



## CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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**EXECUTIVE DIRECTOR**  
Mark Stivers

DATE: November 30, 2017

TO: Tax Credit Stakeholders

FROM: Mark Stivers, Executive Director

SUBJECT: 2017 Final Proposed Regulation Changes and Responses to Comments

On September 11, 2017, the California Tax Credit Allocation Committee (TCAC or the Committee) released proposed regulation changes. TCAC staff subsequently held four public hearings on the following dates:

- Oakland, October 10, 2017
- Sacramento, October 12, 2017
- Los Angeles, October 16, 2017
- San Diego, October 17, 2017

TCAC accepted written comments on these initial proposed regulation changes through Monday, October 30, 2017. Numerous individuals, organizations, and groups formally commented on the proposed regulation changes. TCAC staff carefully considered all comments received and has finalized the recommendations to the Committee for consideration and adoption on Wednesday, December 13, 2017.

Two documents accompany this memo: 1) a matrix with the comments received and staff's responses to those comments, including an explanation of the proposed revisions; and 2) the final proposed regulation changes, in which revisions to the initially proposed changes are highlighted in yellow. This memorandum summarizes the revisions to the initially proposed changes using the original item numbers.

### New items

127. Establish the state credit rate for bond projects seeking farmworker state credits at 75% to reflect the enactment of AB 571. Section 10317(a), page 7.
128. Make a conforming change to reflect the enactment of AB 571 relating to the farmworker state credit. Section 10317(c), page 7.

## Items Revised

7. Add the recently enacted Housing for a Healthy California program to the list of programs from which a specified capital contribution qualifies a homeless assistance project for first the priority within the Non-Profit Set-Aside. Section 10315(b), page 2.
8. Related to the revision in Item 11, apply the 30% housing type goal for large family new construction projects in Highest and High Opportunity Areas within the Rural Set-Aside. Section 10315(c), page 4.
9. Allow occupancy by non-tribal households in up to 20% of units within a Native American apportionment project only if required by the HOME program. Section 10315(c)(2), page 4.
11. Withdraw the proposal to create a housing type goal for large family new construction projects located in the lowest opportunity areas and instead establish, for 2019 and later rounds, a 30% housing type goal for large family new construction projects located in the highest or high resource areas. Also clarify that a project that receives a tiebreaker increase for being located in a higher resource area counts towards the higher opportunity housing type goal. Section 10315(h), page 5.
14. Codify recent legislation allowing 4% projects seeking state farmworker credits to receive the 130% federal basis boost. Section 10317(d), page 7.
17. With respect to the high cost test for 4% plus state credit projects, exclude from the total eligible basis numerator the amount of developer fee in basis that exceeds the project's deferral/contribution threshold. Section 10317(i)(6), page 8.
27. Allow hybrid projects to submit a single, combined market study. If the projects submit separate market studies, require that each market study reflect the other hybrid component development as a project in the planning or development stage. Section 10322(h)(10), page 11.
28. With respect to rehabilitation projects, allow only those projects improving energy efficiency by at least 20% or including solar that offsets at least 50% of tenant loads to utilize the CUAC; and for any project require that a decrease in a tenant's utility allowance that results from conversion to the CUAC not exceed \$15 per month over any 12-month period. Section 10322(h)(21), page 12.
34. Clarify wording, that income targeting changes require approval of the Executive Director, and that the changes to this section apply to any project for which TCAC issues tax forms after December 31, 2017. Section 10322(j), page 13.
47. Provide eight points to large family new construction projects in high, as well as highest, resource areas; exempt inclusionary projects, as defined, from this point category and require disclosure of inclusionary units; and allow an applicant to utilize the census tract's resource designation in effect in either of the two calendar years prior to application. Section 10325(c)(5)(A)11., page 22.
58. Make a technical amendment to delete obsolete references to public funds points and Tranche B loans. Section 10325(c)(8), page 28.
61. Deem private loans backed by the HUD Title VI Loan Guarantee Program as public funds; include the value of tribal land donations in public funds when the project is competing in a geographic region; cap the size factor for any application at 150 tax credit units; clarify that the maximum interest rate on a soft loan is the greater of 4% or AFR; delete an obsolete reference to public funds points; and correct a cross-reference. Section 10325(c)(10), page 29.
63. Use the combined public funds and combined total developments costs from both the 9% and 4% portions of a hybrid project to calculate the first ratio of the project's 9% tiebreaker score; use the combined total developments costs from both the 9% and 4% portions of a hybrid project to calculate the second ratio of the project's 9% tiebreaker score; and allow the 4% component of a hybrid project receiving the tiebreaker benefit to include an additional \$10,000 in cash out developer fee for each tax credit unit in excess of 100 units from the combined 9% and 4% projects. Section 10325(c)(10), page 29.
65. Delay implementation of the tiebreaker incentive for large family new construction projects in higher resource areas until 2019; disallow projects competing in the Native American apportionment from

receiving this tiebreaker benefit; disallow inclusionary projects, as defined, from receiving this tiebreaker benefit and require disclosure of inclusionary units; and allow an applicant to utilize the census tract's resource designation in effect in either of the two calendar years prior to application. Section 10325(c)(10), page 29.

66. Make grammatical corrections. Section 10325(d), page 34.
70. Allow an applicant to substitute AHP funds for any other source after reservation. Section 10325(f)(3), page 35.
76. Withdraw the provisions relating to accessible parking. Section 10325(f)(7)(K), page 38.
79. Withdraw the increase of the maximum credit award to \$3 million; and make grammatical corrections. Section 10325(f)(9), page 39.
85. Withdraw the provisions relating to accessible parking. Section 10325(g)(2)(B), page 41.
90. Require special needs projects to include at least 45% special needs units. Section 10325(g)(4), page 42.
99. Allow 2016 and later non-competitive projects to increase developer fees in cost and basis after reservation, provided that the sum of all related party permanent funding sources from the initial application is maintained and the entire increase is additionally deferred or contributed as equity to the project. Section 10327(c)(2)(C), page 47.
107. Limit the threshold basis limit increase to on-site toxic or other environmental mitigation. Section 10327(c)(5)(D), page 49.
108. Provide a 10% threshold basis limit increase to projects in both highest and high resource areas; increase from \$350,000 to \$400,000 the unadjusted threshold basis limit for a 2-bedroom unit at which the increase for higher opportunity locations is no longer available; and allow an applicant to utilize the census tract's resource designation in effect in either of the two calendar years prior to application. Section 10327(c)(5)(F), page 50.
109. With respect to underwriting properties purchased for more than appraised value, reduce the permanent financing only up to the amount of soft permanent financing when making the shortfall calculation. Section 10327(c)(6), page 50.
119. Delete the time limit on extensions requested by the appellant to accommodate a meeting. Section 10330(b), page 54.

### **Items Retained Without Amendment**

1. Clarify unit terminology. Section 10302(v), page 1.
2. Clarify unit terminology. Section 10302(aa), page 1.
3. Clarify unit terminology. Section 10302(jj)-(nn), page 1.
4. Alter transfer event exemptions to require maintenance of reserves. Section 10302(qq), page 2.
5. Delete redundant reference to the \$2.5 million 9% federal credit award limit. Section 10305(e), page 2.
6. Allow a project that meets the criteria for both the at-risk and special needs housing types to request consideration in both set-asides, clarify that the project will count towards the housing type goal based on the set-aside from which it receives an award, and make a conforming change. Section 10315, page 2.
10. Make conforming changes. Section 10315(e), page 5.
12. In light of the proposal to fold the SRO housing type into the special needs housing type, fold the SRO housing type goal into the special needs housing type goal and set a combined goal at 30%. Section 10315(h), page 5.
13. Create a new Northern Region and adjust affected regional percentages accordingly. Section 10315(i), page 6.
15. Clarify unit terminology. Section 10317(g)(1), page 7.

16. Correct cross-references. Section 10317(i)(2), page 8.
18. Condition an ownership transfer on the handover of relevant project documents and files and correct a cross-reference. Section 10320(b)(1), page 8.
19. Correct a cross-reference. Section 10320(b)(2), page 9.
20. Require TCAC approval for management company changes, condition management company transfers on the handover of relevant project documents and files, and require in-coming management companies that do not meet minimum experience thresholds to attend training. Section 10320(b)(5), page 9.
21. Correct a cross-reference. Section 10320(d), page 9.
22. Codify the TCAC practice of not entering into qualified contracts. Section 10320(e), page 9.
23. Clarify the language related to TCAC obtaining omitted application documents from third party sources. Section 10322(e), page 9.
24. Update the list of application changes that the Committee may make. Section 10322(f), page 10.
25. Correct a cross-reference. Section 10322(h)(5), page 10.
26. Clarify that, when eligible, an applicant must submit with the application the purchase contract or evidence of purchase, clarify that specified land purchases involving a pass-through related party are deemed to be from an unrelated party, and make a conforming change. Section 10322(h)(9), page 10.
28. [See revised items above.]
29. Make a conforming change. Section 10322(h)(23), page 12.
30. Require an applicant seeking to claim basis for a community service facility to provide a third party tax attorney's opinion that the proposed facility is eligible. Section 10322(h)(34), page 13.
31. Require an applicant seeking to mix senior and non-senior housing within a project to provide a third party legal opinion stating that the project complies with fair housing law. Section 10322(h)(35), page 13.
32. Correct a cross-reference. Section 10322(i)(17), page 13.
33. Correct a cross-reference. Section 10322(i)(18), page 13.
35. Clarify unit terminology. Section 10325(c), page 14.
36. Eliminate the leveraging point category. Section 10325(c)(1), page 14.
37. Correct subsection numbering. Section 10325(c)(2)-(10), page 16.
38. Allow any tribal applicant, within or outside the Native American apportionment, to contract with experienced general partner entities, allow Tribes also to contract with pre-approved developers who have not had ownership interests in previous projects, and clarify for all projects that each project for which experience points are requested must contain at least ten affordable units subject to a regulatory agreement. Section 10325(c)(2), page 16.
39. Delete obsolete language. Section 10325(c)(3)(A), page 19.
40. Correct a cross-reference. Section 10325(c)(3)(L), page 20.
41. Clarify unit terminology and make conforming changes. Section 10325(c)(4), page 20.
42. Clarify unit terminology. Section 10325(c)(5)(A)1., page 20.
43. Update the listing entity for certified farmers' markets. Section 10325(c)(5)(A)4., page 21.
44. Clarify unit terminology. Section 10325(c)(5)(A)5., page 22.
45. Make a conforming change. Section 10325(c)(5)(A)7., page 22.
46. Update high-speed internet speeds and clarify unit terminology. Section 10325(c)(5)(A)10., page 22.
48. Require TCAC to proportionately score services in special needs projects with less than 75% special needs units. Section 10325(c)(5)(B), page 23.

49. Clarify unit terminology. Section 10325(c)(5)(B)5., page 24.
50. Clarify unit terminology. Section 10325(c)(5)(B)6., page 24.
51. Make a conforming change. Section 10325(c)(5)(B), page 25.
52. Clarify unit terminology and standardize large family bedroom requirements. Section 10325(c)(5)(B)11., page 25.
53. Clarify unit terminology and standardize large family bedroom requirements. Section 10325(c)(5)(B)12., page 25.
54. Correct a cross-reference. Section 10325(c)(6)(E), page 24.
55. Remove the requirement for projects seeking specified sustainability points to provide the Sustainable Building Method Workbook, allow projects with photovoltaics offsetting tenant loads to use the EPBB calculator for solar values, and correct cross-references. Section 10325(c)(6)(G), page 25.
56. Revise the Lowest Income Points Table and clarify unit terminology. Section 10325(c)(7)(A), page 27.
57. Clarify unit terminology. Section 10325(c)(7)(B), page 28.
58. In light of the existing threshold requirement, eliminate readiness points for having all necessary public or tribal land use approvals, conform the terms and definitions for an enforceable financing commitment, and delete obsolete language. Section 10325(c)(8), page 28.
59. Clarify unit terminology. Section 10325(c)(9)(B), page 29.
60. Clarify unit terminology and correct a cross-reference. Section 10325(c)(9)(F), page 29.
62. Clarify that specified fee reductions via ordinance receive tiebreaker credit. Section 10325(c)(10), page 29.
64. Discount public funds by the difference between purchase price and appraised value, with specified exceptions. Section 10325(c)(10), page 29.
67. Make a conforming change. Section 10325(d)(1), page 35.
68. Make a conforming change. Section 10325(f)(1)(B)(ii), page 35.
69. Make a conforming change. Section 10325(f)(1)(B)(iv), page 35.
71. Create an appeal grace period for the 9% threshold requirement related to local entitlements. Section 10325(f)(4), page 36.
72. Update green rater certification references. Section 10325(f)(7)(A), page 36.
73. Require SRO units, absent a waiver, to provide a refrigerator and a cooking facility and clarify unit terminology. Section 10325(f)(7)(E), page 37.
74. Clarify unit terminology. Section 10325(f)(7)(G), page 37.
75. Clarify unit terminology. Section 10325(f)(7)(J), page 37.
77. Require for 9% projects that all soft funds be committed at application. Section 10325(f)(8), page 38.
78. Make a conforming change and delete obsolete language. Section 10325(f)(8)(F), page 39.
80. Require resyndication projects to demonstrate a rehabilitation need of at least \$5000 per unit over the first three years, unless the project receives a waiver from the transfer event requirements or has less than 10 years remaining on a TCAC regulatory agreement. Section 10325(f)(11)(C), page 40.
81. Require a scattered site more than one mile from the nearest other site to meet the common area, play/recreational facility, and laundry facility requirements independently. Section 10325(g), page 40.
82. Clarify unit terminology. Section 10325(g)(1)(A)-(C), page 40.
83. Clarify unit terminology. Section 10325(g)(1)(H), page 40.
84. Delete obsolete language, Section 10325(g)(2)(A), page 41.
86. Clarify unit terminology. Section 10325(g)(2)(D), page 41.

87. Clarify unit terminology. Section 10325(g)(2)(E), page 41.
88. Fold the SRO housing type into the special needs housing type. Section 10325(g)(3), page 41.
89. Import housing type standards relevant to SRO units, update cross-references, clarify unit terminology, and delete redundant and inapplicable requirements. Section 10325(g)(4), page 42.
91. Correct subsection numbering. Section 10325(g)(5), page 44.
92. Delete obsolete language. Section 10325.5, page 44
93. Allows 4% non-competitive applicants to submit evidence of local land use approvals during the review process and create an appeal grace period beyond the application date for competitive 4% applicants. Section 10326(g)(3), page 45.
94. Corrects a cross-reference. Section 10326(g)(5), page 45.
95. Require resyndication projects to demonstrate a rehabilitation need of at least \$5000 per unit over the first three years, unless the project receives a waiver from the transfer event requirements or has less than 10 years remaining on a TCAC regulatory agreement. Section 10326(g)(8)(C), page 46.
96. Clarify unit terminology. Section 10326(j)(3), page 46.
97. Clarify that adaptive reuse projects, for purposes of the developer fee limits, are considered rehabilitation projects; clarify that TCAC at placed in service will use the higher of the unadjusted threshold basis tables from the year of application or the placed in service year to calculate the developer fee cost adjustment; and clarify unit terminology. Section 10327(c)(2)(A), page 46.
98. Increase from \$20,000 per unit to \$25,000 per unit the threshold at which a 4% applicant may receive a developer fee equal to 15% of the acquisition basis and clarify unit terminology. Section 10327(c)(2)(B)(ii), page 47.
100. Codify TCAC's practice of applying at placed in service the higher of the threshold basis from the year of application or the placed in service year for the purposes of limiting basis requests. Section 10327(c)(5), page 47.
101. Clarify unit terminology. Section 10327(c)(5)(A), page 48.
102. Require applicants seeking a threshold basis limit increase for photovoltaics that offset tenant loads to submit a Sustainable Building Method Workbook; allow rehabilitation projects seeking the threshold basis limit increase for photovoltaics offsetting tenant loads to use the EPBB calculator for solar values; and specify the documentation required to verify threshold basis limit increases for photovoltaics offsetting common area loads. Section 10327(c)(5)(B), page 48.
103. Standardize flooring types eligible for a threshold basis limit increase. Section 10327(c)(5)(B)(7), page 49.
104. Standardize flooring types eligible for a threshold basis limit increase. Section 10327(c)(5)(B)(8), page 49.
105. Limit the threshold basis limit increase for US EPA Indoor Air Plus Program certification to new construction projects. Section 10327(c)(5)(B)(9), page 49.
106. Clarify unit terminology. Section 10327(c)(5)(C), page 49.
110. Make a conforming change. Section 10327(c)(7), page 51.
111. Clarify the ratios for special needs housing above which applicants must exclude parking basis. Section 10327(c)(10)(A), page 51.
112. Clarify the ratios for special needs housing above which applicants must exclude parking basis. Section 10327(c)(10)(B), page 52.
113. Correct a cross-reference. Section 10327(d)(2), page 52.

114. Clarify that on-going site amenity expenses are not counted towards the minimum operating expense requirements; exclude from the pro forma any expenses that do not continue through all 15 years; Clarify that operating reserve drawdowns for special needs projects to break even are limited to reserves in excess of the required 3-month operating reserve; and make conforming changes. Section 10327(f), page 52.
115. Clarify that on-going site amenity expenses are not counted towards the minimum operating expense requirements and make conforming changes. Section 10327(g)(1), page 52.
116. Apply vacancy rates to the types of units within a project generally and apply the 10% vacancy rate only to special need units and non-special needs SRO units that do not have significant rental subsidy. Section 10327(g)(3), page 53.
117. Delete the authority to reduce a credit award for failure to meet cash flow parameters. Section 10327(g)(6), page 53.
118. Allow a credit year exchange in the event that a development is significantly delayed due to damage directly caused by fire, war, or act of God. Section 10328(g), page 53.
120. Impose appeal fees only for appeals to the full Committee. Section 10335(c), page 54.
121. Impose a \$1000 fee for tax form amendments not due to TCAC error. Section 10335(g), page 55.
122. Clarify owner's responsibility to accept all rental subsidy renewals available. Section 10337(a)(3)(A), page 55.
123. Clarify unit terminology. Section 10337(a)(3)(B), page 55.
124. Allow units in a special needs project designated at reservation for homeless youth to be occupied entirely by full-time students who are not dependents of another individual during the extended use period. Section 10337(b)(3), page 55.
125. Clarify unit terminology. Section 10337(c)(1), page 55.
126. Make a conforming change. Section 10337(f)(3), page 56.

## 2017 Final Proposed Regulation Changes

November 30, 2017

[Note: See Comment Matrix for Responses to Comments]

### Section 10302(v)

v) 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 ~~(other than manager's units) would be Rent Restricted~~ 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.

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### Section 10302(aa)

aa) Market-Rate Unit. A unit other than a ~~Low Income Unit~~ Tax Credit Unit as defined by these regulations.

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### Section 10302(jj) – (nn)

~~jj) Rent Restricted Units. Units meeting the requirements of IRC Section 42(g)(2).~~

~~kkj)~~ 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.

~~kk)~~ Rural. An area defined in H & S Code Section 50199.21.

~~mmll)~~ 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 property.

(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.

~~mmmm)~~ 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.

nn) Tax Credit Units. Low-Income Units and manager units.

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**Section 10302(qq)**

(qq) “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 costs, provided that reserves remain with the project, (iii) the replacement of a general partner by a limited partner upon the occurrence of a default by a general partner in accordance with partnership agreement of the project owner, (iv) a transfer pursuant to a foreclosure or deed in lieu of foreclosure to a non-related party, (v) a “Subsequent Transfer” pursuant to Section 10320(b)(4)(B) hereof, (vi) a transfer of the ownership of a project subject to an existing tax credit regulatory agreement with a remaining term of five (5) or less years if the transfer is made in connection with a new reservation of 9% or 4% tax credits, or (vii) the sale of a project, or the sale or assignment of a partnership interest in a project owner, to an unrelated party for which the parties entered into a purchase agreement prior to October 9, 2015. Notwithstanding the foregoing, the term “Transfer Event” shall be applicable only to projects in which at least 50% of the units are Tax Credit Units.

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**Section 10305(e)**

~~(e) Allocation Limit. No one project applying for 9% Tax Credits may receive an allocation of more than Two Million Five Hundred Thousand (\$2,500,000) Dollar.~~

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**Section 10315**

10315. Set-asides and Apportionments

CTCAC will accept applications from Qualified Nonprofit Organizations for the Nonprofit set-aside upon the request of the qualified applicant, regardless of the proposed housing type. Thereafter, CTCAC shall review each non-rural pending competitive application applying as an at-risk, ~~or~~ special needs, ~~or SRO~~ housing type under subsection (h) below, first, within that housing type’s relevant set-aside. Non-rural applicants meeting the criteria for both the special needs and at-risk housing types pursuant to Section 10325(g) may request to be considered in both set-asides. In addition, a Applicants ~~competing within~~ receiving an award from either the At-~~r~~Risk or Special Needs/~~SRO~~ set-aside shall be considered as that housing type for purposes of paragraph (h).

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**Section 10315(b)**

(b) Each funding round, credits available in the Nonprofit set-aside shall be made available as a first-priority, to projects providing housing to homeless households at affordable rents, consistent with Section 10325(g)(43) in the following priority order:

• First, projects with 1) McKinney-Vento Homeless Assistance Act, MHP-Supportive Housing Program, HCD Veterans Housing and Homeless Prevention Program, Mental Health Services Act (MHSA), CalHFA Local Government Special Needs Housing Program, Governor’s Homeless Initiative, Housing for a Healthy California, or HCD No Place Like Home development capital funding committed for which the amount of development capital funding committed shall be at least \$500,000 or \$10,000 per unit for all Low-Income ~~units~~ Units in the project (irrespective of the number of units assisted by the referenced programs), whichever is greater; or 2) projects with rental or operating assistance funding commitments from federal, state, or local governmental funding sources. The rental assistance must be sponsor-based or project-based and the remaining term of the project-based assistance contract shall be no less than one (1) year and shall apply to no less than fifty percent (50%) of the Low-Income ~~units~~ Units in the proposed project. For local government funding sources, ongoing assistance may be in the form of a letter of intent from the governmental entity. For all projects seeking this first priority, the applicant shall commit to reserving vacant homeless assistance units for 60 days for occupancy by persons or households referred, where such systems or lists exist, by either 1) the relevant coordinated entry or access system, 2) the relevant county health department from a list of frequent health care users; or 3) the relevant behavioral health department from a list of persons with chronic behavioral health conditions who require supportive housing. The applicant shall enter into a memorandum of understanding with the relevant department or system administrator prior to placing in service unless a reasonable memorandum is refused by the department or administrator.

• Second, other qualified homeless assistance projects.

To compete as a homeless assistance project, at least fifty percent (50%) of the Low-Income ~~units~~ Units within the project must be designated for homeless households as described in category (1) immediately below:

(1) Individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- (A) Has a primary nighttime residence that is a public or private place not meant for human habitation;
- (B) Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, and local government programs); or
- (C) Is exiting an institution and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

(2) Individual or family who will imminently lose their primary nighttime residence, provided that:

- (A) Residence will be lost within 14 days of the date of application for homeless assistance;
- (B) No subsequent residence has been identified; and
- (C) The individual or family lacks the resources or support networks needed to obtain other permanent housing.

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

- (A) Are defined as homeless under the other listed federal statutes;
- (B) Have not had a lease, ownership interest, or occupancy agreement in permanent housing during the 60 days prior to the homeless assistance application;

- (C) Have experienced persistent instability as measured by two moves or more during the preceding 60 days; and
- (D) Can be expected to continue in such status for an extended period of time due to special needs or barriers.

(4) Any individual or family who:

- (A) Is fleeing, or is attempting to flee, domestic violence;
- (B) Has no other residence; and
- (C) Lacks the resources or support networks to obtain other permanent housing.

Any amount of Tax Credits not reserved for homeless assistance projects during a reservation cycle shall be available for other applications qualified under the Non-profit set-side.

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### Section 10315(c)

(c) Rural set-aside. Twenty percent (20%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects in rural areas as defined in H & S Code Section 50199.21 and as identified in supplemental application material prepared by CTCAC. For purposes of implementing Section 50199.21(a), an area is eligible under the Section 515 program on January 1 of the calendar year in question if it either resides on the Section 515 designated places list in effect the prior September 30, or is so designated in writing by the USDA Multifamily Housing Program Director. All Projects located in eligible census tracts defined by this Section must compete in the rural set-aside and will not be eligible to compete in other set-asides or in the geographic areas unless the Geographic Region in which they are located has had no other Eligible Projects for reservation within the current calendar year. In such cases the rural project may receive a reservation in the last round for the year, from the geographic region in which it is located, if any.

Within the rural set-aside competition, the first tiebreaker shall be applied as described in Section 10325(c)(409), except that the Senior and Large Family New Construction in Highest or High Resource Tract housing type goals established by Section 10315(h) shall be calculated relative to the rural set-aside dollars available each round, rather than against the total credits available statewide each round. In this way, other housing types would be advantaged once the specified percentage of the rural set-aside had been committed to Senior housing type projects.

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### Section 10315(c)(2)

(2) Native American apportionment. One million dollars (\$1 million) in annual federal credits shall be available during the first round and, if any credits remain, in the second round for applications proposing projects on land to be owned by a Tribe, whether the land is owned in fee or in trust, provided that if the land is off reservation and in which occupancy will be legally limited to tribal households, except that up to 20% of Low-Income Units may serve non-tribal households if required by the HOME Program. Apportioned dollars shall be awarded to projects sponsored by Tribes using the scoring criteria in Section 10325(c), and achieving the minimum score established by TCAC under Section 10305(h). In addition, tribal communities the application shall garner receive the minimum points available for both general partner and management company experience under Section 10325(c)(21) or shall partner or contract with a developer and with a property management entity that would garner the minimum points available for General Partner/Management Company Characteristics under

~~Section 10325(c)(2)~~, except that the management company minimum scoring cannot be obtained through the point category for a housing tax credit certification examination.

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### Section 10315(e)

(e) Special Needs/~~SRO~~ set-aside. After accounting for the second supplemental set-aside described in (g), four percent (4%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects that qualify and apply as a Special Needs ~~or Single Room Occupancy~~ housing type project pursuant to ~~these regulations~~ subsection (h) below. Any proposed project that applies and is eligible under the Nonprofit ~~Set Asides~~ set-aside, but is not awarded credits from that set-aside, shall be eligible to be considered under this Special Needs/~~SRO~~ set-aside if the project meets the housing type requirements.

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### Section 10315(h)

(h) Housing types. To be eligible for Tax Credits, all applicants must select and compete in only one of the categories listed below, exclusive of the Acquisition and/or Rehabilitation and Large Family New Construction located in a Lowest-Highest or High Resource Area housing types which ~~is~~ are listed here solely for purposes of the tiebreaker, and must meet the applicable “additional threshold requirements” of Section 10325(g), in addition to the Basic Threshold Requirements in 10325(f). The Committee will employ the tiebreaker at Section 10325(c)(~~409~~) in an effort to assure that no single housing type will exceed the following percentage goals where other housing type maximums are not yet reached:

Housing Type	Goal
Large Family	65%
<del>Large Family New Construction</del> <u>receiving the tiebreaker</u> <u>increase for being located in census tracts designated on the TCAC/HCD Opportunity Area Map as <u>Lowest-Highest or High Resource</u> (effective for 2019 and later reservations)</u> <u>, exclusive of projects receiving</u> <u>6 transit amenity points and projects for which at least</u> <u>75% of the Low Income Units are replacing existing</u> <u>affordable housing</u>	<del>30%</del>
Special Needs	<del>25</del> 30%
<del>Single Room Occupancy</del>	<del>15%</del>
At-Risk	15%
Seniors	15%
Acquisition and/or Rehabilitation within the rural set-aside only	30% of the credits available in the rural set- aside

For purposes of the Acquisition and/or Rehabilitation Housing Type Goal, a project will be considered an acquisition and/or rehabilitation project if at least 50% of the units were previously residential dwelling units.

A large family new construction project that receives a tiebreaker increase for being located in a Lowest Highest or High Resource census tract shall count against both that housing type and the general Large Family housing type.

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**Section 10315(i)**

(i) Geographic Apportionments. Annual apportionments of Federal and State Credit Ceiling shall be made in approximately the amounts shown below:

<b>Geographic Area</b>	<b>Apportionments</b>
City of Los Angeles	17.6%
Balance of Los Angeles County	17.2%
<del>North and East Bay Region (Alameda, Contra Costa, Marin, Napa, Solano, Sonoma Counties)</del>	<del>10.8%</del>
Central Valley Region (Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare Counties)	8.6%
San Diego County	8.6%
Inland Empire Region (San Bernardino, Riverside, Imperial Counties)	8.3%
<del>East Bay Region (Alameda and Contra Costa Counties)</del>	<del>7.4%</del>
Orange County	7.3%
<del>South and West Bay Region (San Mateo, Santa Clara Counties)</del>	<del>6.0%</del>
Capital <del>and Northern</del> Region ( <del>Butte</del> , El Dorado, Placer, Sacramento, <del>Shasta</del> , Sutter, Yuba, Yolo Counties)	<del>6.75.7%</del>
<del>South and West Bay Region (San Mateo, Santa Clara Counties)</del>	<del>6.0%</del>
Central Coast Region (Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, Ventura Counties)	5.2%
<del>Northern Region (Butte, Marin, Napa, Shasta, Solano, and Sonoma Counties)</del>	<del>4.4%</del>
San Francisco County	3.7%

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## Section 10317(a)

(a) General. In accordance with the R & T Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5, there shall be allowed as a Credit against the “tax” (as defined by R & T Code Section 12201) a State Tax Credit in an amount equal to no more than 30 percent (30%) of a credit ceiling project’s requested construction-related eligible basis. Except for State Farmworker Credits, tThe maximum State Tax Credit award amount for a tax exempt bond project, or basis described in paragraph (f) below, is 13 percent (13%) of that project’s requested eligible basis. The maximum State Farmworker Credit award amount for a tax exempt bond project, or basis described in paragraph (f) below, is 75 percent (75%) of that project’s requested eligible basis. Award amounts shall be computed in accordance with IRC Section 42, except as otherwise provided in applicable sections of the R & T Code.

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## Section 10317(c)

(c) Limit on Credit amount. Except for Special Needs and State Farmworker Credit applications described in paragraph (d) below, all credit ceiling applications may request State credits provided the project application is not requesting the federal 130% basis adjustment for purposes of calculating the federal credit award amount. Projects are eligible for State credits regardless of their location within a federal Qualified Census Tract (QCT) or a Difficult Development Area (DDA). In the event that reservations of state credits to credit ceiling applications exceed the amount of state credits available, CTCAC post-reservation shall designate applications for which there are insufficient state credits as difficult development area (DDA) projects pursuant to Section 10327(d)(3) and exchange state credits for federal credits in an amount that will yield equal equity.

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## Section 10317(d)

(d)(1) Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(~~FE~~)(ii), 17058(b)(2)(E)(ii), and 23610.5(b)(2)(E)(ii), applications for Special Needs projects with at least 50% special needs units and within a QCT or DDA may request the federal 130% basis boost and may also request State credits, provided that the applicant does not ~~voluntarily~~ reduce basis related to federal tax credits except to reduce requested basis to the project’s threshold basis limit or the credit request to the amount available in the project’s geographic region or the \$2.5 million limits described in Section 10325(f)(9)(D). CTCAC shall revise the basis and credit request if the application fails to meet this requirement. Under authority granted by Internal Revenue Code Section 42(d)(5)(B)(v), CTCAC designates Special Needs housing type applicants for credit ceiling credits as Difficult Development Area projects, regardless of their location within a federally-designated QCT or DDA.

(2) Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(E)(iii), 17058(b)(2)(E)(iii), and 23610.5(b)(2)(E)(iii), applications for 4% federal tax credits plus State Farmworker Credits within a QCT or DDA may request the federal 130% basis boost and may also request State credits.

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## Section 10317(g)(1)

(1) the project is comprised of 100% ~~tax-Tax credit-Credit eligible units~~Units, excluding managers’ units. Excepted from this rule are projects proposed for acquisition and rehabilitation that were developed under the HUD Section 236 or 202 programs, and are subject to those programs’ use restrictions. Projects under those

circumstances may propose a lesser percentage of ~~eligible-Tax Credit units~~-Units to accommodate existing over-income residents who originally qualified under Section 236 or 202 income eligibility;

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#### **Section 10317(i)(2)**

(2) The project will be competitively scored under the system delineated in Section 10325(c)(~~21~~) through (~~87~~) and (~~109~~), except that the only tie breaker shall be the final tie-breaker enumerated at Section 10325(c)(~~109~~) of these regulations;

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#### **Section 10317(i)(6)**

(6) Staff shall identify high cost projects by comparing each scored project's total eligible basis against its total adjusted threshold basis limits, excluding any increase for deeper targeting pursuant to Section 10327(c)(5)(C). CTCAC shall calculate total eligible basis consistent with the method described in Section 10325(c)(1)(A), except that the amount of developer fee in basis that exceeds the project's deferral/contribution threshold described in Section 10327(c)(2)(B) shall be excluded. A project ~~would~~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 may be subject to negative points if the project's total eligible basis at placed in service exceeds the revised total adjusted threshold basis limits for the year the project is placed in service (or the original total eligible threshold basis limit if higher) by 40%.

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#### **Section 10320(b)(1)**

(1) No allocation of the Federal or State Credits, or ownership of a Tax Credit project, may be transferred without prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points pursuant to section 10325(c)(~~32~~)(M), in addition to other remedies. The following requirements apply to all ownership or Tax Credit transfers requested after January 31, 2014:

(A) Any transfer of project ownership (including changes to any general partner, member, or equivalent responsible party), or allocation of Tax Credits shall be evidenced by a written agreement between the parties to the transfer, including agreements entered into by the transferee and the Committee.

(B) The entity replacing a party or acquiring ownership or Tax Credits shall be subject to a "qualifications review" by the Committee to determine if sufficient project development and management experience is present for owning and operating a Tax Credit project. Information regarding the names of the purchaser(s) or transferee(s), and detailed information describing the experience and financial capacity of said persons, shall be provided to the Committee. Any general partner 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)(~~21~~)(A) as the exiting general partner. At a minimum this must be three (3) projects in service more than three years, or the demonstrated training required under Section 10326(g)(5). Two of the three projects must be Low Income Housing Tax Credit projects in California. If the new general partner does not meet these experience requirements, then substitution of general partner shall not be permitted.

(C) The transferor shall deliver all tenant files, inspection records, financial statements, and reserve balances to the transferee prior to or concurrent with the transfer. Failure to deliver such records may subject the transferor to negative points or a fine.

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#### **Section 10320(b)(2)**

(2) In addition to any applicable requirements set forth in Section 10320(b)(1), all Transfer Events shall be subject to the prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points pursuant to section 10325(c)(~~32~~)(M), in addition to other remedies. The following requirements apply to all Transfer Events for which approval is requested on or after October 21, 2015:

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#### **Section 10320(b)(5)**

(5) No management company of an existing or new tax credit project shall be replaced without prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points or a fine. With respect to 4% tax credit projects, management companies ineligible for at least two management company experience points pursuant to Section 10325(c)(1)(B) shall obtain training in project operations, on-site certification, fair housing law, and manager certification in IRS Section 42 program requirements from CTCAC or a CTCAC-approved, nationally recognized entity. The out-going management company shall deliver all tenant files, inspection records, financial statements, and reserve balances to the in-coming management company prior to or concurrent with the transfer. Failure to deliver such records may subject the out-going management company to negative points or a fine.

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#### **Section 10320(d)**

(d) False information. Upon being informed, or finding, that information supplied by an applicant, any person acting on behalf of an applicant, or any team member identified in the application, pursuant to these regulations, is false or no longer true, and the applicant has not notified CTCAC in writing, the Committee may take appropriate action as described in H & S Code Section 50199.22(b) and in section 10325(c)(~~32~~) of these regulations. Additionally the Executive Director may assess negative points to any or all members of the development team as described in Section 10322(h)(5).

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#### **Section 10320(e)**

(e) CTCAC shall not enter into a qualified contract, as defined in IRC Section 42(h)(6)(F).

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#### **Section 10322(e)**

(e) Complete application. No additional documents pertaining to the Basic or Additional Threshold Requirements or scoring categories shall be accepted after the application-filing deadline unless the Executive Director, at his or her sole discretion, determines that the deficiency a clear scanning error in which no more than half of the pages in a document are missing or an obviously transposed number. In such cases, applicants shall be given up to five (5) business days from the date of receipt of staff notification, to submit said

documents to complete the application. For application omissions, the Executive Director may request additional clarifying information from third party sources, such as local government entities, but this is entirely at the Executive Director's discretion. Upon the Executive Director's request, the information sources shall be given up to five (5) business days, from the date of receipt of staff notification, to submit said documents to clarify the application. ~~The applicant may be required to~~The third party sources shall certify that all evidentiary documents deemed to be missing from the application had been executed, and were in the third-party source's possession, on or prior to, the application-filing deadline. If required documents are not submitted within the time provided, the application shall be considered incomplete and no appeal will be entertained.

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#### **Section 10322(f)**

(f) Application changes. Only the Committee may change an application as permitted by Sections 10317(d), 10325(c)(7)(B), and10327(a). Any changes made by the Committee pursuant to ~~Section 10327(a)~~those sections shall never increase the score or credit amount of the application as submitted, and may reduce the application's score and/or credit amount.

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#### **Section 10322(h)(5)**

(5) Identification of project participants. For purposes of this Section all of the following project participants, if applicable will be considered to be members of the Development Team. The application must contain the company name and contact person, address, telephone number, and fax number of each:

- (A) developer;
- (B) general contractor;
- (C) architect;
- (D) attorney
- (E) tax professional;
- (F) property management company;
- (G) consultant;
- (H) market analyst and/or appraiser; and
- (I) CNA consultant.

If any members of the Development Team have not yet been selected at the application filing deadline, each must be named and materials required above must be submitted at the 180 or 194 day deadline described in Section 10325(c)(~~87~~).

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#### **Section 10322(h)(9)**

(9) Appraisals. Appraisals are required for all rehabilitation applications except as noted in (A), for all competitive applications except for new construction projects that are on tribal trust land or that have submitted a third party purchase contract with, or evidence of a purchase from, an unrelated third party, for all applications seeking ~~competitive points or~~ tiebreaker credit for donated or leased land, and for all new construction applications involving a land sale from a related party. For purposes of this paragraph only, a purchase contract or sale with a related party shall be deemed to be a purchase contract or sale with an unrelated party if the applicant demonstrates that the related party is acting solely as a pass-through entity and the tax credit

partnership is only paying the acquisition price from the last arms-length transaction, plus any applicable and reasonable carrying costs.

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## **Section 10322(h)(10)**

(10) Market Studies. A full market study prepared within 180 days of the filing deadline by an independent 3rd party having no identity of interest with the development's partners, intended partners, or any other member of the Development Team described in Subsection (5) above. The study must meet the current market study guidelines distributed by the Committee, and establish both need and demand for the proposed project. CTCAC shall publicly notice any changes to its market study guidelines and shall take public comment consistent with the comment period and hearing provisions of Health and Safety Code Section 50199.17. For scattered site projects, a market study may combine information for all sites into one report, provided that the market study has separate rent comparability matrices for each site. A new construction hybrid 9% and 4% tax credit development may combine information for both component projects into one report and, if not, shall reflect the other component project as a development in the planning or construction stages.

A market study shall be updated when either proposed subject project rents change by more than five percent (5%), or the distribution of higher rents increases by more than 5%, or 180 days have passed since the first site inspection date of the subject property and comparable properties. CTCAC shall not accept an updated market study when more than twelve (12) months have passed between the earliest listed site inspection date of either the subject property or any comparable property and the filing deadline. In such cases, applicants shall provide a new market study. If the market study does not meet the guidelines or support sufficient need and demand for the project, the application may be considered ineligible to receive Tax Credits. Except where a waiver is obtained from the Executive Director in advance of a submitted application, CTCAC shall not reserve credits for a rural new construction application if a tax credit or other publicly-assisted new construction project housing the same population either (a) already has a tax credit reservation from CTCAC, (b) is a higher ranking project that will receive a reservation in the same funding round, or (c) is currently under construction within the same market area. The Executive Director may grant a waiver for subsequent phases of a single project, where newly constructed housing would be replacing specific existing housing, or where extraordinary demand warrants an exception to the prohibition.

For acquisition/rehabilitation projects meeting all of the following criteria, a comprehensive market study as outlined in IRS Section 42(m)(1)(A)(iii) shall mean a written statement by a third party market analyst certifying that the project meets these criteria:

- All of the buildings in the project are subject to existing federal or state rental assistance or operating subsidies, an existing TCAC Regulatory Agreement, or an existing regulatory agreement with a federal, state, or local public entity.
- The proposed tenant-paid rents and income targeting levels shall not increase by more than five percent (5%) (except that proposed rents and income targeting levels for units subject to a continuing state or federal project-based rental assistance contract may increase more and proposed rents and income targeting levels for resyndication projects shall be consistent with Section 10325(f)(11) or Section 10326(g)(8)).
- The project shall have a vacancy rate of no more than five percent (5%) (ten percent (10%) for Special Needs ~~and SRQ~~ projects) at the time of the tax credit application.

All market studies, including the streamlined written statement described above, shall calculate the project's lifetime rent benefit as follows: 1) find the aggregate difference between current monthly market rents and the project's proposed target rents; 2) multiply the difference by 12 to arrive at an annual rent difference; and 3) multiply the annual rent difference by 55 years. A project that fails to provide this calculation at application shall not be disqualified, provided that the applicant provides the calculation prior to reservation.

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### Section 10322(h)(21)

(21) Utility allowance estimates. Current utility allowance estimates consistent with 26 CFR Section 1.42-10. The applicant must indicate which components of the utility allowance schedule apply to the project. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission (CEC), with any solar values for new construction or adaptive reuse determined from the California Energy Commission's CEC's Photovoltaic Calculator and any solar values for existing residential buildings determined from the CEC's Photovoltaic Calculator or the Expected Performance Based Buydown (EPBB) calculator with monthly scalars to be determined by CTCAC. The CUAC estimate shall be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA). Measures that are used in the CUAC that require field verification shall be verified by a certified HERS Rater, in accordance with current HERS regulations. Use of CUAC is limited to (i) new construction projects, and to (ii) rehabilitation projects applying for tax credits for which the rehabilitation improves energy efficiency by at least 20%, as determined consistent with the requirements of Section 10325(c)(5)(D) and (G), or installs solar generation that offsets 50% of tenant loads, as determined consistent with the requirements of Section 10325(c)(5)(G), and (iii) existing tax credit projects with new photovoltaics installed through the Multifamily Affordable Solar Housing (MASH) program or a solar program administered by a municipal utility or joint powers authority, which awards that offsets tenants' area-electrical load. All CUAC utility allowances require a quality control review and approval. CTCAC will submit modeled CUAC utility allowance estimates to a quality control reviewer and shall establish a fee to cover the costs of this review. Existing tax credit projects and rehabilitation projects converting to the CUAC shall provide tenants at least 90 days prior to the effective date with an informative summary about the current utility allowance and the proposed CUAC allowances, including notice of any actual rent increase to the tenant. Any decrease in a tenant's utility allowance that results from conversion to the CUAC shall not exceed \$15 per month over any 12-month period. Such projects shall also provide CTCAC with the actual rent increases in the first year's CUAC update submittal. For existing projects requesting CUAC utility allowances, cash flow is limited to 15.0% or less of residential income and a debt service coverage ratio of 1.50 or less, as verified by audited financial statements.

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### Section 10322(h)(23)

(23) Cash flow projection. A 15-year projection of project cash flow. Separate cash flow projections shall be provided for residential and commercial space. If a capitalized rent reserve is proposed to meet the underwriting requirements of Section 10327, it must be included in the cash flow projections. Use of a capitalized rent reserve is limited to Special Needs projects, ~~SRO projects~~, projects applying under the Non-profit Homeless Assistance set-aside, HOPE VI projects, and Section 8 project based projects.

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### Section 10322(h)(34)

(34) Community service facility. An applicant requesting basis for a community service facility shall submit a third party tax attorney's opinion stating that the community service facility meets the requirements of IRC Section 42(d)(4)(C). CTCAC may use its discretion in determining whether the community service facility meets the qualifications.

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### Section 10322(h)(35)

(35) Mixed housing types. An applicant proposing a project to include senior housing in combination with non-senior housing shall provide a third party legal opinion stating that the project complies with fair housing law.

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### Section 10322(i)(17)

(17) all documentation required pursuant to the Compliance and Verification requirements of Section 10325(c)(~~65~~), if applicable;

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### Section 10322(i)(18)

(18) evidence that the project is in compliance with any points received under Section 10325(c)(~~98~~);

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### Section 10322(j)

(j) ~~Re-application. Revisions to 4% Reservations at Placed in Service.~~ Proposals submitted under Section 10326 of these regulations do not require new applications for ~~minor~~ changes in costs or Tax Credits alone. Committee staff will ~~normally~~ adjust the Credit amount ~~for projects requesting Tax Credit increases under Section 10326 only at one time~~, when the placed-in-service package is received and reviewed ~~by Committee staff. However, reapplication is required and applications will be reviewed if the Executive Director deems it necessary to have the Committee take formal action due to substantial changes or an extraordinary increase in Tax Credits requested. "Substantial changes" for this purpose will mean any significant~~ The Approval of the Executive Director shall approve is required for any change in unit mix or income targeting after reservation; number of buildings or building layout, or development cost increases greater than 20% of the original costs, and an "extraordinary increase" in Tax Credits will mean an increase greater than 15% of the original reservation amount. It is the applicant's responsibility to notify CTCAC of any ~~such unit mix or income targeting~~ changes ~~and when CTCAC is notified accordingly, new applications may be required. Reapplications~~ Projects at placed-in-service that are requesting additional Tax Credits will be required to submit a fee equal to one percent (1%) of the ~~increase from reservation in the first year's credit amount~~ annual federal tax credits allocated. This section shall apply to all projects for which TCAC issues tax forms after December 31, 2017. ~~For all other projects, except in unusual, extreme cases such as fire, or act of God, where a waiver of this subsection is permitted by the Executive Director, a re-application for a development that has already received a Tax Credit reservation or allocation shall be evaluated as an entirely new application, and shall be required to return its previously reserved or allocated Tax Credits prior to or simultaneously with its new application. All re-applications shall be subject to negative points under Section 10325(c)(3) if applicable (for example, a project that does not meet the original placed-in-service deadline would receive negative points hereunder). Re-applications shall be subject to the regulations in effect at the time the re-application is submitted. For projects~~

~~submitted under Section 10326 of these regulations that are requesting additional Tax Credits, the basis limits to be used in the final underwriting shall be those in effect during the year the development is placed in service.~~

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## **Section 10325(c)**

Credit Ceiling application competitions. Applications received in a reservation cycle, and competing for Federal and/or State Tax Credits, shall be scored and ranked according to the below-described criteria, except as modified by Section 10317(g) of these regulations. The Committee shall reserve the right to determine, on a case by case basis, under the unique circumstances of each funding round, and in consideration of the relative scores and ranking of the proposed projects, that a project's score is too low to warrant a reservation of Tax Credits. All point selection categories shall be met in the application submission through a presentation of conclusive, documented evidence to the Executive Director's satisfaction. Point scores shall be determined solely on the application as submitted, including any additional information submitted in compliance with these regulations. Further, a project's points will be based solely on the current year's scoring criteria and submissions, without respect to any prior year's score for the same projects.

Scattered Site Projects shall be scored proportionately in the site and service amenities category based upon (i) each site's score, and (ii) the percentage of units represented by each site, except that for scattered site projects of less than 20 Low-Income units~~Units~~, service amenities shall be scored in the aggregate across all sites.

The number of awards received by individuals, entities, affiliates, and related entities is limited to no more than four (4) per competitive round. This limitation is applicable to a project applicant, developer, sponsor, owner, general partner, and to parent companies, principals of entities, and family members. For the purposes of this section, related or non-arm's length relationships are further defined as those having control or joint-control over an entity, having significant influence over an entity, or participating as key management of an entity. Related entity disclosure is required at the time of application. Furthermore, no application submitted by a sponsor may benefit competitively by the withdrawal of another, higher-ranked application submitted by the same sponsor or related parties as described above.

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## **Section 10325(c)(1)**

### ~~(1) Leveraging~~

~~(A) Cost efficiency. A project application whose total eligible basis is below the maximum permitted threshold basis limits after permitted adjustments, shall receive 1 point for each percent by which its eligible basis is below the maximum permitted adjusted threshold basis limit. In calculating the eligible basis under this scoring factor, CTCAC shall use all project costs listed within the application unless those costs are not includable in basis under federal law as demonstrated by the application form itself or by a letter from the development team's third party tax professional.~~

~~(B) Credit reduction. A project that reduces the amount of Tax Credits it is requesting shall receive 1 point for each percent that its qualified basis is reduced. In order to receive points in this category, committed funds must be part of the permanent sources for the development and remain in place for at least ten years.~~

~~(C) Public funds. For purposes of scoring, "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. 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 points shall only be awarded for 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 from a local community foundation, 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, or the value of land donated or leased by a public entity or donated as part of an inclusionary housing ordinance which has been in effect for at least one year prior to the application deadline. Private loans that are guaranteed by a public entity (for example, RHS Section 538 guaranteed financing) shall not be scored as public funds under this scoring factor. Land and building values, including for land donated or leased by a public entity or donated as part of an inclusionary housing ordinance or other development agreements negotiated between public entities and private developers, must be supported by an independent, third party appraisal consistent with the guidelines in Section 10322(h)(9). Building values shall be considered only to the extent that those existing buildings are to be retained for the project, and the appraised value is not to include off-site improvements. All such public fund commitments shall receive 1 point for each 1 percent of the total development cost funded. For Tribal apportionment applications, land purchased with public funds shall not be eligible for public funds points. However, unsuccessful Tribal pilot program applicants subsequently competing within the rural set aside competition could have such tribal land purchase funding counted competitively as public funding if the land value is established in accordance with the requirements of this paragraph.~~

~~To receive points under this subsection for loans, those 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 scoring purposes shall be four percent (4%) simple, or the Applicable Federal Rate if compounding. RHS Section 514 or 515 financing shall be considered soft debt for scoring purposes in spite of a debt service requirement. Further, for points to be awarded under this subsection, 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.~~

~~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.~~

~~On or before December 31, 2017, private “tranche B” loans underwritten based upon rent differentials attributable to rent subsidies shall also be considered public funding for purposes of the final tiebreaker. The amount of private loan counted for scoring purposes would be the lesser of the private lender commitment amount, or an amount 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 50 percent (50%) AMI levels (40% AMI for Special Needs/SRO projects or for Special Needs units within a mixed population project) from the anticipated contract rent income documented by the subsidy source.~~

~~On or after January 1, 2018 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 Special Needs/SRO projects or for Special Needs units within a mixed population project) from the anticipated contract rent income documented by the subsidy source. The rent differential for projects with public operation 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.~~

~~A maximum of 20 points shall be available in combining the cost efficiency, credit reduction, and public funds categories.~~

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### **Section 10325(c)(2)-(10) [Changes beyond the numbering are listed separately below]**

- ~~(21)~~ General Partner/Management Company Characteristics.
- ~~(32)~~ Negative points.
- ~~(43)~~ Housing Needs.
- ~~(54)~~ Amenities beyond those required as additional thresholds
- ~~(65)~~ Sustainable building methods.
- ~~(76)~~ Lowest Income in accordance with the table below
- ~~(87)~~ Readiness to Proceed.
- ~~(98)~~ Miscellaneous Federal and State Policies
- ~~(109)~~ Tie Breakers

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### **Section 10325(c)(2) [Will become 10325(c)(1)]**

- ~~(21)~~ General Partner/Management Company Characteristics.

No one general partner, party having any fiduciary responsibilities, or related parties will be awarded more than 15% of the Federal Credit Ceiling, calculated as of February first during any calendar year unless imposing this requirement would prevent allocation of all of the available Credit Ceiling.

(A) General partner experience. To receive points under this subsection for projects in existence for over 3 years, the proposed general partners, or a key person within the proposed general partner organization, must meet the following conditions:

(i) For projects in operation for over three years, submit a certification from a third party certified public accountant that the projects for which it is requesting points have maintained a positive operating cash flow, from typical residential income alone (e.g. rents, rental subsidies, late fees, forfeited deposits, etc.) for the year in which each development's last financial statement has been prepared and have funded reserves in accordance with the partnership agreement and any applicable loan documents. To obtain points for projects previously owned by the proposed general partner, a similar certification must be submitted with respect to the last full year of ownership by the proposed general partner, along with verification of the number of years that the project was owned by that general partner. To obtain points for projects previously owned, the ending date of ownership or participation must be no more than 10 years from the application deadline. This certification must list the specific projects for which the points are being requested. The certification of the third party certified public accountant may be in the form of an agreed upon procedure report that includes funded reserves as of the report date, which shall be dated within 60 days of the application deadline, unless the general partner or key person has no current projects which are eligible for points in which case the report date shall be after the date from which the general partner or key person separated from the last eligible project. Where there is more than 1 general partner, experience points may not be aggregated; rather, points will be awarded based on the highest points for which 1 general partner is eligible.

3-4 projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be California Low Income Housing Tax Credit projects 4 points

5 or more projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be California Low Income Housing Tax Credit projects 6 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:

3 Special Needs projects in service more than 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the 3 special needs projects 4 points

4 or more Special Needs projects in service more than 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the 4 special needs projects 6 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 at least 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).

(B) Management Company experience. To receive points under this subsection, the property management company must meet the following conditions. To obtain points for projects previously managed, the ending date of the property management role must be no more than 10 years from the application deadline. In addition, the property management experience with a project shall not pre-date the project’s placed-in-service date.

(i) 6-10 projects managed over 3 years, of which 2 shall be California Low Income Housing Tax Credit projects 2 points

11 or more projects managed over 3 years, of which 2 shall be California Low Income Housing Tax Credit projects 3 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:

2-3 Special Needs projects managed over 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the special needs projects 2 points

4 or more Special Needs projects managed over 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the special needs projects 3 points

Alternatively, a management company that provides evidence that the agent to be assigned to the project (either on-site or with management responsibilities for the site) has been certified prior to the application deadline pursuant to a low income housing tax credit certification examination of a nationally recognized housing tax credit compliance entity on a list maintained by the Committee, may receive 2 points. These points may substitute for other management company experience but will not be awarded in addition to such points.

(ii) Management companies managing less than two (2) active California Low-Income Housing Tax Credit projects for more than three years, and management companies for projects requesting points under the special needs categories of subparagraph (i) above and managing no active California Low-Income Housing Tax Credit projects for more than three years, shall contract with a bona-fide management company currently managing two (2) California Low Income Housing Tax Credit projects for more than three years and which itself earns a minimum combined total of two (2) points at the time of application.

When contracting with a California-experienced property management company under the terms of paragraph (A)(ii) or (B)(ii) above, the general partner or property co-management entity must obtain training in: project operations, on-site certification training in federal fair housing law, and manager certification in IRS Section 42 program requirements from a CTCAC-approved, nationally recognized entity. Additionally, the experienced property management agent or an equally experienced substitute, must remain for a period of at least 3 years from the placed-in-service date (or, for ownership transfers, 3 years from the sale or transfer date) to allow for at least one (1) CTCAC monitoring visit to ensure the project is in compliance with IRC Section 42. Thereafter, the experienced property manager may transfer responsibilities to the remaining general partner or property management firm following formal written approval from CTCAC. In applying for and receiving points in these categories, applicants assure that the property shall be owned and managed by entities with equivalent experience scores for the entire 15-year federal compliance and extended use period, pursuant to Section 10320(b). The experience must include at least two (2) Low Income Housing Tax Credit projects in California in service more than 3 years.

Points in subsections (A) and (B) above will be awarded in the highest applicable category and are not cumulative. For points to be awarded in subsection (B), an enforceable management agreement executed by both parties for the subject application must be submitted at the time of application. "Projects" as used in subsections (A) and (B) means multifamily rental affordable developments of over 10 affordable units that are subject to a recorded regulatory agreement, or, in the case of housing on tribal lands, where federal HUD funds have been utilized in affordable rental developments. General Partner and 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.

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**Section 10325(c)(3)(A) [Will become 10325(c)(2)(A)]**

(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. ~~An exception to this subsection is made for 2015 competitive tax credit applications with Veterans Housing and Homeless Prevention (VHHP) and Affordable Housing and Sustainable Communities (AHSC) financing based on a recommendation by state program staff and accepted with the tax credit application, but ultimately not receiving a VHHP or AHSC award;~~

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**Section 10325(c)(3)(L) [Will become 10325(c)(2)(L)]**

(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)(~~21~~)(B);

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**Section 10325(c)(4) [Will become 10325(c)(3)]**

(~~43~~) 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 Low-Income units-Units represented by each site.) The category selected hereunder (which shall be the category represented by the highest percentage of units in a proportionally scored project) shall also be the project category for purposes of the tie-breaker described in subsection 10325(c)(~~109~~) below.

Large Family Projects	10 points
<del>Single Room Occupancy Projects</del>	<del>10 points</del>
Special Needs Projects	10 points
Seniors Projects	10 points
At-Risk Projects	10 points

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**Section 10325(c)(5)(A)1. [Will become 10325(c)(4)(A)1.]**

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 1/3mile 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 proximity 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 ~~Rent-Restricted~~Low-Income Unit for at least 15 years.

At least one pass per ~~Tax-Credit unit~~Low-Income Unit 3 points  
At least one pass per each 2 ~~Tax-Credit units~~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.

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**Section 10325(c)(5)(A)4. [Will become 10325(c)(4)(A)4.]**

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 ~~certified by the California Federation of Certified Farmers’ Markets, 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

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**Section 10325(c)(5)(A)5. [Will become 10325(c)(4)(A)5.]**

5. For a development wherein at least 25 percent (25%) of the ~~residential~~ 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. 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. 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

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**Section 10325(c)(5)(A)7. [Will become 10325(c)(4)(A)7.]**

7. For a Special Needs ~~or SRO~~ 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

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**Section 10325(c)(5)(A)10. [Will become 10325(c)(4)(A)10.]**

10. High speed internet service, with a minimum average download speed of ~~768 kilobits~~ 1.5 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. Will serve letters or other documentation of internet availability must be documented within 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)

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**Section 10325(c)(5)(A)11. [Will become 10325(c)(4)(A)11.]**

11. The project is a new construction large family project, except for an inclusionary project as defined in Section 10325(c)(9)(C), and the site is located in a census tract designated on the TCAC/HCD Opportunity Area Map as Highest or High Resource: 8 points

Highest Resource 8 points

High Resource 4 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 which satisfy the obligations of an inclusionary housing ordinance and, if so, the number of such units and whether the inclusionary obligations derive solely from the Low-Income Units themselves.

An applicant may choose to utilize the census tract's resource designation from a TCAC/HCD Opportunity Area Map in effect in either of the two calendar years prior to application.

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**Section 10325(c)(5)(B) [Will become 10325(c)(4)(B)]**

(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, increasing health and well-being, or improving the educational success of children and youth.

Except as provided below, in order to receive points in this category, physical space for service amenities must be available when the development is placed-in-service. Services space must be located inside the project and provide sufficient square footage, accessibility and privacy to accommodate the proposed services.

The amenities must be available within 6 months of the project's placed-in-service date. Applicants must commit that services shall be provided for a period of 15 years.

All services must be of a regular and ongoing nature and provided to tenants free of charge (except for day care services or any charges required by law). Services must be provided on-site except that projects may use off-site services within 1/2 mile of the development (1½ miles for Rural set-aside projects) provided that they have a written agreement with the service provider enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. All organizations providing services for which the project is claiming service amenities points must have at least 24 months experience providing services to one of the target populations to be served by the project.

No more than 10 points will be awarded in this category.

For Large Family, Senior, and At-Risk Projects, amenities may include, but are not limited to:

[Changes to items 1. through 6. are listed separately below.]

For Special Needs and SRO projects, amenities may include, but are not limited to:

[Changes to items 7. through 12. are listed separately below.]

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. For projects containing a combination of Special Needs units with Senior or Large Family units, applicants shall choose to provide services either as described in items 1 through 6, or 7 through 12. Applicants must 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 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; state the annual dollar value of the services; commit that services will be

provided for a period of at least one (1) year; commit that services will be available to tenants of the project free of charge (except for child care services or other charges required by law); name the project to which the services are being committed. Organizations providing in-kind or donated service must estimate the value of those services. Volunteer time may be valued at \$10 per hour.

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).

Applications must include a services sources and uses budget clearly describing all anticipated income and expenses associated with the services program and that aligns 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 would fund service amenities, the application's Service Amenities Sources and Uses Budget must be consistent with the application's Annual Residential Operating Expenses chart. Services costs contained in the project operating budget are not to be counted toward 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.

Evidence that adequate physical space for services will be provided must be documented within the application.

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**Section 10325(c)(5)(B)5. [Will become 10325(c)(4)(B)5.]**

5. Licensed child care. 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

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**Section 10325(c)(5)(B)6. [Will become 10325(c)(4)(B)6.]**

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
4 hours per week, offered weekdays throughout school year	2 points

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**Section 10325(c)(5)(B) For Special Needs and SRO projects [Will become 10325(c)(4)(B) For Special Needs and SRO projects]**

(B) For Special Needs ~~and SRO~~ projects, amenities may include, but are not limited to:

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**Section 10325(c)(5)(B)11. [Will become 10325(c)(4)(B)11.]**

11. Licensed child care. 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 ~~30%~~25% of Low-Income units are three bedrooms or larger). 5 points

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**Section 10325(c)(5)(B)12. [Will become 10325(c)(4)(B)12.]**

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 ~~30%~~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
4 hours per week, offered weekdays throughout school year	2 points

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**Section 10325(c)(6)(E) [Will become 10325(c)(5)(E)]**

(E) Additional Rehabilitation Project Measures. For projects receiving points under section 10325(c)(~~65~~)(D) applicants may be awarded points for committing to developing, and/or managing, their project with one or more of the following:

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**Section 10325(c)(6)(G) [Will become 10325(c)(5)(G)]**

(G) Compliance and Verification:

1. For preliminary reservation applications, applicants must include a certification from the project architect that the sustainable building methods of Section 10325(c)(~~65~~) have been incorporated into the project, if applicable. For rehabilitation applications incorporating the requirements of subsections ~~(A) and~~ (C) Green Communities or WELL option, and for all applications incorporating the requirements of subsections (B), (D), ~~and-or~~ (E)1.a above, applicants must include a completed Sustainable Building Method Workbook.

2. For placed-in-service applications to receive points under section 10325(c)(~~65~~)(A) and section 10325(c)(~~65~~)(C), the applicant must submit the appropriate required third party verification documentation showing the project has met the requirements for the relevant program.

3. For new construction project placed-in-service applications to receive points under section 10325(c)(~~65~~)(B)(i), the applicant must submit a completed Sustainable Building Method Workbook and the appropriate California Energy Commission compliance form for the project which shows the

necessary percentage improvement better than the appropriate Standards. This compliance form must be the output from the building(s) modeled “as built” and reflect all relevant changes that impact the building(s) energy efficiency that were made after the preliminary reservation application. The compliance form must be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA). Documentation for measures that require verification by California Home Energy Rating System (HERS) Raters must also be submitted.

4. New Construction placed-in-service applications for projects that received points under section 10325(c)(65)(B)(ii), the applicant must submit a completed Sustainable Building Method Workbook, a completed CUAC analysis establishing the total tenant energy load, and documentation of the PV output using the CEC’s PV Calculator. These compliance forms must reflect all relevant changes that impact building(s) energy efficiency that were made after the preliminary reservation application. The CUAC analysis and other required forms must be signed by a CABEC certified CEA. Documentation for the solar PV installation and other measures that require verification by California HERS Raters must also be submitted.

5. For rehabilitation project placed-in-service applications to receive points under section 10325(c)(65)(D), the applicant must submit a completed Sustainable Building Method Workbook and the energy consumption and analysis report from the appropriate performance module of CEC approved software, completed by a CABEC certified CEA, which shows the pre- and post- rehabilitation estimated TDV energy use demonstrating the required improvement. The pre-rehabilitation conditions shall be established using the Sustainable Building Method Workbook’s CTCAC Existing Multifamily Assessment Protocols and reported using the CTCAC Existing Multifamily Assessment Report Template, signed by a qualified HERS Rater.

6. For rehabilitation project placed-in-service applications to receive points under section 10325(c)(65)(E) the applicants must submit ~~a completed Sustainable Building Method Workbook and~~ the following documentation:

(i) For projects including photovoltaic generation that offsets tenant loads, the applicant must submit a completed Sustainable Building Method Workbook, a Multifamily Affordable Solar Home (MASH) Program field verification certification form signed by the project’s solar contractor and a qualified HERS Rater, and a copy of the utility interconnection approval letter. The applicant shall use the California Energy Commission’s Photovoltaic Calculator, or the Expected Performance Based Buydown (EPBB) calculator with monthly scalars to be determined by CTCAC, for purposes of determining the solar values to be input into the CUAC calculator.

(ii) For projects including photovoltaic generation that offsets common area load, the energy analyst shall provide documentation of the load serving the common area and the output calculations of the photovoltaic generation.

(iii) For sustainable building management practices, the applicant must submit a copy of the energy management and maintenance manual and submit the building commissioning plan drafted in accordance with the California Commissioning Collaborative’s best practice recommendations for existing buildings or the GreenPoint Rated Multifamily Commissioning requirements.

(iv) For sub-metered central hot water systems, the applicant must demonstrate compliance with CPUC regulations for hot water sub-metering and billing by submitting a copy of the Utility Service Agreement from project’s local utility provider.

7. For placed in service applications to receive points under Section 10325(c)(~~65~~)(F), the project architect, landscape architect, water system engineer, HERS Rater, GreenPoint Rater, NGBS Green Verifier, or LEED for Homes Green Rater shall certify that the project has been designed and constructed to achieve the standards and that, if applicable, 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.

8. Failure to produce the appropriate documentation for (2) through (7) of this subsection may result in an award of negative points for the development team.

**Section 10325(c)(7)(A) [Will become 10325(c)(6)(A)]**

(A) The “Percent of Area Median Income” category may be used only once. For instance, 50% of ~~Income Targeted Units to Total Tax Credit Units~~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 ~~Income Targeted Units to Total Tax Credit Units~~Low-Income Units at 50% of Area Median Income for 25 points and 40% of ~~Income Targeted Units to Total Units~~Low-Income Units at 50% of Area Median Income be used for an additional 20 points. However, the “Percent of ~~Income Targeted~~Low-Income Units” may be used multiple times. For example, 50% of ~~Targeted Low-Income~~ Units at 50% of Area Median Income for 25 points may be combined with another 50% of ~~Targeted 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 ~~M~~median ~~I~~income column.

Lowest Income Points Table (maximum 50 points):

	<b>Percent of Area Median Income</b>					
	<del>55</del>	<del>50</del>	<del>45</del>	<del>40</del>	<del>35</del>	<del>30</del>
<del>80</del>				45	47.5	50
<del>75</del>				42.5	45	47.5
<del>70</del>				40	42.5	45
<del>65</del>			35	37.5	40	42.5
<del>60</del>			32.5	35	37.5	40
<del>55</del>			30	32.5	35	37.5
<del>50</del>		25*	27.5	30	32.5	35
<b>Percent of</b>	<del>45</del>		22.5*	25	27.5	30
<b>Income</b>	<del>40</del>	17.5*	20	22.5	25	27.5
<b>Targeted</b>	<del>35</del>	15*	17.5	20	22.5	25
<b>Units To</b>	<del>30</del>	12.5*	15	17.5	20	22.5
<b>Total Tax</b>	<del>25</del>	10*	12.5	15	17.5	20
<b>Credit Units</b>	<del>20</del>	7.5*	10	12.5	15	17.5
<b>(exclusive of</b>	<del>15</del>	5*	7.5	10	12.5	15
<b>mng. ’s unit)</b>	<del>10</del>	2.5*	5	7.5	10	12.5

**Percent of  
Low-Income  
Units**

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

\* Available to Rural set-aside projects only

**Section 10325(c)(7)(B) [Will become 10325(c)(6)(B)]**

(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.)

**Section 10325(c)(8) [Will become 10325(c)(7)]**

(87) Readiness to Proceed. ~~15-10~~ points will be available to projects that document items (A) through (EB) below, and commit to begin construction within 180 days of the Credit Reservation (after preliminary reservation CTCAC will randomly assign a 180 day deadline for half of the projects receiving a Credit Reservation within each round and a 194 day deadline for remaining projects), as evidenced by submission, within that time, of: a completed updated application form along with a detailed explanation of any changes from the initial application, an executed construction contract, a construction lender trade payment breakdown of approved construction costs, 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, a limited partnership agreement executed by the general partner and the investor providing the equity, payment of all construction lender fees, 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 notice to proceed delivered to the contractor. If no construction lender is involved, evidence must be submitted within 180 days 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 addition to the above, all applicants receiving any readiness points under this subsection must provide an executed Letter of Intent (LOI) from the project's equity partner within 90 days of the Credit Reservation. The LOI must include those features called for in the CTCAC application. Failure to meet the 90 day due date, or the 180-day or 194-day due date if applicable, shall result in rescission of the Tax Credit Reservation or negative points ~~unless, for 2016 reservations only, the Executive Director determines that the circumstances were unforeseen and entirely outside the applicant's control.~~

Five (5) points shall be awarded for submittals within the application documenting each of the following criteria, up to a maximum of ~~15~~10 points. The 180-day or 194-day requirements shall not apply to projects that do not obtain the maximum points in this category. Within the preliminary reservation application, the following must be delivered:

(A) enforceable financing commitment, as defined in Section 10325(f)(3), for all construction financing; ~~as evidenced by executed commitment(s) and payment of commitment fee(s);~~

(B) evidence, as verified by the appropriate officials, that all environmental review clearances (CEQA, NEPA, and applicable tribal land environmental reviews) necessary to begin construction, except for clearances related to loans with must pay debt service for which the applicant is not seeking public funds points or tiebreaker benefit ~~(except the Tranche B calculation)~~, are either finally approved or unnecessary; and

~~(C) evidence of all necessary public or tribal land use approvals subject to the discretion of local or tribal elected officials.~~

For paragraphs (B) ~~and (C)~~ an a final appeal period may run up to 30 days beyond the application due date. The applicant must provide proof that either no appeals were received, or that any appeals received during that time period were resolved within that 30-day period to garner local approval readiness points.

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#### **Section 10325(c)(9)(B) [Will become 10325(c)(8)(B)]**

(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:

[No changes to bullets or point score]

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#### **Section 10325(c)(9)(F) [Will become 10325(c)(8)(F)]**

(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)(~~76~~) of these regulations. 1 point

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#### **Section 10325(c)(10) [Will become 10325(c)(9)]**

~~(109)~~ 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 + Community Investment 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 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 ~~two ratios~~:

(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, as described in Section 10325(e)(1)(C), except that on or after January 1, 2018 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, shall be excluded for purposes of the tiebreaker.~~ 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. 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 ~~points~~ shall only be awarded for 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 from a local community foundation, 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 donated or leased by a public entity or donated as part of an inclusionary housing ordinance which has been in effect for at least one year prior to the application deadline. 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 inclusionary housing ordinance or other development agreements negotiated between public

entities and private developers, must be supported by an independent, third party appraisal consistent with the guidelines in Section 10322(h)(9). Building values shall be considered only to the extent that those existing buildings are to be retained for the project, and the appraised value is not to include off-site improvements. For Tribal apportionment applications, **donated land value and land-purchase funding purchased with public funds** shall not be eligible. However, ~~unsuccessful Tribal pilot program apportionment applicants subsequently competing within the rural set-aside or tribal applicants competing in a geographic region competition could shall~~ have such **tribal-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, shall be excluded for purposes of the tiebreaker.

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.

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 Special Needs projects or for Special Needs units within a mixed-population project) from the anticipated contract rent income documented by the subsidy source. 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 ~~Section 10325(e)(1)(C)~~ 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 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 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. ~~On or after January 1, 2018, s~~ 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 ~~Section 10325(e)(1)(C)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 5 years prior to the application due date. The party providing the donation 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 from a related party to the project. In addition, the land shall not have been owned previously by a related party or a partner or proposed partner (unless the partner has no ownership interest and only the right to complete construction). The application shall include a certification from an independent Certified Public Accountant (CPA) or independent tax attorney that the donation is from an unrelated entity and that the unrelated entity shall not receive any benefit from a related party to the project.

(iv) For purposes of this section, a related party shall mean a member of the development team or a Related Party, as defined in Section 10302(gg), to a member of the development team.

Permanent funding sources for this tiebreaker shall not include equity commitments related to the Low Income Housing Tax Credits.

Land donations include land leased for a de minimis annual lease payment. CTCAC may contract with an appraisal reviewer and, if it does so, shall commission an appraisal review for donated land and improvements if a reduction of 15% to the submitted appraisal value would change an award outcome. If the appraisal review finds the submitted appraisal to be inappropriate, misleading, or inconsistent with the data reported and with other generally known information, then the reviewer shall develop his or her own opinion of value and CTCAC shall use the opinion of value established by the appraisal reviewer for calculating the tiebreaker only.

~~On or before December 31, 2017, the numerator of projects with public operating or rental subsidies may be increased by 25 percent (25%) of the percentage of proposed tax credit assisted units benefitting from the subsidy. Such subsidies must be received from one or more of the following programs: Project Based Section 8; PRAC (Section 202 and 811); USDA Section 521 Rental Assistance; Shelter Plus Care; McKinney Act Supportive Housing Program Grants; Native American Housing Block Grant (IHBG); California Mental Health Services Act operating subsidies; California Department of Health Care Services; and Public Housing Annual Contributions contracts. Applicants seeking scoring consideration for other public sources of operating or rent subsidies must receive written Executive Director approval prior to the application due date.~~

~~On or after January 1, 2017, the~~ numerator of projects of 50 or more newly constructed or adaptive reuse Tax Credit ~~units~~ Units shall be multiplied by a size factor equal to seventy five percent plus the total number of newly constructed or adaptively reused Tax Credit ~~units~~ Units divided by 200 (75% + (total newly ~~constructed~~ -construction/adaptive reuse units/200)). The size factor calculation shall be limited to no more than 150 Tax Credit Units.

In the case of a new construction hybrid 9% and 4% tax credit development which meets all of the following conditions, the calculation of the size factor for the 9% application shall include all of the Tax Credit Units in the 4% application up the limit described above, the leveraged soft resources ratio calculated pursuant to this subparagraph (A) shall utilize the combined amount of leveraged soft resources defraying residential costs and the combined total residential project development costs from both the 9% and 4% applications, and the ratio calculated pursuant to 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 the 4% application may be eligible for maximum points in the lowest income category in combination with the 9% project; and
- (iv) any amount of the combined 4% and 9% developer fees in cost that are in excess of the limit for the 9% project by itself pursuant to Section 10327(c)(2)(A) shall be deferred or contributed as equity to the projects, except that the 4% project may include an additional cash out developer fee of \$10,000 per unit for each Tax Credit Unit in excess of 100 from the combined 9% and 4% components.

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 6 months of the 9% component, both applicants shall 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).

(B) One (1) minus the ratio of requested unadjusted eligible basis to total residential project development costs, with the resulting figure divided by three. For purposes of this tiebreaker paragraph only, requested unadjusted eligible basis shall be increased by the amount of any reduction to eligible basis that is less than or equal to the amount of leveraged soft resources, as described above but exclusive of donated land value, fee waivers, and the capitalized value of rent differentials attributable to public rent or public operating subsidies~~the amount of private "tranche B" loans underwritten based upon rent differentials attributable to rent subsidies~~, committed to the project.

(C) A~~Except as provided below, a~~ new construction large-family project applying in 2019 or later shall receive a higher resource area bonus as follows based on the designation of the project's location on the TCAC/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 the project's census tract is a Highest Resource area 10 percentage points

The project is rural and the project's census tract 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 an inclusionary project, which for purposes of this subparagraph shall mean a project in which any of the Low-Income Units satisfy the obligations of an inclusionary housing ordinance, 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 inclusionary housing ordinance. 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 inclusionary housing ordinance and, if so, the number of such units and whether the inclusionary obligations derive solely from the Low-Income Units themselves.

An applicant may choose to utilize the census tract's resource designation from a TCAC/HCD Opportunity Area Map in effect in either of the two calendar years prior to application.

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

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#### **Section 10325(d)**

(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 consistent with the method described in Section 10325(e)(1)(A). A project ~~would~~ will be designated "high cost" if a project's total eligible basis exceeds its total adjusted threshold basis limits by 30%. Staff shall not recommend such project for credits. Any project that receives a reservation on or after January 1, 2016, ~~regardless of whether or not it is considered high cost at preliminary reservation,~~ may be subject to negative points if the project's total eligible basis at placed in service exceeds the revised total adjusted threshold basis limits ~~for the year the project is placed in service (or the original total eligible threshold basis limit if higher)~~ by 40%. For purposes of calculating the high cost test at placed in service, TCAC shall use the higher of the unadjusted threshold basis limit from application or the year the projects places in service. ~~A project to which the Committee has awarded credits in spite of its cost may be subject to negative points if the project's ratio of total eligible basis at placed in service to the revised total adjusted threshold basis limits for the year the project is placed in service (or the original total eligible threshold basis limit if higher) exceeds the ratio of total eligible basis to the revised total adjusted threshold basis limits that the Committee approved at application by 10%.~~

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.

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### **Section 10325(d)(1)**

(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 and HOME program apportionment first, and the Tribal pilot apportionment second), the At Risk set-aside, and the Special Needs/~~SRO~~ 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. 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.

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### **Section 10325(f)(1)(B)(ii)**

(ii) Except for ~~SRO~~ special needs rehabilitation projects in which at least 90% of the total units are SRO units, the proposed unit value ratio stated as dollars per square foot (\$/s.f.) will be no more than the weighted average unit value ratios for comparable market rate units;

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### **Section 10325(f)(1)(B)(iv)**

(iv) The demand for the proposed project's units must appear strong enough to reach stabilized occupancy – 90% occupancy for ~~SRO and~~ Special Needs projects and 95% for all other projects – within six months of being placed in service for projects of 150 units or less, and within 12 months for projects of more than 150 units and senior projects.

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### **Section 10325(f)(3)**

(3) Enforceable financing commitment. Applicants shall provide evidence of enforceable financing commitments for at least fifty percent (50%) of the acquisition and construction financing, or at least fifty percent (50%) of the permanent financing, of the proposed project's estimated total acquisition and construction or total permanent financing requirements. An "enforceable financing commitment" must:

(A) be in writing, stating rate and terms, and in the form of a loan, grant or an approval of the assignment/assumption of existing debt by the mortgagee;

(B) be subject only to conditions within the control of the applicant, but for obtaining other financing sources including an award of Tax Credits;

(C) have a term of at least fifteen (15) years if it is permanent financing;

(D) demonstrate feasibility for fifteen (15) years at the underwriting interest rate, if it is a variable or adjustable interest rate permanent loan; and,

(E) be executed by a lender other than a mortgage broker, the applicant, or an entity with an identity of interest with the applicant, unless the applicant is a lending institution actively and regularly engaged in residential lending; and

(F) be accepted in writing by the proposed mortgagor or grantee, if private financing.

Substitution of such funds may be permitted only when the source of funding is similar to that of the original funding, for example, use of a bank loan to substitute for another bank loan, or public funds for other public funds. General Partner loans or developer loans must be accompanied by documented proof of funds being available at the time of application. In addition, General Partner or developer loans to the project are unique, and may not be substituted for or foregone if committed to within the application. Notwithstanding the remainder of this paragraph, an applicant may substitute Affordable Housing Program (AHP) funds provided pursuant to a program of the Federal Home Loan Bank for any other source.

Projects awarded under a Nonprofit set-aside homeless assistance priority or a Rural set-aside RHS or HOME apportionment pursuant to a funding commitment may not substitute other funds for this commitment after application to CTCAC. Failure to retain the funding may result in an award of negative points.

For projects using FHA-insured debt, the submission of a letter from a Multifamily Accelerated Processing (MAP) lender stating that they have underwritten the project and that it meets the requirements for submittal of a multifamily accelerated processing firm commitment application to HUD. ~~For 2015 competitive tax credit applications with Veterans Housing and Homeless Prevention (VHHP) and Affordable Housing and Sustainable Communities (AHSC) included as funding sources, a project's recommendation by state program staff may be substituted for evidence that the funding has been firmly committed, provided that the applicant receives a VHHP or AHSC award prior to the CTCAC award.~~

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#### **Section 10325(f)(4)**

(4) Local approvals and Zoning. Applicants shall provide evidence, at the time the application is filed, that the project as proposed is zoned for the intended use, and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied, except that an appeal period may run 30 days beyond the application due date. The applicant must provide proof that either no appeals were filed, or that any appeals filed during that time period were resolved within that 30-day period and the project is ready to proceed.

Examples of such approvals include, but are not limited to, general plan amendments, rezonings, and conditional use permits. Notwithstanding the first sentence of this subsection, local land use approvals not required to be obtained at the time of application include, design review, initial environmental study assessments, variances, and development agreements. The Committee may require, as evidence to meet this requirement, submission of a Committee-provided form letter to be signed by an appropriate local government planning official of the applicable local jurisdiction.

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#### **Section 10325(f)(7)(A)**

(A) Energy Efficiency. New construction and rehabilitation non-competitive applicants shall consult with the design team, a CABEC certified ~~2013 or~~ 2016 Certified Energy Analyst, and a LEED ~~Green Rater~~ AP Homes (low-rise and mid-rise), LEED AP BD+C (high rise), NGBS Green Verifier, or GreenPoint Rater (one person may meet ~~all both~~ of these latter qualifications) early in the project design process to evaluate a building energy

model analysis and identify and consider energy efficiency or generation measures beyond those required by this subsection. Prior to the meeting, the energy analyst shall complete an initial energy model based on either current Title 24 standards or, if the project is eligible, the California Utility Allowance Calculator using best available information on the project. All non-competitive applications to CTCAC shall include a copy of the model results, meeting agenda, list of attendees, and major outcomes of the meeting. All rehabilitated buildings, both competitive and non-competitive, shall have improved energy efficiency above the modeled energy consumption of 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 preliminary reservation 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. In addition, all applicants who will receive points from CDLAC pursuant to Sections 5230(k)(7) or (8) (for energy efficiency only) of the CDLAC regulations must submit a completed Sustainable Building Method Workbook with their preliminary reservation application.

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#### **Section 10325(f)(7)(E)**

(E) Appliances. ~~Except for SRO units, a~~All Low-Income Units shall provide a ~~stove and~~ refrigerator. All non-SRO Low-Income Units shall provide a stove, and all SRO Low-Income Units shall include a cooking facility. The Executive Director may waive the refrigerator and cooking facility requirement for SRO units. 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.

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#### **Section 10325(f)(7)(G)**

(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.

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#### **Section 10325(f)(7)(J)**

(J) Consistent with California State law, projects with 16 or more ~~residential~~Low-Income and Market-Rate Units must have an on-site manager's unit. Projects with at least 161 Low-Income and Market-Rate Units shall provide a second on-site manager's unit for either another on-site manager or other maintenance personnel, and there shall be one additional on-site manager's unit for either another on-site manager or other maintenance personnel for each 80 Low-Income and Market-Rate Units beyond 161 units, up to a maximum

of four on-site manager's units. Scattered site projects totaling 16 or more Low-Income and Market-Rate Units must have at least one on-site manager's unit for the entire project, and at least one manager's unit at each site where that site's building(s) consist of 16 or more Low-Income and Market-Rate Units. Scattered sites within 100 yards of each other shall be treated as a single site for purposes of the on-site manager rule only.

In lieu of on-site manager units, a project may commit to employ an equivalent number of on-site full-time property management staff (at least one of whom is a property manager) and provide an equivalent number of desk or security staff capable of responding to emergencies for the hours when property management staff is not working. All staff or contractors performing desk or security work shall be knowledgeable of how the property's fire system operates and be trained in, and have participated in, fire evacuation drills for tenants. CTCAC reserves the right to require that one or more on-site managers' units be provided and occupied by property management staff if, in its sole discretion, it determines as part of any on-site inspection that the project has not been adequately operated and/or maintained.

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### Section 10325(f)(7)(K)

(K) All new construction projects shall adhere to the provisions of California Building Code (CBC) Chapter 11(B) regarding accessibility to privately owned housing made available for public use in all respects except as follows: 1) instead of the minimum requirements established in 11B 233.3.1.1 and 11B 233.3.1.3, all new construction projects must provide a minimum of ten percent (10%) of the Low-Income Units with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and a minimum of four percent (4%) of the Low-Income Units with communications features, as defined in CBC 11B 809.5; and 2) all new construction projects shall provide the number of accessible parking spaces required solely by CBC Chapter 11(B) without regard to the increased TCAC percentage of mobility accessible units. 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.

Rehabilitation projects shall provide a minimum of ten percent (10%) of the Low-Income Units with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and four percent (4%) with communications features, as defined in CBC 11B 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. The project shall provide accessible parking spaces equal to the greater of 5% of the Low-Income Units or the number of accessible parking spaces required solely by CBC Chapter 11(B) without regard to the increased TCAC percentage of mobility accessible units. 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.

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### Section 10325(f)(8)

(8) Deferred-payment financing, grants and subsidies. Applicants shall provide evidence that all deferred-payment financing, grants and subsidies shown in the application are "committed" at the time of application, except as permitted in subsection (E) ~~and (F)~~ below.

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## Section 10325(f)(8)(F)

~~(F) Funds anticipated but not yet awarded under the following programs shall be exempt from the provisions of this subsection: the Affordable Housing Program (AHP) provided pursuant to a program of the Federal Home Loan Bank; RHS Section 514, 515 or 538 programs; the Department of Housing and Urban Development's Supportive Housing Program (SHP); the California Department of Mental Health's Mental Health Services Act Program; projects that have received a Reservation of HOME funds from the applicable Participating Jurisdiction; projects receiving Housing Tax Credits in 1999 and thereafter and funding under the Department of Housing and Community Development's Multifamily Housing Program; or for 2015 competitive tax credit applications, Veterans Housing and Homeless Prevention (VHHP) and Affordable Housing and Sustainable Communities (AHSC) program financing submitted with a recommendation by state program staff, provided that the applicant receives a VHHP or AHSC award prior to the CTCAC award.~~

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## Section 10325(f)(9)

(9) Project size and credit amount limitations. Project size limitations shall apply to all applications filed, pursuant to this Section.

(A) Unit number limits are as follows:

- i. Rural set-aside applications - Eighty (80) Low-Income Units maximum
- ii. Other than rural set-aside applications – One hundred fifty (150) Low-Income Units maximum.

Rehabilitation proposals are excepted from the above size limitations. In addition, rural set-aside proposals or non-rural HOPE VI or large neighborhood redevelopment proposals may request a size limitation waiver from the Executive Director. Such waiver requests for non-rural proposals must include a plan for the HOPE VI redevelopment, or a specific neighborhood revitalization plan. In granting a size limitation waiver for rural projects, the Executive Director shall determine 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) Units, for purposes of this subsection, shall:~~

- ~~i. include low income units;~~
- ~~ii. not include market rate units or manager's units.~~

~~(C) 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~~

~~(D) 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. (D) The maximum annual Federal Tax Credits available for award to any one project of 100 or less Low-Income Units in any funding round shall not exceed Two Million Five Hundred Thousand (\$2,500,000) Dollars. The~~

maximum annual Federal Tax Credits available for award to any one project of more than 100 Low Income Units in any funding round shall not exceed Three Million (\$3,000,000) Dollars.

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### **Section 10325(f)(11)(C)**

(C) For existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication), the pre-rehabilitation reserve study in the CNA shall demonstrate a rehabilitation need of at least \$5,000 per unit over the first three years. Projects for which the Executive Director has waived the requirements of Section 10320(b)(4) and projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.

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### **Section 10325(g)**

(g) Additional Threshold Requirements. To qualify for Tax Credits as a Housing Type as described in Section 10315(h), to receive points as a housing type, or to be considered a “complete” application, the application shall meet the following additional threshold requirements: A scattered site more than 1 mile from the nearest other site shall meet the requirements related to common areas, play/recreational facilities, and laundry facilities independently.

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### **Section 10325(g)(1)(A)-(C)**

(A) At least twenty-five percent (25%) of the ~~Tax Credit~~Low-Income Units in the project shall be three-bedroom or larger units, and for projects that receive land use entitlements on or after January 1, 2016 at least an additional twenty-five percent (25%) of the ~~Tax Credit~~Low-Income Units in the project shall be two-bedroom or larger units, except that for projects qualifying for and applying under the At-risk set-aside, the Executive Director may grant a waiver from this requirement if the applicant shows that it would be cost prohibitive to comply;

(B) 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. Three-bedroom Low-Income Units shall include at least 900 square feet of living space and four-bedroom Low-Income Units shall include at least 1,000 square feet of living space, unless these restrictions conflict with the requirements of another governmental agency to which the project is subject to approval. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director prior to the application submission. Bedrooms shall be large enough to accommodate two persons each and living areas shall be adequately sized to accommodate families based on two persons per bedroom;

(C) Four-bedroom and larger Low-Income Units shall have a minimum of two full bathrooms;

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### **Section 10325(g)(1)(H)**

(H) Dishwashers shall be provided in all Low-Income Units unless a waiver is granted by the Executive Director because of planning or financial impracticality;

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### Section 10325(g)(2)(A)

(A) All units ~~shall be restricted to households eligible under the provisions of California Civil Code Section 51.3. However, starting with projects allocated credits in 2015 all units~~ shall be restricted to residents who are 62 years of age or older under applicable provisions of California Civil Code Section 51.3 and the federal Fair Housing Act (except for projects utilizing federal funds whose programs have differing definitions for senior projects), and further be subject to state and federal fair housing laws with respect to senior housing;

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### Section 10325(g)(2)(B)

(B) ~~Effective for projects allocated credits in 2015 and thereafter, f~~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), ~~and the project shall provide accessible parking spaces equal to the greater of 25% of all Low Income Units on an accessible path (ground floor and elevator serviced) or 10% of all Low Income Units~~. For rehabilitation projects ~~allocated credits in 2015 and thereafter~~, 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), ~~and the project shall provide accessible parking spaces equal to the greater of 12.5% of all Low Income Units on an accessible path (ground floor and elevator serviced) or 5% of all Low Income Units~~. All projects with elevators must comply with CBC Chapter 11(B) accessibility requirements for elevators. 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;~~

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### Section 10325(g)(2)(D)

(D) No more than twenty percent (20%) of the Low-Income Units~~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. ~~One larger unit may be included for use as a manager's unit without a waiver;~~

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### Section 10325(g)(2)(E)

(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;

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### Section 10325(g)(3)

~~(3) 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) SRO units are efficiency 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 at least 90% of the SRO units shall not exceed 500 square feet. These limits 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 rental subsidy committed, the applicant shall demonstrate that the target population can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that those receiving General Assistance are willing to pay rent at the level proposed;~~

~~(E) The project configuration, including community space and kitchen facilities, shall meet the needs of the population;~~

~~(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 project development cost;~~

~~(G) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units;~~

~~(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) A signed contract or memorandum of understanding between the developer and the service provider, together with the resolution of the service provider, must accompany the Tax Credit application;~~

~~(K) A summary of the experience of the developer and the service provider in providing for the population to be served must accompany the Tax Credit application; and~~

~~(L) New construction projects for seniors shall not qualify as Single Room Occupancy housing.~~

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#### **Section 10325(g)(4) [Will become Section 10325(g)(3)]**

~~(43)~~ Special Needs projects. To be considered Special Needs housing, at least ~~50~~<sup>25</sup>~~%~~ 45% of the ~~Tax Credit~~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 ~~11139.31~~<sup>2957</sup>(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. In the case of a development that is less than 75% special needs the non-special needs units must meet the large family, ~~or senior, or SRO~~ housing type ~~(although the project will be considered as a special needs project for purposes of Section 10315)~~ or consist of either (i) at least 20% one-bedroom units and at least 10% larger than one-bedroom units as a percentage of Low-Income Units or (ii) at least 90% SRO units as a percentage of Low-Income Units. ~~Studio or SRO units must include at least 200 square feet, one bedroom units must include at least 500 square feet, and two bedroom units must include at least 750 square feet of living space. These bedroom and size requirements may be waived for rehabilitation projects or for projects that received entitlements prior to January 1, 2016 at the discretion of the Executive Director.~~The application shall meet the following additional threshold requirements:

(A) Average targeted income for the special needs and non-special needs SRO units is no more than forty percent (40%) of the area median income;

(B) Third party verification from a federal, state or local agency of the availability of services appropriate to the targeted population;

(C) The units/building configurations (including community space) shall meet the specific needs of the population, including kitchen needs for SRO units without full kitchens;

(D) If the project does not have a rental subsidy committed, the applicant shall demonstrate that the target population of special needs units and non-special needs SRO units can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that those receiving such assistance are willing to pay rent at the level proposed;

(E) 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;

(F) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units;

(G) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land);

(H) 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 bedroom and size requirements may be waived for rehabilitation projects or for projects that received entitlements prior to January 1, 2016 at the discretion of the Executive Director.~~A ten percent (10%) vacancy rate shall be used for pro forma purposes unless otherwise approved by the Executive Director. Justification of a lower rate shall be included;~~

(I) SRO units are efficiency 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 Low-Income Units shall be 200 square feet, and the size shall not exceed 500 square feet. These bedroom and size requirements may be waived for rehabilitation projects or for projects that received entitlements prior to January 1, 2016 at the discretion of the Executive Director. A project that includes SRO units without complete private baths shall provide at least one bath for every eight SRO units. Where services are required as a condition of occupancy, special attention shall be paid to the assessment of service costs as related to

~~maximum allowable Credit rents. A third party tax professional's opinion as to compliance with IRC Section 42 may be required by the Executive Director;~~

(J) A signed contract or memorandum of understanding between the developer and the service provider, together with the resolution of the service provider(s) identified in the preliminary service plan described in paragraph (L), must accompany the Tax Credit application;

(K) A summary of the experience of the developer and the service provider(s) in providing services to the project's special needs populations must accompany the Tax Credit application; and

(L) A preliminary service plan that specifically identifies: the service needs of the projects special needs population; the organization(s) that would be providing the services to the residents; the services to be provided to the special needs population; how the services would support resident stability and any other service plan objectives; a preliminary budget displaying anticipated income and expenses associated with the services program. The Executive Director shall, in his/her sole discretion, determine whether the plan is adequate to qualify the project as a special needs project.

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### Section 10325(g)(5) [No changes to subsequent text]

~~(54)~~ At-risk projects.

**Reason:** The proposed changes renumber Section 10325(g)(5) to reflect the folding of the SRO housing type into the special needs housing type.

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### Section 10325.5

~~10325.5(a) Projects that received a reservation of 9% tax credits in 2016 and that have not yet closed construction financing may request permission from the Executive Director to split the project into two with one maintaining the 9% credit reservation and the other receiving 4% tax credits on any unutilized basis. Projects receiving such permission, in the aggregate, shall maintain the rent and income targeting, point score, and amount of public funds cited in the initial 9% staff report. In addition, projects receiving such permission, in the aggregate, shall be subject to the high cost test described in Section 10325(d) and shall not increase the developer fee in cost beyond the limit stated in the initial 9% staff report but may claim 4% tax credit basis for any portion of the developer fee, including the amount above the 9% limit in eligible basis. Notwithstanding the timing requirements of Section 10322, TCAC may use any documents submitted with the original 9% application to satisfy the application requirements of Section 10322. If permission is granted, the Executive Director shall revise the 9% tax credit reservation in accordance with the revised TCAC feasibility analysis, provided that the amount of reserved tax credits does not increase.~~

~~(b) A new construction project that received a reservation of 9% tax credits in the second round of 2016 or that is receiving permission pursuant to subdivision (a) may elect to return all of the 2016 Federal Credit, and State Credit if applicable, in exchange for a new reservation and allocation of 2017 Federal Credits, and State Credits if applicable.~~

~~(1) If pursuing a hybrid structure pursuant to subdivision (a), the election shall occur at the time the revised 9% and new 4% applications are submitted. If the applicant elects to return the 2016 9% Federal Credit, and State Credits if applicable, upon acceptance of the 4% tax credit reservation, the reservation~~

~~and carryover allocation of the 9% Federal Credits and the reservation of State 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. The Committee concurrently shall issue a new reservation of 9% Federal Credits, and State Credits if applicable, to the project in an amount equal to or less than the amount of Federal and State Credits returned by the project to the Committee, in accordance with the revised 9% reservation.~~

~~(2) If the project is not pursuing a hybrid structure pursuant to subdivision (a), the election shall occur in the form of a written request submitted to CTCAC prior to any deadline the Executive Director may establish. The reservation and carryover allocation of the 9% Federal Credits and the reservation of State 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. The Committee concurrently shall issue a new reservation of 9% Federal Credits, and State Credits if applicable, to the project in the amount of the Federal Credits and State Credits returned by the project to the Committee.~~

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### **Section 10326(g)(3)**

(3) Local approvals and Zoning. Applicants shall provide evidence, ~~at the time the application is filed,~~ that the project, as proposed, is zoned for the intended use, and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied. Applicants requesting competitive state credits shall provide this evidence at the time the application is filed, except that an appeal period may run 30 days beyond the application due date, in which case the applicant must provide proof that either no appeals were filed, or that any appeals filed during that time period were resolved within that 30-day period and the project is ready to proceed. Examples of such approvals include, but are not limited to, general plan amendments, rezonings, conditional use permits. Notwithstanding the first sentence of this subsection, applicants need not have obtained design review approval at the time of application. The Committee may require, as evidence to meet this requirement, submission of a Committee-provided form letter to be signed by an appropriate local government planning official of the applicable local jurisdiction.

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### **Section 10326(g)(5)**

(5) Sponsor characteristics. Applicants shall provide evidence that as a Development Team, proposed project participants possess the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee shall, in its sole discretion, determine if any of the evidence provided shall disqualify the applicant from participating in the Tax Credit Programs, or if additional Development Team members need be added to appropriately perform all program requirements. General partners and management companies lacking documented experience with Section 42 requirements using the minimum scoring standards at Section 10325(c)(~~21~~)(A) and (B) shall be required to complete training as prescribed by CTCAC prior to a project's placing in service. The minimum scoring standards referenced herein shall not be obtained through the two (2) point category of "a housing tax credit certification examination of a nationally recognized housing tax credit compliance entity on a list maintained by the Committee to satisfy minimum management company experience requirements for an incoming management agent" established at Section 10325(c)(~~21~~). Applicants need not submit the third party public accountant certification that the projects have maintained a positive operating cash flow. The following documentation is required to be submitted at the time of application:

### Section 10326(g)(8)(C)

(C) For existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication), the pre-rehabilitation reserve study in the CNA shall demonstrate a rehabilitation need of at least \$5,000 per unit over the first three years. Projects for which the Executive Director has waived the requirements of Section 10320(b)(4) and projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.

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### Section 10326(j)(3)

(3) Projects shall maintain at least 10% of the ~~total~~ Low-Income Units at rents affordable to tenants earning 50% or less of the Area Median Income, and shall maintain a minimum 30 year affordability period.

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### Section 10327(c)(2)(A)

(A) The maximum developer fee that may be included in project costs for a 9% competitive credit rehabilitation or adaptive reuse application is the lesser of 15% of the project's eligible basis plus 15% of the basis for non-residential costs included in the project and allocated on a pro rata basis or two million (\$2,000,000) dollars. The maximum developer fee that may be included in project costs for a 9% competitive credit new construction application shall be calculated as follows: The base fee limit shall be the lesser of 15% of the project's eligible basis plus 15% of the basis for non-residential costs included in the project and allocated on a pro rata basis or two million two hundred thousand (\$2,200,000) dollars. To arrive at the maximum developer fee, the base limit shall then be multiplied by the difference between 2 and the project's high-cost test factor, which equals the project's total eligible basis divided by its total adjusted threshold basis limits. For purposes of this subparagraph, at placed in service TCAC shall use the higher of the unadjusted threshold basis limit from application or the year the project places in service.

For 9% competitive applications applying under section 10325 of these regulations, the cost limitation on developer fees that may be included in eligible basis, shall be as follows:

- (i) the maximum developer fee that may be included in eligible basis for a new construction or rehabilitation only project is the lesser of 15% of the project's unadjusted eligible basis, or one million four hundred thousand (\$1,400,000) dollars; or
  - (ii) the maximum developer fee that may be included in eligible basis for acquisition/rehabilitation projects is the lesser of 15% of unadjusted eligible construction related basis plus 5% of the unadjusted eligible acquisition basis, or one million four hundred thousand (\$1,400,000) dollars; or
  - (iii) the maximum developer fee that may be included in eligible basis for projects receiving a waiver of the project size limitations under section 10325(f)(9)(~~EB~~) of these regulations is the lesser of 15% of the project's eligible basis or \$1,680,000 for projects having between 201 and 250 Low-Income Units, \$1,750,000 for projects having between 251 and 300 Low-Income Units, and \$1,820,000 for projects having more than 300 Low-Income Units.
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## Section 10327(c)(2)(B)(ii)

(ii) the maximum developer fee that may be included in project costs and eligible basis for acquisition/rehabilitation projects is 15% of the unadjusted eligible construction related basis and 5% percent of the unadjusted eligible acquisition basis. All developer fees in excess of two million five hundred thousand (\$2,500,000) dollars plus \$10,000 per unit for each Tax Credit ~~U~~unit in excess of 100 shall be deferred or contributed as equity to the project. A 15% developer fee on the acquisition portion will be permitted for at-risk developments meeting the requirements of section 10325(g)(~~54~~) or for other acquisition/rehabilitation projects whose hard construction costs per unit in rehabilitation expenditures are at least ~~\$20,000~~\$25,000 or where the development will restrict at least 30% of its Low-Income Uunits for those with incomes no greater than 50% of area median and restrict rents concomitantly.

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## Section 10327(c)(2)(C)

(C) For purposes of this subsection, the unadjusted eligible basis is determined without consideration of the developer fee. Once established ~~at the initial funded application by a reservation of Tax Credits~~, the developer fee in cost and in basis for a competitive project or for a non-competitive project with a 2015 or earlier reservation cannot be increased; but may be decreased; in the event of a modification in basis, except that the adjustment factor related to costs described in paragraph (A) shall be recalculated at placed in service where applicable. ~~Once established at by a reservation of Tax Credits, the developer fee in cost and in basis for a non-competitive project with a 2016 or later reservation shall not be increased but may be decreased in the event of a modification in basis, except that the developer fee in basis for a non-competitive project may increase or decrease in the event of a modification in basis, provided that an increase in the developer fee in cost shall only be allowed if the sum total of all permanent funding sources from related parties included in the initial application is maintained at placed in service and the entire increase is additionally deferred or contributed as equity to the project. Both the developer fee limitations in total project costs described in paragraphs (2) and (2)(B) above, and the developer fee limitations in basis described in~~The provisions of (2)(A) and (2)(B) above apply to projects developed as multiple simultaneous phases using the same credit type (all 9% or all 4% credits) in both phases, except for an all 9% credit phased project in which the immediately preceding phase includes 150 or more total units. Only when the immediately preceding phase of an all 9% credit phased project equals or exceeds 150 units or when any other phased project is using both credit types may simultaneously phased projects exceed the limitations in (2), (2)(A), and (2)(B) in the aggregate shall the provision of (2)(A) and (2)(B) apply to each phase independently. For purposes of this limitation, “simultaneous” refers to projects consisting of a single building, or projects on the same parcel or ~~adjacent-on~~ parcels within ¼ mile of each other and with construction start dates within six months of each other, or completion dates that are within six months of each other.

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## Section 10327(c)(5)

(5) Threshold Basis Limits. ~~The 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 definition in Section 10302(rr) 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.

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## Section 10327(c)(5)(A)

(A) Increases in the threshold basis limits shall be permitted as follows for projects applying under Section 10325 or 10326 of these regulations. The maximum increase to the limits permitted under this subsection shall not exceed thirty-nine percent (39%).

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 seven percent (7%) 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.

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.

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## Section 10327(c)(5)(B) Compliance and Verification

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, a Multifamily Affordable Solar Home (MASH) Program field verification certification from signed by the project’s solar contractor and a qualified HERS Rater, and a copy of the utility interconnection approval letter. The applicant shall use the California Energy Commission’s Photovoltaic Calculator or, for existing residential buildings, the Expected Performance Based Buydown (EPBB) calculator with monthly scalars to be determined by CTCAC, for purposes of determining the solar values to be input into the CUAC calculator. 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.

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#### **Section 10327(c)(5)(B)(7)**

(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%)

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#### **Section 10327(c)(5)(B)(8)**

(8) Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, ~~ceramic tile, or~~ natural linoleum, natural rubber, or ceramic tile in all common areas (where no VOC adhesives or backing is also used). Two percent (2%)

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#### **Section 10327(c)(5)(B)(9)**

(9) ~~Meet~~ For new construction projects, meet all requirements of the U.S. Environmental Protection Agency Indoor Air Plus Program. Two percent (2%)

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#### **Section 10327(c)(5)(C)**

(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-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).

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#### **Section 10327(c)(5)(D)**

(D) Projects requiring seismic upgrading of existing structures, and/or projects requiring on-site toxic or other environmental mitigation remediation may be permitted an increase in basis limit equal to the lesser of the amount of costs associated with the seismic upgrading or on-site environmental mitigation remediation 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.

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## Section 10327(c)(5)(F)

(F) ~~In a county that has an unadjusted 9% threshold basis limit for a 2-bedroom units equal to or less than \$350,000~~\$400,000, a ~~ten percent (10%) increase to the project's threshold basis limit for a development located in a census tract designated on the TCAC/HCD Opportunity Area Map as Highest or High Resource or a five percent (5%) increase for a project in a census tract designated as High Resource~~, an area that meets all of the following criteria:

- ~~1. is within a city with a population of at least 50,000 or that, when combined with abutting cities, has a population of at least 50,000.~~
- ~~2. is within a county that has a 9% threshold basis limit for 2 bedroom units equal to or less than \$300,000.~~
- ~~3. is deemed to have the highest opportunity by the UC Davis Regional Opportunity Index for Places (see the dark green shaded areas on the "Place" map at <http://interact.regionalchange.ucdavis.edu/roi/webmap/webmap.html>).~~

An applicant may choose to utilize the census tract's resource designation from a TCAC/HCD Opportunity Area Map in effect in either of the two calendar years prior to application.

## Section 10327(c)(6)

(6) Acquisition costs. All applications must include the cost ~~or value~~ 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. ~~All applications seeking competitive points or tiebreaker credit for donations shall include values for land and improvements, if any, that are not nominal.~~ Except as allowed pursuant to Section 10322(h)(9)(A) or by a waiver pursuant to this section below for rehabilitation projects basing ~~value cost~~ on assumed debt, the "as if vacant" land value and the existing improvement value established at application for all projects, as well as the eligible basis amount derived from those values, shall not increase during all subsequent reviews including the placed in service review, for the purpose of determining the final award of Tax Credits.

(A) New Construction. The ~~value 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.

For competitive projects, the value of donated land, including land donated as part of an inclusionary housing ordinance, must be evidenced by an appraisal pursuant to Section 10322(h)(9). For non-competitive projects, the value of donated land shall be zero.

(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 improvement 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 by the overage. For all other purposes, the project cost shall include the overage.~~The Executive Director may waive this requirement where a local governmental entity is purchasing, or providing funds for the purchase of land for more than its appraised value in a designated revitalization area when the local governmental entity has determined that the higher cost is justified.~~

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 a 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 TCAC shall approve a reasonable proration of land and improvement value consistent with similar projects in the market area.

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### **Section 10327(c)(7)**

(7) Reserve accounts. All unexpended funds in project reserve accounts shall remain with the project to be used for the benefit of the property and/or its residents, except for amounts designated to be used to pay deferred developer fees, which may be released as stated below. The Committee shall allow operating reserve amounts in excess of industry norms to be considered “reasonable costs,” for purposes of this subsection, only for applications requesting a reservation of Tax Credits under the Nonprofit set-aside homeless assistance apportionment, as described in Section 10315(b), ~~SRO~~, Special Needs, or HOPE VI, or project based Section 8 projects. The original Sources and Uses budget, the pro forma balance sheet and pro forma income/expense statement, and the final cost certification should demonstrate the initial and subsequent funding of the replacement and operating reserves.

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### **Section 10327(c)(10)(A)**

(A) 0.3 spaces per unit for special needs projects, except that for non-special needs units in a special needs project the applicable ratios of subparagraphs (B), (C), and (D) shall apply and, for units not referenced by subparagraphs (B), (C), or (D), 1 space per unit shall be allowed for studio and 1-bedroom non-special needs units and 2 spaces per units shall be allowed for larger non-special needs units~~in a special needs project.~~

## Section 10327(c)(10)(B)

(B) 0.5 spaces per unit for ~~non-large family~~senior projects within ½ mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

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## Section 10327(d)(2)

(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)(~~4~~3) as a difficult development area (DDA).

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## Section 10327(f)

(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 all rental income generated by proposed initial rent levels contained within the project application) 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). Applications that qualify for a reservation of Tax Credits from the Nonprofit set-aside homeless assistance apportionment, or from the Special Needs/~~SRO~~ set-aside as described in subsections 10315(b) and (e), 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.”

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## Section 10327(g)(1)

(1) 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 ~~SRO~~/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. Out-year calculations shall be 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. However, 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.

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### Section 10327(g)(3)

~~(3) Vacancy and collection loss minimums shall be five percent (5%) for family, seniors, and at-risk proposals, and~~ Vacancy and collection loss minimums shall be ten percent (10%) for special needs units and non-special needs SRO proposals ~~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 minimums shall be five (5%) for all other units.~~

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### Section 10327(g)(6)

(6) Minimum 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 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. Pro forma statement utilizing CTCAC underwriting requirements and submitted to CTCAC at placed in service, must demonstrate that this limitation is not exceeded during the first three years of the project's operation. ~~Otherwise, the maximum annual Federal Credit will be reduced at the time of the 8609 package is reviewed, by the amounts necessary to meet the limitations.~~ Gross income includes rental income generated by proposed initial rent levels contained with the project application.

~~The reduction in maximum annual Federal Credit may not be increased subsequent to any adjustment made under this section.~~

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### Section 10328(g)

(g) Reservation Exchange ~~for High-Rise Projects~~. A High-Rise Project ~~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 either of the following criteria, may elect to return all of the Federal Credit ~~during the year immediately following the year in which the carryover allocation is made~~ in exchange for a new reservation and allocation of Federal Credits from the year immediately following the year in which the initial reservation and carryover allocation were made. ~~An election to return Federal Credits pursuant to this subsection may be made only during January of the calendar year directly following the year in which the initial reservation and carryover allocation are made.~~ The reservation and carryover allocation of the Federal Credits returned pursuant to this subsection-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 year immediately following the year in which the initial reservation and carryover allocation were made.

(2) A project which prior to the placed in service deadline the Executive Director finds, in his or her sole discretion, merits additional time to place in service because development was significantly delayed due to damage directly caused by fire, war, or act of God. In considering a request the Executive Director may consider, among other things, the extent of the damage, the length of delay, the time remaining until the project's placed in service deadline, and the circumstances causing the damage.

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### **Section 10330(b)**

(b)(1) Timing Procedure for application appeals. ~~The~~ An appeal related to an application must be submitted in writing and received by the Committee no later than seven (7) calendar days following the transmittal date of the Committee 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 seven (7) days after receipt of the appeal letter. If the applicant ~~is not satisfied with~~ wishes to appeal the staff response, the applicant may appeal in writing to the Executive Director within ~~seven-five (5)~~ seven-five (5) days after receipt of the staff response letter. The Executive Director will respond in writing no more than ~~seven-five (75)~~ seven-five (5) days after receipt of the appeal. If the applicant ~~is not satisfied with the Executive Director's decision and~~ wishes to appeal the Executive Director's decision, a final appeal may be submitted to the Committee no more than ~~seven-five (5)~~ seven-five (5) days following the date of receipt of the Executive Director's letter. An appeal ~~on any given project, when directed~~ to the Executive Director or the Committee, must be accompanied by a ~~one-time,~~ 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 Committee or 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 applicant's-appellant's grounds 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, which shall not exceed fourteen (14) additional days. If the applicant-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.

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### **Section 10335(c)**

(c) Appeal fee. Any applicant submitting an appeal to the Executive Director and/or the Committee with respect to CTCAC's action on a given application will shall pay a one-time fee to CTCAC. This fee, in the amount of five hundred dollars (\$500) must be paid to CTCAC. The fee, and must accompany the original appeal letter to the Committee.

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## Section 10335(g)

(g) Tax form amendment fee. An owner who requests an amendment to 8609 or 3521A tax forms shall pay a fee of \$1000 unless the Executive Director determines that the amendment is necessary due to a CTCAC error.

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## Section 10337(a)(3)(A)

(A) the ~~Sponsor~~-owner shall in good faith apply for and accept all renewals available;

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## Section 10337(a)(3)(B)

(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 ~~Rent Restricted~~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 TCAC 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.

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## Section 10337(b)(3)

(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.

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## Section 10337(c)(1)

(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 ~~residential-Low-Income and Market Rate rental-units~~Units in the building that are ~~low~~Low-income-Income ~~units~~Units; the rent charged for each ~~Low-Income U~~nit; 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 U~~nit; notation of any vacant ~~Low-Income units~~Units; move-in dates for all ~~Low-Income units~~Units; ~~low-income tenant's~~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.

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**Section 10337(f)(3)**

(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), ~~except that CTCAC shall not collect a fee for the appeal to the Executive Director.~~