Infill Infrastructure Grant Program

Guidelines

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Contents

ARTICLE 1. GENERAL 1
Section 300. Purpose and scope 1
Section 301. Program overview 1
Section 302. Definitions 1
ARTICLE 2. PROGRAM REQUIREMENTS 9
Section 303. Eligible projects 9
Section 304. Eligible costs 11
Section 305. Grant terms and limits 13
Section 306. Performance requirements 14
ARTICLE 3. APPLICATION PROCEDURES 16
Section 307. Application process 16
Section 308. Application threshold requirements 16
Section 309. Selection Criteria for Qualifying Infill Projects 17
Section 310. Selection criteria for Qualifying Infill Areas 26
ARTICLE 4. PROGRAM OPERATIONS 36
Section 311. Legal documents 36
Section 312. Reporting requirements 37
Section 313. Defaults and cancellations 38
Section 314. Prevailing Wages 38

ARTICLE 1. GENERAL

Section 300. Purpose and scope

The purpose of these Infill Infrastructure Grant program Guidelines (Guidelines) is to implement and interpret Chapter 2 of Part 12 of Division 31 commencing with Health and Safety Code section 53545.13, which establishes the Infill Incentive Grant Program of 2007, hereinafter referred to as the Infill Infrastructure Grant Program (IIG or Program).

Section 301. Program overview

The Program's primary objective is to promote infill housing development by providing financial assistance for Capital Improvement Projects that are an integral part of or necessary to facilitate the development of a Qualifying Infill Project or a Qualifying Infill Area.

Under the Program, grants are available as gap funding for infrastructure improvements necessary for specific residential or mixed-use infill development Projects or Areas. Both Infill Projects and Areas must have either been previously developed or be largely surrounded by development. Eligible improvements include development or rehabilitation of Parks or Open Space, water, sewer or other utility service improvements, streets, roads, parking structures, transit linkages, transit shelters, traffic mitigation features, sidewalks, and streetscape improvements.

Funds will be allocated through a competitive process, based on the merits of the individual Infill Projects and Areas. The application selection criteria includes project readiness, affordability, housing density, access to transit, proximity to amenities, and consistency with regional plans.

The Uniform Multifamily Regulations (UMRs) in Title 25, Division 1, Chapter 7, Subchapter 19 (commencing with section 8300) of the California Code of Regulations are hereby incorporated into these Guidelines. In the event of a conflict between the UMRs and these Guidelines, the provisions of these Guidelines shall prevail.

Section 302. Definitions

The following definitions apply to the capitalized terms used in these Guidelines:

(a) "Affirmatively Furthering Fair Housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, Affirmatively Furthering Fair Housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a

public agency's activities and programs relating to housing and community development.

(b) "Affordable Unit" means a unit that is made available at an affordable rent, as defined in Health and Safety Code section 50053, to a household earning no more than 60 percent of the Area Median Income (AMI) or, for ownership projects, at an affordable housing cost, as defined in Health and Safety Code section 50052.5, to a household earning no more than 120 percent of the AMI. Rental units shall be subject to a recorded covenant ensuring affordability for a duration of at least 55 years. Ownership units shall initially be sold to and occupied by a qualified household and shall be subject to a recorded covenant that includes either a resale restriction for at least 30 years or equity sharing upon resale.

(c) "Area Median Income" or "AMI" means the most recent applicable county median family income published by the California Tax Credit Allocation Committee (TCAC).

(d) "Bus Hub" means an intersection of three or more bus routes, where one route or a combination of routes has a minimum scheduled headway of ten minutes or at least six buses per hour during peak hours. Peak hours are limited to the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday, or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider at some point between January 2020 and the time of application.

(e) "Bus Transfer Station" means an arrival, departure, or transfer point for the area's intercity, intraregional, or interregional bus service having a permanent investment in multiple bus docking facilities, ticketing services, and passenger shelters.

(f) "Capital Asset" means a tangible physical property with an expected useful life of 15 years or more. "Capital Asset" also means a tangible physical property with an expected useful life of 10 to15 years for costs not to exceed 10 percent of the Program grant. "Capital Asset" includes major maintenance, reconstruction, demolition for purposes of reconstruction of facilities, and retrofitting work that is ordinarily done no more often than once every 5 to 15 years or expenditures that continue or enhance the useful life of the Capital Asset. "Capital Asset" also includes equipment with an expected useful life of two years or more. Costs allowable under this definition include costs incidentally but directly related to construction or acquisition, including, but not limited to, planning, engineering, construction management, architectural, and other design work, environmental impact reports and assessments, required mitigation expenses, appraisals, legal expenses, site acquisitions, and necessary easements.

(g) "Capital Improvement Project" or "Project" means the construction, rehabilitation, demolition, relocation, preservation, acquisition, or other physical improvement of a Capital Asset that is an integral part of, or necessary to facilitate the

development of, a Qualifying Infill Project or Qualifying Infill Area. Capital Improvement Projects that may be funded under the Program include, but are not limited to, those described in Section 304 (a).

(h) "CCR" means the California Code of Regulations.

(i) "Department" means the California Department of Housing and Community Development.

(j) "Developer" means an Eligible Applicant that the Department may rely upon for Site Control of either the Qualifying Infill Project or the Qualifying Infill Area.

(k) "Eligible Applicant" means one of, or any combination of, the following:

(1) A nonprofit or for-profit Developer of a Qualifying Infill Project;

(2) A city, county, city and county, public housing authority, or redevelopment agency and/or successor agencies that have jurisdiction over a Qualifying Infill Area;

(3) A city, county, city and county, public housing authority, or redevelopment agency and/or successor agencies that has jurisdiction over a Qualifying Infill Area applying jointly with an "owners' association," as defined in the Streets and Highways Code section 36612 for a business or property improvement district that includes the Qualifying Infill Area;

(4) The duly constituted governing body of an Indian reservation or rancheria that has jurisdiction over a Qualifying Infill Area or a Tribally Designated Housing Entity that is the Developer of a Qualifying Infill Project.

(l) "Employment Center" means a locally recognized concentration of employment opportunities practically available to the residents of the proposed Qualifying Infill Project, such as a large hospital, industrial park, commercial district, or office area.

(m) "Enforceable Funding Commitment" means commitments for permanent financing, including, but not limited to, the following:

(1) Low-income housing tax credit equity and tax-exempt bonds in connection with 4 percent and 9 percent low-income housing tax credits evidenced by a tax credit reservation letter from TCAC.

(2) Funds awarded by another Department program. Proof of award must be received by the Department prior to final rating and ranking of the Program application.

(3) A land donation in fee for no other consideration that is supported by an appraisal and/or purchase/sale agreement, or some other instrument of title transfer ("Land Donation"), or a local fee waiver resulting in

quantifiable cost savings for the Project where those fee waivers are not otherwise required by federal or state law ("Local Fee Waiver"), shall be considered a funding commitment. The value of the Land Donation will be the greater of either the original purchase price or the current appraised value as supported by an independent third-party appraisal prepared by a Member Appraisal Institute-qualified appraiser within one year prior to the application deadline. A funding commitment in the form of a Local Fee Waiver must be supported by written documentation from the local public agency. A below market lease for at least 55 years that meets the requirements of UMR section 8316 would be considered a land donation ($1 per year).

(4) Owner equity contributions or developer funds. Such contributions or funds shall not be subsequently substituted with a different funding source or forgone if committed in the application, except that a substitution may be made for up to 50 percent of the deferred developer fee. The Department may require the Applicant to evidence the availability of the proposed amount of owner equity or developer funds.

(5) Funds for transportation projects which are programmed for allocation and expenditure in the applicable Project plan consistent with the terms and timeframes of the Standard Agreement.

(n) "Local Support" means support of local public agencies.

(o) "Locality" means a California city, county, or city and county, or the duly constituted governing body of an Indian reservation or rancheria that has jurisdiction over a Qualifying Infill Area or a Tribally Designated Housing Entity.

(p) "Lower-Income" has the meaning set forth in Health and Safety Code section 50079.5.

(q) "Major Transit Stop" means a site containing any of the following: (1) An existing rail or bus rapid transit station. (2) A ferry terminal served by either a bus or rail transit service. (3) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during peak hours. Peak hours are limited to the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday, or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider at some point between January 2020 and the time of application.

(r) "Master Development" means the proposed residential units within the Qualifying Infill Project(s) or Qualifying Infill Area identified in the Program application.

(s) "Moderate-Income" has the meaning set forth in Health and Safety Code section 50093.

(t) “MHP” shall mean the Multifamily Housing Program authorized and governed by Health and Safety Code sections 50675 through 50675.14 and the Multifamily Housing Program Guidelines.

(u) “Net Density” means the total number of dwelling units per acre of land to be developed for residential or mixed use, excluding allowed deductible areas. Allowed deductible areas are public dedications of land which are for public streets, public sidewalks, public Open Space, and public drainage facilities. Non-allowed deductible areas include utility easements, setbacks, private drives and walkways, general landscaping, common areas and facilities, off street parking, and traditional drainage facilities exclusive to a development project. Mitigations required for development will not be included in the allowed deductible areas.

(v) “NOFA” means a Notice of Funding Availability for the Program issued by the Department.

(w) “Nondiscretionary Local Approval Process” means a process for development approval involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the application is submitted to the local government, but uses no special discretion or judgment in reaching a decision.

(x) “Open Space” means a parcel or area of land or water that is essentially unimproved and dedicated to one or more of the following purposes: (1) the preservation of natural resources; (2) the managed production of resources; (3) public and/or residential outdoor recreation; or (4) public health and safety.

(y) “Park” means a facility that provides benefits to the community and includes, but is not limited to, places for organized team sports, outdoor recreation, and informal turf play; nonmotorized recreational trails; permanent play structures; landscaping; community gardens; places for passive recreation; multipurpose structures designed to meet the special recreational, educational, vocational, and social needs of youth, Senior Citizens, and other population groups; recreation areas created by the redesign and retrofit of urban freeways; community swim centers; regional recreational trails; and infrastructure and other improvements that support these facilities.

(z) “Program” means the Infill Infrastructure Grant Program as implemented by these Guidelines.

(aa) “Qualifying Infill Area” means an area designated in the Program application that is a contiguous area located within an Urbanized Area (1) that has been previously developed, or where at least 75 percent of the perimeter of the area adjoins parcels that are developed with Urban Uses, and (2) in which at least one development application has been approved or is pending approval for a residential or mixed-use residential project that meets the definition and criteria in this Section for a Qualifying Infill Project.

(bb) "Qualifying Infill Project" means a residential or mixed-use residential development project designated in the Program application that is located within an Urbanized Area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with Urban Uses. A property is adjoining the side of a project site if the property is separated from the project site only by an improved public right-of-way.

(cc) "Recipient" means the Eligible Applicant receiving a commitment of Program funds for an approved Capital Improvement Project.

(dd) "Retail Center" means a downtown area or recognized neighborhood or regional shopping mall.

(ee) "Rural Area" has the meaning set forth in Health and Safety Code section 50199.21.

(ff) "Senior Citizen" or "Senior" means a person 62 years of age or older, or 55 years of age or older in a Senior Citizen housing development.

(gg) "Site Control" means the Eligible Applicant and/or Developer has sufficient control of the property through one or more of the following:

(1) A fee title;

(2) A leasehold interest on the property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit, prior to grant funding, compliance with all Program requirements;

(3) An enforceable option to purchase or lease which shall extend through the anticipated date of the Program award as specified in the NOFA;

(4) An executed disposition and development agreement, or irrevocable offer of dedication to a public agency;

(5) A right of way or easement, which is either perpetual, or of sufficient duration to meet Program requirements, and which allows the Eligible Applicant and/or Developer to access, improve, occupy, use, maintain, repair, and alter the property underlying the right of way or easement;

(6) An executed encroachment permit for construction of improvements or facilities within the public right of way or on public land;

(7) An executed agreement with a public agency that gives the Eligible Applicant exclusive rights to negotiate with the agency for the acquisition of the site, provided that the major terms of the acquisition have been agreed to by all parties;

(8) A land sales contract or other enforceable agreement for the acquisition of the property; or

(9) Other forms of Site Control that give the Department equivalent assurance that the Eligible Applicant and/or Developer will be able to complete the Project and all housing designated in the application in a timely manner and in accordance with all the requirements of the Program.

(hh) "Structured Parking" means a structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, but is entirely covered, and has a parking surface at least eight feet below grade. Structured Parking does not include surface parking, residential garages, or carports, including solar carports.

(ii) "TCAC" means the California Tax Credit Allocation Committee.

(jj) "TCAC/HCD Opportunity Area Map" means the most recently posted TCAC/HCD Opportunity Map that measures and provides a graphical representation of place-based characteristics linked to critical life outcomes, such as educational attainment, earnings from employment, and economic mobility. For projects on federal land, and properties not identified on the TCAC/HCD Opportunity Area Map, the Applicant may use the TCAC/HCD Opportunity Area Map's census tract nearest to the main entry for the Qualifying Infill Project. https://belonging.berkeley.edu/tcac-opportunity-map-2020

(kk) "Transit Priority Area" means an area within one-half mile of a Major Transit Stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a transportation improvement program adopted pursuant to Title 23 of the Code of Federal Regulations section 450.216 or 450.322.

(ll) "Transit Station" means a rail or light-rail station, ferry terminal, Bus Hub, or Bus Transfer Station. Included in this definition are planned Transit Stations otherwise meeting this definition whose construction is programmed into a regional or state transportation improvement program to be completed no more than five years from the deadline for submittal of applications set forth in the NOFA.

(mm) "Tribally Designated Housing Entity" has the meaning as set forth in Title 25 of the United States Code section 4103 and Health and Safety Code section 50104.6.5.

(nn) "Urban Uses" means any residential, commercial, industrial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(oo) "Urbanized Area" means an incorporated city or an Urbanized Area or urban cluster as defined by the United States Census Bureau. For unincorporated

areas outside of an urban area or urban cluster, the area must be within a designated urban service area that is designated in the local general plan for urban development and is served by public sewer and water systems.

(pp) “Very Low-Income” has the meaning set forth in Health and Safety Code section 50105.

(qq) “Walkable Route” shall mean a route which, after completion of the proposed Project, shall be free of negative environmental conditions that deter pedestrian circulation, such as barriers; stretches without sidewalks or walking paths; noisy vehicular tunnels; streets, arterials or highways without regulated crossings that facilitate pedestrian movement; or stretches without adequate lighting.

ARTICLE 2. PROGRAM REQUIREMENTS

Section 303. Eligible projects

(a) To be eligible for funding, a Capital Improvement Project must be an integral part of, or necessary for the development, of the Qualifying Infill Project(s) identified in the application.

(b) To be eligible for funding, all applications must include a Qualifying Infill Project, including those Qualifying Infill Projects used to establish the eligibility of a Qualifying Infill Area.

(c) The Qualifying Infill Project or Qualifying Infill Area must meet all of the following conditions:

(1) Be located in an Urbanized Area.

(2) Be located in a Locality with an adopted housing element that has been found by the Department to be in substantial compliance with the requirements of Article 10.6 (commencing with section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, pursuant to Government Code section 65585 at time of application. The requirements of this paragraph shall not apply to the duly constituted governing body of an Indian reservation or rancheria or Tribally Designated Housing Entity.

(A) Be located in a Locality that, at the time of application, has submitted its housing element annual progress reports as required by Government Code section 65400 to the State of California for the current and prior year.

(3) Include not less than 15 percent of the total residential units to be developed in the Qualifying Infill Project or Qualifying Infill Area as Affordable Units.

(A) For developments that contain both rental and ownership units, units of either or both product types may be included in the calculation of the percentage of Affordable Units.

(B) To the extent included in a Capital Improvement Project grant application, for the purpose of calculating the percentage of Affordable Units, the Department may consider the entire Master Development in which the development seeking grant funding is included.

(C) An Eligible Applicant must include a replacement housing plan if any dwelling units housing persons and families of Low- or Moderate-Income are removed from the Low- and Moderate-Income housing market by the Capital Improvement Project. The plan shall be consistent with Government Code section

65915(c)(3). Residential units to be replaced shall not be counted toward meeting the affordability threshold required for eligibility for funding under this Section.

(D) A Qualifying Infill Project or Qualifying Infill Area for which a disposition and development agreement or other project or area-specific agreement between the Developer and the local agency having jurisdiction over the project has been executed on or before August 24, 2007, shall be deemed to meet the affordability requirement of this paragraph if the agreement includes affordability covenants that subject the Qualifying Infill Project or Qualifying Infill Area to the production of Affordable Units for Very Low-, Lower- or Moderate-Income households.

(4) Include Net Densities on the parcels to be developed that are equal to or greater than the densities described in the Government Code section 65583.2, subdivision (c)(3)(B), except that a project located in a Rural Area shall include Net Densities on the parcels to be developed of at least 10 units per acre.

(5) Be located in an area designated for mixed-use or residential development pursuant to one of the following adopted plans:

(A) A general plan adopted pursuant to Government Code section 65300.

(B) A project area redevelopment plan adopted pursuant to the Health and Safety Code section 33330.

(C) A regional blueprint plan as defined in the California Regional Blueprint Planning Program administered by the Business, Transportation and Housing Agency, or a regional plan as defined in the Government Code section 65060.7.

(6) The Eligible Applicant must identify a mechanism, such as a minimum density ordinance or a recorded, binding covenant, acceptable to the Department to reliably ensure that future development will occur at an overall Net Density equaling or exceeding that set forth in Section 303(c)(4). This mechanism must be in effect and legally enforceable prior to the disbursement of Program funds.

(7) Eligible Applicants shall designate the proposed residential units in the Qualifying Infill Project, or within the Qualifying Infill Area, that the Eligible Applicant intends to utilize for the purpose of establishing the maximum Program grant amount pursuant to Section 305, and for the purpose of rating applications pursuant to Sections 309 or 310. Any such designated units must be utilized for both purposes.

(8) The application must demonstrate that the percentage of Affordable Units, and units restricted to other income limits and rents as designated for the purpose of determining the maximum Program grant amount in Section 305 and for rating purposes pursuant to Sections 309 or 310, shall be maintained or exceeded through the completion of each residential development proposed in the application. The Department may modify the requirement set forth in the previous sentence to conform to a similar local public agency requirement, provided that the Department determines that the local requirement will reliably result in completion of the required Affordable Units as set forth in Section 306.

(9) Construction shall not have commenced on any units designated in the application prior to the deadline for applications submittal set forth in the NOFA.

Section 304. Eligible costs

(a) Program grant funds must be used for reasonable and necessary costs of a Capital Improvement Project. Costs must be reasonable compared to similar infrastructure projects of modest design in the general area of the Capital Improvement Project. Eligible costs include the construction, rehabilitation, demolition, relocation, preservation, acquisition, or other physical improvements of the following:

(1) The creation, development, or rehabilitation of Parks or Open Space.

(2) Water, sewer, or other utility service improvements (including internet infrastructure), including relocation of such improvements.

(3) Street, road, and bridge construction and improvement.

(4) Structured Parking, including:

(A) Structured Parking spaces that are required replacement of Transit Station parking spaces, or public Structured Parking required as a condition of approval for the Qualifying Infill Project within one-half mile of a Major Transit Stop or Transit Station, not to exceed $50,000 per space.

(B) Residential Structured Parking and mechanical parking lifts. The minimum residential per unit parking spaces in Structured Parking, as required by local land-use entitlement approval, not to exceed one parking space per residential unit, and not to exceed $50,000 per permitted space.

(5) Transit linkages and facilities, including, but not limited to, related access plazas or pathways, or bus and transit shelters.

(6) Facilities that support pedestrian or bicycle transit.

(7) Traffic mitigation measures.

(8) Site clearance, grading, preparation, and demolition necessary for the development of the Capital Improvement Project.

(9) Sidewalk or streetscape improvements, including, but not limited to, the reconstruction or resurfacing of sidewalks and streets or the installation of lighting, signage, or other related amenities, including shade structures, seating, landscaping, streetscaping, and public safety improvements.

(10) Storm drains, stormwater detention basins, culverts, and similar drainage features.

(11) Required environmental remediation necessary for the development of the Capital Improvement Project or Qualifying Infill Project, where the cost of the remediation does not exceed 50 percent of the Program grant amount.

(12) Site acquisition or control for the Capital Improvement Project including, but not limited to, easements and rights of way. Such costs must be deemed reasonable and demonstrated by documentation that may include appraisals, purchase contracts, or any other documentation as determined by the Department.

(13) Soft costs such as those incidentally but directly related to construction or other pre-development components including, but not limited to, planning, engineering, construction management, architectural, and other design work, required mitigation expenses such as mitigation design or testing, appraisals, legal expenses, and necessary easements. Soft costs shall not exceed 10 percent of costs associated with the funding request for the Capital Improvement Project.

(14) Other Capital Asset costs approved by the Department and required as a condition of local approval for the Capital Improvement Project.

(15) Impact fees required by local ordinance are eligible for Program funding only if used for the identified Capital Improvement Project. Funded impact fees may not exceed 5 percent of the Program award.

(b) The following costs are not eligible:

(1) Developer fees or profit.

(2) Costs of site acquisition for housing and mixed-use structural improvements.

(3) Costs of housing or mixed-use structures.

(4) Soft costs related to ineligible costs.

(5) In-lieu fees for local inclusionary programs.

Section 305. Grant terms and limits

(a) The total maximum grant amount shall be established by the number of units in the Qualifying Infill Project or Qualifying Infill Area, the bedroom count of these units, and the density and affordability of the housing to be developed. Replacement housing units may be included in the calculation of the total maximum grant amount. The Department shall publish a table listing per unit grant limits for each NOFA based on these factors. The total eligible grant amount shall be based upon the lesser of the amount necessary to fund the Capital Improvement Project or the maximum amount calculated from the table published by the Department.

(b) Minimum and maximum award amounts are identified in the NOFA.

(c) The Eligible Applicant must show in the development budget that Program funds are reasonably necessary for the Capital Improvement Project feasibility and no other source of compatible funding is reasonably available as evidenced in the application development budget.

(d) The Eligible Applicant must demonstrate in the application development budget that the Qualifying Infill Project(s), as proposed in the application, is financially feasible as evidenced by documentation such as, but not limited to, a market study, Project proforma, sources and uses statement, or other feasibility documentation that is standard industry practice for the type of proposed housing development.

(e) Where the Qualifying Infill Project is receiving low-income housing tax credits, the Recipient may provide Program funds to the Developer of the Qualifying Infill Project in the form of a zero percent deferred payment loan, with a term of at least 55 years. The loan may be secured by a deed of trust, which may be recorded with the local county recorder's office, provided the beneficiary of the loan shall not under any circumstances exercise any remedy, including, without limitation, foreclosure, under the deed of trust without the prior written consent of the Department, in its sole and absolute discretion. The loan may not be sold, assigned, assumed, conveyed, or transferred to any third party without prior written Department approval in its sole and absolute discretion. For Projects assisted by other Department funding programs, repayment of the loan between the Recipient and the Developer shall be limited to (1) no repayments to the Recipient until the maturity date or (2) repayment only from distributions from the Project within the meaning of 25 CCR section 8301(i). The Recipient shall be responsible for all aspects of establishing and servicing the loan. The provisions governing the loan shall be entirely consistent with these Guidelines and all documents required by the Department with respect to the use and disbursement

of Program funds. All documents governing the loan between the Recipient and the Developer borrower shall contain all the terms and conditions set forth in this subdivision and shall be subject to the review and approval of the Department prior to making the loan. This subdivision shall apply to any Qualifying Infill Project receiving low-income housing tax credits regardless of the date of the Program award.

(f) Conditions precedent to the first disbursement of Program funds shall include receipt of all required public agency entitlements and all required funding commitments for any proposed Qualifying Infill Project supported by the Capital Improvement Project.

(g) A city, county, city and county, public housing authority, or redevelopment agency that has jurisdiction over a Qualifying Infill Area and applies for funding jointly with an “owners’ association”, shall submit documentation from the local permitting authority demonstrating that the actual number of permitted housing units associated with the Qualifying Infill Project is equal to or greater than the number of housing units in the application.

(h) Funds will be disbursed as progress payments for approved eligible costs incurred subject to the requirements of these Guidelines.

(i) Where approval by a local public works department, or an entity with equivalent jurisdiction, is required for the Capital Improvement Project, the Recipient must submit, prior to the disbursement of grant funds, a statement or other documentation acceptable to the Department, indicating that the Capital Improvement Project is consistent with all applicable policies and plans enforced or implemented by that department or entity.

(j) The covenant referred to in Section 302 (b) of these Guidelines shall be recorded against the fee title. The covenant is subject to liens, encumbrances and other matters of record approved by the Department pursuant to UMR sections 8310(f) and 8315.

Section 306. Performance requirements

(a) If construction of residential units (used as the basis for calculating the grant amount in the application) has not received building permits within the time set forth in the NOFA and Standard Agreement, Recipients will be required to repay disbursed Program grant funds. The proportion of the amount to be repaid (A) to the total grant amount (B) shall be the same as the number of residential units where construction has not timely commenced (C) to the total number of designated residential units (D) (Formula: A=C/D * B).

(b) Recipients shall, within the time set forth in the NOFA and Standard Agreement, begin construction of the housing units in the Qualifying Infill Project(s) identified in the application.

(c) Recipients shall, within the time set forth in the NOFA and Standard Agreement, complete construction of the housing units which were used as the basis for calculating the Program award. Completion of construction must be evidenced by a certificate of occupancy or equivalent documentation and submitted to the Department.

(d) Program funds must be disbursed in accordance with the deadlines specified in the NOFA and Standard Agreement. The Recipient needs to provide final disbursement requests by the disbursement date specified in the NOFA and Standard Agreement.

(e) Recipients of Qualifying Infill Area awards must have closed construction period financing on a Qualifying Infill Project before a subsequent Program application is submitted within the Qualifying Infill Area.

(f) An extension of performance requirements, if determined to be necessary by the Department, will be specified in the NOFA.

ARTICLE 3. APPLICATION PROCEDURES

Section 307. Application process

(a) The Department shall offer Program funds through NOFAs. Applications shall be made on forms made available by the Department. Applications selected for funding shall be approved subject to conditions specified by the Department.

(b) The NOFA will specify the amount of funds available, application requirements, minimum eligibility point scores, the deadline for submittal of applications, the schedule for rating and ranking applications and awarding funds, and the general terms and conditions of funding commitments.

(1) The Department shall accept applications for Projects and evaluate them on a competitive basis. The NOFA may specify a minimum number of ranking points for a Project to be eligible for funding.

(2) The Department may elect to not evaluate compliance with some or all threshold requirements for applications that are not within a fundable range as indicated by self-scoring.

(3) In the event of two or more applications having the same rating and ranking scores, the Department will apply the tie-breaking criteria set forth in the NOFA.

(4) The Department shall evaluate applications for compliance with the threshold requirements listed in Section 308 and score them based on the application selection criteria listed in Sections 309 or 310. The Department may make adjustments to this procedure to meet geographic targets identified in the NOFA.

Section 308. Application threshold requirements

(a) The Capital Improvement Project set forth in the application must be eligible pursuant to Section 303, and the Eligible Applicant must be eligible pursuant to Section 302. Additionally, the following requirements apply to all applications:

(1) The Qualifying Infill Project or Qualifying Infill Area meets the infill requirements set forth in the Section 302 definitions of Qualifying Infill Project or Qualifying Infill Area.

(2) Construction of the Capital Improvement Project and Qualifying Infill Project(s) has not commenced as of the deadline for submittal of applications set forth in the NOFA.

(3) The Capital Improvement Project is infeasible without Program funds, and other available funds, including funds previously awarded by the Program, are not being supplanted by Program funds. Applicants with previously awarded funds must forfeit their prior award, in writing, prior to the

application due date without assurance of receiving a new award, including funds awarded under any Department program, or prior IIG award.

(4) The Eligible Applicant of the Capital Improvement Project must have Site Control sufficient to ensure the timely commencement of the Capital Improvement Project as determined by the Department.

(5) All proposed uses of Program funds must be eligible pursuant to Section 304.

(b) The application must be sufficiently complete to assess the feasibility and competitiveness of the application and its compliance with Program requirements.

(c) The Recipient shall comply with all state and federal fair housing laws. Compliance with state law includes but it not limited to the duty to carry out the program in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with Affirmatively Furthering Fair Housing pursuant to Government Code section 8899.50. At the Department's election, Recipient must submit an attorney's opinion acceptable to the Department describing the intended occupancy restrictions and how they comply with the California Unruh Civil Rights Act (Civ. Code, §§ 51 - 53), and the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.) and the FEHA regulations (California Code of Regulations, title 2, sections 12005-12271. Occupancy restrictions must be carried out in a manner which does not violate state or federal fair housing laws.

Section 309. Selection criteria for Qualifying Infill Projects

Applications for Qualifying Infill Projects shall be rated using the criteria detailed below. Eligible Applicants may elect to exclude from consideration discrete phases or portions of their developments, provided these portions or phases are not included for other purposes under these Guidelines, including rating pursuant to this Section, and determining the maximum grant amount calculated pursuant to Section 305(a). Points are not cumulative within each subparagraph unless otherwise specified.

Selection Criteria for Qualifying Infill Project	Maximum Score
Project Readiness	100
Affordability	60
Density	40
Access to Transit	20
Access to Opportunity and Proximity to Amenities	20
Consistency with Regional Plans	10
Total	**250**

(a) Project readiness – 100 points maximum

Readiness points will be awarded as follows:

(1) Environmental Review Status - 30 points maximum

Applications will be awarded points based on the extent to which environmental reviews and necessary entitlements can be completed for the Qualifying Infill Project and received by the Department by the Program application due date:

(A) Documented compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), if applicable, shall receive 30 points (all applicable time periods for filing appeals or lawsuits must have lapsed).

(i) However, where project-based vouchers are the only subsidy triggering NEPA review, completed NEPA review is not required to obtain full readiness points.

(B) Issuance of a public notice of the availability of a draft environmental impact report, negative declaration, or environmental assessment, shall receive 15 points.

(2) Land use entitlement status - 30 points maximum

Applications will be awarded points based on the extent that the Qualifying Infill Project can secure necessary entitlements from the local jurisdiction, which are to be received by the Department by the Program application due date, as follows:

(A) Applications, which demonstrate that all necessary local land use approvals have been granted for the Qualifying Infill Project, as determined by a local land use authority (e.g., planning or community development director or zoning administrator) shall receive 30 points.

(B) Applications which demonstrate that the Qualifying Infill Project is consistent with all relevant local planning documents and zoning ordinances and applications for all necessary discretionary local land use approvals have been submitted and deemed complete by the appropriate local agencies shall receive 15 points.

(C) Applications which demonstrate that the Qualifying Infill Project is eligible to receive all necessary local land use approvals pursuant to a Nondiscretionary Local Approval Process shall receive 10 points.

(3) Leveraged funding commitments - 20 points maximum

Applications will be awarded points based on the extent the Eligible Applicant can demonstrate securing Enforceable Funding Commitments derived from sources other than the Program for the timely development of the Qualifying Infill Project, as follows:

(A) Rental housing developments

(i) Applications that demonstrate commitments for at least 90 percent of the total development cost, less deferred costs, shall receive 20 points.

(ii) Applications that demonstrate commitments for at least 75 percent of the total development cost, less deferred costs, shall receive 10 points.

(B) Ownership developments

(i) Applications that demonstrate commitments for at least 90 percent of the total development cost including all necessary public agency funds, less private mortgage financing and deferred costs, shall receive 20 points.

(ii) Applications that demonstrate commitments for at least 75 percent of the total development cost, less deferred costs, shall receive 10 points.

(C) Combined rental and ownership developments

(i) Applications designating both rental and ownership units will be awarded points on the funding commitments for the Qualifying Infill Project on a percentage basis in proportion to the number of rental and ownership units. For example, in a 100 unit development consisting of 80 rental units and 20 ownership units, the number of points will be weighted 80 percent for the funding commitments associated with the rental units and 20 percent for the funding commitments associated with the ownership units, then the respective scores for each component will be combined, not to exceed 20 points.

(4) Local support - 12 points maximum

(A) Points will be awarded for one of the following:

(i) Obtaining a funding commitment or commitments from a local public agency or agencies for the Qualifying Infill Project or

Capital Improvement Project equivalent to at least 25 percent of the Program grant shall receive 12 points.

(ii) Obtaining a funding commitment or commitments from a local public agency or agencies for the Qualifying Infill Project or Capital Improvement Project equivalent to at least 15 percent of the Program grant shall receive 3 points.

(B) For purposes of awarding points pursuant to this Section, the following will also be considered a commitment of Local Support:

(i) Conditionally reserved federal or state program funds administered by a local public agency or agencies for the Qualifying Infill Project or Capital Improvement Project shall also be accepted as funding commitments demonstrating Local Support. Such programs include, but are not limited to, the HUD Continuum of Care (CoC), Home Investment Partnerships Program (HOME), and Community Development Block Grant Program (CDBG).

(ii) A Land Donation or a Local Fee Waiver shall be considered a commitment of Local Support. The value of the Land Donation will be the greater of either the original purchase price or the current appraised value as supported by an independent third-party appraisal prepared by a Member of the Appraisal Institute (MAI) conducted within one year of the application deadline. A commitment of Local Support in the form of a Local Fee Waiver must be evidenced by written documentation from the local public agency.

(iii) Additional debt supported by project-based vouchers committed to a Project through the Locality.

(5) Prohousing policies – 8 points maximum

(A) Points will be awarded for up to two of the following:

(i) Four points will be awarded to Projects located in jurisdictions that have implemented programs over the last five years, which are currently in effect, that finance infrastructure with accompanying increased housing capacity in areas of high segregation and poverty or low resource opportunity area (see TCAC/HCD Opportunity Area Maps) or disadvantaged community pursuant to Senate Bill 535 and Assembly Bill 1550 or provide local financial incentives for housing, including, but not limited to, a local housing trust fund or fee waivers.

(ii) Four points will be awarded to Projects located in jurisdictions that have adopted a Nondiscretionary Local Approval Process

for residential and mixed-use development in all zones permitting multifamily housing, established a Workforce Housing Opportunity Zone, as defined in Government Code section 65620, or a housing sustainability district, as defined in Government Code section 66200.

(iii) Four points will be awarded to Projects located in jurisdictions that zone more sites for residential development or zoning sites at higher densities than is required to accommodate 150 percent of the minimum regional housing need allocation for the Lower-Income allocation in the current housing element cycle.

(iv) Four points will be awarded to Projects in jurisdictions that have adopted accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Government Code section 65852.2, as follows:

1. Parking reductions to 0.75 or fewer spaces per accessory dwelling unit in areas not already exempt from parking pursuant to Government Code section 65852.2,

2. Processing and impact fee waivers or reductions of 50 percent or more,

3. Ministerial approval in fewer than 45 days,

4. Reduction or modifications of development standards for side yard setbacks of 5 feet or less,

5. Reduction or modifications of development standards to two story heights,

6. Reduction or modifications of development standards to allow 60 percent or more lot coverage,

7. No minimum lot size requirement,

8. Provisions for affordability, or

9. Offering support programs such as a user-friendly website.

(v) Four points will be awarded to Projects located in jurisdictions that only use objective design standards for multifamily residential development or adopt fee transparency measures including publicly available fee calculators.

(b) Affordability – 60 points maximum

Applications will be awarded points based on the percentage of units in the Qualifying Infill Project restricted to occupancy by various income groups. Applications designating only rental units in the Qualifying Infill Project may elect to have their applications scored in accordance with any one of the two following scales. Applications designating ownership units, or a combination of rental and ownership units, must utilize the scale set forth in paragraph 2 below. Where appropriate based on the mix of income groups, applications must demonstrate units affordable to Lower-Income groups are spatially integrated throughout the Qualifying Infill Project.

(1) For rental units used as the basis for point scores in the application, rent limits for initial occupancy and for each subsequent occupancy shall be based on unit type, applicable income limit, and area in which the Qualifying Infill Project is located, following the calculation procedures used by TCAC. Rents shall be restricted in accordance with the rent and income limits specified in the application and approved by the Department and set forth in a legally binding agreement recorded against the Qualifying Infill Project with a duration of at least 55 years. Rents shall not exceed 30 percent of the applicable income eligibility level. The Income Eligibility table is specified in the Multifamily Housing Program Guidelines section 7320(b)(1). Eligible Applicants making this election shall be awarded 60/35 points for every 1 point they would be eligible to receive using MHP's system (applications eligible for the maximum possible 35 points using the MHP scale receive the maximum possible points in this category for the Program).

(2) Owner-occupied units shall be subject to a recorded covenant with a duration of at least 30 years that includes either a resale restriction or a requirement for sharing equity upon resale. The following scale must be used for developments that include ownership units:

(A) 0.30 points will be awarded for each percent of total units that are owner-occupied and restricted to occupancy by households with incomes not exceeding the Moderate-Income limit.

(B) 0.80 points will be awarded for each percent of total units that are owner-occupied and restricted to occupancy by households with incomes not exceeding the Lower-Income limit.

(C) 0.40 points will be awarded for each percent of total units that are rental units restricted to occupancy by households with incomes not exceeding 50 percent of AMI.

(D) 2.0 points will be awarded for each percent of total units that are rental units restricted to occupancy by households with incomes less than or equal to 30 percent of AMI, or that are or will be covered by a long-term, project-based rental or operating subsidy contract

under a program that either has a history of predominately serving households at this income level or that by design will reliably serve this population.

(c) Density – 40 points maximum

Applications will be scored based on the extent to which the Net Density of the Qualifying Infill Project exceeds the required density specified in Section 303(c)(4). Density calculations shall be evidenced by a date stamped map certified by a licensed State of California professional such as an architect, engineer, or surveyor.

(1) Net Density will be adjusted by unit size (and commercial space as applicable) as follows:

Example = Mixed-use project, three-quarter acre, urban site, with 12 one-bedroom units at 800 square feet each, 12 two-bedroom units at 1,100 square feet each, and 5,000 square feet of commercial space.

Based on the density factors in the chart below, the equation looks like this:

12 x 0.9 (one-bedroom units) = 10.8
12 x 1.2 (two-bedroom units) = 14.4

To attribute density to the commercial space, utilize the square footage and bedroom count of the largest unit in the project to determine how many whole units would fit into the square footage of the commercial space.

For this example, the largest unit is a two-bedroom, 1,100 square foot unit. 5,000 square feet (commercial space) would accommodate four (4) of these units. Multiply that result by the appropriate factor:

4 x 1.2 (two-bedroom units) = 4.8

To calculate the percentage at which this project meets or exceeds the required density, add all three resulting calculations above, and divide by the minimum density required for the project site (in this case 30 units/acre for an urban site), then by the number of acres in the project, then multiply by 100 (for percentage):

(10.8+14.4+4.8)/30 = 1/.75=1.3333x100=133.33 percent

Unit Size (Bedrooms)	Factor
0-Bedroom	0.7
1-Bedroom	0.9
2-Bedroom	1.2
3-Bedroom	1.6
4-Bedroom	1.8

(2) Points will be awarded in accordance with the following schedule:

Adjusted Net Density as a Percentage of Required Density	Points
150 percent or More	40
140 percent to 149.9 percent	30
130 percent to 139.9 percent	20
120 percent to 129.9 percent	15
110 percent to 119.9 percent	10
Less than 110 percent	0

(d) Access to Transit – 20 points maximum

Points will be awarded based on the proximity of, or accessibility to, the Qualifying Infill Project to a Transit Station or Major Transit Stop. The distance to a Transit Station or Major Transit Stop shall be evidenced by a scaled map.

(1) A Qualifying Infill Project within one-quarter mile of a Transit Station or Major Transit Stop, measured by a Walkable Route from the nearest boundary of the Qualifying Infill Project to the outer boundary of the site of the Transit Station or Major Transit Stop shall receive 20 points.

(2) A Qualifying Infill Project within one-half mile of a Transit Station or a Major Transit Stop, measured by a Walkable Route from the nearest boundary of the Qualifying Infill Project to the outer boundary of the site of the Transit Station or Major Transit Stop and located in an area of high segregation and poverty or low resource opportunity area (see TCAC/HCD Opportunity Area Maps) or disadvantaged community pursuant to Senate Bill 535 and Assembly Bill 1550 shall receive 15 points.

(3) A Qualifying Infill Project within one-half mile of a Transit Station or a Major Transit Stop, measured by a Walkable Route from the nearest boundary of the Qualifying Infill Project to the outer boundary of the site of the Transit Station or Major Transit Stop shall receive 10 points.

(e) Access to Opportunity and Proximity to Amenities – 20 points maximum

Applications will be awarded points based on the proximity or accessibility of the Qualifying Infill Project to the following existing amenities or amenities that will be in service when the construction of the Qualifying Infill Project is completed. The distance to amenities shall be evidenced by a scaled map.

Applications may receive only one award of points from each of the following subcategories:

(1) A Qualifying Infill Project is located in a High or Highest Resource Area as specified on TCAC/HCD Opportunity Area Maps shall receive 20 points (for Federal land, and properties not identified on

the TCAC/HCD Opportunity Area Map, the Applicant may use the TCAC/HCD Opportunity Area Map's census tract nearest to the main entry for the Qualifying Infill Project https://belonging.berkeley.edu/tcac-opportunity-map-2020).

(2) A Qualifying Infill Project located within one-quarter mile of a Park (one-half mile for Rural Area projects) (not including school grounds unless there is a bona fide, formal joint use agreement between the jurisdiction responsible for the Parks/recreational facilities and the school district providing availability to the general public of the school grounds and/or facilities), shall receive 5 points, or if within one-half mile (one mile for Rural Area projects) 3 points.

(3) A Qualifying Infill Project located within one mile of a locally recognized Employment Center with a minimum of 50 full-time employees (two miles for Rural Area projects), shall receive 5 points, or if within two miles (four miles for Rural Area projects) 3 points.

(4) A Qualifying Infill Project located within one mile of a locally recognized Retail Center with a minimum of 50 full-time employees (two miles for Rural Area projects), shall receive 5 points, or if within two miles (four miles for Rural Area projects), 3 points.

(5) A Qualifying Infill Projects located within one- quarter mile of a public school or community college that residents of the Qualifying Infill Project may attend (one-half mile for Rural Area projects), shall receive 5 points, or if within one-half mile (one mile for Rural Area projects), 3 points.

(6) A Qualifying Infill Project located within one-half mile of a social service facility that operates to serve residents of the Qualifying Infill Project, shall receive 5 points, or if within one mile, 3 points.

(f) Consistency with regional plans – 10 points maximum

(1) Points will be awarded for each of the following (necessary evidence is to be received by the Department by the Program application due date):

(A) Five points will be awarded if the Qualifying Infill Project supports the implementation of a sustainable community's strategy or alternative planning strategy that has been determined by the California Air Resources Board to achieve the region's greenhouse gas emissions target. Consistency with such plans must be demonstrated by a letter or resolution executed by an officer or an equivalent representative from the metropolitan planning organization, regional transportation agency, planning, or local transportation commission.

(B) If a sustainable community's strategy is not required for a region by law, 5 points will be awarded if the Qualifying Infill Project supports a regional plan that includes policies and programs to reduce greenhouse gas emissions. Evidence of consistency with such plans must be demonstrated by a letter or resolution executed by an officer of, or an equivalent representative from, the metropolitan planning organization or regional transportation planning agency or local transportation commission.

(C) A Qualifying Infill Project in which not less than 50 percent of the land area is within a Transit Priority Area shall receive 5 points. Evidence of Qualifying Infill Project location within, or partially within, a Transit Priority Area must be demonstrated by a letter or resolution executed by an officer of, or an equivalent representative from, the metropolitan planning organization, regional transportation planning agency, or local transportation commission.

Section 310. Selection criteria for Qualifying Infill Areas

Applications for Qualifying Infill Areas shall be rated using the criteria detailed below. Eligible Applicants may elect to exclude from consideration discrete phases or portions of the developments within the Qualifying Infill Area, provided these portions or phases are not included for other purposes under these Guidelines, including rating pursuant to this Section, and determining the maximum grant amount calculated pursuant to Section 305 (a). Points are not cumulative within each subparagraph unless otherwise specified.

Selection Criteria for Qualifying Infill Areas	Maximum Score
Area Readiness	100
Affordability	60
Density	40
Access to Transit	20
Access to Opportunity and Proximity to Amenities	20
Consistency with Regional Plans	10
Total	**250**

(a) Area readiness – 100 points maximum

Readiness points will be awarded as follows:

(1) Multiple Qualifying Infill Projects – 10 points maximum

(A) Qualifying Infill Areas with three or more Qualifying Infill Projects that provide a minimum of 250 new or rehabilitated housing units and can secure all land use entitlements required for construction, which are to be received by the Department by the Program application due date, or that all applications required for construction have been submitted under a Nondiscretionary Local Approval Process shall

receive 10 points.

(B) Qualifying Infill Areas with two Qualifying Infill Projects that provide a minimum of 150 new or rehabilitated housing units and can secure all land use entitlements required for construction, which are to be received by the Department by the Program application due date, or that all applications required for construction have been submitted under a Nondiscretionary Local Approval Process shall receive 5 points.

(2) Environmental review status - 25 points maximum

Applications will be awarded points based on the extent to which environmental reviews and necessary entitlements can be completed for the Qualifying Infill Area and received by the Department by the Program application due date:

(A) Documented compliance with the CEQA and the NEPA, if applicable, shall receive 25 points (all applicable time periods for filing appeals or lawsuits must have lapsed).

(i) However, where project-based vouchers are the only subsidy triggering NEPA review, completed NEPA review is not required to obtain full readiness points.

(B) Applications for Qualifying Infill Areas for which a draft of a program, master or tiered environmental impact report has been certified by the appropriate agency and the developments included in the application will constitute subsequent projects subject to environmental review as such pursuant to CEQA Guidelines, Chapter 3, Title 14, CCR, commencing with section 15000 shall receive 15 points.

(C) Applications for Qualifying Infill Areas for which a draft of a program, master or tiered environmental impact report has been completed and filed with the appropriate agency and the developments included in the application will constitute subsequent projects subject to environmental review as such pursuant to CEQA Guidelines, Chapter 3, Title 14, CCR, commencing with section 15000 shall receive 10 points.

(D) Applications for Qualifying Infill Areas in which not less than 50 percent of the land area is on sites that have been subject to a Phase 1 Site Assessment within one year prior to the application due date shall receive 5 points.

(3) Land use entitlement status - 25 points maximum

Applications will be awarded points based on the extent that developments within the Qualifying Infill Area can secure necessary entitlements from the

local jurisdiction, which are to be received by the Department by the Program application due date, as follows:

(A) Applications which demonstrate that all necessary local land use approvals for developments within the Qualifying Infill Area have been granted, as determined by a local land use authority (e.g., planning or community development director or zoning administrator) shall receive 25 points.

(B) Applications which demonstrate that the developments within the Qualifying Infill Area are consistent with all relevant local planning documents and zoning ordinances and applications for all necessary discretionary local land use approvals have been submitted and deemed complete by the appropriate local agencies shall receive 15 points.

(C) Applications which demonstrate that the developments within the Qualifying Infill Area are eligible to receive all necessary local land use approvals pursuant to a Nondiscretionary Local Approval Process shall receive 10 points.

(4) Leveraged funding commitments - 20 points maximum

Applications will be awarded points based on the extent the Eligible Applicant can demonstrate securing of Enforceable Funding Commitments derived from sources other than the Program for the timely development of the Qualifying Infill Area, as follows:

(A) Rental housing developments

(i) Applications that demonstrate commitments for at least 90 percent of the total development cost, less deferred costs, shall receive 20 points.

(ii) Applications that demonstrate commitments for at least 75 percent of the total development cost, less deferred costs, shall receive 10 points.

(B) Ownership developments

(i) Applications that demonstrate commitments for at least 90 percent of the total development cost including all necessary public agency funds, less private mortgage financing and deferred costs, shall receive 20 points.

(ii) Applications that demonstrate commitments for at least 75 percent of the total development cost, less deferred costs, shall receive 10 points.

(C) Combined rental and ownership developments

(i) Applications designating both rental and ownership units will be awarded points on the funding commitments for the Qualifying Infill Project on a percentage basis in proportion to the number of rental and ownership units. For example, in a 100 unit development consisting of 80 rental units and 20 ownership units, the number of points will be weighted 80 percent for the funding commitments associated with the rental units and 20 percent for the funding commitments associated with the ownership units, then the respective scores for each component will be combined, not to exceed 20 points.

(5) Local support - 12 points maximum

(A) Points will be awarded for one or more of the following:

(i) Obtaining a funding commitment or commitments from a local public agency or agencies for the Qualifying Infill Area or Capital Improvement Project equivalent to at least 25 percent of the Program grant shall be awarded 12 points.

(ii) Obtaining a funding commitment or commitments from a local public agency or agencies for the Qualifying Infill Area or Capital Improvement Project equivalent to at least 15 percent of the Program grant will be awarded 3 points.

(B) For purposes of awarding points pursuant to this Section, the following will also be considered a commitment of Local Support:

(i) Conditionally reserved federal or state program funds administered by a local public agency or agencies for the Qualifying Infill Area or Capital Improvement Project shall also be accepted as funding commitments demonstrating Local Support. Such programs include, but are not limited to, the HUD Continuum of Care (CoC), Home Investment Partnerships Program (HOME), and Community Development Block Grant Program (CDBG).

(ii) A Land Donation or a Local Fee Waiver may be considered a commitment of Local Support. The value of the Land Donation will be the greater of either the original purchase price or the current appraised value as supported by an independent third-

party appraisal prepared by a Member of the Appraisal Institute (MAI) conducted within one year of the application deadline. A commitment of Local Support in the form of a Local Fee Waiver must be evidenced by written documentation from the local public agency.

(iii) Additional debt supported by project based vouchers committed to a Project through a Locality.

(6) Prohousing Policies - 8 points maximum

(A) Points will be awarded for up to two of the following:

(i) Four points will be awarded to Projects located in jurisdictions that have implemented programs over the last five years, that are currently in effect, that finance infrastructure with accompanying increased housing capacity in areas of high segregation and poverty or low resource opportunity area (see TCAC/HCD Opportunity Area Maps) or disadvantaged community pursuant to Senate Bill 535 and Assembly Bill 1550 or provide local financial incentives for housing, including, but not limited to, a local housing trust fund or fee waivers.

(ii) Four points will be awarded to Projects located in jurisdictions that have adopted a Nondiscretionary Local Approval Process for residential and mixed-use development in all zones permitting multifamily housing, established a Workforce Housing Opportunity Zone, as defined in Government Code section 65620, or a housing sustainability district, as defined in Government Code section 66200.

(iii) Four points will be awarded to Projects located in jurisdictions that zone more sites for residential development or zoning sites at higher densities than is required to accommodate 150 percent of the minimum regional housing need allocation for the Lower-Income allocation in the current housing element cycle.

(iv) Four points will be awarded to Projects in jurisdictions that have adopted accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Government Code section 65852.2, as follows:

1. Parking reductions to 0.75 or fewer spaces per accessory dwelling unit in areas not already exempt from parking pursuant to Government Code section 65852.2,

2. Processing and impact fee waivers or reductions of 50 percent or more,

3. Ministerial approval in fewer than 45 days,

4. Reduction or modifications of development standards for side yard setbacks of 5 feet or less,

5. Reduction or modifications of development standards to two story heights,

6. Reduction or modifications of development standards to allow 60 percent or more lot coverage,

7. No minimum lot size requirement,

8. Provisions for affordability, or

9. Offering support programs such as a user-friendly website.

(v) Four points will be awarded to Projects located in jurisdictions that only use objective design standards for multifamily residential development or adopt fee transparency measures including publicly available fee calculators.

(b) Affordability – 60 points maximum

Applications will be awarded points based on the percentage of units to be developed in the Qualifying Infill Area that will be restricted to occupancy by various income groups, in accordance with the schedule below. Applications designating only rental units may elect to have their applications scored in accordance with any one of the two following scales. Applications designating ownership units, or a combination of rental and ownership units, must utilize the scale set forth in paragraph 2 below. Where appropriate based on the mix of income groups, applications must demonstrate units affordable to Lower-Income households are spatially integrated throughout the Qualifying Infill Project.

(1) For rental units used as the basis for point scores in the application, rent limits for initial occupancy and for each subsequent occupancy shall be based on unit type, applicable income limit, and area in which the Qualifying Infill Project is located, following the calculation procedures used by TCAC. Rents shall be restricted in accordance with the rent and income limits specified in the application and approved by the Department and set forth in a legally binding agreement recorded against the Qualifying Infill Project with a duration of at least 55 years. Rents shall not exceed 30 percent of the applicable income eligibility level. The scale is used by MHP is specified in the Multifamily Housing Program Guidelines section 7320(b)(1). Eligible Applicants making this election shall be

awarded 60/35 points for every 1 point they would be eligible to receive using MHP's system (applications eligible for the maximum possible 35 points using the MHP scale receive the maximum possible points in this category for the Program).

(2) Owner-occupied units shall be subject to a recorded covenant with a duration of at least 30 years that includes either a resale restriction or a requirement for sharing equity upon resale. The following scale must be used for developments that include ownership units:

(A) 0.30 points will be awarded for each percent of total units that are owner-occupied and restricted to occupancy by households with incomes not exceeding the Moderate-Income limit.

(B) 0.80 points will be awarded for each percent of total units that are owner-occupied and restricted to occupancy by households with incomes not exceeding the Lower-Income limit.

(C) 0.40 points will be awarded for each percent of total units that are rental units restricted to occupancy by households with incomes not exceeding 50 percent of AMI.

(D) 2.0 points will be awarded for each percent of total units that are rental units restricted to occupancy by households with incomes less than or equal to 30 percent of AMI, or that are or will be covered by a long-term, project-based rental or operating subsidy contract under a program that either has a history of predominately serving households at this income level or that by design will reliably serve this population.

(c) Density – 40 points maximum

Applications will be scored based on the extent to which the Net Density of the Qualifying Infill Area exceeds the required density specified in Section 303(c)(4). Density calculations shall be evidenced by a date stamped map certified by a licensed State of California professional such as an architect, engineer, or surveyor.

(1) Net Density of the units utilized in the calculation of the grant amount adjusted for unit size by multiplying the factors shown below by the total number of units in each unit size category, then summing the resulting products, then dividing by the net area of all projects. For a suburban three-site Qualifying Infill Area:

Project # 1	Seven 2-Bedroom Units	Five 3-Bedroom Units	0.75 Acre
Project # 2	Six 2-Bedroom Units	Eight 3-Bedroom Units	0.65 Acre
Project # 3	Nine 2-Bedroom Units	Seven 3-Bedroom Units	0.50 Acre

The adjusted Net Density would be 22 two-bedroom units times 1.2 plus 20 three-bedroom units times 1.6 or 58.4. Dividing this by 20 (suburban minimum density) and 1.9 acres (net area of the three sites) and multiplied by 100 results in an adjusted Net Density as a percentage of required density of 153.7 percent which yields 15 points for Density.

Unit Size (Bedrooms)	Factor
0-Bedroom	0.7
1-Bedroom	0.9
2-Bedroom	1.2
3-Bedroom	1.6
4-Bedroom	1.8

(2) Points will be awarded in accordance with the following schedule:

Adjusted Net Density as a Percentage of Required Density	Points
150 percent or more	40
140 percent to 149.9 percent	30
130 percent to 139.9 percent	20
120 percent to 129.9 percent	15
110 percent to 119.9 percent	10
Less than 110 percent	0

(d) Access to Transit – 20 points maximum

Points will be awarded based on the proximity of, or accessibility to, the closest Qualifying Infill Project to a Transit Station or Major Transit Stop. The distance to a Transit Station or Major Transit Stop shall be evidenced by a scaled map.

(1) Twenty points will be awarded to a closest Qualifying Infill Project within one quarter mile of a Transit Station or Major Transit Stop, measured by a Walkable Route from the nearest boundary of the Qualifying Infill Project to the outer boundary of the site of the Transit Station or Major Transit Stop.

(2) Fifteen points will be awarded for a Qualifying Infill Project within one-half mile of a Transit Station or a Major Transit Stop, measured by a Walkable Route from the nearest boundary of the Qualifying Infill Area to the outer boundary of the site of the Transit Station or Major Transit Stop and located in an area of high segregation and poverty or low resource opportunity area (see

TCAC/HCD Opportunity Area Maps) or disadvantaged community pursuant to Senate Bill 535 and Assembly Bill 1550.

(3) Ten points will be awarded to a Qualifying Infill Project within one-half mile of a Transit Station or a Major Transit Stop, measured by a Walkable Route from the nearest boundary of the Qualifying Infill Project to the outer boundary of the site of the Transit Station or Major Transit Stop.

(e) Access to Opportunity and Proximity to Amenities – 20 points maximum

Applications will be awarded points based on the proximity or accessibility of the closest Qualifying Infill Project to the following existing amenity or amenities that will be in service when construction of the Qualifying Infill Project for the Qualifying Infill Area is completed. The distance to amenities shall be evidenced by a scaled map.

Applications may receive only one award of points from each of the following subcategories:

(1) The Qualifying Infill Project is located in High or Highest Resource Areas (as specified on TCAC/HCD Opportunity Area Maps) shall receive 20 points (for Federal land, and properties not identified on the TCAC/HCD Opportunity Area Map, the Applicant may use the TCAC/HCD Opportunity Area Map's census tract nearest to the main entry for the Qualifying Infill Project https://belonging.berkeley.edu/tcac-opportunity-map-2020).

(2) The Qualifying Infill Project is within one-quarter mile of a Park (one-half mile for Rural Area projects) (not including school grounds unless there is a bona fide, formal joint use agreement between the jurisdiction responsible for the Parks/recreational facilities and the school district providing availability to the general public of the school grounds and/or facilities), 5 points, or within one-half mile (one mile for Rural Area projects), 3 points.

(3) The Qualifying Infill Project is within one mile of a locally recognized Employment Center with a minimum of 50 full-time employees (two miles for Rural Area projects), 5 points, or within two miles (four miles for Rural Area projects), 3 points.

(4) The Qualifying Infill Project is within one mile of a locally recognized Retail Center with a minimum of 50 full-time employees (two miles for Rural Area projects), 5 points, or within two miles (four miles for Rural Area projects), 3 points.

(5) For Qualifying Infill Projects within one-quarter mile of a public school or community college that residents of the Qualifying Infill Project may attend (one-half mile for Rural Area projects), 5 points, or within one-half mile (one mile for Rural Area projects), 3 points.

(6) For a Qualifying Infill Project that is located within one-half mile of a social service facility that operates to serve residents of the Qualifying Infill Project, 5 points, or within one mile, 3 points.

(f) Consistency with regional plans – 10 points maximum

(1) Points will be awarded for each of the following (necessary evidence is to be received by the Department by the Program application due date):

(A) Five (5) points will be awarded if the Qualifying Infill Area supports the implementation of a sustainable community's strategy or alternative planning strategy that has been determined by the California Air Resources Board to achieve the region's greenhouse gas emissions target. Consistency with such plans must be demonstrated by a letter or resolution executed by an officer of, or an equivalent representative from, the metropolitan planning organization, regional transportation planning agency, or local transportation commission.

(B) If a sustainable community's strategy is not required for a region by law, 5 points will be awarded if the Qualifying Infill Area supports a regional plan that includes policies and programs to reduce greenhouse gas emissions. Evidence of consistency with such plans must be demonstrated by a letter or resolution executed by an officer, or equivalent representative, from the metropolitan planning organization or regional transportation planning agency, or local transportation commission.

(C) A Qualifying Infill Area in which not less than 50 percent of the land area is within a Transit Priority Area shall receive 5 points. Evidence of a Qualifying Infill Area location within, or partially within (as defined in this Section), a Transit Priority Area must be demonstrated by a letter or resolution executed by an officer of, or an equivalent representative from, the metropolitan planning organization, regional transportation planning agency, or local transportation commission.

ARTICLE 4. PROGRAM OPERATIONS

Section 311. Legal documents

Upon the award of Program funds, the Department shall enter into a Standard Agreement with the Recipient constituting a conditional commitment of funds. This contract shall require the parties to comply with the requirements and provisions of these Guidelines. The Standard Agreement shall encumber funds in an amount sufficient to fund the approved project, subject to limits established in the NOFA and consistent with the application. The Standard Agreement shall contain, but not be limited to, the following as appropriate for the activity:

(a) A description of the approved Capital Improvement Project and the approved Qualifying Infill Project, Qualifying Infill Area, or both, and the permitted uses of Program funds;

(b) Provisions governing the amount, terms and conditions of the Program grant;

(c) Provisions governing the construction work and, as applicable, the acquisition and preparation of the site of the Capital Improvement Project, and the manner, timing, and conditions of the disbursement of grant funds;

(d) The Recipient's responsibilities for the development of the approved Capital Improvement Project, including, but not limited to, construction management, maintaining files, accounts, other records, and reporting requirements;

(e) Provisions relating to the development, construction, affordability, and occupancy of the Qualifying Infill Project supported by the Capital Improvement Project and the development, construction and occupancy of housing designated for development in the application for funding of a Qualifying Infill Area;

(f) Provisions related to carrying-out the program in a manner to affirmatively further fair housing, and taking no action that is materially inconsistent with Affirmatively Furthering Fair Housing pursuant to Government Code section 8899.50.

(g) Provisions relating to the placement on, or in the vicinity of, the Project site, a sign indicating that the Department has provided funding for the Capital Improvement Project. The Department may also arrange for publicity of the Department grant in its sole discretion;

(h) Remedies available to the Department in the event of a violation, breach or default of the Standard Agreement;

(i) Requirements that the Recipient permit the Department or its designated agents and employees the right to inspect the Project and all books, records and documents maintained by the Recipient in connection with the Program grant;

(j) Special conditions imposed as part of Department approval of the project;

(k) Terms and conditions required by federal or state law; and

(l) Other provisions necessary to ensure compliance with the requirements of the Program.

Section 312. Reporting requirements

(a) During the full term of the Standard Agreement and covenant and according to the deadlines identified in the Standard Agreement and the covenant, the Recipient shall submit, upon request of the Department, an annual performance report regarding the construction of the Capital Improvement Project; and upon receipt of the certificate of occupancy, an annual monitoring report regarding the affordability and occupancy of the housing Project designated in the application.

(b) At any time during the term of the Standard Agreement and/or covenant, the Department may perform or cause to be performed a financial audit of any and all phases of the Recipient's Project. At the Department's request, the Recipient shall provide, at its own expense, a financial audit prepared by a certified public accountant.

(c) The Recipient and owner agree to regular monitoring of the housing development by the Department or such designee the Department may name at any time during the term of the Standard Agreement and/or covenant, to verify compliance with the requirements of the Program. The Recipient and owner, or designee, shall submit annual reports as required by the Department on forms approved or provided by the Department, detailing components of the on-going operations of the housing development, as noted in this subsection. The components of annual operations for which reporting is required, which the Department retains the right to inspect, or cause to be inspected, include, and are not limited to:

(1) The Qualifying Infill Project or the housing designated in the Qualifying Infill Area, including interior of units, common areas, and exterior of the development;

(2) Tenant files, demonstrating compliance with Program affordability standards;

(3) Financial records, including the right to request a certified financial audit of the revenue, expenses, and operations of the housing development; and

(4) Insurance records to ensure continuous insurance coverage in accordance with Department and Program requirements.

The Department retains the authority to compel the Recipient and owner to comply with Program requirements as detailed in the IIG restrictive covenant recorded against the property.

Section 313. Defaults and cancellations

(a) In the event of a breach or violation by the Recipient of any of the provisions of the Standard Agreement, the Department may give written notice to the sponsor to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the Department within the specified time period, the Department, at its option, may declare a default under the Standard Agreement and may seek legal remedies for the default including the following:

(1) The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the Project in accordance with Program requirements.

(2) The Department may seek such other remedies as may be available under the relevant agreement or any law.

(b) Funding commitments and Standard Agreements may be canceled by the Department under any of the following conditions:

(1) The objectives and requirements of the Program cannot be met by continuing the commitment or Standard Agreement;

(2) Construction of the Capital Improvement Project cannot proceed in a timely fashion in accordance with the timeframes established in the Standard Agreement; or

(3) Funding conditions have not been or cannot be fulfilled within required time periods.

(c) Upon receipt of a notice of intent to cancel the grant from the Department, the Recipient shall have the right to appeal to the Director of the Department.

Section 314. Prevailing Wages

For the purposes of California's prevailing wage law (Lab. Code, 1720 et seq.), an IIG Capital Improvement Project (i.e., the construction, rehabilitation, demolition, relocation, preservation, acquisition, or other physical improvement of a Capital Asset) shall be considered a public work that is paid for in whole or in part out of public funds. As such, it is subject to California's prevailing wage law. Program funding of a Capital Improvement Project shall not necessarily, in and of itself, be considered public funding of a Qualifying Infill Project or the Qualifying Infill Area unless such funding is considered public funding under California's prevailing wage law.

Although the use of Program funds does not require compliance with the federal Davis-Bacon Act, other funding sources may require compliance with the federal Davis-Bacon Act 44.