied to the outstanding loan balance, if any.
- (B) Upon Restructuring, the Original Program mandatory annual debt service payment shall apply but be recharacterized as the LPR monitoring fee is paid annually. This LPR monitoring fee shall no longer be applied to the outstanding loan balance including interest, if any.
- (C) The LPR monitoring fee shall be prorated on the basis of a 360-day year, for the first annual payment year in which monitoring fees are due, be payable to the Department commencing on the last day of the Initial Operating Year and annually on each anniversary date thereafter. The LPR monitoring fee shall remain constant, save for the annual CPI adjustment stated in Section 113(d)(4), regardless of any paydown of the original loan amount, for the duration of the LPR regulatory term.
- (D) All LPR loan interest shall be deferred and payable only from Operating Income remaining after the payment of approved Operating Expenses, debt service on other loans, and reserve deposits.
- (E) HUD Section 202 and 811 Projects will be subject to the requirements of this subsection.
- (3) For Original Program loans that required a mandatory, annual monitoring fee payment to the Department, the monitoring fee shall continue to be calculated

in accordance with the Original Program requirements for the duration of the regulatory term.

- (4) For Original Program loans that did not include a mandatory annual payment to the Department, the first annual monitoring fee shall be due on the last day of the Project fiscal year immediately following the maturity date recordation of the Original Program loan. Department Loan Documents. Monitoring fees shall be prorated on the basis of a 360-day year for the first year in which monitoring fees are due.

The amount of monitoring fee payments are as follows:

Total Project Units	Monitoring Fee Single Project Site	Additional Monitoring Fee Each Additional Project Site
12 or fewer	\$7,075	\$5,660
13 – 59	\$14,150	\$11,320
60 – 99	\$21,226	\$16,981
100 and over	\$25,000	\$20,000

~~the payment for 2014 shall be \$5,000 for projects~~

For Scattered Sites Projects, the total LPR monitoring fee shall be calculated using the monitoring fee applicable to the Project site with 42 or fewer the most units, \$10,000 for projects with 13 to 60 (Column 1), plus an additional monitoring fee for each additional Project site (Column 2).

Example:

- (a) A Scattered Sites Project consisting of three Project sites with 101 units, and \$15,000 for projects with over 60 50 units. To cover inflation, and 10 units, respectively, would have an LPR monitoring fee calculated as follows: \$25,000 for the Project with 101 units (e.g. highest number of units), plus \$11,320 for the 50 unit and \$5,660 for the 10 unit Project sites, for a total LPR monitoring fee of \$41,980.

Commencing in year 2027, these amounts shall be increased by each year beyond 2014 annually in accordance with changes in the CPI (as defined in UMR Section 8301 of the Uniform Multifamily Regulations), unless the Department determines that its monitoring costs are increasing at a lower rate.

~~The Department shall conduct an assessment of its costs no later than 2020.~~

If making

- (5) For new Scattered Sites Projects, the LPR monitoring fee a required payment negatively impacts shall be the amount of supportable senior debt with required sum of the Original Program mandatory annual payments, if any, or be based on the new Scattered Sites Project per Section 113(d)(4), whichever is greater.
- (6) For loan extensions only pursuant to Section 104, and only to the extent necessary to maintain Fiscal Integrity, the Department may allow it to be payable “below the line,” to deferral of monitoring fee payments. If the extent that the project generates sufficient cash flow, with 100% of monitoring fee is deferred, all cash flow available after payment of Operating Expenses, mandatory debt service and required reserve deposits, shall be applied first towards the HCD Department’s monitoring fee, until it is fully. The deferred monitoring fee shall accrue and be paid (within full prior to payment of deferred developer fees, asset and partnership management fees, and all other Sponsor fees (other than for property management) payable after the HCD monitoring fee is paid in full).for Distributions.
- (b) ~~If the monitoring fee is paid through a single payment at the time of Restructuring, from development sources or other funds, the amount shall equal the net present value of the payments that would have been made if the fee was paid annually, as described in subsection (b), using a discount rate of 2.18 percent, which is the average State Money Investment Fund (“SMIF”) Apportionment Rate for the period from 2002 through 2012. The Department may~~

~~adjust this rate every five years to reflect average SMIF rates over the most recent 10 year period.~~

- (c) ~~Not sooner than fifteen years following a Restructuring, the Department may adjust the amount of the monitoring fee that is paid on an annual basis to more closely match its costs. If necessary, for project feasibility, the Department may set the time of the adjustment to be up to 18 years from the date of the Restructuring.~~
- (d) ~~The Department may defer or waive some or all~~For a Qualifying Unpaid Matured Loan, monitoring fees,~~for projects meeting all of the following requirements:~~
- (1) ~~They have no term debt with required payments;~~
  - (2) ~~Net Developer Fee is less than 50% of the maximum allowable amount for projects requesting Special Rent Increases, as calculated pursuant to subsection 112(f);~~described in this subsection (d) shall apply retroactively and
  - (3) ~~Without the deferral or waiver of the monitoring commence accruing on the maturity date of the Qualifying Unpaid Matured Loan's promissory note. These fees, the project would not meet the underwriting requirements specified in Section 112.~~

~~The Department may also defer or waive some or all monitoring fees for Projects requesting only loan extensions where Sponsor contributions are required to project positive cash flow for 15 years.~~

- (e) ~~For the projects identified in subsections (f) or (g), the Department may make payment of its monitoring fee a "below the line" expense, payable to the extent that the project generates sufficient cash flow. In this case, cash flow available after payment of operating expenses and required reserve deposits shall be applied:~~
- (1) ~~First, towards the Department's monitoring fee, up to 50% of the total fee amount, then~~
  - (2) ~~Second, 50% towards the Department's monitoring fee, until it is fully paid, and 50% towards deferred developer fees, asset and partnership management fees, and any other sponsor fees that would otherwise be paid on a priority basis (other than for property management), then~~
  - (3) ~~Split in accordance with the otherwise applicable cashflow waterfall.~~

(f) ~~To cover the Department's costs of processing Restructuring transactions, the Department shall charge non-refundable fees as follows:~~

(1) ~~\$1,000 payable upon submission of the initial application.~~

- (2) ~~\$9,000 payable prior to recordation of any regulatory agreement authorizing an Early Special Rent Increase.~~
- (3) ~~\$4,000 payable upon paid in full at time of closing of a the Restructuring transaction limited to the extension of a Department loan or loans.~~
- (7) ~~\$39,000 payable upon closing of a Restructuring transaction involving refinancing of senior debt, syndication, or both, with or without an extension of the Department's loan or loans.~~

NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50561(a), Health and Safety Code. 25 CCR Sections 8303, 8314, 8317.

### **Section 114. Use of Operating Cash Flow**

- (a) ~~The new Department Loan Documents recorded as part of the Restructuring will require use of operating cash flow to comply with UMR Section 8314 of the Uniform Multifamily Regulations, except as set forth in subsection (b) and (c) and Section 113(h);~~
- (b) Residual receipts payments that are required to be paid to the Department shall be structured to avoid a reduction in the amount of residual receipt loan payments made to local public agencies due solely to the change in payment terms on the Department's loan, or as a result of previously separate sites being combined into one Project. In the event that the cash flow pro forma submitted in the LPR application shows that there will be a reduction in the amount of local public agencies' loan payments from residual receipts solely due to the change in the Department's loan terms or the combination of sites into one Project, the Department's Regulatory Agreement shall provide for a specified amount or percentage of residual receipts to be paid to the local public agency, as long as if there is sufficient cash flow for that amount to be paid each year;
- (a) ~~Any income from commercial space shall be included with residential income (including non-assisted unit income) for purposes of calculating uses of operating cash flow.~~

NOTE: Authority cited: Section 50560(h), Section 50561(a), Health and Safety Code. Reference: Section 50561(a) and (g), Health and Safety Code.

### **Section 115. On-going Management Requirements**

~~The Department shall require submission of information to comply with Section 50561(i) of Chapter 3.9. With the exceptions noted elsewhere in these Guidelines, the following MHPUMR and Uniform Multifamily RegulationMHP Sections are incorporated by reference into these Guidelines and shall apply to each Project after Restructuring:~~

- (a) The following Uniform Multifamily RegulationsUMR Sections:

- (1) Section 8305, Tenant Selection;
  - (2) Section 8306, Tenant Recertification;
  - (3) Section 8307, Rental Agreement and Grievance Procedure;
  - (4) Section 8308, Operating Reserves;
  - (5) Section 8309, Replacement Reserves;
  - (6) Section 8314, Use of Operating Cash Flow.
- (b) The following MHP ~~Regulations~~Guidelines:
- (1) Section 7311;
  - (2) Section 7312(a), (c) and (e), Rent Standards;
  - (3) Section 7322, Sales, Transfers, Encumbrances, and Loan Payoff; with the exception of subdivision (e) to be replaced with the following: (e) No Department loan may be paid off prior to maturity without the prior written consent of the Department in its sole discretion, which consent shall be subject to conditions deemed necessary to ensure compliance with the Program requirements;
  - (4) Section 7323, Defaults and Loan Cancellations with the exception of subdivisions (c) and (d);
  - (5) Section 7324, Management and Maintenance;
  - (6) Section 7325, Reporting;
  - (7) Section 7326, Operating Budget.

*NOTE: Authority cited: Section 50560(h), Health and Safety Code. Reference: Section 50560, Section 50561, Section 50562, Health and Safety Code. 25 CCR Sections 7311, 7312, 7323, 7324, 7325, 7326, 8305, 8306, 8307, 8308, 8309, and 8314.*