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DATE: June 24, 2020

TO: Low Income Housing Tax Credit Stakeholders

FROM: Gina Ferguson, Development Section Chief

SUBJECT: 2020 Second Round Guidance

With this memorandum, the California Tax Credit Allocation Committee (TCAC) is providing guidance for prospective applicants. In the event of a conflict with prior guidance, this guidance shall supersede.

Advisory Guidance to Applicants

During first round reviews of nine percent (9%) and four percent (4%)-plus-State credit applications, TCAC staff noted items to clarify for future applicants based on regulation requirements. The following items and corresponding application content expectations were identified.

Multi-phase Housing Developments

If the application submitted is part of a phased development, please provide a detailed description for how the current phase fits into the master plan including a description of community spaces each phase will use.

In addition to the clarifying information above, please also refer to previously posted guidance relating to multi-phase housing developments on the TCAC website:

- 2020 LIHTC Application Guidance:
(<https://www.treasurer.ca.gov/ctcac/2020/applications/2020-Application-Guidance.pdf>)

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Developer Fee – Simultaneous Phases

The provisions of 10327(c)(2)(A) and (2)(B) apply to projects developed as multiple simultaneous phases using the same credit type (all 9% or all 4% credits) in both phases, except for an all 9% credit phased project in which the immediately preceding phase includes 150 or more total units. Only when the immediately preceding phase of an all 9% credit phased project equals or exceeds 150 units or when any other phased project is using both credit types shall the applicable provision of 10327 (c)(2)(A) or (2)(B) apply to each phase independently. For purposes of this limitation, “simultaneous” refers to projects consisting of a single building, or projects on the same parcel or on parcels within ¼ mile of each other and with construction start dates within six months of each other, or completion dates that are within six months of each other.

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Service Amenities

Staff noted a lack of clarity in the Service Amenity section of the application. The location of services being provided and the costs associated were not clearly evident based on the documentation provided. In cases where a project had multiple service providers and Memorandums of Understanding (MOUs) for a service amenity, the MOUs did not clearly state the number of hours, full time equivalent (FTE) hours, and/or dollar amounts. In addition, the service hours, FTE hours, and services budget were inconsistent among the MOU, Attachment 24, the Excel application Service Amenities Budget, and 15 Year Pro Forma. In many cases it was unclear whether a service would be provided onsite or offsite.

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General Partner Experience

Section 10325(c)(1) requires projects seeking points for general partner experience to include Attachment 21, which lists the projects for which a general partner is seeking experience points. A certification by a third party certified public accountant is also required to confirm that the projects listed on Attachment 21 have maintained a positive operating cash flow. Staff identified instances where the projects listed on Attachment 21 did not correspond with the projects listed in the CPA certification. The CPA must certify to the projects listed on Attachment 21.

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Documenting Land Acquisition

The value of land acquired through a third party transaction with an unrelated party must be evidenced by a sales agreement, purchase contract, or escrow closing statement; the document(s) must support the amount in the Sources and Uses Budget. The value of land acquired from a related party is underwritten using the lesser of the current purchase price or appraised value pursuant to Section 10322(h)(9); these applications must include both an appraisal and purchase contract. For competitive projects, the value of donated land, including land donated as part of an inclusionary housing ordinance, must be evidenced by an appraisal pursuant to Section 10322(h)(9). Rehabilitation applications must include both an appraisal and purchase contract.

Applicants must clearly explain any unusual site control for a project (multiple contiguous site purchases, scattered sites, phased projects purchased as one site, sites purchased by an entity that is not the TCAC applicant, etc.). Explain how the land cost/value and acquisition cost in the application is

derived (for example, a phased project’s prorated land value); this must be supported by documents in the application. Site control documents must connect the applicant and the owner of the property, including necessary assignment agreements.

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Final Tie Breaker

Seller carryback financing: Seller carryback financing and any portion of a loan from a public seller or related party that is less than or equal to sale proceeds due the seller, except for a public land loan to a new construction project that is not replacing affordable housing within the footprint of the original development, shall be excluded for purposes of the tiebreaker. For example, for a \$3 million dollar loan, if \$2 million is for financing land and/or improvements and \$1 million is for financing other project costs, \$2 million would be “equal to sale proceeds due to seller.”

Ineligible Off-Site Costs: Ineligible off-site costs excluded from the final tie breaker calculation must be entered as a positive number on the row labeled “Less: Ineligible Offsites” (cell E42) in the Final Tie Breaker Self-Score sheet to assure that these costs are correctly reflected in the Final Tie Breaker pursuant to TCAC Regulation Section 10325(c)(9)(A)(i).

Attachment 12 must provide a detailed, clear description of all off-site costs. An off-site requirement as a condition of local approval does not equate to the off-site being eligible for final tiebreaker scoring; the off-site must be immediately bordering the property and be curbs, gutters, sidewalks, and/or utility connections. Many applicants continue to include non-eligible off-sites in final tiebreaker scoring, resulting in numerous tiebreaker recalculations by TCAC staff. Attachment 12 descriptions should address the location of the listed off-sites relative to the border of the property. Non-eligible off-sites that are a condition of eligible off-sites (e.g., landscaping replacement due to utility connection work) are not eligible off-sites.

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Miscellaneous

Following are examples of application errors seen in previous applications. Please review your applications carefully to avoid or correct these errors:

- Failure to include explanatory information when submitting multiple, lengthy, and interrelated documents;
- Failure to include all necessary documentation to support site amenity point requests;
- Failure to provide detailed explanations for approvals on Attachment 26 identified as “N/A”;
- Failure to properly complete the Funding Source table on Page 19 of the Application worksheet;
- Failure to comply with formula prompts in the Excel application (i.e. funding gap, exceeding limits, etc.);
- Failure to copy the correct application to the flash drive/CD/DVD ***Make sure the application being submitted is for the correct project you are submitting for.***

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2020 Second Round Guidance

Electronic Signatures

TCAC will accept DocuSign for the application attachments. TCAC will not accept DocuSign for the Applicant Statement.

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When preparing your application for the second round, please also refer to the following links on the TCAC website:

- [Current Guidance Memos](#)
- [First Round Applicants Re-applying in the Second Round](#)
- [2020 Frequently Asked Questions \(Q & A\)](#)

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If you have any questions regarding the above guidance items, please contact your regional analyst:

<http://www.treasurer.ca.gov/ctcac/assignments.pdf>.