

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE REGULATIONS IMPLEMENTING THE
FEDERAL AND STATE LOW INCOME HOUSING TAX CREDIT LAWS

CALIFORNIA CODE OF REGULATIONS
TITLE 4, DIVISION 17, CHAPTER 1

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Section 10300. Purpose and Scope.

These regulations establish procedures for the reservation, allocation and compliance monitoring of the Federal and State Low-Income Housing Tax Credit Programs (“Housing Tax Credit Programs”, “Programs”, or individually, “Federal Program” or “State Program”) and establish policies and procedures for use of the Tax Credits to meet the purposes contained in Section 252 of Public Law No. 99-514 (October 22, 1986), known as the Federal Tax Reform Act of 1986, as amended, and Chapter 658, California Statutes of 1987, as amended, and Chapter 1138, California Statutes of 1987, as amended.

Internal Revenue Code (“IRC”) Section 42 provides for state administration of the Federal Program. California Health and Safety (H & S) Code Sections 50199.4 through 50199.22, and California Revenue and Taxation (R & T) Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5 establish the

California State Program and designate the California Tax Credit Allocation Committee (“CTCAC”) as the Housing Credit Agency to administer both the Federal and State Housing Tax Credit programs in California. These regulations set forth the policies and procedures governing the Committee’s management of the Programs. In addition to these regulations, program participants shall comply with the rules applicable to the Federal Program as set forth in Section 42 and other applicable sections of the Internal Revenue Code. In the event that Congress, the California Legislature, or the IRS add or change any statutory or regulatory requirements concerning the use or management of the Programs, participants shall comply with such requirements.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Section 10302. Definitions.

- (a) **Adaptive reuse.** Adaptive reuse means retrofitting and repurposing of existing buildings that create new residential rental units, and expressly excludes any project that involves rehabilitation of any construction affecting existing residential units. Adaptive reuse may include retrofitting and repurposing of existing hotels or motels if the hotel or motel is not currently a place of residence for the occupants, and/or sites that received a Project Homekey allocation.
- (b) **AHP.** The Affordable Housing Program of the Federal Home Loan Bank.
- (c) **Allocation.** The certification by the Committee of the amount of Federal, or Federal and State, Credits awarded to the applicant for purposes of income tax reporting to the IRS and/or the California Franchise Tax Board (“FTB”).
- (d) **Applicable Credit Percentage.** The monthly rate, published in IRS revenue rulings pursuant to IRC Section 42(b)(1), applicable to the Federal Program for purposes of calculating annual Tax Credit amounts.
- (e) **Bath or bathroom.** A bath or bathroom must be equipped with an exhaust fan, a toilet, a sink, a shower or bathtub, and a receptacle outlet.
- (f) **Bedroom.** A bedroom be at least 70 square feet, must include an interior door, a closet or free-standing wardrobe provided by the project owner, and at least one receptacle outlet.
- (g) **Capital Needs Assessment or CNA.** The physical needs assessment report required for all rehabilitation projects, described in Section 10322(h)(26)(B).
- (h) **Chairperson.** The Chairperson of the California Tax Credit Allocation Committee.
- (i) **Committee.** The California Tax Credit Allocation Committee (“CTCAC”) or its successor.
- (j) **Community Foundation.** A local foundation organized as a public charity under section 509(a)(1) of the Internal Revenue Code.
- (k) **Compliance Period.** That period defined by IRC Section 42(i)(1) and modified by R & T Code Section 12206(h), and further modified by the provisions of these regulations.
- (l) **Credit(s).** Housing Tax Credit(s), or Tax Credit(s).
- (m) **Credit Ceiling.** The amount specified in IRC Section 42(h)(3)(C) for Federal Program purposes (including the unused credits from the preceding calendar year, the current year’s population based

credits, returned credits and national pool credits), and in R & T Code Section 17058(g) for State Program purposes.

- (n) CTCAC. California Tax Credit Allocation Committee.
- (o) Developer Fee. All Funds paid at any time as compensation for developing the proposed project, to include all processing agent fees, developer overhead and profit, construction management oversight fees if provided by the developer, personal guarantee fees, syndicator consulting fees, and reserves in excess of those customarily required by multi-family housing lenders.
- (p) Development Team. The group of professionals identified by the applicant to carry out the development of a Tax Credit project, as identified in the application pursuant to subsection 10322(h)(5).
- (q) Eligible Project. A proposed 9% Tax Credit project that has met all of the Basic Threshold Requirements and Additional Threshold Requirements described in Sections 10325(f) and (g) below.
- (r) Executive Director. The executive director of the California Tax Credit Allocation Committee.
- (s) Farmworker Housing. A development of permanent housing for agricultural workers (as defined by California Labor Code Section 1140.4(b)) in which at least 50 percent of the units are available to, and occupied by, farmworkers and their households. The Committee may permit an owner to temporarily house non farmworkers in vacant units in the event of a disaster or other critical occurrence. However, such emergency shelter shall only be permitted if there are no pending qualified farmworker household applications for residency.
- (t) Federally Subsidized. As defined by IRC Section 42(i)(2).
- (u) Federal Credit. The Tax Credit for low-income rental housing provided under IRC Section 42 and implemented in California by the Committee.
- (v) Financial Feasibility. As required by, IRC Section 42(m)(2), and further defined by these regulations in Section 10327.
- (w) FTB. State of California Franchise Tax Board.
- (x) Hard construction costs. The amount of the construction contract, excluding contractor profit, general requirements and contractor overhead.
- (y) High-Rise Project(s). A project which applies for a Credit reservation pursuant to Section 10325 in which 100 percent (100%) of the residential units are Tax Credit Units and for which the project architect has certified concurrently with the submission of an application to the Committee that (1) one or more of the buildings in the project would have at least six stories; and (2) the construction period for the project is reasonably expected to be in excess of 18 months.
- (z) Homeless. As defined by Section 10315(b)(1) through (4).
- (aa) Hybrid project or development. A new construction development constructed with separate 9% and 4% Federal Credit Allocations. The development must meet the conditions set forth in Section 10325(c)(9)(A).
- (bb) IRS. United States Internal Revenue Service.
- (cc) Local Development Impact Fees. The amount of impact fees, mitigation fees, or capital facilities fees imposed by municipalities, county agencies, or other jurisdictions such as public utility districts, school districts, water agencies, resource conservation districts, etc.

- (dd) Local Reviewing Agency. An agency designated by the local government having jurisdiction that will perform evaluations of proposed projects in its locale according to criteria set forth by the Committee.
- (ee) Low-Income Unit. As defined by IRC Section 42(i)(3).
- (ff) Market-Rate Unit. A unit other than a Tax Credit Unit as defined by these regulations.
- (gg) MHP. Multifamily Housing Program of California's Department of Housing and Community Development.
- (hh) "Net Project Equity" shall mean the total sale or refinancing proceeds resulting from a Transfer Event less the payment of all obligations and liabilities of the owner, including any secured and unsecured related and third-party debt thereof (including, without limitation, repayment of deferred developer fees and repayment of any advances made by a partner to fund operating and/or development deficits).
- (ii) Net Tax Credit Factor. The estimated or actual equity amount raised or to be raised from a tax credit syndication or other instrument, not including syndication related expenses, divided by the total amount of Federal and State Tax Credits reserved or allocated to a project. The calculation must include the full ten-year amount of Federal Tax Credits and the total amount of State Tax Credits.
- (jj) QAP. The "Low Income Housing Tax Credit Program Qualified Allocation Plan," as adopted in regulation Sections 10300 et. seq., and in accordance with the standards and procedures of IRC Section 42(m)(1)(B).
- (kk) "Qualified Capital Needs Assessment" shall mean a capital needs assessment for a property subject to a Transfer Event dated within one hundred eighty (180) days of the proposed Transfer Event which (i) meets the requirements of (a) the Fannie Mae Multifamily Instructions for the PNA Property Evaluator, (b) Freddie Mac's Property Condition Report requirements in Chapter 14 of the Small Balance Loan Addendum, (c) HUD's Multifamily Capital Needs Assessment section in Appendix 5G of the Multifamily Accelerated Process Guide, or (d) Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process (ASTM Designation E 2018-08) utilizing a recognized industry standard to establish useful life estimates for the replacement reserve analysis, and (ii) clearly sets forth (a) the capital needs of the project for the next three (3) years (the "Short-Term Work") and the projected costs thereof, and (b) the capital needs of the project for the subsequent twelve (12) years (the "Long Term Work") and the projected contributions to reserves that will be needed to accomplish that work.
- (ll) Qualified Nonprofit Organization. An organization that meets the requirements of IRC Section 42(h)(5), whose exempt purposes include the development of low-income housing as described in IRC Section 42, and which, if a State Tax Credit is requested, also qualifies under H & S Code Section 50091.
- (mm) RHS. United States Rural Housing Service, formerly Rural Housing and Community Development Service or RHCDS, formerly Farmers Home Administration or FmHA
- (nn) Related Party.
 - (1) the brothers, sisters, spouse, ancestors, and direct descendants of a person;
 - (2) a person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
 - (3) two or more corporations, general partnership(s), limited partnership(s) or limited liability corporations connected through debt or equity ownership, in which

- (A) stock is held by the same persons or entities for
 - (i) at least 50% of the total combined voting power of all classes that can vote, or
 - (ii) at least 50% of the total value of shares of all classes of stock of each of the corporations or
 - (iii) at least 50% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing that voting power or value, stock owned directly by that other corporation;
 - (B) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity from which income is derived;
 - (C) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity where a sale-leaseback transaction provides the parent or related entity with income from the property leased or that creates an undue influence on the separate entity as a result of the sale-leaseback transaction;
 - (D) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, of a separate entity where an interlocking directorate exists between the parent or related entity and the separate entity.
- (4) a grantor and fiduciary of any trust;
 - (5) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
 - (6) a fiduciary of a trust and a beneficiary of that trust;
 - (7) a fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust or by or for a person who is a grantor of the trust;
 - (8) a person or organization and an organization that is tax-exempt under Subsection 501(c)(3) or (4) of the IRC and that is affiliated with or controlled by that person or the person's family members or by that organization;
 - (9) a corporation and a partnership or joint venture if the same persons own more than:
 - (A) 50% in value of the outstanding stock of the corporation; and
 - (B) 50% of the capital interest, or the profits' interest, in the partnership or joint venture;
 - (10) one S corporation or limited liability corporation and another S corporation or limited liability corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;
 - (11) an S corporation or limited liability corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation;
 - (12) a partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or
 - (13) two partnerships where the same person or organization owns more than 50% of the capital interests or profits' interests.

The constructive ownership provisions of IRC Section 267 also apply to subsections 1 through 13 above. The more stringent of regulations shall apply as to the ownership provisions of this section.

- (oo) Reservation. As provided for in H & S Code Section 50199.10(e) the initial award of Tax Credits to an Eligible project. Reservations may be conditional.

- (pp) Resyndication: A project subject to an existing tax credit regulatory agreement that is awarded a new allocation of tax credits to preserve and extend the affordability of the project.
- (qq) Rural. An area defined in H & S Code Section 50199.21.
- (rr) Scattered Site Project. A project in which the parcels of land are not contiguous except for the interposition of a road, street, stream or similar interposition.
- (1) For acquisition and/or rehabilitation projects with one pre-existing project-based Section 8 contract in effect for all the sites, there shall be no limit on the number or proximity of sites.
 - (2) For acquisition and/or rehabilitation projects with any of the following: (A) existing federal or state rental assistance or operating subsidies, (B) an existing CTCAC Regulatory Agreement, or (C) an existing regulatory agreement with a federal, state, or local public entity, the number of sites shall be limited to five, unless the Executive Director approves a higher number, and all sites shall be either within the boundaries of the same city, within a 10-mile diameter circle in the same county, or within the same county if no location is within a city having a population of five-hundred thousand (500,000) or more.
 - (3) For new construction projects and all other acquisition and/or rehabilitation projects, the number of sites shall be limited to five, and all sites shall be within a 1-mile diameter circle within the same county.
- (ss) Single Room Occupancy (SRO)/Studio: A unit that may or may not include a complete private bath and kitchen but generally does not have a separate bedroom. A complete private bath consists of a toilet and shower, with a vanity sink that may or may not be in the same room. SRO units in projects with an existing regulatory agreement recorded with CTCAC or another government agency shall be deemed having met the requirements of an SRO/Studio. Projects containing units that do not have complete private baths shall provide at least one bath per eight units and at least one complete bath per floor. Common kitchen facilities shall be provided for units without complete kitchens. CTCAC uses SRO and Studio interchangeably but recognizes some jurisdictions may not, and the project shall comply with all local regulations.
- (tt) State Credit. The Tax Credit for low-income rental housing provided by the Revenue and Taxation Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5, including the State Farmworker Credit, formerly the Farmworker Housing Assistance Program provided by the Revenue and Taxation Code Sections 12206, 17058, and 23610.5 and by the Health and Safety Code Sections 50199.2 and 50199.7.
- (uu) Tax Credit Units. Low-Income Units and manager units.
- (vv) Tax-Exempt Bond Project. A project that meets the definition provided in IRC Section 42(h)(4).
- (ww) Tax forms. Income tax forms for claiming Tax Credits: for Federal Tax Credits, IRS Form 8609; and, for State Tax Credits, FTB Form 3521A.
- (xx) "Transfer Event" shall mean (i) a transfer of the ownership of a project, (ii) the sale or assignment of a partnership interest in a project owner and/or (iii) the refinancing of secured debt on a project. The following shall not be deemed a Transfer Event: (i) the transfer of the project or a partnership or membership interest in a project owner in which reserves remain with the project and the debt encumbering the project is not increased, refinanced or otherwise modified, (ii) the refinancing of project debt which does not increase the outstanding principal balance of the debt other than in the amount of the closing costs and fees paid to the project lender and third parties as transaction

Three to four projects in service more than three years, of which one shall be in service more than five years and two shall be California Low-Income Housing Tax Credit projects 5 points

Five or more projects in service more than three years, of which one shall be in service more than five years and two shall be California Low-Income Housing Tax Credit projects 7 points

For special needs housing type projects only applying through the Nonprofit set-aside or Special Needs set-aside only, points are available as described above or as follows:

Three Special Needs projects in service more than three years and one California Low-Income Housing Tax Credit project which may or may not be one of the three special needs projects 5 points

Four or more Special Needs projects in service more than three years and one California Low-Income Housing Tax Credit project which may or may not be one of the four special needs projects 7 points

- (ii) General partners with fewer than two (2) active California Low Income Housing Tax Credit projects in service more than three years, and general partners for projects applying through the Nonprofit or Special Needs set-aside with no active California Low Income Housing Tax Credit projects in service more than three years, shall contract with a bona-fide management company currently managing two (2) California Low Income Housing Tax Credit projects in service more than three years and which itself earns a minimum total of two (2) points at the time of application.
- (iii) Tribal applicants may contract with a developer who will not be a general partner and receive points commensurate with the developer's experience pursuant to clauses (i) and (ii). The contract shall be in effect at least until the issuance of 8609 tax forms. Tribal applicants exercising this option, including the option in the next paragraph, shall also contract for asset management for at least the term of the 15-year federal compliance period with an entity that has asset managed at least two Low-Income Housing Tax Credit projects for more than three years.

For purposes of this clause only, a developer may include an entity pre-approved by CTCAC that has developed but not owned the requisite number of projects described in (i) and that provides the certification from a third party certified public accountant described above for the projects for which experience points are requested. If the projects for which the entity requests experience points do not include two (2) active California Low Income Housing Tax Credit projects in service more than three years, the applicant shall contract with a bona-fide management company pursuant to clause (ii). For this purpose only, "develop" shall mean developing the project scope and timeline, securing financing, hiring or performing the services of a general contractor, and overseeing completion of construction and placement in service as well as asset managing the project for at least three years after placed in service. When seeking pre-approval the entity shall provide copies of contracts demonstrating that the standards have been met.

In applying for and receiving points in this category, applicants assure that the property shall be operated by a general partner in conformance with Section 10320(b).

Management Company experience points may be given based on the experience of the principals involved, or on the experience of municipalities or other nonprofit entities that have experience but have formed single-asset entities for each project in which they have participated, notwithstanding that the entity itself would not otherwise be eligible for such points. For qualifying experience, "principal" is defined as an individual overseeing the day-to-day operations of affordable rental projects as senior management personnel of the General Partner or property management company.

- (2) Negative points. Negative points, up to a total of 10 for each project and/or each violation, may be given at the Executive Director's discretion for general partners, co-developers, management agents, consultants, guarantors, or any member or agent of the Development Team as described in Section 10322(h)(5). Notwithstanding the foregoing and (B) below, failure to meet the requirements of Section 10325(c)(7) shall result in rescission of the Tax Credit Reservation or negative points. Negative points may be assessed for items including, but not limited to:
- (A) failure to utilize committed public subsidies identified in an application, unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant's control;
 - (B) failure to utilize Tax Credits within program time guidelines unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant's control;
 - (C) failure to submit the placed-in-service application by the deadline required in Section 10322(i);
 - (D) removal or withdrawal under threat of removal as general partner from a housing tax credit partnership;
 - (E) failure to provide physical amenities or services or any other item for which points were obtained (unless funding for a specific services program promised is no longer available);
 - (F) failure to correct serious noncompliance after notice and cure period within an existing housing tax credit project in California;
 - (G) serious, after a notice and cure period, or repeated failure to submit required compliance documentation for a housing Tax Credit project located anywhere;
 - (H) failure to perform a tenant income recertification upon the first anniversary following the initial move-in certification for all one hundred percent (100%) tax credit properties, or failure to conduct ongoing annual income certifications in properties with non-tax-credit units;
 - (I) material misrepresentation of any fact or requirement in an application;
 - (J) failure of a building to continuously meet the terms, conditions, and requirements received at its certification as being suitable for occupancy in compliance with state or local law, unless it is demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside the control of the owner;
 - (K) failure to submit a copy of the owner's completed 8609 showing the first year filing;
 - (L) failure to promptly notify CTCAC of a property management change or changing to a management company of lesser experience contrary to Section 10325(c)(1)(B);

- (M) failure to properly notify CTCAC and obtain prior approval of Transfer Events, general partner changes, transfer of a Tax Credit project, or allocation of the Federal or State Credit;
- (N) certification of site amenities, distances or service amenities that were, in the Executive Director's sole discretion, inaccurate or misleading;
- (O) falsifying documentation of household income or any other materials to fraudulently represent compliance with IRC Section 42; or
- (P) failure of American Recovery and Reinvestment Act (ARRA) funded projects to comply with Section 42, CTCAC regulations, or other applicable program requirements;
- (Q) failure to provide required documentation of third-party verification of sustainable and energy efficient features.
- (R) failure to correct serious noncompliance, including incorrect rents or income qualification, incorrect utility allowance, or other overcharging of residents. In assigning negative points, CTCAC shall consider the most recent monitoring results for each of the parties' projects in the most recent three-year monitoring cycle. CTCAC shall allow affected parties a reasonable period to correct serious noncompliance before assigning negative points. Negative points may be warranted when more than ten percent (10%) of the party's total portfolio has Level 3 deficiencies under the Uniform Physical Conditions Standards established by HUD. In addition, negative points may be warranted when more than ten percent (10%) of the tenant files most recently monitored resulted in findings of either household income above regulated income limits upon initial occupancy, or findings of gross rent exceeding the tax credit maximum limits.
- (S) the project's total eligible basis at placed in service exceeding the revised total adjusted threshold basis limits for the year the project is placed in service by 40%.
- (T) where CDLAC has determined that a person or entity is subject to negative points under its regulations, CTCAC will deduct an equal amount of points for an equal period of time from tax credit applications involving that person or entity or a Related Party.
- (U) failure to comply with a requirement of the regulatory agreement or of a covenant entered into 10320(b)(2)(B) or Section 10337(a)(3)(B).
- (V) Submitting a check which CTCAC, after reasonable efforts to correct, cannot deposit.

Negative points given to general partners, co-developers, management agents, consultants, or any other member or agent of the Development Team may remain in effect for up to two calendar years, but in no event will they be in effect for less than one funding round. Furthermore, they may be assigned to one or more Development Team members, but do not necessarily apply to the entire Team. Negative points assigned by the Executive Director may be appealed to the Committee under appeal procedures enumerated in Section 10330.

- (3) Housing Needs. (Points will be awarded only in one category listed below except that acquisition and/or rehabilitation Scattered Site Projects may, at the applicant's election, be scored either in the aggregate or proportionately based upon (i) each site's score, and (ii) the percentage of units represented by each site.) The category selected hereunder (which shall be the category represented by the highest percentage of Low-Income Units in a

proportionally scored project) shall also be the project category for purposes of the tie-breaker described in subsection 10325(c)(9) below.

Large Family Projects	10 points
Special Needs Projects	10 points
Seniors Projects	10 points
At-Risk Projects	10 points
SRO Projects	10 points

(4) Amenities beyond those required as additional thresholds

- (A) Site Amenities: Site amenities must be appropriate to the tenant population served. To receive points the amenity must be in place at the time of application except as specified in paragraphs 1, 5, and 8 below. In addition, an amenity to be operated by a public entity that is (i) being constructed within the project as part of the tax credit development, (ii) is receiving development funding for the amenity from the public entity, and (iii) has a proposed operations budget from the operating public entity, would be considered “in place” at the time of application. Distances must be measured using a standardized radius from the development site to the target amenity, unless that line crosses a significant physical barrier or barriers. Such barriers include highways, railroad tracks, regional parks, golf courses, or any other feature that significantly disrupts the pedestrian walking pattern between the development site and the amenity. The radius line may be struck from the corner of development site nearest the target amenity, to the nearest corner of the target amenity site. However, a radius line shall not be struck from the end of an entry drive or on-site access road that extends from the central portion of the site itself by 250 feet or more. Rather, the line shall be struck from the nearest corner of the site’s central portion. Where an amenity such as a grocery store resides within a larger shopping complex or commercial strip, the radius line must be measured to the amenity exterior wall, rather than the site boundary. The resulting distance shall be reduced in such instances by 250 feet to account for close-in parking.

No more than 15 points will be awarded in this category. For purposes of the Native American apportionment only, no points will be awarded in this category. However, projects that apply under the Native American apportionment that drop down to the rural set-aside will be scored in this category. Applicants must certify to the accuracy of their submissions and will be subject to negative points in the round in which an application is considered, as well as subsequent rounds, if the information submitted is found to be inaccurate. For each amenity, color photographs, a contact person and a contact telephone must be included in the application. The Committee may employ third parties to verify distances or may have staff verify them. Only one point award will be available in each of the subcategories (1-9) listed below, with exception of the transit pass option of subcategory 1. Amenities may include:

1. Transit Amenities

The project is located where there is a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop within 1/3 mile from the site with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday, and the project’s density will exceed 25 units per acre. 7 points

The site is within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 6 points

The site is within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 5 points

The site is located within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. (For Rural set-aside projects, full points may be awarded where van or dial-a-ride service is provided to tenants, if costs of obtaining and maintaining the van and its service are included in the budget and the operating schedule is either on demand by tenants or a regular schedule is provided) 4 points

The site is located within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. 3 points

In addition to meeting one of the point categories described above, the applicant commits to provide to residents free transit passes or discounted passes priced at no more than half of retail cost. Passes shall be made available to each Low-Income Unit at the time a Low-Income Unit is leased to the tenant and shall be made available for at least 15 years. These points are not available for projects with van service. These points are only available to Rural set-aside projects with dial-a-ride service for free or discounted dial-a-ride passes.

At least one pass per Low-Income Unit 3 points

At least one pass per each 2 Low-Income Units 2 points

“Light rail station” or “commuter rail station” or “ferry terminal” includes a planned rail station or ferry terminal whose construction is programmed into a Regional or State Transportation Improvement Program to be completed within one year of the scheduled completion and occupancy of the proposed residential development.

A private bus or transit system providing service to residents may be substituted for a public system if it (a) meets the relevant headway and distance criteria, and (b) if service is provided free to the residents. Such private systems must receive approval from the CTCAC Executive Director prior to the application deadline. Multiple bus lines may be aggregated for the above points, only if multiple lines from the designated stop travel to an employment center. Such aggregation must be demonstrated to, and receive prior approval from, the CTCAC Executive Director in order to receive competitive points.

2. The site is within 1/2 mile of a public park or a community center accessible to the general public (1 mile for Rural set-aside projects). A public park shall not include 1) school grounds unless there is a bona fide, formal joint use agreement between the jurisdiction responsible for the parks/recreational facilities and the school district or private school providing availability to the general public of the school grounds and/or facilities, 2) greenbelts or pocket parks, or 3) open space preserves or biking parkways unless there is a trailhead or designated access point within the specified distance. 3 points

or within 3/4 mile (1.5 miles for Rural set-aside projects) 2 points

3. The site is within 1/2 mile of a book-lending public library that also allows for inter-branch lending (when in a multi-branch system) (1 mile for Rural set-aside projects) 3 point

- or within 1 mile (2 miles for Rural set-aside projects) 2 points
4. The site is within 1/2 mile of a full-scale grocery store/supermarket of at least 25,000 gross interior square feet where staples, fresh meat, and fresh produce are sold (1 mile for Rural set-aside projects). A large multi-purpose store containing a grocery section may garner these points if the application contains the requisite interior measurements of the grocery section of that multipurpose store. The “grocery section” of a large multipurpose store is defined as the portion of the store that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 5 points
- or within 1 mile (2 miles for Rural set-aside projects) 4 points
or within 1.5 miles (3 miles for Rural set-aside projects) 3 points
- The site is within 1/4 mile of a neighborhood market of 5,000 gross interior square feet or more where staples, fresh meat, and fresh produce are sold (1/2 mile for Rural Set-aside projects). A large multi-purpose store containing a grocery portion may garner these points if the application contains interior measurements of the grocery section of that multi-purpose store. The “grocery section” of a large multipurpose store is defined as the portion of the store primarily devoted to food stuffs that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 4 points
- or within 1/2 mile (1 mile for Rural Set-aside projects) 3 points
- The site is within 1/2 mile of a weekly farmers’ market on the list of Certified Farmers’ Markets maintained by the California Department of Food and Agriculture and operating at least 5 months in a calendar year 2 points
- or within 1 mile 1 point
5. The site is within (1) mile of adult education campus of a school district, or community college (an additional 1/2 mile for Rural set-aside projects) 3 points
- For a development wherein at least 25 percent (25%) of the Low-Income Units (or, for Special Needs housing type, at least 25% of the Large Family Low-Income Units) shall be three-bedroom or larger units, the site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school, (an additional 1/2 mile for each public school type for Rural set-aside projects) and that the site is within the attendance area of that school or campus. 3 points
- or within an additional 1/2 mile for each public-school type (an additional 1 mile for Rural set-aside projects) 2 points
- Public schools demonstrated, at the time of application, to be under construction and to be completed and available to the residents prior to the housing development completion are considered in place at the time of application for purposes of this scoring factor.
6. For a Senior Development, the site is within 1/2 mile of a daily operated senior center or a facility offering daily services specifically designed for seniors (not on the development site) (1 mile for Rural set-aside projects) 3 points
- or within 3/4 mile (1.5 miles for Rural set-aside projects) 2 points

7. For a Special Needs development, the site is located within 1/2 mile of a facility that operates to serve the population living in the development 3 points
or within 1 mile 2 points

8. The site is within 1/2 mile (for Rural set-aside projects, 1 mile) of a qualifying medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital (not merely a private doctor's office). A qualifying medical clinic must accept Medi-Cal payments, or Medicare payments for Senior Projects, or Health Care for the Homeless for projects housing homeless populations, or have an equally comprehensive subsidy program for low-income patients. 3 points

The site is within 1 mile (for Rural set-aside projects, 1.5 miles) of a qualifying medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital 2 points

A hospital demonstrated at the time of application to be under construction and to be completed and available to the residents prior to the housing development completion is considered in place at the time of application for purposes of this scoring factor.

9. The site is within 1/2 mile of a pharmacy (for Rural projects, 1 mile) 2 points
or within 1 mile (2 miles for Rural projects) 1 point

10. High speed internet service, with a minimum average download speed of 25 megabits/second must be made available to each Low-Income Unit for a minimum of 15 years, free of charge to the tenants, and available within 6 months of the project's placed-in-service date. Documentation of internet availability must be included in the application. If internet is selected as an option in the application it must be provided even if it is not needed for points. 2 points (3 points for Rural projects)

11. The project is a new construction Large Family housing type project, except for an inclusionary project as defined in Section 10325(c)(9)(C), and the site is located in a census tract, or census block group as applicable, designated on the CTCAC/HCD Opportunity Area Map as Highest or High Resource: 8 points

An application for a large family new construction project located in a High or Highest Resource area shall disclose whether or not the project includes any Low-Income Units that satisfy the obligations of an affordable housing ordinance or development agreement with the jurisdiction in which the project will be built and, if so, the number of such units and whether the contractual obligations derive solely from the Low-Income Units themselves.

An applicant may choose to utilize the census tract, or census block group as applicable, resource designation from the CTCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

- (B) Projects that provide high-quality services designed to improve the quality of life for tenants are eligible to receive points for service amenities. Services must be appropriate to meet the needs of the tenant population served and designed to generate positive changes in the lives of tenants, such as by increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets,

food cultivation and preparation classes, and smoking cessation classes. Drop-in computer labs, monitoring or technical assistance shall not qualify.

84 hours of instruction per year (42 for small developments) 7 points

60 hours of instruction per year (30 for small developments) 5 points

4. Health and wellness services and programs. Such services and programs shall provide individualized support to tenants (not group classes) and need not be provided by licensed individuals or organizations. Includes, but is not limited to visiting nurses programs, intergenerational visiting programs, or senior companion programs. The application must describe in detail the services to be provided.

100 hours of services per year for each 100 bedrooms 5 points

60 hours of services per year for each 100 bedrooms 3 points

5. Licensed childcare. Shall be available 20 hours or more per week, Monday through Friday, to residents of the development. (Only for large family projects or other projects in which at least 25% of Low-Income Units are three bedrooms or larger). 5 points

6. After school program for school age children. Includes, but is not limited to tutoring, mentoring, homework club, art and recreational activities. (Only for large family projects or other projects in which at least 25% of Low-Income Units are three bedrooms or larger).

10 hours per week, offered weekdays throughout school year 5 points

6 hours per week, offered weekdays throughout school year 3 points

For Special Needs Projects with 75% or more Special Needs units, for the Special Needs units in a Special Needs Project with less than 75% Special Needs units, or SRO Projects, amenities may include, but are not limited to:

7. Case Manager. Responsibilities must include (but are not limited to) working with tenants to develop and implement an individualized service plan, goal plan or independent living plan.

Ratio of one FTE case manager to 100 bedrooms 5 points

8. Service Coordinator or Other Services Specialist. Service coordinator responsibilities shall include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or other enrichment activities for tenants (such as holiday events, tenant council, etc.). Other services specialist must provide individualized assistance, counseling and/or advocacy to tenants, such as to assist them to access education, secure employment, secure benefits, gain skills or improve health and wellness. Includes, but is not limited to: Vocational/Employment Counselor, ADL or Supported Living Specialist, Substance Abuse or Mental Health Counselor, Peer Counselor, Domestic Violence Counselor.

Ratio of one FTE service coordinator or specialist to 360 bedrooms 5 points

9. Adult educational, health and wellness, or skill building classes. Includes, but is not limited to: Financial literacy, computer training, home-buyer education, GED classes, and resume building classes, ESL, nutrition class, exercise class, health information/awareness, art class, parenting class, on-site food cultivation and preparation classes, and smoking cessation classes.

84 hours of instruction per year (42 for small developments) 5 points

10. Health or behavioral health services provided by appropriately-licensed organization or individual. Includes but is not limited to: health clinic, adult day health center, medication management services, mental health services and treatment, substance abuse services and treatment. 5 points

11. Licensed childcare. Shall be available 20 hours or more per week, Monday through Friday, to residents of the development. (Only for large family projects or other projects in which at least 25% of Low-Income Units are three bedrooms or larger). 5 points

12. After school program for school age children. Includes, but is not limited to tutoring, mentoring, homework club, art and recreational activities. (Only for large family projects or other projects in which at least 25% of Low-Income Units are three bedrooms or larger).

10 hours per week, offered weekdays throughout school year 5 points

Special needs projects with less than 75% special needs units shall be scored proportionately in the service amenity category based upon (i) the services provided to special needs and non-special needs units, respectively; and (ii) the percentage of units represented by special needs and non-special needs units, respectively. Proportionate scoring means for a project to score the maximum 10 points, nonspecial needs units and special needs units must independently score 10 points for service amenities. For special needs projects with less than 75% special needs units that provide the same service amenity for the special needs and non-special needs tenants, the applicant must select the amenity from 1-6 and from 7-12 in the application form. Special needs projects with 75% or more but less than 100% special needs units shall demonstrate that all tenants will receive an appropriate level of services.

Items 1 through 12 are mutually exclusive: one proposed service may not receive points under two different categories, except in the case of proportionately-scored scored services pursuant to the previous paragraph.

Documentation must be provided for each category of services for which the applicant is claiming service amenities points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided and the number of hours services will be provided; and name the project to which the services are being committed.

Documentation shall take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead.

For projects claiming points for items 1, 2, 7, or 8, a position description must be provided. Services delivered by the on-site Property Manager or other property

management staff will not be eligible for points under any category (items 1 through 12).

The application’s Service Amenity Sources and Uses Budget page must clearly describe all anticipated income and expenses associated with the services program(s) and must align with the services commitments provided (i.e. contracts, MOUs, letters, etc.). Applications shall receive points for services only if the proposed services budget adequately accounts for the level of service. The budgeted amount must be reasonably expected to cover the costs of the proposed level of service. If project operating income will fund service amenities, the application’s Service Amenities Sources and Uses Budget must be consistent with the application’s fifteen year pro forma. Services costs contained in the project’s pro forma operating budget do not count towards meeting CTCAC’s minimum operating expenses required by Section 10327(g)(1).

All organizations providing services for which the project is claiming points must document that they have at least 24 months of experience providing services to the project’s target population. Experience of individuals may not be substituted for organizational experience.

- (5) Reserved.
- (6) Lowest Income in accordance with the table below Maximum 52 points
 - (A) The “Percent of Area Median Income” category may be used only once. For instance, 50% of Low-Income Units at 50% of Area Median Income cannot be used twice for 100% at 50% and receive 50 points, nor can 50% of Low-Income Units at 50% of Area Median Income for 25 points and 40% of Low-Income Units at 50% of Area Median Income be used for an additional 20 points. However, the “Percent of Low-Income Units” may be used multiple times. For example, 50% of Low-Income Units at 50% of Area Median Income for 25 points may be combined with another 50% of Low-Income Units at 45% of Area Median Income to achieve the maximum points. All projects must score at least 45 points in this category to be eligible for 9% Tax Credits.

Only projects competing in the Rural set aside may use the 55% of Area Median Income column.

Projects electing the average income federal set-aside must choose targeting in 10% increments of Area Median Income (i.e. 20% AMI, 30% AMI, 40% AMI, etc.).

Lowest Income Points Table (maximum 50 points):

		Percent of Area Median Income						
		55%	50%	45%	40%	35%	30%	20%
	50%		25.0*	37.5				
	45%		22.5*	33.8				
Percent of	40%	10.0*	20.0	30.0				
Low-Income	35%	8.8*	17.5	26.3	35.0		50.0	
Units	30%	7.5*	15.0	22.5	30.0	37.5	45.0	
	25%	6.3*	12.5	18.8	25.0	31.3	37.5	50.0
	20%	5.0*	10.0	15.0	20.0	25.0	30.0	40.0
	15%	3.8*	7.5	11.3	15.0	18.8	22.5	30.0
	10%	2.5*	5.0	7.5	10.0	12.5	15.0	20.0

*Available to Rural set-aside projects only

- (B) A project that agrees to have at least ten percent (10%) of its Low-Income Units available for tenants with incomes no greater than thirty percent (30%) of area median, and to restrict the rents on those units accordingly, will receive two points in addition to other points received under this subsection. The 30% units must be spread across the various bedroom-count units, starting with the largest bedroom-count units (e.g. four bedroom units), and working down to the smaller bedroom-count units, assuring that at least 10% of the larger units are proposed at 30% of area median income. So long as the applicant meets the 10% standard project-wide, the 10% standard need not be met among all of the smaller units. The CTCAC Executive director may correct applicant errors in carrying out this largest-to-smallest unit protocol. (These points may be obtained by using the 30% section of the matrix.)

All projects, except those applying under section 10326 of these regulations, will be subject to the minimum low income percentages chosen for a period of 55 years (50 years for projects located on tribal trust land), unless they receive Federal Tax Credits only and are intended for eventual tenant homeownership, in which case they must submit, at application, evidence of a financially feasible program, incorporating, among other items, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, and a plan for conversion of the facility to home ownership at the end of the initial 15 year compliance period. In such a case, the regulatory agreement will contain provisions for the enforcement of such covenants.

- (7) Readiness to Proceed. 10 points will be available to projects that document enforceable financing commitment(s) as defined in Section 10325(f)(3) for all construction financing and demonstrate construction can commence within 180 days or 194 days of the Credit Reservation as assigned by the Executive Director and documented by the requirements below.

No later than the assigned deadline, CTCAC must receive:

- (A) a completed updated application form along with a detailed explanation of any changes from the initial application,
- (B) an executed construction contract,
- (C) recorded deeds of trust for all construction financing (unless a project's location on tribal trust land precludes this), binding commitments for permanent financing, binding commitments for any other financing required to complete project construction,
- (D) a limited partnership agreement executed by the general partner and the investor providing the equity,
- (E) an updated CTCAC Attachment 16,
- (F) issuance of building permits (a grading permit does not suffice to meet this requirement except that in the event that the city or county as a rule does not issue building permits prior to the completion of grading, a grading permit shall suffice; if the project is a design-build project in which the city or county does not issue building permits until designs are fully complete, the city or county shall have approved construction to begin) or the applicable tribal documents, and
- (G) notice to proceed delivered to the contractor.

The Executive Director shall either rescind the Tax Credit Reservation, assess negative points, or both for failure to meet the assigned due date.

If no construction lender is involved, evidence must be submitted no later than the assigned due date, after the Reservation is made that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred. CTCAC shall conduct a financial feasibility and cost reasonableness analysis upon receiving submitted Readiness documentation.

In the event of a federally declared emergency by the President of the United States, a state declared emergency by the Governor of the State of California, or similar event determined by the Committee, and at the sole discretion of the Executive Director, extensions may be granted.

- (8) Miscellaneous Federal and State Policies Maximum 2 points
- (A) Credit Substitution. For applicants who agree to both 1) exchange Federal Tax Credits for State Tax Credits pursuant to Section 10317(e) and 2) exchange State Tax Credits for Federal Tax Credits pursuant to Section 10317(c). 2 points
- Applicants receiving these points agree to make the exchange in a manner that yields equal equity based solely on the tax credit factors stated in the application.
- (B) Enhanced Accessibility and Visitability. Project design incorporates California Building Code Chapter 11(B) and the principles of Universal Design in at least half of the project's Low-Income Units by including:
- Accessible routes of travel to the dwelling units with accessible 34" minimum clear-opening-width entry, and 34" clear width for all doors on an accessible path.
 - Interior doors with lever hardware and 42" minimum width hallways. Fully accessible bathrooms complying with California Building Code (CBC) Chapter 11(A) and 11(B). In addition, a 30"x48" clearance parallel to and centered on the bathroom vanity.
 - Accessible kitchens with 30"x48" clearance parallel to and centered on the front of all major appliances and fixtures (refrigerator, oven, dishwasher and sink)
 - Accessible master bedroom size shall be at least 120 square feet (excluding the closet), shall accommodate a queen size bed, shall provide 36" in clearance around three sides of the bed, and shall provide required accessible clearances, free of all furnishings, at bedroom and closet doors. The master bedroom closet shall be on an accessible path.
 - Wiring for audio and visual doorbells required by UFAS shall be installed.
 - Closets and balconies shall be located on an accessible route.
 - These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26.
 - Applicant must commit to obtaining confirmation from a Certified Accessibility Specialist that the above requirements have been met. 2 points
- (C) Smoke Free Residence. The proposed project commits to having at least one nonsmoking building and incorporating the prohibition into the lease agreement for the affected units. If the proposed project contains only one building, the proposed project shall commit to prohibiting smoking in designated contiguous units and incorporating the prohibition into the lease agreement for the affected units. 2 points
- (D) Historic Preservation. The project proposes to use Historic Tax Credits 1 point

- (E) Revitalization Area Project. The project is located within one of the following: a Qualified Census Tract (QCT), a census tract in which at least 50% of the households have an income of less than 60% of the area median income, or a federal Promise Zone. Additionally, the development must contribute to a concerted community revitalization plan as demonstrated by a letter from a local government official. The letter must delineate the various community revitalization efforts, funds committed or expended in the previous five years, and how the project would contribute to the community's revitalization. 2 points
 - (F) Eventual Tenant Ownership. The project proposes to make Tax Credit Units available for eventual tenant ownership and provides the information described in Section 10325(c)(6) of these regulations. 1 point
 - (G) Utilizing Excess State-Owned Land: Projects located on land designated as excess state land pursuant to Executive Order N-06-19. 2 points
- (9) Tie Breakers

If multiple applications receive the same score, the following tie breakers shall be employed:

For applications for projects within single-jurisdiction regional competitions only (the City and County of San Francisco and the City of Los Angeles geographic apportionments), the first tiebreaker shall be the presence within the submitted application of a formal letter of support for the project from either the San Francisco Mayor's Office of Housing or the Los Angeles Housing Department respectively. Within those cities, and for all other applications statewide, the subsequent tiebreakers shall be as follows:

First, if an application's housing type goal has been met in the current funding round in the percentages listed in section 10315, then the application will be skipped (unless the application to be skipped is the highest ranked in the set-aside, Native American apportionment, or geographic region) if there is another application with the same score and with a housing type goal that has not been met in the current funding round in the percentages listed in section 10315; and

Second, the highest of the sum of the following:

- (A) Leveraged soft resources, as described below, defraying residential costs to total residential project development costs. Except where a third-party funding commitment is explicitly defraying non-residential costs only, leveraged soft resources shall be discounted by the proportion of the project that is non-residential. Leveraged soft resources shall be demonstrated through documentation including but not limited to funding award letters, committed land donations, or documented project-specific local fee waivers.

Leveraged soft resources shall include all of the following:

- (i) Public funds. "Public funds" include federal, tribal, state, or local government funds, including the outstanding principal balances of prior existing public debt or subsidized debt that has been or will be assumed in the course of an acquisition/rehabilitation transaction, except that outstanding principal balances for projects subject to an existing CTCAC regulatory agreement shall not be considered public funds if such loans were funded less than 30 years prior to the application deadline. Outstanding principal balances shall not include any accrued interest on assumed loans even where the original interest has been or is being recast as principal under a new loan agreement. Public funds shall include assumed principal balances only upon documented approval of the loan

assumption or other required procedure by the public agency holding the promissory note.

In addition, public funds include funds already awarded under the Affordable Housing Program of the Federal Home Loan Bank (AHP), waivers resulting in quantifiable cost savings that are not required by federal or state law, local government fee reductions established in ordinance and not required by federal or state law that are available only to rental affordable housing for lower-income households and affordable ownership housing for moderate income households, or the value of land and improvements donated or leased by a public entity or donated as part of an affordable housing ordinance, development agreement or legally enforceable mandate that is negotiated between a public entity and an unrelated private developer. The value of land leased by a public entity shall be discounted by the sum of up-front lease pre-payments and all mandatory lease payments in excess of \$100 per year over the term of the lease, exclusive of residual receipt payments. For new construction applications, only the vacant land value may be counted for tiebreaker credit. The value of improvements to be demolished does not qualify as a leveraged soft resource. Private loans that are guaranteed by a public entity (for example, RHS Section 538 guaranteed financing) shall not be counted as public funds, unless the loans have a designated repayment commitment from a public source other than rental or operating subsidies, such as the HUD Title VI Loan Guarantee Program involving Native American Housing Assistance and Self Determination Act (NAHASDA) funds. Land and building values, including for land donated or leased by a public entity or donated as part of an affordable housing ordinance, development agreement or legally enforceable mandate, must be supported by an independent, third-party appraisal consistent with the guidelines in Section 10322(h)(9). The appraised value is not to include off-site improvements. For Tribal apportionment applications, donated land value and land-purchase funding shall not be eligible. However, unsuccessful Tribal apportionment applicants subsequently competing within the rural set-aside or tribal applicants competing in a geographic region shall have such donated land value and land-purchase funding counted competitively as public funding if the land value is established in accordance with the requirements of this paragraph.

Loans must be "soft" loans, having terms (or remaining terms) of at least 15 years, and below market interest rates and interest accruals, and are either fully deferred or require only residual receipts payments for at least the first fifteen years of their terms. Qualified soft loans may have annual fees that reasonably defray compliance monitoring and asset management costs associated with the project. The maximum below-market interest rate allowed for tiebreaker purposes shall be the greater of four percent (4%) simple, or the Applicable Federal Rate if compounding. RHS Section 514 or 515 financing shall be considered soft debt in spite of a debt service requirement. Further, there shall be conclusive evidence presented that any new public funds have been firmly committed to the proposed project and require no further approvals, and that there has been no consideration other than the proposed housing given by anyone connected to the project, for the funds or the donated or leased land. 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. Projects that include both new construction and rehabilitation or affordable housing replacement shall have the land loan value prorated based on units.

Public contributions of off-site costs shall not be counted competitively, unless (1) documented as a waived fee pursuant to a nexus study and relevant State Government Code provisions regulating such fees or (2) the off-sites must be developed by the sponsor as a condition of local approval and those off-sites consist solely of utility connections, and curbs, gutters, and sidewalks immediately bordering the property. Public funds shall be reduced for tie breaker scoring purposes by an amount equal to the off-sites not meeting the requirements noted in this paragraph.

The capitalized value of rent differentials attributable to public rent or public operating subsidies shall be considered public funds based upon CTCAC underwriting standards. Standards shall include a 15-year loan term; an interest rate established annually by CTCAC based upon a spread over 10-year Treasury Bill rates; a 1.15 to 1 debt service coverage ratio; and a five percent (5%) vacancy rate. In addition, the rental income differential for subsidized units shall be established by subtracting tax credit rental income at 40 percent (40%) AMI levels (30% AMI for units subject to the 40% average AMI requirement of Section 10325(g)(3)(A)) from the committed contract rent income documented by the subsidy source or, in the case of a USDA rental subsidy only, the higher of 60% AMI rents or the committed contract USDA Basic rents. The committed contract rent income for units with existing project-based Section 8 rental subsidy shall be documented by the current monthly contract rent in place at the time of the application or by contract rent committed to and approved by the subsidy source (HUD); rent from a rent comparable study or post-rehabilitation rent shall not be permitted. The rent differential for projects with public operating subsidies shall equal the annual subsidy amount in year 1, provided the subsidy will be of a similar amount in succeeding years, or the aggregate subsidy amount of the contract divided by the number of years in the contract if the contract does not specify an annual subsidy amount.

- (ii) soft loans that meet the criteria described in subparagraph (i) (except that terms shall be of at least 55 years), or grants, from unrelated non-public parties that are not covered by subparagraph (i) and that do not represent financing available through the National Mortgage Settlement Affordable Rental Housing Consumer Relief programs. The party providing the soft loans or grants shall not be a partner or proposed partner in the limited partnership (unless the partner has no ownership interest and only the right to complete construction) and shall not receive any benefit or funds from a related party to the project. The application shall include (1) a certification from an independent Certified Public Accountant (CPA) or independent tax attorney that the leveraged soft resource(s) is from an unrelated non-public entity(ies), that the unrelated non-public entity(ies) shall not receive any benefit or funds from a related party to the project, and that the leveraged soft resource(s) is available and not committed to any other project or use; and (2) a narrative from the applicant regarding the nature and source of the leveraged soft resource(s) and the conditions under which it was given. Seller carryback financing and any portion of a loan from a non-public seller or related party that is less than or equal to sale proceeds due the seller shall be excluded for purposes of the tiebreaker.
- (iii) the value of donated land and improvements that are not covered by subparagraph (i), that meet the criteria described in subparagraph (i), and that are contributed by an unrelated entity (unless otherwise approved by the Executive Director), so long as the contributed asset has been held by the entity for at least five years prior to the application due date, except for the value of donated land and improvements in the case of a rehabilitation project subject to an existing

subparagraph (B) shall also utilize the combined total residential project development costs from both the 9% and 4% applications:

- (i) the 4% application shall have been submitted to CTCAC and CDLAC by the 9% application deadline;
- (ii) the 4% and 9% projects are simultaneous phases, as defined in Section 10327(c)(2)(C);
- (iii) the 4% application is eligible for maximum points under Sections 10325(c)(3), (4)(B), (5), and (6), except that 1) the 4% application may be eligible for maximum points in the lowest income category in combination with the 9% project, and 2) the 4% application may be eligible for maximum housing type points in combination with the 9% project. Under each exception, the 9% project shall also be scored in the corresponding point category in combination with the 4% project; and
- (iv) developers shall defer or contribute as equity to the project any amount of combined 4% and 9% developer fees in cost that are in excess of the limit pursuant to Section 10327(c)(2)(A) plus \$20,000 per unit for each Tax Credit Unit in excess of 100, using (a) the combined Tax Credit Units of the 9% and 4% components, (b) the combined eligible basis of the 9% and 4% components, and (c) the high-cost test factor calculated using the eligible basis and threshold basis limits for the 9% component.

In the event that the 4% component of a Hybrid project that receives an increase to its size factor pursuant to this paragraph is not placed in service within six months of the 9% component, both applicants may be subject to negative points.

If the project's paid purchase price exceeds appraised value, the leveraged soft resources amount shall be discounted by the overage, unless the Executive Director has granted a waiver pursuant to Section 10327(c)(6).

- (B) One (1) minus the ratio of requested unadjusted eligible basis to total residential project development costs, with the resulting figure divided by two.
- (C) Except as provided below, a new construction Large Family housing type project (excluding a Special Needs project with non-special needs Low-Income Units meeting Large Family housing type requirements) shall receive a higher resource area bonus as follows based on the designation of the project's location on the CTCAC/HCD Opportunity Area Map:
 - The project is non-rural and the project's census tract is a Highest Resource area
20 percentage points
 - The project is non-rural and the project's census tract is a High Resource area
10 percentage points
 - The project is rural and project's census tract or census block group as applicable is a Highest Resource area
10 percentage points
 - The project is rural and the project's census tract or census block group as applicable is a High Resource area
5 percentage points

This bonus shall not apply to projects competing in the Native American apportionment, unless such projects fall into the rural set-aside competition. In addition, this bonus shall not apply to a project supported by affordable housing ordinances, which for purposes of this subparagraph shall mean a project in which any of the Low-Income Units satisfy the obligations of any affordable housing

ordinance, development agreement or legally enforceable mandate negotiated between a public entity and private developer, unless the obligations derive solely from the Low-Income Units themselves or unless the project includes at least 40 Low-Income Units that are not counted towards the obligations of the affordable housing ordinance, development agreement, or legally enforceable mandate. An application for a large family new construction project located in a High or Highest Resource area shall disclose whether or not the project includes any Low-Income Units which satisfy the obligations of an affordable housing ordinance, development agreement or legally enforceable mandate and, if so, the number of such units and whether the affordable obligations derive solely from the Low-Income Units themselves.

An applicant may choose to utilize the census tract, or census block group as applicable, resource designation from the CTCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

- (D) For Rural set aside projects applying in counties where no tax credit applications have been received within five years of the application filing date, the tiebreaker shall be increased by five percentage points.

The resulting tiebreaker score must not have decreased following award or negative points may be awarded.

- (d) Application selection for evaluation. Except where CTCAC staff determines a project to be high cost, staff shall score and rank projects as described below. Staff shall identify high-cost projects by comparing each scored project's total eligible basis against its total adjusted threshold basis limits. CTCAC shall calculate total eligible basis by using all project costs listed within the application unless those costs are not includable in basis under federal law as demonstrated by the shaded cells in the application sources and uses budget itself or by a letter from the development team's third-party tax professional. A project will be designated "high cost" if a project's total eligible basis exceeds its total adjusted threshold basis limit by 30%. Staff shall not recommend such project for credits. Any project that receives a reservation on or after January 1, 2016 may be subject to negative points if the project's total eligible basis at placed in service exceeds the revised total adjusted threshold basis limit by 40%. For purposes of calculating the high-cost test at placed in service, CTCAC shall use the higher of the unadjusted threshold basis limit from application or the year the project places in services.

Following the scoring and ranking of project applications in accordance with the above criteria, subject to conditions described in these regulations, reservations of Tax Credits shall be made for those applications of highest rank in the following manner.

- (1) Set-aside application selection. Beginning with the top-ranked application from the Nonprofit set-aside, followed by the Rural set-aside (funding the RHS, HOME, and CDBG-DR program apportionment first, and the Native American apportionment second), the At-Risk set-aside, and the Special Needs set-aside, the highest scoring applications will have Tax Credits reserved. Credit amounts to be reserved in the set-asides will be established at the exact percentages set forth in section 10315, with the exception of the Federal Credit amount established by the Further Consolidated Appropriations Act, 2020 and the Consolidated Appropriations Act, 2021. If the last project funded in a set-aside requires more than the credits remaining in that set-aside, such overages in the first funding round will be subtracted from that set-aside in determining the amount available in the set-aside for the second funding round. If Credits are not reserved in the first round, they will be added to second round amounts in the same Set Aside. If more Tax Credits are reserved to the last project in a set-aside than are available in that set-aside during the second funding round, the overage will be taken from the Supplemental Set-Aside if there are sufficient funds. If not, the award will be counted against the amounts available from the

geographic area in which the project is located. Any unused credits from any Set-Asides will be transferred to the Supplemental Set-Aside and used for Waiting List projects after the second round. Tax Credits reserved in all set-asides shall be counted within the housing type goals.

- (A) For an application to receive a reservation within a set-aside, or within a rural set-aside apportionment, there shall be at least one dollar of Credit not yet reserved in the set-aside or apportionment.
- (B) Set-aside applications requesting State tax credits shall be funded, even when State credits for that year have been exhausted. The necessary State credits shall be reserved from the subsequent year's aggregate annual State credit allotment.
- (C) Except for projects competing in the rural set-aside, which shall not be eligible to compete in geographic area, unless the projects are located within a Geographic Region and no other projects have been funded within the Project's region during the year in question, after a set-aside is reserved, all remaining applications competing within the set-aside shall compete in the Geographic Region.

Federal Credit established by the FCAA application selection. Applications for projects located in the counties designated as qualified 2017 and 2018 California disaster areas by the FCAA, FCAA Federal Credit shall only be reserved for (1) new construction projects also including projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater, and adaptive re-use of non-residential structures, or (2) reconstruction or rehabilitation of an existing project located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website <https://www.treasurer.ca.gov/ctcac/>, and directly damaged by the fire, and that apply for the FCAA Federal Credit. Applications shall meet all program eligibility requirements unless stated otherwise below, and located in the following counties: Butte, Lake, Los Angeles, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Shasta, Sonoma, Ventura, and Yuba.

Applications for projects applying for FCAA Federal Credit shall be competitively scored within the county apportionment under the system delineated in Sections 10325(c)(1) through (3), (4)(B), and (6). In the cases where applications receive the same score, the following tiebreakers shall be employed: First, a formal letter of support for the specific project from the Local Reviewing Agency (LRA) outlining how the project will contribute to the community's recovery efforts submitted in the application or received by CTCAC no later than 14 days following the application filing deadline; Second, the application with the greatest number of proposed Tax Credit Units per annual Federal Tax Credit amount requested; and Third, the application with the greatest number of proposed bedrooms within the proposed Tax Credit Units.

For projects located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website <https://www.treasurer.ca.gov/ctcac/>, applying for FCAA Federal Credit in the 2020 funding round, local approvals and zoning requirements of Section 10325(f)(4) must be evidenced to CTCAC no later than June 1, 2021. Failure to do so shall result in rescission of the Tax Credit Reservation on June 2, 2021. The deadline in this paragraph may be extended if the Executive Director finds, in his or her sole discretion, a project merits additional time due to delays directly caused by fire, war, or act of God. In considering a request, the Executive Director may consider, among other things, the length of the delay and the circumstances relating to the delay.

The deferred-payment financing commitment requirements of Section 10325(f)(8) are modified for FCAA Federal Credit applications with 2017 and 2018 HCD Community Development Block Grant – Disaster Recovery (CDBG-DR) Multifamily financing as follows: a letter from an HCD identified jurisdiction stating the intent to commit a portion of that

jurisdiction's HCD allocation. The letter must provide the dollar amount and the estimated date which the jurisdiction will provide CTCAC a written commitment in compliance with the requirements of Section 10325(f)(8). Projects must receive these CDBG-DR funds prior to the CTCAC placed-in service application deadline.

FCAA Federal Credit shall be made available starting in the 2020 second funding round in the amounts shown below:

ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION	COUNTY
\$40,087,453	Butte
\$16,365,940	Sonoma
\$5,630,499	Los Angeles
\$5,421,263	Shasta
\$4,975,965	Ventura
\$4,109,511	Napa
\$3,342,311	Mendocino
\$3,259,153	Lake
\$2,886,283	Yuba
\$2,816,537	San Diego
\$2,583,158	Santa Barbara
\$2,580,476	Nevada
\$2,561,698	Orange
\$2,000,000	Supplemental
\$98,620,247	TOTAL

The funding order shall be followed by funding the highest scoring application, if any, in each of the 13 counties. After each county has had the opportunity to fund one project, CTCAC shall award the second highest scoring project in each county, if any, and continue cycling through the counties, filling each county's apportionment.

For an application to receive a FCAA Federal Credit reservation, there shall be at least one dollar of Credit not yet reserved in the county allocation so long as the county's last award does not cause the county's aggregate award amount to exceed 105 percent (105%) of the amount originally available for that county. FCAA Federal Credit allocated in excess of the county's allocation by the application of the 105% rule described above will be deducted from the Supplemental allocation. If the last application requires credits in excess of 105% of the county's allocation, that application will not be funded. If all FCAA Federal Credit in a funding round has been awarded, all remaining FCAA applications shall compete in the applicable set-aside or geographic region, provided the application meets the requirements of the set-aside or geographic region, and the requirements of Section 10325.

At the conclusion of the funding round, if less than 10% of the total FCAA Federal Credit remains, all unallocated FCAA Federal Credit within the county allocations will be combined

- .9 for a studio unit.
- 1 for a one-bedroom unit.
- 1.25 for a two-bedroom unit.
- 1.5 for a three-bedroom unit up to no more than 30% of the total units, then such additional units shall be counted as 2-bedroom units.
- 1.75 for a four-bedroom or larger unit up to no more than 10% of the total units, then such additional units shall be counted as 2-bedroom units.

The deferred-payment financing commitment requirements of Section 10325(f)(8) are modified for CAA Federal Credit applications with HCD Community Development Block Grant – Disaster Recovery (CDBG-DR) Multifamily financing as follows: a letter from an HCD identified jurisdiction stating the intent to commit a portion of that jurisdiction’s HCD allocation. The letter must provide the dollar amount and the estimated date which the jurisdiction will provide CTCAC a written commitment in compliance with the requirements of Section 10325(f)(8). Projects must receive these CDBG-DR funds prior to the CTCAC placed-in service application deadline. CAA Federal Credit shall be made available starting in the 2021 second funding round in the amounts shown below:

ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION	COUNTY/ REGION
\$17,261,698	Butte County
\$12,058,293	Santa Cruz County
\$9,395,477	Napa County
\$8,714,494	North Region (San Mateo, Santa Clara, Shasta, Solano, Stanislaus, and Yolo Counties)
\$8,609,728	Fresno County
\$8,408,925	Sonoma County
\$7,553,332	South Region (Madera, Monterey, Los Angeles, San Bernardino, San Diego, and Tulare Counties)
\$6,741,391	Rural (Lake, Lassen, Mendocino, Siskiyou, and Trinity Counties)
\$2,000,000	Supplemental
\$80,743,338	TOTAL

The funding order shall start with applications selected in rank order within each county/region in the order above. For an application to receive a CAA Federal Credit reservation, there shall be at least one dollar of Credit not yet reserved in the county/region allocation so long as the county/region’s last award does not cause the county/region aggregate award amount to exceed 105 percent (105%) of the amount originally available for that county/region. CAA Federal Credit allocated in excess of the county/region’s allocation by the application of the 105% rule described above will be deducted from the Supplemental allocation. If the last application selected requires credits in excess of 105% of the county/region’s allocation, that application will not be funded. Any CAA Federal Credit remaining in a county/region apportionment at the end of a funding round will be available in the subsequent round. For the final funding round of 2022 for CAA Federal Credits, if the aggregate amount of Federal Credit requested does not exceed the amount available, the 105% county limit above shall not apply. If all CAA Federal Credit in a funding round has

the building(s) based on existing conditions documented using the Sustainable Building Method Workbook's CTCAC Existing Multifamily Assessment Protocols and reported using the CTCAC Existing Multifamily Assessment Report template. Rehabilitated buildings shall document at least a 10% post-rehabilitation improvement over existing conditions energy efficiency achieved for the project as a whole, except that Scattered Site applications shall also document at least a 5% post-rehabilitation improvement over existing conditions energy efficiency achieved for each site. In the case of projects in which energy efficiency improvements have been completed within five years prior to the application date pursuant to a public or regulated utility program or other governmental program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements. Furthermore, rehabilitation applicants must submit a completed Sustainable Building Method Workbook with their placed-in-service application unless they are developing a project in accordance with the minimum requirements of Leadership in Energy & Environmental Design (LEED), Passive House Institute US (PHIUS), Passive House, Living Building Challenge, National Green Building Standard ICC / ASRAE – 700 silver or higher rating or GreenPoint Rated Program.

- (B) Landscaping. If landscaping is to be provided or replaced, a variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs. Projects shall follow the requirements of the state Model Water Efficient Landscape Ordinance (<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/>) unless a local landscape ordinance has been determined to be at least as stringent as the current model ordinance.
- (C) Roofs. Newly installed roofing shall carry a three-year subcontractor guarantee and at least a 20-year manufacturer's warranty.
- (D) Exterior doors. If exterior doors are to be provided or replaced, insulated or solid core, flush, paint or stain grade exterior doors shall be made of metal clad, hardwood faces, or fiberglass faces, with a standard one-year guarantee and all six sides primed.
- (E) Appliances. All Low-Income Units shall provide a refrigerator. All non-SRO Low-Income Units shall provide a range (cooktop and oven), and all SRO Low-Income Units shall include a cooking facility (at least a cooktop or microwave). The Executive Director may waive the refrigerator and cooking facility requirement for SRO units if the project includes a common area kitchen facility for tenants. Refrigerators, dishwashers, clothes washers and dryers provided or replaced within Low-Income Units and/or in on-site community facilities shall be ENERGY STAR rated appliances, unless waived by the Executive Director.
- (F) Window coverings. Window coverings shall be provided and may include fire retardant drapes or blind.
- (G) Water heater. If water heaters are to be provided or replaced, for Low-Income Units with individual tank-type water heaters, minimum capacities are to be 28 gallons for one- and two-bedroom units and 38 gallons for three-bedroom units or larger.
- (H) Floor coverings. If floor coverings are to be provided or replaced, a hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. Any carpet provided or replaced shall comply with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D.

809.5. To the maximum extent feasible and subject to reasonable health and safety requirements, these units shall be distributed throughout the project consistent with 24 CFR Section 8.26. At least one of each common area facility type and amenity, as well as paths of travel between accessible units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing CBC Chapter 11(B) as a design standard. In all other respects, applicable building code will apply. Projects with particular federal, state, or local funding sources may be required to meet additional accessibility requirements related to these other sources.

Except for paragraph (J) and (K), if a rehabilitation applicant does not propose to meet the requirements of this subsection, its Capital Needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive. The Executive Director may approve a waiver to paragraph (J) for a new construction or rehabilitation project, provided that tenants will have equivalent access to management services. The Executive Director may approve a waiver to paragraph (K) for a rehabilitation project, provided that the applicant and architect demonstrate that full compliance would be impractical or create an undue financial burden and not in conflict with federal or state law. All waivers must be approved in advance by the Executive Director.

Compliance and Verification: For placed-in-service applications, applicants with rehabilitation projects, with the exception of applicants developing a project in accordance with the minimum requirements of LEED, PHIUS, Passive House, Living Building Challenge, National Green Building Standard ICC / ASRAE – 700 silver or higher rating, or GreenPoint Rated Program must submit a completed Sustainable Building Method Workbook for subsection (A). For subsections (B) through (I) applicants shall submit LEED, PHIUS, Passive House, Living Building Challenge, National Green Building Standard ICC / ASRAE – 700 silver or higher rating, or GreenPoint Rated Program certification or third-party certification confirming compliance from one of the following: a certified HERS Rater, a certified GreenPoint rater, a US Green Building Council certification, or the project architect. For Subsection (K), the project architect shall provide third party documentation confirming compliance. Failure to produce appropriate and acceptable third-party documentation may result in negative points.

- (8) Deferred-payment financing, residual receipts payment financing, grants and subsidies. Applicants shall provide evidence that all deferred-payment financing, residual receipts payment financing, grants and subsidies shown in the application are “committed” at the time of application.
- (A) Evidence provided shall signify the form of the commitment, the loan, grant or subsidy amount, the length of the commitment, conditions of participation, and express authorization from the governing body, or an official expressly authorized to act on behalf of said governing body, committing the funds, as well as the applicant’s acceptance in the case of privately committed loans.
 - (B) Commitments shall be final and not preliminary, and only subject to conditions within the control of the applicant, with one exception, the attainment of other financing sources including an award of Tax Credits.
 - (C) Fund commitments shall be from funds within the control of the entity providing the commitment at the time of application.
 - (D) Substantiating evidence of the value of local fee waivers, exemptions or land write-downs is required.
 - (E) Substitution or an increase of such funds after a Reservation of Tax Credits may be permitted only when the source of funding is similar to the original funding, for example, private loan to substitute for private loan, public funds for public funds.

AHP funds may be substituted for any funding source after a Reservation of Tax Credits if an AHP commitment is obtained after the CTCAC application due date.

- (F) A project is exempt from the provisions of this subsection if it has funds anticipated and publicly published with provisional awardee names but not yet officially awarded in the capacity required above with the following entities that administer multifamily financing programs: the Department of Housing and Community Development (HCD); Strategic Growth Council (SGC); Affordable Housing Program (AHP) provided pursuant to a program of the Federal Home Loan Bank; United States Department of Agriculture (USDA) Rural Housing Service (RHS) Section 514, 515 or 538 programs; the Department of Housing and Urban Development (HUD); a Reservation of HOME or CDBG-DR funds from the applicable participating jurisdiction.
- (9) Project size and credit amount limitations. Project size limitations shall apply to all applications filed, pursuant to this Section.
- (A) Rural set-aside applications shall be limited to a maximum of eighty (80) Low-Income Units.
- Rehabilitation proposals are excepted from this limitation. The Executive Director may grant a waiver if she or he determines that the rural community is unusual in size or proximity to a nearby urban center, and that exceptional demand exists within the market area.
- (B) The total “units” in one or more separate applications, filed by Related Parties, proposing projects within one-fourth (1/4) mile of one another, filed at any time within a twelve (12) month period, shall, for purposes of this subsection be subject to the above project size limitations, except when specifically waived by the Executive Director in unusual circumstances such as HOPE VI or large neighborhood redevelopment proposals pursuant to a specific neighborhood plan. HOPE VI and other large projects will generally be directed towards the tax-exempt bond program
- (C) The maximum annual Federal Tax Credits available for award to any one project in any funding round shall not exceed Two Million Five Hundred Thousand (\$2,500,000) Dollars.
- (10) Projects applying for competitive Tax Credits and involving rehabilitation of existing buildings shall be required to complete, at a minimum, the higher of \$40,000 in hard construction costs per unit or 20% of the adjusted basis of the building pursuant to IRC Section 42(e)(3)(A)(ii)(I).
- (11) (A) Existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall maintain the rents and income targeting levels in the existing regulatory contract for the duration of the new regulatory contract. If the project has exhibited negative cash flow for at least each of the last three years or within the next five years will lose a rental or operating subsidy that was factored into the project’s initial feasibility, the Executive Director may alter this requirement, provided that the new rents and income targeting levels shall be as low as possible to maintain project feasibility. In addition, the Executive Director may approve a reduction in the number of units for purposes of unrestricting a manager’s unit, adding or increasing service or community space, or for adding bathrooms and kitchens to SRO units, provided that the existing rent and income targeting remain proportional.
- (B) If the regulatory agreement for an existing tax credit project applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) contains a requirement to provide service amenities, even if that requirement has

- (G) Adequate laundry facilities shall be available on the project premises, with at least one washer and one dryer for every 10 units in the project. This requirement shall be reduced by 25% for projects where all units in the project include hook-ups for washers and dryers. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each unit in the project;
 - (H) Dishwashers shall be provided in all Low-Income Units except for studio and SRO units. A waiver for one and two bedroom units in rehabilitation projects may be granted at the sole discretion of the Executive Director due to planning or financial impracticality;
 - (I) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land).
- (2) Senior projects. To be considered senior housing, the application shall meet the following additional threshold requirements;
- (A) All units shall be restricted to households eligible under applicable provisions of California Civil Code Section 51.3 and the federal Fair Housing Act, and further be subject to state and federal fair housing laws with respect to senior housing;
 - (B) For new construction projects, one half of all Low-Income Units on an accessible path (ground floor and elevator-serviced) shall be mobility accessible under the provisions of California Building Code (CBC) Chapter 11(B). For rehabilitation projects, 25% of all Low-Income Units on an accessible path (ground floor and elevator-serviced) shall be mobility accessible under the provisions of CBC Chapter 11(B). All projects with elevators must comply with CBC Chapter 11(B) accessibility requirements for elevators. All project owners must provide adequate and visible notice to tenants of their ability to request conversion of their adaptable unit to an accessible unit. These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26. The Executive Director may approve a waiver in advance for a rehabilitation project, provided that the applicant and architect demonstrate that full compliance would be impractical or create an undue financial burden;
 - (C) Buildings over two stories shall have an elevator;
 - (D) No more than twenty percent (20%) of the Low-Income Units in the project shall be larger than one-bedroom units, unless waived by the Executive Director, when supported by a full market study;
 - (E) One-bedroom Low-Income Units must include at least 450 square feet and two-bedroom Low-Income Units must include at least 700 square feet of living space. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director, prior to application submission;
 - (F) Emergency call systems shall only be required in units intended for occupancy by frail elderly populations requiring assistance with activities of daily living, and/or applying as special needs units. When required, they shall provide 24-hour monitoring, unless an alternative monitoring system is approved by the Executive Director;
 - (G) Common areas shall be provided on site, or within approximately one-half mile of the subject property. For purposes of this part, common areas shall include all interior amenity space, such as the rental office, community room, service space,

computer labs, and gym, but shall not include laundry rooms or manager living units. Common areas shall meet the following size requirement: projects comprised of 30 or less total units, at least 600 square feet; projects from 31 to 60 total units, at least 1,000 square feet; projects from 61 to 100 total units, at least 1,400 square feet; projects over 100 total units, at least 1,800 square feet. Small developments of 20 units or fewer are exempt from this requirement. These limits may be waived, at the discretion of the Executive Director, for rehabilitation projects with existing common area;

- (H) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;
 - (I) Adequate laundry facilities shall be available on the project premises, with at least one washer and one dryer for every 15 units in the project. This requirement shall be reduced by 25% for projects where all units in the project include hook-ups for washers and dryers. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each of the units in the project;
 - (J) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land).
- (3) Special Needs projects. To be considered Special Needs housing, at least 45% of the Low-Income Units in the project shall serve populations that meet one of the following: are individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental or mental health disabilities; individuals who are survivors of physical abuse; individuals who are homeless as described in Section 10315(b); individuals with chronic illness, including HIV; homeless youth as defined in Government Code Section 12957(e)(2); families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; or another specific group determined by the Executive Director to meet the intent of this housing type. The Executive Director shall have sole discretion in determining whether or not an application meets these requirements. A development that is less than 75% special needs shall meet one of the following criteria: (i) the non-special needs Low-Income Units meet the large family, senior, or SRO housing type requirements; or (ii) the non-special needs Low-Income Units consist of at least 20% one-bedroom units and at least 10% larger than one-bedroom units. The application shall meet the following additional threshold requirements:
- (A) Average targeted income for the special needs units is no more than forty percent (40%) of the area median income;
 - (B) The units/building configurations (including community space) shall meet the specific needs of the population, including kitchen needs for SRO units without full kitchens;
 - (C) If the project does not have a public rental or operating subsidy committed for all special needs units, the applicant shall demonstrate for these unsubsidized units that the target population(s) will not experience rent overburden, as supported by the market study. Rent overburden means the targeted rent is more than 30% of the target population(s) income;
 - (D) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity

- (i) before applying for Tax Credits, the project must meet the At-risk eligibility requirements under the terms of applicable federal and state law as verified by a third party legal opinion, except that a project that has been acquired by a qualified nonprofit organization within the past five years of the date of application with interim financing in order to preserve its affordability and that meets all other requirements of this section, shall be eligible to be considered an “at-risk” project under these regulations. A project application will not qualify in this category unless it is determined by the Committee that the project is at-risk of losing affordability on at least 50% of the restricted units due to market or other conditions. A project will not be deemed at-risk of losing affordability if the project is subject to a rent restriction with a remaining term of at least five years that restricts incomes and rents on the restricted units to an average no greater than 60% of area median income;
- (ii) the project, as verified by a third-party legal opinion unless the exception in B(i) above applies, must currently possess or have had within the past five years from the date of application, either:
- federal mortgage insurance, a federal loan guarantee, federal project-based rental assistance, or, have its mortgage held by a federal agency, or be owned by a federal agency; or
 - loans or grants program administered by the Department of Housing and Community Development (HCD); or
 - be currently subject to, or have been subject to, within five years preceding the application deadline, the later of Federal or State Housing Tax Credit restrictions whose compliance period is expiring or has expired within the last five years and at least 50% of whose units are not subject to any other rental restrictions beyond the term of the Tax Credit restrictions; or
 - be currently subject to, or have been subject to, within five years preceding the application deadline, California Debt Limit Allocation Committee (CDLAC) bond regulatory agreement restrictions whose compliance period is expiring or has expired within the last five years and at least 50% of whose units are not subject to any other rental restrictions beyond the term of the CDLAC restrictions;
- (iii) as of the date of application filing, the applicant shall have sought available federal incentives to continue the project as low-income housing, including, direct loans, loan forgiveness, grants, rental subsidies, renewal of existing rental subsidy contracts, etc.;
- (iv) subsidy contract expiration, mortgage prepayment eligibility, or the expiration of Housing Tax Credit restrictions, as verified by a third party legal opinion, shall occur no later than five calendar years after the year in which the application is filed, except in cases where a qualified nonprofit organization acquired the property within the terms of (i) above and would otherwise meet this condition but for: 1) long-term use restrictions imposed by public agencies as a condition of their acquisition financing; or 2) HAP contract renewals secured by the qualified nonprofit organization for the maximum term available subsequent to acquisition;
- (v) the applicant agrees to renew all project based rental subsidies (such as Section 8 HAP or Section 521 rental assistance contracts) for the maximum term available and shall seek additional renewals throughout the project's useful life, if applicable;

- (vi) at least seventy percent (70%) of project tenants shall, at the time of application, have incomes at or below sixty percent (60%) of area median income;
 - (vii) the gap between total development costs (excluding developer fee), and all loans and grants to the project (excluding Tax Credit proceeds) must be greater than fifteen percent (15%) of total development costs; and,
 - (viii) a public agency shall provide direct or indirect long-term financial support of at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development cost.
- (5) SRO projects. To be considered Single Room Occupancy (SRO) housing, the application shall meet the following additional threshold requirements:
- (A) Average targeted income is no more than forty percent (40%) of the area median income;
 - (B) At least 90% of all units shall be SRO units (as defined Section 10302). SRO units are efficiency or studio units that may include a complete private bath and kitchen but generally do not have a separate bedroom, unless the configuration of an already existing building being proposed to be used for an SRO dictates otherwise. The minimum size for SRO units shall be 200 square feet, and the size shall not exceed 500 square feet. These bedroom size requirements may be waived for rehabilitation projects, at the discretion of the Executive Director;
 - (C) At least one bath shall be provided for every eight units;
 - (D) If the project does not have a public rental or operating subsidy committed for all SRO units, the applicant shall demonstrate for these unsubsidized units that the target population(s) will not experience rent overburden, as supported by the market study. Rent overburden means the targeted rent is more than 30% of the target population(s) income;
 - (E) The project configuration, including community space and kitchen facilities, shall meet the needs of the population, and comply with Section 10325(f)(7)(E);
 - (F) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total development cost;
 - (G) Adequate laundry facilities shall be available on the project premises, with at least one washer and one dryer for every 15 units in the project. This requirement shall be reduced by 25% for projects where all units in the project include hook-ups for washers and dryers;
 - (H) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land);
 - (I) A ten percent (10%) vacancy rate shall be used unless otherwise approved by the Executive Director. Justification of a lower rate shall be included;
 - (J) New construction projects for seniors shall not qualify as SRO housing.
- (h) Waiting List. At the conclusion of the last reservation cycle of any calendar year, and at no other time, the Committee may establish a Waiting List of pending applications in anticipation of utilizing

offerings, should the following circumstances be present: smaller than average project size; complex financing structure due to multiple sources; complex land lease or ownership structure; higher than average investor yield requirements, due to higher than average investor risk; and, little or no anticipated project cash allowing lower-than-market investor returns. Syndication costs cannot be included as a cost or included in eligible basis.

- (4) Net syndication proceeds. The Executive Director shall evaluate the net syndication proceeds to ensure that project sources do not exceed uses and that the sale of Tax Credits generates proceeds equivalent to amounts paid in comparable syndication raises. The Executive Director shall determine the minimum tax credit factor to be used in all initial applications prior to the beginning of a funding cycle for projects applying under Section 10325 for both Federal and State Tax Credits. The minimum tax credit factor for initial applications made under Section 10326 shall be adjusted annually based on current market conditions.
- (5) Threshold Basis Limits. At application, the Committee shall limit the unadjusted eligible basis amount, used for calculating the maximum amount of Tax Credits to amounts published on its website in effect at the time of application and in accordance with the Threshold Basis Limit definition in Section 10302 of these regulations. At placed in service, the Committee shall limit the unadjusted eligible basis amount to the higher of the amount published on its website in effect at the time of application or in effect for the year the project places in service.

Exceptions to limits.

- (A) Increases in the threshold basis limits shall be permitted as follows for projects applying under Section 10325 or 10326 of these regulations.

A twenty percent (20%) increase to limits for a development that is paid for in whole or in part out of public funds and is subject to a legal requirement for the payment of state or federal prevailing wages or financed in part by a labor-affiliated organization that requires the employment of construction workers who are paid at least state or federal prevailing wages. An additional five percent (5%) increase to the unadjusted eligible basis shall be available for projects that certify that they are subject to a project labor agreement within the meaning of Section 2500(b)(1) of the Public Contract Code that requires the employment of construction workers who are paid at least state or federal prevailing wages or that they will use a skilled and trained workforce, as defined in Section 25536.7 of the Health and Safety Code, to perform all onsite work within an apprenticeable occupation in the building and construction trades. All applicants under this paragraph shall certify that contractors and subcontractors will comply with Section 1725.5 of the Labor Code, if applicable;

A ten percent (10%) increase to the limits for a new construction development where parking is required to be provided beneath the residential units (but not "tuck under" parking) or through construction of an on-site parking structure of two or more levels;

A two percent (2%) increase to the limits where a day care center is part of the development;

A two percent (2%) increase to the limits where 100% of the Low-Income Units are for special needs populations;

A ten percent (10%) increase to the limits for a development wherein at least 95% of the project's upper floor units are serviced by an elevator.

A fifteen percent (15%) increase to the limits for a development wherein at least 95% of the building(s) is constructed as Type I as defined in the California Building Code, in which case, the Type III increase below (10%) shall not be allowed.

A ten percent (10%) increase to the limits for a development wherein at least 95% of the building(s) is constructed as (1) a Type III as defined in the California Building Code, or (2) a Type III/Type I combination, in which case, the Type I increase above (15%) shall not be allowed.

With the exception of the prevailing wage increase, the Local Impact Fee increase, and the special needs increase, in order to receive the basis limit increases by the corresponding percentage(s) listed above, a certification signed by the project architect shall be provided within the initial and placed-in-service application confirming that item(s) listed above will be or have been incorporated into the project design, respectively.

- (B) A further increase of up to ten percent (10%) in the Threshold Basis Limits will be permitted for projects applying under Section 10325 or Section 10326 of these regulations that include one or more of the following energy efficiency/resource conservation/indoor air quality items:
- (1) Project shall have onsite renewable generation estimated to produce 50 percent (50%) or more of annual tenant electricity use. If the combined available roof area of the project structures, including carports, is insufficient for provision of 50% of annual electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area. Available solar accessible area is defined as roof area less north facing roof area for sloped roofs, equipment, solar thermal hot water and required local or state fire department set-backs and access routes. A project not availing itself of the 90% roof area exception may also receive an increase under paragraph (2) only if the renewable generation used to calculate each basis increase does not overlap. Five percent (5%)
 - (2) Project shall have onsite renewable generation estimated to produce 75 percent (75%) or more of annual common area electricity use. If the combined available roof area of the project structures, including carports, is insufficient for provision of 75% of annual electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area. Available solar accessible area is defined as roof area less north facing roof area for sloped roofs, equipment, solar thermal hot water and required local or state fire department set-backs and access routes. A project not availing itself of the 90% roof area exception may also receive an increase under paragraph (1) only if the renewable generation used to calculate each basis increase does not overlap. Two percent (2%)
 - (3) Newly constructed project buildings shall be 15% more energy efficient than the applicable Building Energy Efficiency Standards (Energy Code, California Code of Regulations, Title 24) for energy efficiency alone (not counting solar), except that if the local building department has determined that building permit applications submitted on or before December 31, 2019 are complete, then newly constructed project buildings shall be fifteen percent (15%) or more energy efficient than the 2016 Energy Efficiency Standards (California Code of Regulations, Title 24). Four percent (4%)
 - (4) Rehabilitated project buildings shall have eighty percent (80%) decrease in estimated TDV energy use (or improvement in energy efficiency) post rehabilitation as demonstrated using the appropriate performance module of CEC approved software. Four percent (4%)

- (5) Irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens) or irrigate with reclaimed water, grey water, or rainwater in an amount that annually equals or exceeds 20,000 gallons or 300 gallons per unit, whichever is less. One percent (1%)
- (6) Community Gardens of at least 60 square feet per unit. Permanent site improvements that provide a viable growing space within the project including solar access, fencing, watering systems, secure storage space for tools, and pedestrian access. One percent (1%)
- (7) Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, natural linoleum, natural rubber, or ceramic tile in all kitchens, living rooms, and bathrooms (where no VOC adhesives or backing is also used). One percent (1%)
- (8) Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, natural linoleum, natural rubber, or ceramic tile in all interior floor space other than units (where no VOC adhesives or backing is also used). Two percent (2%)
- (9) For new construction projects, meet all requirements of the U.S. Environmental Protection Agency Indoor Air Plus Program. Two percent (2%)

Compliance and Verification: For placed-in-service applications, in order to receive the increase to the basis limit, the application shall contain a certification from a HERS, GreenPoint, NGBS Green Verifier, PHIUS, Passive House, or Living Building Challenge Rater, or from a LEED for Homes Green Rater verifying that item(s) listed above have been incorporated into the project, except that items (5) through (8) may be verified by the project architect. For item (1), the applicant must submit a Sustainable Building Method Workbook. The applicant shall use CBECC/CUAC software approved by the California Energy Commission to determine the solar output and the tenants' estimated usage. For item (2), the energy analyst shall provide documentation of the load serving the common area and the output calculations of the photovoltaic generation. For items (3) and (4), the applicant must submit a Sustainable Building Method Workbook with the original application and the placed-in-service application. For item (5), the Rater, architect, landscape architect, or water system engineer shall certify that reclaimed water, greywater, or rainwater systems have been installed and are functioning to supply sufficient irrigation to the property to meet the standards under normal conditions. Failure to incorporate the features, or to submit the appropriate documentation may result in a reduction in credits awarded and/or an award of negative points.

- (C) Additionally, for projects applying under Section 10326 of these regulations, an increase of one percent (1%) in the threshold basis limits shall be available for every 1% of the project's Low-Income and Market Rate Units that will be income and rent restricted at or below 50 percent (50%) but above thirty-five percent (35%) of Area Median Income (AMI). An increase of two percent (2%) shall be available for every 1% of the project's Low-Income and Market Rate Units that will be restricted at or below 35% of AMI. In addition, the applicant must agree to maintain the affordability period of the project for 55 years (50 years for projects located on tribal trust land).
- (D) Projects requiring seismic upgrading of existing structures, and/or projects requiring on-site toxic or other environmental mitigation may be permitted an increase in basis limit equal to the lesser of the amount of costs associated with the seismic upgrading or one-site environmental mitigation or 15% of the project's unadjusted eligible basis to the extent that the project architect or seismic engineer certifies in the application to the costs associated with such work.

- (E) An increase equal to any Local Development Impact Fees as defined in Section 10302 of these regulations if the fees are documented in the application submission by the entities charging such fees.
- (F) In a county that has an unadjusted 9% threshold basis limit for a 2-bedroom unit equal to or less than \$500,000, a ten percent (10%) increase to the project's threshold basis limit for a development located in a census tract, or census block group as applicable, designated on the CTCAC/HCD Opportunity Area Map as Highest or High Resource.

An applicant may choose to utilize the census tract, or census block group as applicable, resource designation from the CTCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

- (6) Acquisition costs. All applications must include the cost of land and improvements in the Sources and Uses budget, except that (i) competitive projects with donated land and/or improvements shall include the appraised value of the donated land and improvements that is not nominal, and (ii) projects on tribal trust land need only provide an improvement cost or value. If the acquisition for a new construction project involves a Related Party, the applicant shall disclose the relationship at the time of initial application.

Once established in the initial application, the acquisition cost of a new construction site shall not increase except as provided below for land and improvements donated or leased. Except as allowed pursuant to Section 10322(h)(9)(A) or by a waiver pursuant to this section below for projects basing cost on assumed debt, neither the purchase price nor the basis associated with existing improvements, if any, shall increase during all subsequent reviews including the placed-in-service review.

If land or land and improvements (real property) are donated to the general partner or member of the project owner and if approved by CTCAC in advance, the general partner or member may sell the real property to the project for an amount equal to the donated value established in the application provided that: there must be a seller carryback loan for the full amount of the sale, the loan must be "soft," having a term of at least 15 years, a below market interest rate and interest accrual, and be either fully deferred or require only residual receipts payments for the loan term. Alternatively, the value may be a capital contribution of a general partner or member. Once established in the initial application, the donated value of the real property shall not increase.

If land or land and improvements (real property) are donated or are leased for a mandatory lease payment of \$100 per year or less, and if approved by CTCAC in advance, the donation value established in the application may be a capital contribution of a general partner or member. Once established in the initial application, the donated value of the real property/lease shall not increase.

- (A) New Construction. The cost of land acquired through a third-party transaction with an unrelated party shall be evidenced by a sales agreement, purchase contract, or escrow closing statement. The value of land acquired from a Related Party shall be underwritten using the lesser of the current purchase price or appraised value pursuant to Section 10322(h)(9). If the purchase price exceeds appraised value, the applicant shall, within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the soft permanent financing by the overage. For all other purposes, the project cost shall include the overage.

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).

- (B) Rehabilitation. Except as noted below, the applicant shall provide a sales agreement or purchase contract in addition to the appraisal. The value of land and improvements shall be underwritten using the lesser amount of the purchase price or the “as is” appraised value of the subject property (as defined in Section 10322(h)(9)) and its existing improvements without consideration of the future use of the property as rent restricted housing except if the property has existing long term rent restrictions that affect the as-is value of the property. The land value shall be based upon an “as if vacant” value as determined by the appraisal methodology described in Section 10322(h)(9) of these regulations. If the purchase price is less than the appraised value, the savings shall be prorated between the land and improvements based on the ratio in the appraisal. If the purchase price exceeds appraised value, the applicant shall (i) limit improvements acquisition basis to the amount supported by the appraisal and (ii) within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the soft permanent financing, exclusive of any developer fee that must be deferred or contributed pursuant to Section 10327(c)(2)(B), by the overage. For all other purposes, the project cost shall include the overage.

The Executive Director may approve a waiver to underwrite the project with a purchase price in excess of the appraised value where (i) a local governmental entity is purchasing, or providing funds for the purchase of land for more than its appraised value in designated revitalization area when the local governmental entity has determined that the higher cost is justified, or (ii) the purchase price does not exceed the sum of third-party debt encumbering the property that will be assumed or paid off.

For tax-exempt bond-funded properties receiving credits under Section 10326 only or in combination with State Tax Credits and exercising the option to forgo an appraisal pursuant to Section 10322(h)(9)(A), no sales agreement or purchase contract is required, and CTCAC shall approve a reasonable proration of land and improvement value consistent with similar projects in the market area.

- (7) Reserve accounts. All reserve accounts shall be used to maintain the property (which does not include repayment of loans) and/or benefit its residents, and shall remain with the project except as provided in subparagraph (B) below and except when a public lender funds rent subsidy and/or service reserves and requires repayment of unused rent subsidy and/or service reserves. If ownership of a project is transferred, the reserve accounts may be purchased by the purchaser(s) or transferee(s) for an amount equal to the reserve account(s) balance(s).
- (A) The minimum replacement reserve deposit for projects shall be three hundred dollars (\$300) per unit per year, or for new construction or senior projects, two hundred fifty dollars (\$250) per unit per year. The on-going funding of the replacement reserve in this amount shall be a requirement of the regulatory agreement during the term of the agreement, and the owner shall maintain these reserves in a segregated account. Funds in the replacement reserve shall only be used for capital improvements or repairs.
- (B) An operating reserve shall be funded in an amount equal to three months of estimated operating expenses and debt service under stabilized occupancy. Additional funding will be required only if withdrawals result in a reduction of the operating reserve account balance to 50% or less of the originally funded amount. An equal, verified operating reserve requirement of any other debt or equity source may be used as a substitute, and the reserve may be released following achievement of a minimum annual debt service ratio of 1.15 for three consecutive years following stabilized occupancy only to pay deferred developer fee. The Committee shall allow operating reserve amounts in excess of industry norms to be considered “reasonable costs,” for purposes of this subsection, only for homeless assistance projects under the Non-Profit Set-Aside, as described in Section

10315(b), Special Needs projects, HOPE VI projects, or project-based Section 8 projects. The original Sources and Uses budget and the final cost certification shall demonstrate the initial and subsequent funding of the operating reserves.

- (8) Applicant resources. If the applicant intends to finance part or all of the project from its own resources or a Related Party's resources (other than deferred fees), the applicant shall be required to prove, to the Executive Director's satisfaction, that such resources are available and committed solely for this purpose, including an audited certification from a third party certified public accountant that applicant has sufficient funds to successfully accomplish the financing. Public entities are exempt from this requirement.
 - (9) Self-syndication. If the applicant or a Related Party intends to be the sole or primary tax credit investor in a project, the project shall be underwritten using a tax credit factor (i.e., price) of \$1 for each dollar of federal tax credit and \$.79 dollars for each dollar of State Tax Credit, unless the applicant proposes a higher value.
- (d) Determination of eligible and qualified basis. The Committee shall provide forms to assist applicants in determining basis. The Committee shall rely on certification from an independent, qualified Certified Public Accountant for determination of basis; however, the Committee retains the right to disallow any basis it determines ineligible or inappropriate.
- (1) High-Cost Area adjustment to eligible basis. Proposed projects located in a qualified census tract or difficult development area, as defined in IRC Section 42(d)(5)(c)(iii), may qualify for a thirty percent (30%) increase to eligible basis, subject to Section 42, applicable California statutes and these regulations. Pursuant to Authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications relating to sites that have lost their difficult development area or qualified census tract status within the previous 12 months as a difficult development area (DDA).
 - (2) Pursuant to Authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications proposing a project meeting the Special Needs housing type threshold requirements at Section 10325(g)(3) as a difficult development area (DDA).
 - (3) Pursuant to authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications seeking state credits for which there are insufficient state credits as a difficult development area (DDA).
 - (4) Pursuant to authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications for Federal Credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 as a difficult development area (DDA).
- (e) Determination of Credit amounts. The applicant shall determine, and the Committee shall verify, the maximum allowable Tax Credits and the minimum Tax Credits necessary for financial feasibility, subject to all conditions of this Section. For purposes of determining the amount of Tax Credits, the project's qualified basis shall be multiplied by an applicable Credit percentage established by the Executive Director, prior to each funding cycle. The percentage shall be determined taking into account recently published monthly Credit percentages.
- (f) Determination of feasibility. To be considered feasible, a proposed project shall exhibit positive cash flow after debt service for a 15-year minimum term beginning at stabilized occupancy, or in the case of acquisition/rehabilitation projects, at the completion of rehabilitation. "Cash flow after debt service" is defined as gross income (including (1) all rental income generated by proposed initial rent levels contained within the project application and (2) committed federal, state, and local rental subsidies; excluding income generated by tenant-based rental subsidies) minus vacancy, operating expenses, property taxes, service and site amenity expenses, operating and replacement reserves and must pay debt service (not including residual receipts debt payments). Expenses that do not continue through all 15 years of the pro forma shall be excluded from the evaluation of feasibility as well as from the minimum debt service coverage ratio and cash flow parameters

pursuant to Section 10327(g)(6). For applications that qualify for a reservation of Tax Credits: (1) from the Nonprofit set-aside homeless assistance apportionment, (2) with special needs units comprising at least 25% of the low-income units, or (3) with an average targeted affordability of 40% of Area Median Income or less, capitalized operating reserves in excess of the 3-month minimum amount may be added to gross income for purposes of determining "cash flow after debt service." In addition, applications with a committed capitalized operating subsidy reserve from HCD, CalHFA, or another public entity approved by the Executive Director may add withdrawals from this reserve to gross income for purposes of determining "cash flow after debt service."

- (g) Underwriting criteria. The following underwriting criteria shall be employed by the Committee in a pro forma analysis of proposed project cash flow to determine the minimum Tax Credits necessary for financial feasibility and the maximum allowable Tax Credits. The Committee shall allow initial applicants to correct cash flow shortages or overages up to the higher of \$25,000 or 0.5% of gross income at placed in service. In addition, if the operating expenses are below the published amount pursuant to subparagraph (1), the CTCAC Executive Director may correct the error by increasing the operating expenses to the published amount, provided the increase maintains compliance with all other feasibility and underwriting criteria.
- (1) The 15-year pro forma revenue and expense projection calculations shall utilize a two-and-one-half percent (2.5%) increase in gross income, a three-and-one-half percent (3.5%) increase in operating expenses (excluding operating and replacement reserves set at prescribed amounts), and a two percent (2%) increase in property taxes.
- (A) Where a private conventional lender and project equity partner use a 2% gross income and 3% operating expense increase underwriting assumption, CTCAC shall accept this methodology as well.
- (B) For projects with a HUD rental subsidy that will receive a subsidy layering review from CTCAC, CTCAC shall accept 2% gross income, 3% operating expense increase, and 7% vacancy underwriting assumptions.

For purposes of the pro forma projections only, the application form Subsidy Contract Calculation may utilize post-rehabilitation rental subsidy contract rent assumptions when applicable.

Minimum operating expenses shall include expenses of all manager units and market rate units and must be at least equal to the minimum operating expense standards published by the Committee staff annually. The published minimums shall be established based upon periodic calculations of operating expense averages annually reported to CTCAC by existing tax credit property operators. The minimums shall be displayed by region, and project type (including large family, senior, and Special Needs), and shall be calculated at the reported average or at some level discounted from the reported average. The Executive Director may, in his/her sole discretion, utilize operating expenses up to 15% less than required in this subsection for underwriting when the equity investor and the permanent lender are in place and provide evidence that they have agreed to such lesser operating expenses. These minimum operating expenses do not include property taxes, replacement reserves, depreciation or amortization expense, compliance monitoring or lender fees, or the costs of any site or service amenities.

Special needs projects that are less than 100% special needs shall prorate the operating expense minimums, using the special needs operating expenses for the special needs units, and the other applicable operating expense minimums for the remainder of the units.

- (2) Property tax expense minimums shall be one percent (1%) of total replacement cost, unless:
- (A) the verified tax rate is higher or lower;

- (B) the proposed sponsorship of the applicant includes an identified 501(c)(3) corporate general partner which will pursue a property tax exemption; or
 - (C) the proposed sponsorship of the applicant includes a Tribe or tribally-designated housing entity.
- (3) Vacancy and collection loss rates shall be ten percent (10%) for special needs units and non-special needs SRO units without a significant project-based public rental subsidy, unless waived by the Executive Director based on vacancy data in the market area for the population to be served. Vacancy and collection loss rates shall be between five and ten percent (5-10%) for special needs units and non-special needs SRO units with a significant project-based public rental subsidy. Vacancy and collection loss rates shall be five percent (5%) for all other units.
- (4) Loan terms, including interest rate, length of term, and debt service coverage, shall be evidenced as achievable and supported in the application, or applicant shall be subject to the prevailing loan terms of a lender selected by the Committee.
- (5) Variable interest rate permanent loans shall be considered at the underwriting interest rate, or, alternatively, at the permanent lender's underwriting rate upon submission of a letter from the lender indicating the rate used by it to underwrite the loan. All permanent loan commitments with variable interest rates must demonstrate that a "ceiling" rate is included in the loan commitment or loan documentation. If not, the permanent loan will not be accepted by CTCAC as a funding source.
- (6) Minimum and Maximum Debt Service Coverage. An initial debt service coverage ratio equal to at least 1.15 to 1 in at least one of the project's first three years is required, except for FHA/HUD projects, RHS projects or projects financed with hard debt by the California Housing Finance Agency. Debt service does not include residual receipts debt payments. Except for projects in which less than 50% of the units are Tax Credit Units or where a higher first year ratio is necessary to meet the requirements of subsection 10327(f) (under such an exception the year-15 cash flow shall be no more than the greater of 1) two percent (2%) of the year-15 gross income or 2) the lesser of \$500 per unit or \$25,000 total), "cash flow after debt service" shall be limited to the higher of twenty-five percent (25%) of the anticipated annual must pay debt service payment or eight percent (8%) of gross income, during each of the first three years of project operation. Gross income includes rental income generated by proposed initial rent levels contained with the project application.

9% credit applications without a HUD subsidy layering review: A pro forma statement utilizing CTCAC underwriting requirements and submitted to CTCAC at initial application; application at 180 days or 194 days pursuant to Section 10328(c); and placed in service application review must demonstrate that this limitation is not exceeded during the first three years of the project's operation.

All other applications: A pro forma statement utilizing CTCAC underwriting requirements and submitted to CTCAC at initial application; application at 180 days or 194 days pursuant to Section 10328(c); and if applicable, application at subsidy layering review must demonstrate that this limitation is not exceeded during the first three years of the project's operation. For these applications, effective November 1, 2019 CTCAC underwriting requirements for placed in service applications currently under review pursuant to Section 10322(i) are eliminated.

- (7) The income from the residential portion of a project shall not be used to support any negative cash flow of a commercial portion. Alternatively, the commercial income shall not support the residential portion. Applicants must provide an analysis of the anticipated commercial income and expenses. At placed in service, an applicant with commercial space shall provide a written communication from the hard lender specifying the portion of the loan that is underwritten with commercial income and, if greater than zero, the corresponding annual commercial debt service payments.

- (8) Existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) that are subject to the hold harmless rent provisions of the federal Housing and Economic Recovery Act of 2008 (HERA) at application may, at the request of the applicant, be underwritten at the hold harmless rent limits to the extent that they do not exceed the elected federal set-aside current tax credit rent limits, except that the application of the rent adjuster shall be delayed for a number of years equal to the percentage difference between the hold harmless rent limits and the current tax credit rent limits, with the result divided by 2.5 and rounded to the nearest year. The new regulatory agreement shall reflect the current tax credit rent limits, but the project may continue to charge hold harmless HERA rents for units targeted below the elected federal set-aside (i.e., 40% of units at 60% AMI or 20% of units at 50% AMI) provided that the hold harmless rents do not exceed the rent level for the applicable elected federal set-aside and only until such time as the current tax credit rent limits equal or exceed the hold harmless rents.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Section 10328. Conditions on Credit Reservations.

- (a) General. All reservations of Tax Credits shall be conditioned upon:
 - (1) timely project completion;
 - (2) receipt of amounts of Tax Credits no greater than necessary for financial feasibility and viability as a qualified low-income housing project throughout the extended use period;
 - (3) income targets as proposed in the application; and,
 - (4) rents for a low-income household shall not increase in any 12-month period more than the lesser of five percent plus the percentage increase in the cost of living as defined in paragraph (3) of subdivision (g) of Section 1947.12 of the Civil Code or ten percent of the lowest rental rate charged for that household at any time during the 12 months prior to the effective date of the increase, except as follows:
 - (A) The Executive Director may grant a waiver to exceed this limit provided that the owner shows that the proposed rent increase is necessary to ensure financial stability or fiscal integrity of the property.
 - (B) An owner may exceed this limit without a waiver in the following circumstances:
 - (i) to increase the rent up to 30 percent of the monthly income of the household occupying the unit.
 - (ii) for projects with terminated project-based rental assistance or operating subsidy as described in Section 10337(a)(3)(B); or
 - (iii) a transfer of a household to another unit in the same property that has a different bedroom count or transfer to a higher AMI designation, as required by a public regulatory agreement or deed restriction, due to a change in the household's income or occupancy from initial qualification.
- (b) Preliminary reservations. Preliminary reservations of Tax Credits shall be subject to conditions as described in this subsection and applicable statutes. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the performance deposit described in Section 10335 and an executed reservation letter bearing the applicant's signature accepting the reservation within twenty (20) calendar days of the Committee's notice to the applicant of the preliminary reservation, except that Hybrid projects and simultaneous phased projects as defined in Section

10327(c)(2)(C) shall submit the acceptance of the reservation for the first application within five (5) business days of the Committee's notice to the applicant of the reservation for the corresponding second application. However, should the 20-day period for returning the executed reservation letter continue past December 15 of any year, an applicant may be required to execute and return the reservation letter in less than twenty (20) days in order that the reservation be effective. Failure to comply with any shortened period would invalidate the reservation offer and permit the Committee to offer a reservation to the next eligible project.

- (c) Except for those applying under section 10326 of these regulations, applicants receiving a Credit reservation but who did not receive maximum points in the Readiness to Proceed point category shall provide the Committee with a completed updated application form no later than 180 days or 194 days, as applicable, following Credit reservation and start construction no later than 12 months following Credit reservation. Failure to start construction within 12 months following Credit reservation may result in rescission of Credit reservation.

Upon receipt of the updated application form, the Committee shall conduct a financial feasibility and cost reasonableness analysis for the proposed project and determine if all conditions of the preliminary reservation have been satisfied. Substantive changes to the approved application, in particular, changes to the financing plan or costs, need to be explained by the applicant in detail, and may cause the project to be reconsidered by the Committee.

- (d) Carryover Allocations. Except for those applying under section 10326 of these regulations, applicants receiving a Credit reservation shall satisfy either the Placed-in-service requirements pursuant to subsection 10322(i) or carryover allocation requirements in the year the reservation is made, pursuant to IRC Section 42(h)(1)(E) and these regulations, as detailed below. An application for a carryover allocation must be submitted no later than 20 days following the Credit reservation date, together with the applicable allocation fee, and all required documentation, except that the time for meeting the "10% test" and submitting related documentation, and owning the land, will be no later than twelve (12) months after the date of the carryover allocation. An application for a carryover allocation and allocation fee for the first application of a Hybrid project or a simultaneous phased project as defined in Section 10327(c)(2)(C) shall be submitted within five (5) business days of the Committee's notice to the applicant of the reservation for the corresponding second application.

- (1) Additional documentation and analysis. The Executive Director may request, and the holder of a Credit reservation shall provide, additional documentation required for processing a carryover allocation.
- (2) In addition to the requirements of the Internal Revenue Code, to receive a carryover allocation an applicant shall provide evidence that applicant has maintained site control from the time of the initial application and, if the land is not already owned, will continue to maintain site control until the time for submitting evidence of the land's purchase.
- (3) Certification. The Committee shall require a certification from an applicant that has received a reservation, that the facts in the application continue to be true before a carryover allocation is made.

- (e) Placed-in-service. The applicant shall submit documentation required by Section 10322(i).
- (f) Additional Conditions to Reservations and Allocations of Tax Credits. Additional conditions, including cancellation, disqualification and other sanctions may be imposed by the Committee in furtherance of the purposes of the Tax Credits programs.
- (g) Reservation Exchange. A project with a reservation of Federal Credit pursuant to Section 10325 and a carryover allocation pursuant to Section 10328(d) and IRC Code § 42(h)(1)(E) that meets any of the following criteria may elect to return all of the Federal Credit in exchange for a new reservation and allocation of Federal Credits. The reservation and carryover allocation of the Federal Credits returned pursuant to this subdivision shall be deemed cancelled by mutual consent

pursuant to a written agreement executed by the Committee and the applicant specifying the returned credit amount and the effective date on which the credits are deemed returned. The Committee shall concurrently issue a new reservation of Federal Credits to the project in the amount of the Federal Credits returned by the project to the Committee.

- (1) A High-Rise Project that returns all of the Federal Credit only during January of the calendar year immediately following the calendar year in which the initial reservation and carryover allocation were made.
 - (2) A project that prior to the placed-in-service deadline merits additional time to place in service when development was significantly delayed during construction due to physical damage to the development directly caused by a disaster, including but not limited to, fires, floods, or earthquakes. In considering a request the Executive Director may consider at his or her sole discretion, among other things, the extent of the damage, the length of the delay, the time remaining until the project's placed in service deadline, and the circumstances causing the physical damage.
 - (3) A project reserved Federal credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 that returns all of the Federal Credit only during January of the calendar year immediately following the calendar year in which the initial reservation and carryover allocation were made.
 - (4) A Waiting List project that returns all of the Federal Credit only during the calendar year immediately following the calendar year in which the initial reservation and carryover allocation were made.
 - (5) Notwithstanding paragraph (4), a Waiting List project that returns all of the Federal Credit prior to December 31, 2023, immediately following when the initial reservation and carryover allocation were made.
 - (6) A project reserved and allocated Federal Credit that returns all of the Federal Credit due to circumstances beyond the applicant's control and subject to the prior written approval of the Executive Director at his or her sole discretion.
- (h) CTCAC may contract with accountants and contractors or construction engineers to review the accuracy and reasonableness of a subset of final cost certifications submitted each year. The owner of a project selected for review and the accountant who prepared the final cost certification for such a project shall provide all requested information and generally facilitate the review.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Section 10330. Appeals.

- (a) Availability. An applicant shall not appeal the Committee staff evaluation of another applicant's application. An appeal may only be filed under the following circumstances:
 - (1) determination of the application point score;
 - (2) disqualification from participation in the program pursuant to subsection 10325(c);
 - (3) qualification for "additional threshold requirements," pursuant to subsection 10325(g); and, determination of the Credit amount, pursuant to Section 10327.
- (b) (1) Procedure for application appeals. An appeal related to an application must be submitted in writing and received by CTCAC staff no later than five (5) calendar days following the

transmittal date of the staff's point or disqualification letter. The appeal shall identify specifically, based upon previously submitted application materials, the applicant's grounds for the appeal.

Staff will respond in writing to the appeal letter within five (5) days after receipt of the appeal letter. If the applicant wishes to appeal the staff response, the applicant may appeal in writing to the Executive Director no later than five (5) days following the transmittal date of the staff response letter. The Executive Director will respond in writing within five (5) days after receipt of the appeal letter. If the applicant wishes to appeal the Executive Director's decision, a final appeal may be submitted to the Committee no more than five (5) days following the transmittal date of the Executive Director's letter. An appeal to the Committee must be accompanied by a five hundred dollar (\$500) non-refundable fee payment payable to CTCAC. No Committee appeals will be addressed without this payment. The appeal review shall be based upon the existing documentation submitted by the applicant when the application was filed. Any appeal or response due on a weekend or holiday shall be deemed to be due on the following business day.

- (2) Procedure for negative point or fine appeals. An appeal related to negative points or a fine must be submitted in writing and received by the Executive Director no later than fourteen (14) days following the transmittal of a negative point or fine letter, unless the Executive Director grants an extension which shall not exceed fourteen (14) additional days. The appeal shall identify specifically the appellant's ground for the appeal. The Executive Director will respond in writing no more than seven (7) days after receipt of the appeal, unless the appellant requests an extension to accommodate a meeting with the Executive Director. If the appellant wishes to appeal the Executive Director's decision, a final appeal may be submitted to the Committee no more than seven (7) days following the date of receipt of the Executive Director's letter. An appeal to the Committee must be accompanied by a five hundred dollar (\$500) non-refundable fee payment payable to CTCAC. No Committee appeals will be addressed without this payment.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Section 10335. Fees and Performance Deposit.

(a) Application fee.

- (1) Every applicant for non-competitive tax credits shall be required to pay an application filing fee of \$1,500. Scattered site applications and resyndication applications shall be required to pay an application filing fee of \$1,700. This fee shall be paid to the Committee and shall be submitted with the application. This fee is not refundable.
- (2) Every applicant for competitive tax credits shall be required to pay an application filing fee of \$2,500, except for projects with sites within the jurisdictions of multiple Local Reviewing Agencies (LRA) for which applicants shall be required to pay an additional \$1,000 application fee for each additional LRA. This fee shall be paid to the Committee and shall be submitted with the application. This fee is not refundable. Applicants reapplying in the same calendar year for an essentially similar project on the same project site shall be required to pay an additional \$1,500 filing fee to be considered in a subsequent funding round, regardless of whether any amendments are made to the re-filed application. At the request of the applicant and upon payment of the applicable fee by the application filing deadline, applications remaining on file will be considered as is, or as amended, as of the date of a reservation cycle deadline. It is the sole responsibility of the applicant to amend its application prior to the reservation cycle deadline to meet all application requirements of these regulations, and to submit a "complete" application in accordance with Section 10322. \$1,000 of the initial application filing fee shall be provided to each official LRA which

completes a project evaluation for the Committee. A LRA may waive its portion of the application filing fee. Such waiver shall be evidenced by written confirmation from the LRA, included with the application.

- (b) Allocation fee. Every applicant who receives a reservation of Tax Credits, except tax-exempt bond project applicants, shall be required to pay an allocation fee equal to four percent (4%) of the dollar amount of the first year's Federal Credit amount reserved. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the required fee paid to the Committee prior to execution of a carryover allocation or issuance of tax forms, whichever comes first. This fee is not refundable.
- (c) Appeal fee. Any applicant submitting an appeal to the Committee shall pay a fee of five hundred dollars (\$500) to CTCAC. The fee must accompany the appeal letter to the Committee.
- (d) Reservation fee. Tax-exempt bond project applicants receiving Credit reservations shall be required to pay a reservation fee equal to one percent (1%) of the annual Federal Tax Credit reserved. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the required fee within twenty (20) days of issuance of a tax-exempt bond reservation, except that Hybrid projects and simultaneous phased projects as defined in Section 10327(c)(2)(C) shall submit the reservation fee for the first application within five (5) business days of the Committee's notice to the applicant of the reservation for the corresponding second application, or prior to the issuance of tax forms, whichever is first.
- (e) Performance deposit. Each applicant receiving a preliminary reservation of Federal, or Federal and State (including State Farmworker), Tax Credits shall submit a performance deposit equal to four percent (4%) of the first year's Federal Credit amount reserved, but not to exceed \$100,000, including applicants with a reservation of credit on or after October 14, 2020. Notwithstanding the other provisions of this subsection, an applicant requesting Federal Tax Credits not subject to the Federal housing Credit Ceiling and requesting State Tax Credits or State Farmworker Tax Credits, shall be required to submit a performance deposit in an amount equal to two percent (2%) of the first year's State Credit amount reserved for the project, but not to exceed \$100,000. Notwithstanding the other provisions of this Section, an applicant requesting only Federal Tax Credits not subject to the Federal Credit Ceiling, shall not be required to submit a performance deposit.
 - (1) Timing and form of payment. The performance deposit shall be paid to the Committee within twenty (20) calendar days of the Committee's notice to the applicant of a preliminary reservation, except that Hybrid projects and simultaneous phased projects as defined in Section 10327(c)(2)(C) shall submit the performance deposit for the first application within five (5) business days of the Committee's notice to the applicant of the reservation for the corresponding second application.
 - (2) Returned Tax Credits. If Tax Credits are returned after a reservation has been accepted, the performance deposit is not refundable, with the following exceptions. Projects unable to proceed due to a natural disaster, a lawsuit, or similar extraordinary circumstance that prohibits project development may be eligible for a refund. Requests to refund a deposit shall be submitted in writing for Committee consideration. Amounts not refunded are forfeited to the Committee. All forfeited funds shall be deposited in the occupancy compliance monitoring account to be used to help cover the costs of performing the responsibilities described in Section 10337.
 - (3) Refund or forfeiture. To receive a full refund of the performance deposit, the applicant shall do all of the following: place the project in service under the time limits permitted by law; qualify the project as a low-income housing project as described in Section 42; meet all the conditions under which the reservation of Tax Credits was made; certify to the Committee that the Tax Credits allocated will be claimed; and, execute a regulatory agreement for the project. If the Committee cancels a Credit because of misrepresentation by the applicant either before or after an allocation is made, the performance deposit is not refundable. If

the project is completed, but does not become a qualified low-income housing project, the performance deposit is not refundable.

- (4) Appeals. An applicant may appeal the forfeiture of a performance deposit, by submitting in writing, a statement as to why the deposit should be refunded. The appeal shall be received by the Committee not later than seven (7) calendar days after the date of mailing by the Committee of the action from which the appeal is to be taken. The Executive Director shall review the appeal, make a recommendation to the Committee, and submit the appeal to the Committee for a decision.
- (f) Compliance monitoring fee. The Committee shall charge a \$700 per low-income unit fee to cover the costs associated with compliance monitoring throughout the extended-use period. Generally, payment of the fee shall be made prior to the issuance of Federal and/or State tax forms. Assessment of a lesser fee, and any alternative timing for payment of the fee, may be approved at the sole discretion of the Executive Director and shall only be considered where convincing proof of financial hardship to the owner is provided. Nothing in this subsection shall preclude the Committee from charging an additional fee to cover the costs of any compliance monitoring required, but an additional fee shall not be required prior to the end of the initial 15 year compliance period.
- (g) Tax form revision fee. An owner who requests an amendment to 8609 or 3521A tax forms, including a request that occurs after CTCAC completes the drafting of these forms, shall pay a fee of \$1000 unless the Executive Director determines that the amendment is necessary due to a CTCAC error.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Section 10337. Compliance.

- (a) Regulatory Agreement. All recipients of Tax Credits, whether Federal only, or both Federal and State, are required to execute a regulatory agreement, as a condition to the Committee's making an allocation, which will be recorded against the property for which the Tax Credits are allocated, and, if applicable, will reflect all scoring criteria proposed by the applicant in the competition for Federal and/or State housing Credit Ceiling.
 - (1) For all projects receiving a reservation of competitive 9% federal tax credits on or after January 1, 2016 for which all general partners will be Qualified Nonprofit Organizations, the partnership agreement shall include a Right of First Refusal ("ROFR") for one or more of the nonprofit general partners to purchase the project after the end of the 15-year federal compliance period. The price to purchase the project under this ROFR shall be the minimum price allowed under IRC Section 42(i) plus any amounts required to be paid to the tax credit investors that remain unpaid for approved Asset Management Fees and required payments under the limited partnership agreement for tax credit adjusters that remain outstanding at the time of the sale. The applicant shall demonstrate compliance with this requirement prior to the issuance of the 8609 forms.
 - (2) For all projects receiving a reservation of 4% and 9% federal tax credits on or after January 1, 2016, the regulatory agreement shall require written approval of the Executive Director for any Transfer Event.
 - (3) Where a Project is receiving renewable project-based rental assistance or operating subsidy:
 - (A) the owner shall in good faith apply for and accept all renewals available;

- (B) if the project-based rental assistance or operating subsidy is terminated through no fault of the owner, the property owner shall notify CTCAC in writing immediately and shall make every effort to find alternative subsidies or financing structures that would maintain the deeper income targeting contained in the recorded CTCAC regulatory agreement. Upon documenting to CTCAC's satisfaction unsuccessful efforts to identify and obtain alternative resources, the owner may increase rents and income targeting for Low-Income Units above the levels allowed by the recorded regulatory agreement up to the federally-permitted maximum. Rents shall be raised only to the extent required for Financial Feasibility, as determined by CTCAC. Where possible, remedies shall include skewing rents higher on portions of the project in order to preserve affordability for units regulated by CTCAC at extremely low income targeting. Any necessary rent increases shall be phased in as gradually as possible, consistent with maintaining the project's Financial Feasibility. If housing Special Needs populations, the property owner shall attempt to minimize disruption to existing households, and transition to non-Special Needs households only as necessary and upon vacancy whenever possible.
- (4) All projects that receive a reservation of Tax Credits on or after January 1, 2017 and that involve a leasehold interest shall, in addition to the regulatory agreement, execute a lease rider which shall be recorded in the County Recorder's Office for which the project is located.
- (b) Responsibility of owner.
- (1) Compliance. All compliance requirements monitored by the Committee shall be the responsibility of the project owner. Project owners are required to annually certify tenant incomes in conformance with IRS regulation §1.42-5(c)(3) unless the project is a 100 percent (100%) tax credit property exempted under IRC Section 142(d)(3)(A). Owners of a 100% tax credit property must perform a first annual income recertification in addition to the required initial move-in certification. After initial move-in certification and first annual recertification, owners of 100% tax credit properties may discontinue obtaining income verifications. Owners of 100% tax credit properties must continue to check for full-time student status of all households during the entire tenancy of the households and throughout the initial compliance period, and continue recordkeeping in accordance with paragraph (1) of this subsection. These requirements continue if the tax credit property is sold, transferred, or under new management. Any failure by the owner to respond to compliance reports and certification requirements will be considered an act of noncompliance and shall be reported to the IRS if reasonable attempts by the Committee to obtain the information are unsuccessful.
- (2) Accessible Units: Reasonable Accommodations. All new and existing Tax Credit projects with fully accessible units for occupancy by persons with mobility impairments or hearing, vision or other sensory impairments shall provide a preference for those units as follows.
- (A) First, to a current occupant of another unit of the same project having handicaps requiring the accessibility features of the vacant unit and occupying a unit not having such features, or if no such occupant exists, then
- (B) Second, to an eligible qualified applicant on the waiting list having a handicap requiring the accessibility features of the vacant unit.

When offering an accessible unit to an applicant not having handicaps requiring the accessibility features of the unit, the owner or manager shall require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

Owners and managers shall adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps, and shall take

reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit.

- (3) Homeless youth and federal student rule. After the 15-year federal compliance period has lapsed, units in a special needs project designated at reservation for homeless youth may be occupied entirely by full-time students who are not dependents of another individual.
 - (4) Prohibition against requiring tenants to participate in services. All new and existing Tax Credit projects are prohibited from requiring tenants to participate in services, unless the tenant occupies a unit assisted with a federal source that requires tenant participation in services.
- (c) Compliance monitoring procedure. As required by Section 42(m), allocating agencies are to follow a compliance monitoring procedure to monitor all Credit projects for compliance with provisions of Section 42. Compliance with Section 42 is the sole responsibility of the owner of the building for which the Credit is allowable. The Committee's obligation to monitor projects for compliance with the requirements of Section 42 does not place liability on the Committee for any owner's noncompliance, nor does it relieve the owner of its responsibility to comply with Section 42.
- (1) Record keeping. The owner of a Credit project is required to keep records for each qualified low income building in the project for each year in the compliance period showing: the total number of residential rental units in the building (including the number of bedrooms, and unit size in square feet); the percentage of Low-Income and Market Rate Units in the building that are Low-Income Units; the rent charged for each Low-Income Unit; a current utility allowance as specified in 26 CFR Section 142.10(c) and Section 10322(h)(21) of these regulations (for buildings using an energy consumption model utility allowance, that allowance must be calculated using the most recent version of the CUAC); the number of household members in each Low-Income Unit; notation of any vacant Low-Income Units; move-in dates for all Low-Income Units; low-income tenants' (i.e., household) income; documentation to support each low-income household's income certification; the eligible basis and qualified basis of the building at the end of the first year of the Credit period; and, the character and use of any nonresidential portion of the building included in the building's eligible basis.

Upon request, scattered site projects shall make these records available for inspection by CTCAC staff at a single location.

- (2) Record Retention. For each qualified low-income building in the project, and for each year of the compliance period, owners and the Committee are required to retain records of the information described above in "record keeping requirements."
 - (A) Owners shall retain documents according to the following schedule:
 - (i) for at least six years following the due date (with extensions) for filing the Federal income tax return for that year (for each year except the first year of the Credit period); and,
 - (ii) for the first year of the Credit period, at least six years following the due date (with extensions) for filing the Federal income tax return for the last year of the compliance period of the building.
 - (iii) for local health, safety, or building code violation reports or notices issued by a state or local governmental entity, until the Committee has inspected the reports or notices and completes the tenant file and unit inspections, and the violation has been corrected. This subsection shall take effect beginning January 1, 2001.

- (B) The Committee shall retain records of noncompliance, or failure to certify, for at least six years beyond the Committee's filing of the respective IRS noncompliance Form 8823. Should the Committee require submission of copies of tenant certifications and records, it shall retain them for three years from the end of the calendar year it receives them. Should it instead review tenant files at the management office of the subject project, it shall retain its review notes and any other pertinent information for the same three-year period. The Committee shall retain all other project documentation for the same three-year period.
- (3) Certification requirements. Under penalty of perjury, a Credit project owner is required to annually, during each year of the compliance period, meet the certification requirements of U.S. Treasury Regulations 26 CFR 1.42-5(c), (including certifications that no finding of discrimination under the Fair Housing Act, 42 USC 3601 occurred for the project), that the buildings and low income units in the project were suitable for occupancy taking into account local health, safety, and building codes, that no violation reports were issued for any building or low income unit in the property by the responsible state or local government unit, that the owner did not refuse to lease a unit to an applicant because the applicant had a section 8 voucher or certificate, and that except for transitional or single room occupancy housing, all low income units in the project were used on a nontransient basis. The following must also be certified to by the owner:
- (A) the project met all terms and conditions recorded in its Regulatory Agreement, if applicable;
 - (B) the applicable fraction (as defined in IRC Section 42(c)(1)(B)) met all requirements of the Credit allocation as specified on IRS Form(s) 8609 (Low-Income Housing Credit Allocation Certification.);
 - (C) no change in ownership of the project has occurred during the reporting period;
 - (D) the project has not been notified by the IRS that it is no longer a "qualified low-income housing project" within the meaning of Section 42 of the IRC;
 - (E) no additional tax-exempt bond funds or other Federal grants or loans with interest rates below the applicable Federal rate have been used in the Project since it was placed-in-service; and,
 - (F) report the number of units that were occupied by Credit eligible households during the reporting period.
 - (G) the services specified in the Regulatory Agreement were provided to the tenants during the reporting period.
 - (H) if the project is subject to a cash flow limitation in its Regulatory Agreement, that the limitation has been met.
- (4) Status report, file and on site physical inspection. The Committee or its agent will conduct file and on site physical inspections for all projects no later than the end of the second calendar year following the year the last building in the project is placed-in-service, and once every three years thereafter. These physical inspections will be conducted for all buildings and common areas in each project, and for at least 20% of the low-income units in each project. The tenant file reviews will also be for at least 20% of the low-income units in each project, but may be conducted on site or off site. Each year the Committee shall select projects for which site inspections will be conducted. The projects shall be selected using guidelines established by the Executive Director for such purpose, while the units and tenant records to be inspected shall be randomly selected. Advance notice shall not be given of the Committee's selection process, or of which tenant records will be inspected at

selected projects; however, an owner shall be given reasonable notice prior to a project inspection.

- (A) A Notice of Intent to Conduct Compliance Inspection and a Project Status Report (PSR) form will be delivered to the project owner within a reasonable period before an inspection is scheduled to occur. The completed PSR form shall be submitted to the Committee by the owner prior to the compliance inspection. The Committee will review the information submitted on the PSR for compliance with income, rent and other requirements prior to performing the tenant file inspection.
 - (B) Each project undergoing a file inspection will be subject to a physical inspection to assure compliance with local health, safety, and building codes or with HUD's uniform physical condition standards. Owners shall be notified of the inspection results.
 - (C) The Committee may perform its status report, file inspection procedures and physical inspection on Credit projects even if other governmental agencies also monitor those projects. The Committee's reliance on other review findings may alter the extent of the review, solely at the Committee's discretion and as allowed by IRS regulations. The Committee may rely on reports of site visits prepared by lenders or other governmental agencies, at its sole discretion. The Committee shall, whenever possible, coordinate its procedures with those of other agencies, lenders and investors.
- (5) Notification of noncompliance. The Committee shall notify owners in writing if the owner is required to submit documents/information related to either the physical or tenant file inspection. If the Committee does not receive the information requested, is not permitted or otherwise is unable to conduct the inspections or discovers noncompliance with Section 42 as a result of its review, the owner shall be notified in writing before any notice is sent to the IRS.
 - (6) Correction period. It is the intention of the Committee that owners be given every reasonable opportunity to correct any noncompliance. Owners shall be allowed an opportunity to supply missing tenant file documents or to correct other noncompliance within a correction period no longer than ninety (90) days from the date of written notice by the Committee to the owner, unless the violation constitutes an immediate health or safety issue, in which case, the correction should be made immediately. With good cause, the Committee may grant up to a six-month extension of the correction period upon receipt of a written justification from the owner.
 - (7) IRS and FTB notification. All instances of noncompliance, whether corrected or not, shall be reported by the Committee to the IRS. This shall be done within forty-five (45) days following the termination of a correction period allowed by the Committee, pertaining to IRS Form 8823.
- (d) Change in ownership and property management. It is the project owner's responsibility to comply with the requirements of Section 10320(b) and to inform the Committee of any change in the project owner's mailing address.
 - (1) Any property management change during the 15-year federal compliance and extended use period must be to a party earning equal capacity points pursuant to Section 10325(c)(1)(A) as the exiting property management company. At a minimum this must be six (6) projects in service more than three years, or the demonstrated training required under Section 10326(g)(5). Two of the six projects must be Low Income Housing Tax Credit projects in California. If the new property management company does not meet these experience requirements, then substitution of property management shall not be permitted.

- (e) First year's 8609. Project owners shall be required to submit a copy of the executed first year's filing of IRS Form 8609 (Low-Income Housing Credit Allocation Certification) for inclusion in the Committee's permanent project records.
- (f)
 - (1) CTCAC may establish a schedule of fines for violations of the terms and conditions, the regulatory agreement, other agreements, or program regulations. In developing the schedule of fines, CTCAC shall establish the fines for violations in an amount up to five hundred dollars (\$500) per violation or double the amount of the financial gain because of the violation, whichever is greater. Except for serious violations, a first-time property owner violator shall be given at least 30 days to correct the violation before a fine is imposed. A violation that has occurred for some time prior to discovery is one violation, but fines may be a recurring amount if the violation is not corrected within a reasonable period of time thereafter, as determined by the Committee.
 - (2) CTCAC shall adopt and may revise the schedule of fines by resolution at a public general Committee meeting.
 - (3) A person or entity subject to a fine may appeal the fine to the Executive Director and, thereafter, to the Committee pursuant to Section 10330(b)(2).
 - (4) The Executive Director may approve a payment plan for any fines.
 - (5) If a fine assessed against a property owner is not paid within six months from the date when the fine was initially assessed and after reasonable notice has been provided to the property owner, the Committee may record a lien against the property. If the violation(s) for which the fine(s) is assessed is not corrected within 90 days of the assessed fine, the Committee may record a lien against the property.
 - (6) Reoccurring or repeated noncompliance – CTCAC shall issue fines of up to \$500 per instance of repeated or reoccurring noncompliance violations noted in separate monitoring cycles. CTCAC defines repeated or reoccurring violations as 25% or more instances of the current monitoring inspection having the same noncompliance issues as found in the previous monitoring cycle.

Areas of repeated or reoccurring noncompliance include (but are not limited to):

- (A) Repeated Uniform Physical Conditions Standards (UPCS) Health and Safety Violations and Common Area Violations
 - (B) Reoccurring patterns of units no turn-key ready and advertised within 60 days of unit vacancy date
 - (C) Reoccurring patterns of missing or the incorrect use of required CTCAC forms
 - (D) Reoccurring misuse of Utility Allowance methods
 - (E) Reoccurring patterns of over-income households
 - (F) Reoccurring patterns of over-charged rents
 - (G) Reoccurring patterns of incomplete or missing re-certifications
 - (H) Service Amenities not provided within Federal Compliance periods
- (g) Housing Supplier Diversity Reporting. A housing sponsor that receives a tax credit reservation on or after January 1, 2024, shall annually submit a report to CTCAC, in a form that CTCAC shall require, and at the time that CTCAC shall annually designate. The reporting period shall cover all contract activities directly related to the development and construction of a housing project from the first day following the credit reservation date with an option for the housing sponsor to include prior contracting activities. The final report shall cover the year that the project is placed in service. The report shall include information, as required in Section 50199.23 of the Health and Safety Code and as outlined in the CTCAC Housing Supplier Diversity Reporting Guidelines: Completing the Housing Supplier Diversity Annual Report.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21, 50199.22 and 50199.23 Health and Safety Code.