

Infill Infrastructure Grant Program of 2019

Amended Guidelines



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ARTICLE 1. GENERAL

Section 300. Purpose and Scope

The purpose of these Infill Infrastructure Grant Program of 2019 Guidelines (Guidelines) is to implement and interpret Assembly Bill 101 (Chapter 159, Statutes of 2019) and Part 12.5 (commencing with section 53559) of Division 31 of the Health and Safety Code, which establishes the Infill Infrastructure Grant Program of 2019, 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. The Program seeks to accomplish this objective by providing financial assistance for infrastructure improvements necessary to facilitate new infill housing development.

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 reconstruction 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.

Section 302. Definitions

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

- (a) "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 or 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 Area Median Income. 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.
- (b) "Area Median Income" means the most recent applicable county median family income published by the California Tax Credit Allocation Committee (TCAC).
- (c) "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 10 minutes or at least six buses per hour during peak hours. Peak hours means 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.

- (d) "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.
- (e) "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 to 15 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.
- (f) "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).
- (g) "CCR" means the California Code of Regulations.
- (h) "Covenant" means an instrument which imposes development, use, and affordability restrictions on the real property site(s) of the Qualifying Infill Project or of the designated housing in the Qualifying Infill Area, and which is recorded against the fee interest in such real property site(s). The Covenant is executed as consideration for the IIG Program award to the Recipient.
- (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 the following:
 - (1) A city, county, city and county, or public housing authority that has jurisdiction over a Qualifying Infill Area, or

- (2) A nonprofit or for-profit Developer of a Qualifying Infill Project applying jointly with a city, county, city and county, or public housing authority that has jurisdiction over a Qualifying Infill Area.
- (l) "Large Jurisdiction" means a county that is not a Small Jurisdiction, or any city within that county.
- (m) "Local Support" means support of local public agencies.
- (n) "Locality" means a California city, county, or city and county.
- (o) "Lower Income" has the meaning set forth in Health and Safety Code section 50079.5.
- (p) "Major Transit Stop" means an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods (as defined in Public Resources Code section 21064.3).
- (q) "Master Development" means the proposed residential units within the Qualifying Infill Area identified in the Program application.
- (r) "Moderate-Income" has the meaning set forth in Health and Safety Code section 50093.
- (s) "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.
- (t) "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.
- (u) "NOFA" means a Notice of Funding Availability for the Program issued by the Department.
- (v) "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.

- (w) "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.
- (x) "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; non-motorized 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.
- (y) "Program" means the Infill Infrastructure Grant Program of 2019 as implemented by these Guidelines.
- (z) "Qualifying Infill Area" means an area designated in the Program application that meets the criteria for a Qualifying Infill Area set forth in Section 303.
- (aa) "Qualifying Infill Project" means a residential or mixed-use residential development project designated in the Program application that meets the criteria for a Qualifying Infill Project set forth in Section 303.
- (bb) "Recipient" means the city, county, city and county, public housing authority and/or Developer receiving a commitment of Program funds for an approved Capital Improvement Project.
- (cc) "Rural Area" has the meaning set forth in Health and Safety Code section 50199.21.
- (dd) "Site Control" means the Eligible Applicant and/or Developer has sufficient control of the property through one or more of the following:
 - (1) 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 Notice of Funding Availability;
 - (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 or and/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.
- (ee) "Small Jurisdiction" means a county with a population of less than 250,000 as of January 1, 2019, or any city within that county.
 - (ff) "TCAC" means the California Tax Credit Allocation Committee.
 - (gg) "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.
 - (hh) "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.
 - (ii) "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 the public sewer and water.

- (jj) "Urban Uses" means any residential, commercial, industrial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.
- (kk) "Very-low Income" has the meaning set forth in Health and Safety Code section 50105.

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 either a Qualifying Infill Project or housing designated within a Qualifying Infill Area.
- (b) To be eligible for funding, applications from Large Jurisdictions must include a Qualifying Infill Project, including those Qualifying Infill Projects used to establish the eligibility of a Qualifying Infill Area, as those terms are defined by these Guidelines and Health and Safety Code section 53559, subdivision (c). Applications from Small Jurisdictions ~~must indicate housing units to be utilized in the calculation of the Program award, but are not required to include a Qualifying Infill Project~~ must provide a complete description of a Qualifying Infill Project or a Qualifying Infill Area, as those terms are defined by these Guidelines and Health and Safety Code section 53559, subdivision (d). Applications from both Large and Small Jurisdictions must identify the units and/or affordability covenants that satisfy the affordability requirement under Health and Safety Code section 53559, subdivision (e)(3), as well as the units that factor into the calculation of the Program award.
- (c) For both Large Jurisdictions and Small Jurisdictions, the Qualifying Infill Project or Qualifying Infill Area must:
 - (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
 - (3) 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 2017 through the most recently required annual progress report.
 - (4) 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

Commented [SC1]: Clarifies that applications from Small Jurisdictions are not required to include a Qualifying Infill Project.

Units, the Department may consider the entire Master Development in which the development seeking grant funding is included.

- (C) Where applicable, an Eligible Applicant may include a replacement housing plan to ensure that dwelling units housing persons and families of low or Moderate-Income are not removed from the low- and Moderate-Income housing market. 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 recorded disposition and development agreement or other recorded project- or area-specific agreement between the Developer and the local agency having jurisdiction over the project has been executed on or before July 31, 2019, shall be deemed to meet the affordability requirement of this paragraph if the agreement includes affordability restrictions that subject the Qualifying Infill Project ~~or the~~ Qualifying Infill Area to the production of affordable units for Very Low, Lower- or Moderate-Income households.
 - (E) New housing units that replace demolished units that have been occupied by low or Moderate-Income households within the last five years from the deadline for submittal of applications shall not count toward meeting the requirements of this paragraph.
- (5) Include average residential Net Densities on the parcels to be developed that are equal to or greater than the densities described in subparagraph (B) of paragraph (3) of subdivision (c) of section 65583.2 of the Government Code, except that in a Rural Area the average residential Net Densities on the parcels to be developed shall be at least 10 units per acre. Minimum densities for Localities that are not Rural Areas may be found in Appendix 1 of the housing element law memorandum issued by the Department's Division of Housing Policy Development dated June 20, 2012.
- (A) A city with a population greater than 100,000 in a standard metropolitan statistical area or a population of less than 2,000,000 may petition the Department for, and the Department may grant, an exception to the density requirements set forth in this subsection, if the city believes it is unable to meet the density requirements described herein. The city shall submit the petition with its application and shall include the reasons why the city believes the exception is warranted. The city shall provide information supporting the need for the exception, including, but not limited to, any limitations that the city may encounter in meeting the density requirements specified in subsection (5). Any exception shall be for the purposes of this section only. This subdivision shall become inoperative on January 1, 2023.

- (6) Be located in an area designated for mixed-use or residential development pursuant to one of the following:
 - (A) A general plan, or general plan amendment, adopted pursuant to Government Code section 65300.
 - (B) A sustainable communities strategy adopted pursuant to Government Code section 65080.
 - (C) A specific plan adopted pursuant to Government Code section 65450
 - (D) A workforce housing opportunity zone established pursuant to Government Code section 65620.
 - (E) A housing sustainability district established pursuant to Government Code section 66201.
- 7) 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)(5) and the Net Density proposed in the application for the purposes of rating pursuant to Section 309 (c) and section 310 (c), and determining the maximum grant amount pursuant to Section 305. This mechanism must be in effect and legally enforceable prior to the disbursement of Program funds.
- (8) 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 in applications from Large Jurisdictions.
- (9) 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 it determines that the local requirement will reliably result in completion of the required Affordable Units within a reasonable period of time.

(10) Construction shall not have commenced on any units designated in the application prior to the deadline for applications submittal set forth in the NOFA, except for Affordable Units identified in a disposition and development agreement or other project- or area-specific agreement between the Developer and the local agency having jurisdiction over the Affordable Units executed on or before July 31, 2019 that requires the Affordable Units to be built as a condition of local approval for the other units designated in the application, where the Developer of the other units contributed funds or land to cover costs of developing the Affordable Units, in an amount not less than 25 percent of the total development cost of the Affordable Units.

(d) For purposes of evaluating applications from Large Jurisdictions:

(1) "Qualifying Infill Area" means a contiguous area located within an Urbanized Area (i) 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 (ii) 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.

(2) "Qualifying Infill Project" means a residential or mixed-use residential project 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. Each Qualifying Infill Project must be a discrete development and all housing development components must have been planned as one development and jointly considered for local land use approval, with common, affiliated or contractually related ownership and financing structures.

Commented [SC2]: Language moved from Section 303 (b)(1) to provide greater clarity

(e) For purposes of evaluating applications from Small Jurisdictions:

(1) "Qualifying Infill Area" means a contiguous area located within an Urbanized Area that meets either of the following criteria:

(A) The area contains sites included on the inventory of land suitable and available for residential development in the housing element of the applicable city or county general plan pursuant to paragraph (3) of subdivision (a) of section 65583 of the Government Code, and at least 50 percent of the perimeter of the area shall adjoin parcels that are developed with urban uses.

(B) The Capital Improvement Project for which funding is requested is necessary, as documented by an environmental review or some other adopted planning document, to make the area suitable and available for residential development, or to allow the area to accommodate housing for additional income levels, and the area otherwise meets the requirements for inclusion on the inventory of land suitable and available for residential development in the housing element of the applicable city or county general plan pursuant to paragraph (3) of subdivision (a) of section 65583 of the Government Code. At least 50 percent of the perimeter of the area shall adjoin parcels that are developed with Urban Uses.

(2) "Qualifying Infill Project" means a residential or mixed-use residential project located within an Urbanized Area on a site that has been previously developed, or on a vacant site where at least 50 percent of the perimeter of the site adjoins parcels that are developed with Urban Uses. Each Qualifying Infill Project must be a discrete development and all housing development components must have been planned as one development and jointly considered for local land use approval, with common, affiliated or contractually related ownership and financing structures.

Commented [SC3]: Language moved from Section 303 (b)(1) to provide greater clarity

(3) Applications from Small Jurisdictions must include a complete description of the Capital Improvement Project and requested grant funding for the Project. The application must describe how the project is necessary to support the development of housing, and how it meets the criteria of this section, including:

- (A) A financial document that shows the gap financing needed for the project.
 - (i) For a Qualifying Infill Project located in the unincorporated area of the county, the Department shall allow an Eligible Applicant to satisfy the requirement in this paragraph by submitting copies of an application or applications for other sources of state or federal funding for a Qualifying Infill Project.
- (B) Documentation of all necessary entitlement and permits, and a certification from the Eligible Applicant that the project is shovel-ready.
 - (i) For a Qualifying Infill Project located in the unincorporated area of the county, the department shall allow the Eligible Applicant to meet the requirement described in this paragraph by submitting a letter of intent from a willing affordable housing Developer that has previously completed at least one comparable housing project, certifying that the Developer is

willing to submit an application to the county for approval by the county of a Qualifying Infill Project within the area in the event that the funding requested pursuant to this subdivision is awarded.

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 and relocation.
 - (3) Street, road, and bridge construction and improvement.
 - (4) Required replacement of Transit Station parking spaces, not to exceed \$50,000 per space.
 - (5) Residential parking and mechanical parking lifts. The minimum residential per unit parking spaces in parking structures, 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.
 - (6) Transit linkages and facilities, including, but not limited to, related access plazas or pathways, or bus and transit shelters.
 - (7) Facilities that support pedestrian or bicycle transit.
 - (8) Traffic mitigation devices, such as street signals.
 - (9) Site clearance, grading, preparation and demolition.
 - (10) 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, public safety improvements, and public art. Program funding for public art may not exceed 5 percent of the total Program award.
 - (11) Storm drains, stormwater detention basins, culverts, and similar drainage features.

- (12) Required environmental remediation necessary for the development of the Capital Improvement Project, where the cost of the remediation does not exceed 50 percent of the Program grant amount.
 - (13) 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.
 - (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 to exceed 5 percent of the Program award.
- (b) The following costs are not eligible:
- (1) Parking spaces and structures, except as provided in Section 304 (a)(4) and (5).
 - (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 limited based on 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 actual 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) The Program establishes the following minimum and maximum award amounts:
 - (1) For Qualifying Infill Projects, the Program grant amount shall not be less than \$1 million, or \$500,000 for Rural Areas, and shall not exceed \$7.5 million for each NOFA.

- (2) For Qualifying Infill Areas, the Program grant amount shall not be less than \$2 million, or \$1 million for Rural Areas, and shall not exceed \$30 million for each NOFA.
 - (3) Over the life of the Program, the total of all Program awards, including previous and future awards made under the Infill Infrastructure Grant Program of 2007, shall not exceed \$60 million for any single Qualifying Infill Project or Qualifying Infill Area.
 - (4) The Department will fund only one application for each Capital Improvement Project or portion thereof.
 - (5) In each NOFA, the Department will fund only one application for each Qualifying Infill Project and Qualifying Infill Area.
- (c) The Eligible Applicant must demonstrate that the grant does not result in the Developer(s) benefiting from the Qualifying Infill Project, Qualifying Infill Area or the Capital Improvement Project by realizing a profit that is within the limits set forth in California Code of Regulations, title 4, section 10327.
 - (d) The Eligible Applicant must demonstrate that Program funds are reasonably necessary for Project feasibility and no other source of funding is reasonably available.
 - (e) The Eligible Applicant must demonstrate that the Qualifying Infill Project or the housing to be developed in the Qualifying Infill Area, 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, except as described in Section 303 (e)(3).
 - (f) 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 (0) 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, however, 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 California Code of Regulations, title 25, section 8301(h). 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.

- (g) 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.
- (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 Uniform Multifamily Regulations (UMRs) in title 25, division 1, chapter 7, subchapter 19 (commencing with section 8300) of the California Code of Regulations is hereby incorporated by reference into these Guidelines. In the event of a conflict between the UMRs and these Guidelines, the provisions of these Guidelines shall prevail.

Commented [SC4]: Added to clarify that Qualifying Infill Projects are not required in Small Jurisdictions.

Section 306. Performance Requirements

- (a) ~~Recipients~~ Large Jurisdiction Recipients shall, within the time set forth in the Standard Agreement, but not more than two (2) years from the date of the Program award, begin construction of the housing units which were used as the basis for calculating the Program award. ~~Small Jurisdiction Recipients shall, within the time set forth in the Standard Agreement, but for applications from Large Jurisdictions and not more than five (5) years for applications from Small Jurisdictions from the date of the Program award,~~ begin construction of the housing units which were used as the basis for calculating the Program award.
- (b) Large Jurisdiction Recipients shall, within the time set forth in the Standard Agreement, but not more than five (5) years from the date of the Program award, complete construction of the housing units which were used as the basis for calculating the Program award. ~~Small Jurisdiction Recipients shall, within the time set forth in the Standard Agreement, but for applications from Large Jurisdictions~~

Commented [SC5]: Provides additional time for Small Jurisdictions projects to begin construction of housing units.

and not more than seven (7) years from the date of the Program award, for applications from Small Jurisdictions, complete construction of the housing units which were used as the basis for calculating the Program award. In all cases, completion of construction must be evidenced by a certificate of occupancy or equivalent documentation.

Commented [SC6]: Provides additional time for Small Jurisdictions projects to complete construction of housing units.

- (c) The Standard Agreement and disbursement agreement must be executed in accordance with the following subsections. Failure to meet the requirements of Section 306 (c)(1) and 306 (c)(2) will result in the Department's recapture of the grants awarded.
 - (1) The Standard Agreement must be executed within two (2) years from the date of award.
 - (2) The disbursement agreement must be executed within two (2) years from the date of award.
- (d) Program funds must be disbursed in accordance with the deadlines specified in the Standard Agreement, and in no event later than the following disbursement deadlines.
 - (1) Program funds must be disbursed within four (4) years from the date of award.
 - (2) The maximum disbursement extension deadline is seven (7) years from the date of award.
 - (A) The Department may approve a disbursement extension deadline request up to the applicable maximum disbursement extension deadline if the Recipient demonstrates, to the satisfaction of the Department, that it has complied with performance milestones identified in the Standard Agreement.
- (e) For applications from Large Jurisdictions, recipients will be required to repay disbursed Program grant funds where construction of residential units used as the basis for calculating the grant amount pursuant to Section 305(a) has not received building permits within two years from the date of the Program grant award. For applications from Small Jurisdictions, recipients will be required to repay disbursed Program grant funds where construction of residential units used as the basis for calculating the grant amount pursuant to Section 305(a) has not received building permits within five years from the date of the Program grant award. The amount to be repaid shall be the same proportion to the total grant amount as the number of residential units where construction has not timely commenced to the total number of designated residential units. For applications from Large and Small Jurisdictions, the Department may exercise its reasonable discretion to disencumber funds discussed under this provision or to grant an extension of time; provided however

that any extensions are in all events subject to any and all applicable encumbrances, deadlines, and limitations, including but not limited to HSC 53559(g).

Commented [SC7]: Provides additional disbursement time for Small Jurisdictions projects.

- (f) Where a Locality is participating in the Program pursuant to Section 307, that Locality shall not be held liable for the construction and continued operation of the Qualifying Infill Project or the housing designated in the Qualifying Infill Area.
- (g) 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 same project area or adjoining project areas.

ARTICLE 3. APPLICATION PROCEDURES

Section 307. Application Process

- (a) The Department shall offer Program funds through Notices of Funding Availability. Applications shall be made on forms made available by the Department, except as indicated in Section 303 (e)(3). Applications selected for funding shall be approved subject to conditions specified by the Department.
- (b) The Large Jurisdiction Notice of Funding Availability 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, a list of counties eligible to apply under this NOFA, and the general terms and conditions of funding commitments.
 - (1) The Department shall accept applications for Projects in Large Jurisdictions and evaluate them on a competitive basis. The NOFA for Large Jurisdictions 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 from Large Jurisdictions that are not within a fundable range, as indicated by a preliminary point scoring.
 - (3) In the event of two or more applications having the same rating and ranking scores, the Department will apply a tie- breaking criterion outlined in the NOFA.
 - (4) The Department shall evaluate applications from Large Jurisdictions 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 highest scoring Large Jurisdiction applications that meet all threshold requirements shall be selected for funding as specified in the NOFA, except that the Department may make adjustments in this procedure to meet approximately the following geographic distribution objectives of each NOFA:
 - (A) Target 45 percent of total funds to projects located in Southern California (Kern, Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, San Luis Obispo, and Ventura counties);

- (B) Target 10 percent of total funds to projects located in the Central Valley (Fresno, Merced, San Joaquin, Stanislaus and Tulare counties); and
 - (C) Target 45 percent of total funds to projects located in Northern California Large Jurisdiction counties (those not located in the Large Jurisdiction counties specified in previous paragraphs).
- (c) The NOFA for Small Jurisdictions will specify the amount of funds available, application requirements, the date the Department will begin accepting applications, a list of counties eligible to apply under this NOFA, and the general terms and conditions of funding commitments.
 - (1) The Department shall accept applications for Projects in Small Jurisdictions on an over the counter basis and evaluate them for compliance with the eligibility requirements listed in Section 303 and threshold requirements listed in Section 308. Small Jurisdiction applications that meet all threshold and eligible Project requirements shall be selected for funding as specified in these Guidelines and the NOFA for Small Jurisdictions.
- (d) All applications shall include a Locality or a public housing authority as an applicant.
 - (1) A Locality or public housing authority identified as an applicant of either a Qualifying Infill Area or Qualifying Infill Project shall only be a party to the Standard Agreement when that Locality or public housing authority has an on-going ownership interest in the Capital Improvement Project identified in the application.
 - (2) Where a Locality or public housing authority is participating in the Program pursuant to Section 307(d)(2), and has no on-going ownership interest in the Capital Improvement Project, that Locality's responsibility shall be limited to providing an official written certification of support for the Capital Improvement Project, and that Locality shall not be required to be party to the Standard Agreement.

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 307. Additionally, the following requirements apply to all applications:
 - (1) Construction of the Capital Improvement Project has not commenced as of the deadline for submittal of applications set forth in the NOFA

- (2) The Capital Improvement Project is infeasible without Program funds, and other available funds are not being supplanted by Program funds.
 - (3) 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.
 - (4) All proposed uses of Program funds must be eligible pursuant to Section 304.
 - (5) Funds awarded pursuant to this section shall supplement, not supplant, other available funding.
- (b) The application must be sufficiently complete to assess the feasibility of the application and its compliance with Program requirements.

Section 309. Selection Criteria for Qualifying Infill Projects in Large Jurisdictions

Applications for Qualifying Infill Projects in Large Jurisdictions 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.

Criterion: Qualifying Infill Project	Maximum Score
Project Readiness	100
Affordability	60
Density	40
Access to Transit	20
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 have been completed for the Qualifying Infill Project:

- (A) Documented compliance with the California Environmental Quality Act and the National Environmental Policy Act, if applicable. All applicable time periods for filing appeals or lawsuits must have lapsed, shall receive 30 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 within a reasonable period of time, as follows:

- (A) Applications which demonstrate that all necessary local land use approvals, excluding design review, 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 eligible to receive all necessary local land use approvals pursuant to a Nondiscretionary Local Approval Process and has submitted all applications for such necessary approvals shall receive 15 points.
 - (C) 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, excluding design review, have been submitted, accepted, and deemed complete by the appropriate local agencies shall receive 15 points.
- (3) Funding Commitments - 20 points maximum

Applications will be awarded points as follows based on the extent the Eligible Applicant has secured enforceable funding commitments for the combined development cost of the Capital Improvement Project and the Qualifying Infill Project.

(A) Funding Commitment Levels:

Rental housing developments

Construction Financing	Permanent Financing	Points
At least 90% of the total development cost, less deferred costs	At least 90% of the total development cost, less deferred costs	20

Construction Financing	Permanent Financing	Points
At least 75% of the total development cost, less deferred costs	At least 75% of the total development cost, less deferred costs	10

Construction Financing		Points

At least 50% of the total development cost, less deferred costs		5
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Ownership developments

Construction Financing	Permanent Financing	Points
At least 90% of the total development cost including all necessary public agency funds, less deferred costs	At least 90% of the total development cost including all necessary public agency funds, less private mortgage financing and deferred costs	20

Construction Financing	Permanent Financing	Points
At least 75% of the total development costs, less deferred costs	At least 75% of the total development cost, less deferred costs	10

Construction Financing		Points
At least 50% of the total development cost including all necessary public agency funds, less deferred costs		5

Combined rental and ownership developments

Applications designating both rental and ownership units will be awarded points on the funding commitments for the combined development cost of the Capital Improvement Project and 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.

- (B) Allowable Program funds and 4 percent low-income housing tax credit equity contributions (without the necessity of a tax credit reservation letter) will be considered committed in this calculation. A Land Donation in fee for no other consideration that is supported by an appraisal or purchase/sale agreement (“Land Donation”) or a Local Fee Waiver resulting in quantifiable cost savings for the Project where those fees are not otherwise required by federal or state law (“Local Fee Waiver”) may 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 qualified appraiser who is a Member of the Appraisal Institute (MAI) conducted within one year of 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. Funds conditionally reserved under the following programs shall be accepted as funding commitments: the United States Department of Housing and Urban Development’s (HUD) Continuum of Care (CoC), Home Investment Partnerships Program (HOME), and the Community Development Block Grant Program (CDBG). Deferred-payment financing, grant funds and subsidies from other Department programs proposed for Project financing must be awarded for Large Jurisdictions prior to final rating and ranking for the IIG application or prior to application submission for a Small Jurisdiction.
 - (C) For self-help homeownership developments utilizing United States Department of Agriculture (USDA) 502 Loans, those funds shall be considered committed if the Eligible Applicant is an active 523 grantee that has Site Control of the Capital Improvement Project and a letter of support from USDA.
 - (D) Owner equity contributions or Developer funds shall not be substituted later 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 deferred developer fee. The Department may require the Eligible Applicant to evidence the availability of the proposed amount of owner equity or developer funds.
- (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 will be awarded 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 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 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 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 qualified appraiser who is 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.
- (5) Prohousing Policies – 8 points maximum
 - (A) Points will be awarded for each of the following:
 - (i) Four (4) points will be awarded to Projects located in jurisdictions that have implemented programs over the last five years that finance infrastructure with accompanying increased housing capacity or provide local financial incentives for housing, including, but not limited to, a local housing trust fund or fee waivers.

- (ii) Four (4) 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 (4) 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 (4) 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:
 - 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,
 - processing and impact fee waivers or reductions of 50 percent or more,
 - ministerial approval in fewer than 45 days,
 - reduction or modifications of development standards for side yard setbacks of five feet or less,
 - reduction or modifications of development standards to two story heights,
 - reduction or modifications of development standards to allow 60 percent or more lot coverage,
 - no minimum lot size requirement,
 - provisions for affordability, or
 - offering support programs such as a user-friendly website.
- (v) Four (4) 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.

- (1) The scale used by MHP, as 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) The following scale:
 - (A) .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) .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) .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 Area Median Income.
 - (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 Area Median Income, 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.
- (3) 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.

- (4) 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.

(c) Density – 40 points maximum

Applications will be scored based on the extent to which the average Net Density of the Qualifying Infill Project, adjusted by unit size, exceeds the required density specified in Section 303(c)(5). Net 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 ($\frac{3}{4}$) acre, urban site, with twelve 1-bedroom units at 800 sq. ft. each, twelve 2-bedroom units at 1,100 sq. ft. each, and 5,000 sq. ft. of commercial space.

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

$$12 \times 0.9 \text{ (1 bedroom units)} = 10.8$$

$$12 \times 1.2 \text{ (2 bedroom units)} = 14.4$$

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 2-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:

$$4 \times 1.2 \text{ (2-bedroom units)} = 4.8$$

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):

$$(10.8+14.4+4.8)/30 = 1/.75=1.3333 \times 100=133.33\%$$

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% or More	40
140% to 149.9%	30
130% to 139.9%	20
120% to 129.9%	15
110% to 119.9%	10
Less than 110%	0

(d) Access to Transit – 20 points maximum

Points will be awarded based on the proximity of the Qualifying Infill Project to a Transit Station or Major Transit Stop as follows. The distance to a Transit Station or Major Transit Stop shall be evidenced by a scaled map. For the purposes of this subdivision (d), “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 lighted streets.

- (1) 20 points will be awarded to a Qualifying Infill Project within one quarter mile of a Transit Station or Major Transit Stop as defined in Section 302 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) 10 points will be awarded to a Qualifying Infill Project within one half mile of a Transit Station or a Major Transit Stop as defined in Section 302 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) 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 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) 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), 6 points, or within one-half mile (one (1) mile for Rural Area projects), 4 points.
- (2) The Qualifying Infill Project is within one (1) mile of a locally recognized employment center with a minimum of fifty (50) full-time employees (two (2) miles for Rural Area projects), 7 points, or within two (2) miles

(four (4) miles for Rural Area projects), 4 points. An employment center is 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.

- (3) The Qualifying Infill Project is within one mile of a locally recognized retail center with a minimum of fifty full-time employees (two miles for Rural Area projects), 7 points, or within two miles (four miles for Rural Area projects), 4 points. A retail center is a downtown area or recognized neighborhood or regional shopping mall.
- (4) For Qualifying Infill Projects where at least 50 percent of the units have two or more bedrooms, the Qualifying Infill Project is 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), 7 points, or within one-half mile (one mile for Rural Area projects), 4 points.
- (5) For a Qualifying Infill Project that is a special needs or single room occupancy development, as defined by TCAC, or a special needs or supportive housing project, as defined under MHP, the Qualifying Infill Project is located within one-half mile of a social service facility that operates to serve residents of the Qualifying Infill Project, 7 points or within one mile, 4 points.
- (6) For a Qualifying Infill Project that is reserved for qualified senior citizens under Civil Code sections 51.2, 51.3 and 51.4, the Qualifying Infill Project is within one-quarter mile of a senior center or a facility regularly offering services specifically designed for seniors (one-half mile for Rural Area projects), 7 points or within one-half mile (one mile for Rural Area projects), 4 points.
- (7) For a Qualifying Infill Project where at least 25 percent of the units are two bedroom or larger and an additional 25 percent of the units are three bedroom or larger, with no restriction or preference for seniors or special needs populations, and located within the high or highest resource community neighborhoods as indicated at time of application on the currently adopted TCAC/HCD Opportunity Area Map shall receive 20 points.

- (f) Consistency with Regional Plans –10 points maximum
- (1) Points will be awarded for each of the following:
- (A) 5 points will be awarded if the Qualifying Infill Project supports the implementation of a sustainable communities 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 communities 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, 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.

Section 310. Selection Criteria for Qualifying Infill Areas in Large Jurisdictions

Applications for Capital Improvement Projects associated with Qualifying Infill Areas in Large Jurisdictions shall be awarded points 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 that these portions or phases are not included for other purposes under these Guidelines, including rating pursuant to this Section 310 and the maximum grant amount calculated pursuant to Section 305. Points are not cumulative within each subparagraph unless otherwise specified.

Criterion: Qualifying Infill Areas	Maximum Score
Area Readiness	100
Affordability	60
Density	40
Access to Transit	20
Proximity to Amenities	20
Consistency with Regional Plans	10
Total	250

(a) Area Readiness – 100 points

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 have received all land use entitlements required for construction or that all applications required for construction have been submitted and deemed complete under a Nondiscretionary Local Approval Process will receive 10 points.
 - (B) Qualifying Infill Areas with two Qualifying Infill Projects that have received all land use entitlements required for construction or that all applications required for construction have been submitted and deemed complete under a Nondiscretionary Local Approval Process will receive 5 points.
- (2) Environmental Review Status - 25 points maximum
 - (A) Applications with documented compliance with the California Environmental Quality Act and the National Environmental

Policy Act, if applicable. All applicable time periods for filing appeals or lawsuits must have lapsed will receive 25 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 will 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 will receive 5 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 will 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 within a reasonable period of time.

- (A) Applications which meet the criteria in Subparagraph (C) and demonstrate that all necessary local land use approvals, excluding design review, for not less than 50 percent of the housing units proposed for development 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) will receive 25 points.
- (B) Applications which meet the criteria in Subparagraph (C) and demonstrate that all necessary local land use approvals, excluding design review, for not less than one-third of the housing units proposed for development within the Qualifying Infill Area have been granted will receive 20 points.

- (C) Applications which demonstrate that the Qualifying Infill Area is subject to a general plan, specific plan, community plan or similar area-specific plan, adopted by the Locality in which the Qualifying Infill Area is located and the housing proposed in the application is consistent with such plan will receive 10 points.
- (D) Applications which demonstrate that all approvals by a local land use authority (e.g., planning or community development director or zoning administrator) for the Capital Improvement Project within the Qualifying Infill Area have been granted will receive 5 points.

(4) Funding Commitments - 20 points maximum

Applications will be awarded points based on the extent to which the housing in the Qualifying Infill Area and the Capital Improvement Project can secure sufficient funding in a timely manner, as follows (An application may not receive points under both paragraphs (B) and (C)):

- (A) Up to 10 points shall be awarded based on the percentage of total residential units to be developed in the Qualifying Infill Area that are in developments for which enforceable commitments have been obtained for all necessary construction period funding, in accordance with the following schedule, and excluding tax credit equity, tax-exempt bonds, and funding provided by this and other Department funding program(s) provided that the other Department funding is awarded prior to or simultaneously with the final rating and ranking of the Program application.
 - (i) A Land Donation supported by an appraisal may be considered a commitment. For self-help homeownership developments utilizing USDA 502 loans, those funds shall be considered committed if the active 523 grantee has Site Control and a letter of support from USDA.

Percentage of Total Residential Units In Developments with Committed Construction Funding	Points
75% or more	10.0
50% to 74.9%	7.5
25% to 49.9%	5.0
10% to 24.9%	2.5

- (B) Ten (10) points shall be awarded for obtaining enforceable commitments for all construction period funding for the Capital Improvement Project, excluding funding provided by another Department funding program provided that this funding is awarded prior to or simultaneously with the final rating and ranking of the Program application. A Land Donation supported by an appraisal may be considered an enforceable commitment.
 - (C) Five (5) points shall be awarded for obtaining documentation including, but not limited to, letters of intent, executive-approved term sheets, or a letter from a public agency expressing interest and/or intent to fund the Capital Improvement Project.
 - (D) Owner equity contributions or developer 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 up to 50 percent of the deferred developer fee. The Department may require the Eligible Applicant to evidence the availability of the proposed amount of owner equity or developer funds.
- (5) Local Support - 12 points maximum
- (A) 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 will receive 12 points. A Land Donation supported by an appraisal may be considered an enforceable commitment.
 - (B) 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 6 points. A Land Donation supported by an appraisal may be considered an enforceable commitment.
- (C) Three (3) points will be awarded if at least 50 percent of the residential units in the Qualifying Infill Area are located on a site or sites designated or identified in the housing element of the local general plan as suitable for housing development consistent with application

(6) Prohousing Policies – 8 points maximum

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

- (i) Four (4) points will be awarded to Projects located in jurisdictions that have implemented programs over the last five years that finance infrastructure with accompanying increased housing capacity or provide local financial incentives for housing, including, but not limited to, a local housing trust fund or fee waivers.
- (ii) Four (4) 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 (4) 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 (4) 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:
 - parking reductions to 0.75 or less spaces per accessory dwelling unit in areas not already exempt from parking pursuant to Government Code section 65852.2,
 - processing and impact fee waivers or reductions of 50 percent or more,
 - ministerial approval in less than 45 days,
 - reduction or modifications of development standards of side yard setbacks to five feet or less,
 - reduction or modifications of development standards to two story heights,

- reduction or modifications of development standards to allow 60 percent or more lot coverage,
 - no minimum lot size requirement,
 - provisions for affordability, or
 - offering support programs such as a user-friendly website.
- (v) Four (4) 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 following schedule.

- (1) 2.0 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.
- (2) 2.4 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.
- (3) 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 60 percent of Area Median Income.
- (4) 4.0 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 Area Median Income.
- (5) Owner-occupied units proposed for points under this category 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.
- (6) 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 Area 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 housing developments in the Qualifying Infill Area with a duration of at least 55 years. Rents shall not exceed 30 percent of the applicable income eligibility level.

(c) **Density – 40 points maximum**

Applications will be awarded points based on the extent to which the average Net Density of the Qualifying Infill Area, adjusted by unit size, exceeds the required density specified in Section 303(a)(4).

- (1) Net Density will be 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. Net 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. For a suburban three-site Qualifying Infill Area:

Project # 1	7 2-Bedroom Units	5 3-Bedroom Units	.75 Acre
Project # 2	6 2-Bedroom Units	8 3-Bedroom Units	.65 Acre
Project # 3	9 2-Bedroom Units	7 3-Bedroom Units	.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 3 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
200% or more	40
175% to 199.9%	30
150% to 174.9%	20
125% to 149.9%	15
110% to 124.9%	10
Less than 110%	0

(d) Access to Transit – 20 points maximum

Points will be awarded based on the percentage of residential units in the Qualifying Infill Area which are in developments which meet the criteria for proximity to a Transit Station or Major Transit Stop set forth in paragraph 309(d) relative to the total number of housing units in the Qualifying Infill Area. Two (2) points will be awarded for each 10 percent of such housing units. Percentages shall be rounded off to the nearest whole tenth.

(e) Proximity to Amenities – 20 points maximum

Applications will be awarded points based on the amenities in the Qualifying Infill Area or within one-half mile of its boundary, including amenities that will be in service when construction of the Qualifying Infill Project for the Qualifying Infill Area is completed.

The one-half mile radius will be measured from the established boundaries of the Qualifying Infill Area, as defined in local planning documents.

Points shall be awarded per amenity as follows:

Amenities serving Qualifying Infill Areas consisting of fewer than 200 residential units will yield 4 points each. Amenities serving Qualifying Infill Areas consisting of 200 or more residential units will yield 2 points each. Each distinct amenity may be counted only once. The Eligible Applicant shall designate the specific subcategory for each amenity identified. No more than 25 percent of a Qualifying Infill Area's amenities may be from any one subcategory. Applications may receive only one award of points from each of the following categories. Total points for this category may not exceed 20 points.

(1) Amenities include:

- (A) Parks (not including school grounds unless there is a bona fide, formal joint use agreement between the jurisdiction responsible for

the parks and recreational facilities and the school district providing availability to the general public of the school grounds and/or facilities), 4 points.

- (B) Locally recognized employment center with a minimum of fifty full-time employees. An employment center is a locally recognized concentration of employment opportunities such as a large hospital, industrial park, commercial district, or office area, 4 points.
- (C) Locally recognized retail center with a minimum of fifty full-time employees. A retail center is a downtown area or recognized neighborhood or regional shopping mall, 4 points.
- (D) Where at least 50 percent of the units designated in this application have two or more bedrooms, public schools or community colleges available for residents of the Qualifying Infill Area to attend, 4 points.
- (E) Where designated units in this application which qualify for special needs or single room occupancy use, as defined by TCAC, or has a special needs or supportive housing component, as defined under MHP, social service facilities available to serve the residents living in the Qualifying Infill Area, 4 points.
- (F) Where designated units in this application are reserved for qualified senior citizens under sections 51.2, 51.3 and 51.4 of the Civil Code, senior centers or facilities regularly offering services designed for seniors and available to the seniors residing in the Qualifying Infill Area, 4 points.
- (G) Where at least 25 percent of the total units are two bedroom or larger and an additional 25 percent of the total units are three bedroom or larger, with no restriction or preference for seniors or special needs populations, and the housing developments including these units are located within the high or highest resource community neighborhoods as indicated at time of application on the currently adopted TCAC/HCD Opportunity Area Map shall receive 20 points.

(f) Consistency with Regional Plans –10 points maximum

- (1) Points will be awarded for each of the following:
 - (A) Five (5) points will be awarded if the Qualifying Infill Area supports the implementation of either a sustainable communities 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 communities 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. Consistency with 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) Applications for Qualifying Infill Areas in which not less than 50 percent of the land area is within a Transit Priority Area will receive 5 points. Evidence of a Qualifying Infill Area 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, and 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 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;
- (f) Remedies available to the Department in the event of a violation, breach or default of the Standard Agreement;
- (h) 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;
- (i) Special conditions imposed as part of Department approval of the project;
- (j) Terms and conditions required by federal or state law; and

- (k) 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.

It is not the intent of the Department in these Guidelines to subject Qualifying Infill Projects or Qualifying Infill Areas to California's prevailing wage law by reason of Program funding of

the Capital Improvement Project where such public funding would not otherwise make the Qualifying Infill Project or Qualifying Infill Area subject to such 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.