



## CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: March 6, 2019

TO: Low Income Housing Tax Credit Project Applicants and Owners

FROM: California Tax Credit Allocation Committee – Development Section

RE: TCAC Lease Rider Process

The California Tax Credit Allocation Committee (TCAC) requires a Lease Rider Agreement for all housing projects developed under leasehold interests (ownership of project building(s) with a land “ground” lease). This memo is to provide information about the process for the TCAC lease rider.

The [TCAC lease rider template](#) is available on the TCAC website. The TCAC lease rider can be executed at the time the ground lease is executed, or any time thereafter until immediately preceding the TCAC regulatory agreement recordation. Due to the unique nature of tribal lands, TCAC requires the TCAC lease rider to be attached to any ground lease at the time it is submitted to the Bureau of Indian Affairs (BIA). Forms 8609 will not be released until a TCAC lease rider is executed by all parties. The TCAC lease rider template is not a document subject to negotiated variations. Proposed changes, either substantive or clarifying, will not be accepted. Section 20 is reserved for addressing circumstances unique to a particular project and any additions to this section must be approved by TCAC. If you have questions or comments about template sections or specific language as you review or prepare, contact the TCAC staff below.

Please note:

- The TCAC lease rider must be recorded ahead of the TCAC regulatory agreement.
- The TCAC lease rider legal description is the fee simple interest.
- The TCAC regulatory agreement legal description is the leasehold interest.

In preparing and reviewing the TCAC lease rider and regulatory agreement, TCAC staff verifies the accuracy of the legal descriptions. Often there is a lack of understanding of the two legal descriptions on the part of project owner staff. Providing inaccurate legal descriptions results in delays in executing these agreements and considerable time spent in correspondence between TCAC staff and the project

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owner staff. TCAC staff encourages those preparing and reviewing the TCAC lease rider and regulatory agreement to consult with the development team member most knowledgeable about these legal descriptions.

Once the TCAC lease rider has been reviewed by all parties, TCAC will verify the final document. At that time the document may be circulated for signatures. TCAC will sign last to ensure consistency with the approved document. TCAC will send the documents (the TCAC lease rider and, if applicable, the TCAC regulatory agreement) with recording instructions to the county recorder's office unless the owner requests to process the recording. Owner recording must be approved by TCAC. The TCAC lease rider must be recorded ahead of the TCAC regulatory agreement.

For questions about the TCAC lease rider or the process please contact [Marisol Parks](#) or [Richard Chinakwe](#).