

INFILL INFRASTRUCTURE GRANT PROGRAM

PROGRAM GUIDELINES

(Rev. 10/2/17)



**State of California
Governor Edmund G. Brown Jr.**

**Alexis Podesta, Secretary
Business, Consumer Services and Housing Agency**

**Ben Metcalf, Director
Department of Housing and Community Development**

Department of Housing and Community Development, IIG Program
2020 West El Camino Avenue, Suite 500
Sacramento, CA 95833
IIG Program Email: DFAINfill@hcd.ca.gov

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ARTICLE 1. GENERAL

Section 300. Purpose and Scope

The purpose of these Guidelines is to implement and interpret Part 12 of Division 31 of the Health and Safety Code (commencing with Section 53545.12), which establishes the Infill Incentive Grant Program of 2007, hereinafter referred to as the Infill Infrastructure Grant Program.

Section 301. Program Description- An Overview

The Infill Infrastructure Grant Program was funded by Proposition 1C, the Housing and Emergency Shelter Trust Fund Act of 2006. Its 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. Both infill projects and areas must have either been previously developed or be largely surrounded by development. Specific eligible improvements include: development or rehabilitation of parks or open space, water, sewer or other utility service improvements, streets, roads, parking structures, transit linkages, transit shelters, traffic mitigation features, sidewalks and streetscape improvements.

Funds will be allocated through a competitive process, based on the merits of the individual infill projects and areas. The application selection criteria include project readiness, housing affordability, housing density, proximity and access to transit, parks, employment centers, and consistency with a regional blueprint or similar regional growth plan.

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 Section 50053 of the Health & Safety Code, to a household earning no more than 60 percent of the Area Median Income or at an affordable housing cost, as defined in Section 50052.5 of the Health & Safety Code, 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 be sold to and occupied by a qualified household, and subject

to a recorded covenant with a duration of at least 30 years that includes either a resale restriction or equity sharing upon resale. Rent and income limits for rental Affordable Units shall be those established by TCAC except for units targeted for other income categories for which applications receive rating points under Section 309 or 310. Those units will be restricted to the targeted income levels with rents not to exceed 30 percent of the income level in accordance with TCAC procedures. The covenant must be recorded against a fee estate in the property; covenants recorded against a leasehold estate in the property standing alone do not satisfy the requirement of ensuring affordability for the duration of at least 55 years.

- (b) "Area Median Income" means the most recent applicable county median family income published by TCAC.
- (c) "BID" means an owners' association as defined in Section 36614.5 of the Streets and Highways Code, for a business or property improvement district.
- (d) "Bus Hub" means an intersection of three or more bus routes, where one route or a combination of routes has a minimum scheduled headway of 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.
- (e) "Bus Transfer Station" means an arrival, departure, or transfer point for the area's intercity, intraregional, or interregional bus service having permanent investment in multiple bus docking facilities, ticketing services, and passenger shelters.
- (f) "Capital Asset" means tangible physical property with an expected useful life of 15 years or more. "Capital assets" also means 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 Assets" also includes equipment with an expected useful life of two years or more. Costs allowable under this definition include costs incidentally but directly related to construction or acquisition, including, but not limited to, planning, engineering, construction management, architectural, and other design work, environmental impact reports and assessments, required mitigation expenses, appraisals, legal expenses, site acquisitions, and necessary easements.

- (g) "Capital Improvement Project" or "Project" means the construction, rehabilitation, demolition, relocation, preservation, acquisition, or other physical improvement of a Capital Asset that is an integral part of, or-is necessary for the development of a Qualifying Infill Project or the housing designated in the application for a Qualifying Infill Area.
- (h) "CCR" means the California Code of Regulations.
- (i) "Department" means the Department of Housing and Community Development of the State of California.
- (j) "Locality" means a California city, county or city and county.
- (k) "Lower Income" has the meaning set forth in Health and Safety Code Section 50079.5.
- (l) "Major Transit Stop" means a bus, ferry or rail stop served by either:
 - (1) one (1) route departing nine (9) (six (6) for Localities with minimum Net Densities of 15 units per acre or less pursuant to Paragraph 303(a)(4)) or more times between both 7:00 a.m. to 10:00 a.m., inclusive, and 3:00 p.m. to 7:00 p.m., inclusive, Monday through Friday or the alternative peak hours designated for the transportation corridor by the transit agency; or

- (2) two (2) or more routes departing 12 (eight (8) for Localities with minimum Net Densities of 15 units per acre or less pursuant to Paragraph 303(a)(4)) or more times between both 7:00 a.m. to 10:00 a.m., inclusive, and 3:00 p.m. to 7:00 p.m., inclusive, Monday through Friday or the alternative peak hours designated for the transportation corridor by the transit agency; or
 - (3) one (1) route departing two (2) or more times for a stop located in a Rural Area, or four (4) or more times for a stop located in a Locality larger than 40,000 in population but not more than 100,000, between both 7:00 a.m. to 10:00 a.m., inclusive, and 3:00 p.m. to 7:00 p.m., inclusive, Monday through Friday or the alternative peak hours designated for the transportation corridor by the transit agency; or
 - (4) two (2) or more routes departing four or more times for a stop located in a Rural Area, or six (6) or more times for a stop located in a Locality larger than 40,000 in population but not more than 100,000, between both 7:00 a.m. to 10:00 a.m., inclusive, and 3:00 p.m. to 7:00 p.m., inclusive, Monday through Friday or the alternative peak hours designated for the transportation corridor by the transit agency.
- (m) "Moderate Income" has the meaning set forth in Health and Safety Code Section 50093.
 - (n) "MHP" shall mean the Multifamily Housing Program authorized and governed by Sections 50675 through 50675.14 of the Health and Safety Code and the regulations promulgated there under in 25 CCR Section 7300, *et seq.*
 - (o) "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, landscaping, common areas and facilities, off street parking, drainage facilities exclusive to a development project, and any other related mitigation space required for development.

Except for the determination of project eligibility pursuant to Section 303, the number of dwelling units in mixed use Qualifying Infill Projects shall be adjusted to include the number of units that could have been developed in the non-residential space of the development at the same densities as the residential space. This number shall not exceed 25 percent of the actual number of residential units in the development.

- (p) “NOFA” means a Notice of Funding Availability for the Program issued by the Department.
- (q) “Program” means the Infill Infrastructure Grant Program as implemented by these Guidelines.
- (r) “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.
- (s) “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.
- (t) “Recipient” means the public agency, private developer or BID receiving a commitment of Program funds for an approved project.
- (u) “Rural Area” has the meaning set forth in Health and Safety Code Section 50199.21. To determine whether a project is located in a Rural Area, please refer to the document entitled Infill Infrastructure Grant (IIG) Program, Rural Area Determination Procedures.
- (v) “Site Control” means the applicant or developer has control of 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, right of way, or irrevocable offer of dedication to a public agency;

- (5) an executed encroachment permit for construction of improvements or facilities within the public right of way or on public land;
 - (6) an executed agreement with a public agency that gives the 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;
 - (7) a land sales contract or other enforceable agreement for acquisition of the property; or
 - (8) other forms of site control that give the Department equivalent assurance that the applicant or developer will be able to complete the Project and all housing designated in the application in a timely manner and in accordance with all the requirements of the Program.
- (w) "TCAC" means the California Tax Credit Allocation Committee.
- (x) "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.
- (y) "Urbanized Area" means an incorporated city, or an urbanized area or urban cluster as defined by the United States Census Bureau, or an unincorporated area within an urban service area that is designated in the local general plan for urban development and is served by public sewer and water.
- (z) "Urban Uses" mean any residential, commercial, industrial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. Urban Uses do not include lands used for agricultural uses or parcels in excess of 15,000 square feet in size and containing only one single family residence.
- (aa) "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 the housing designated in the application for a Qualifying Infill Area. The Qualifying Infill Project or Area must:
 - (1) Be located in an Urbanized Area.
 - (2) Be located in a Locality which has 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 Section 65585 of the Government Code. Housing element compliance must be established as described in the NOFA.
 - (3) Include not less than 15 percent of the total residential units to be developed in the Qualifying Infill Project or Qualifying Infill Area as Affordable Units.
 - (A) For developments that contain both rental and ownership units, units of either or both product types may be included in the calculation of the percentage of Affordable Units.
 - (B) A disposition and development agreement or other project- or area-specific agreement between the developer and the local agency having jurisdiction over the Project executed on or before August 24, 2007 shall be deemed to meet the affordability requirement of this paragraph if the agreement includes affordability covenants that subject the Qualifying Infill Project or Area to the production of affordable units for very low, low-, or moderate-income households.
 - (C) Replacement housing units required to be provided by a community redevelopment agency pursuant to redevelopment law shall not be counted toward meeting the requirements of this paragraph. For example, if the total number of residential units to be developed in the Qualifying Infill Project or Qualifying

Infill Area is 100 units, and the development is required to provide 20 replacement housing units, then the 20 replacement units cannot be included when calculating the 15 percent threshold requirement. In this example, 100 residential units X 15% = 15 affordable housing units. Therefore, 15 affordable housing units must be produced in addition to the 20 replacement housing units for a total of 35 affordable housing units needed to meet this threshold requirement.

- (4) 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 ten units per acre. Minimum densities for Localities that are not Rural Areas may be found at Appendix 1 of the Housing Element Law memorandum issued by the Department and found at http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/Default_2010census_update.pdf.
- (5) Be located in an area designated for mixed-use or residential development (including areas where these types of development are allowable through a conditional use permit process) pursuant to one of the following adopted plans:
 - (A) A general plan adopted pursuant to Section 65300 of the Government Code.
 - (B) A project area redevelopment plan approved pursuant to Section 33330 of the Health & Safety Code.
 - (C) A regional blueprint plan as defined in the California Regional Blueprint Planning Program administered by the California State Transportation Agency, or a regional plan as defined in Section 65060.7 of the Government Code.

- (6) Have any of the following:
 - (A) at least 75 percent of the area included within the Qualifying Infill Project or Qualifying Infill Area as previously improved (including areas where improvements have been demolished) or used for any use other than open space, agriculture, forestry, or mining waste storage; or
 - (B) at least 75 percent of the perimeter of the Qualifying Infill Project or Qualifying Infill Area adjoining parcels that are developed with Urban Uses, or is separated from parcels that are developed with Urban Uses only by an improved public right-of-way. In calculating this percentage, perimeters bordering navigable bodies of water and improved parks shall not be included; or
 - (C) the combination of at least 50 percent of the area included within the Qualifying Infill Project or Qualifying Infill Area as previously improved (including areas where improvements have been demolished) or used for any use other than open space, agriculture, forestry or mining waste storage, and at least 50 percent of the perimeter of the Qualifying Infill Project or Qualifying Infill Area adjoining parcels that are developed with Urban Uses, or is separated from parcels that are developed with Urban Uses only by an improved public right-of-way. In calculating this percentage, perimeters bordering navigable bodies of water and improved parks shall not be included.
 - (7) If located in a redevelopment project area, meet the replacement housing requirements contained in Subdivision (a) of Section 33413 of the Health & Safety Code.
- (b) In addition, each Qualifying Infill Area must:
- (1) include entirely within its boundaries a Qualifying Infill Project which meets the definition and criteria for a Qualifying Infill Project that has received all land use entitlements required for construction, or has a land use entitlement application pending before the appropriate jurisdiction, which application has been deemed to be complete pursuant to the Permit Streamlining Act (Chapter 4.5 of Division 1 of Title 7 of the Government Code, commencing with Section 65920), where applicable;

- (2) be a contiguous, coherent area treated as a discrete planning area in local planning documents and that does not contain extensions or satellite areas included solely to meet Program requirements; and
 - (3) include a Qualifying Infill Project that cannot contain more than 50 percent of the total housing units proposed for the Qualifying Infill Area.
- (c) A Qualifying Infill Project must be a discrete development. All the housing development components must have been planned as one development and jointly considered for local land use approval. They must also have common, affiliated or contractually-related ownership and financing structures.

Section 304. Eligible Costs

- (a) Program grant funds must be used for reasonable and necessary costs of a Capital Improvement Project required as a condition of, or approved by the local jurisdiction in connection with its approval of, entitlements for the Qualifying Infill Project or Qualifying Infill Area. 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 improvement of the following:
- (1) The creation, development, or rehabilitation of parks or open space. No more than \$200 million of the total available Program funds shall be awarded for this activity.
 - (2) Water, sewer, or other utility service improvements and relocation.
 - (3) Streets and road construction and improvement.
 - (4) Required replacement of transit station parking spaces, not to exceed \$40,000 per space.
 - (5) 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 \$40,000 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 preparation or 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.
 - (11) Storm drains, storm water 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.
 - (14) Other capital asset costs approved by the Department and required as a condition of local approval for the Capital Improvement Project.
- (b) Impact fees required by local ordinance are eligible for funding, said fees are not to exceed five (5) percent of the total Program grant amount, only if used for the identified eligible Capital Improvement Project.
- (c) Costs are not eligible for funding if there is another feasible, available source of funding for the Capital Asset or portion thereof to be funded by the Program.
- (d) The following costs are not eligible:
- (1) Parking spaces and structures, except as provided in Paragraphs (a)(4) and (5) above.
 - (2) For buildings with parking structures below housing, costs of site acquisition for housing and mixed use structural improvements. For all other building types, the costs of site

- acquisition, grading and foundations for housing and mixed use structural improvements.
- (3) Costs of housing or mixed use structures.
 - (4) Any costs not permitted as a Capital Asset cost under Government Code Section 16727.
 - (5) Soft costs related to ineligible costs.
 - (6) In lieu fees for local inclusionary programs.
 - (7) Brownfield cleanup activities eligible for funding under the CalReUSE program administered by the California Pollution Control Financing Authority.

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 required to be provided by a community redevelopment agency pursuant to redevelopment law 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) For Qualifying Infill Projects, the Program grant amount shall not be less than \$500,000 or \$250,000 for Rural Areas. The Program grant amount for Qualifying Infill Projects shall not exceed \$5 million for each NOFA. For Qualifying Infill Areas and multi-phased Qualifying Infill Projects with over 200 units that elect to be scored pursuant to Section 310, the Program grant amount shall not be less than \$2 million, or \$1 million for Rural Areas. The Program grant amount for Qualifying Infill Areas and multi-phased Qualifying Infill Projects with over 200 units that elect to be scored pursuant to Section 310 shall not exceed \$30 million for each NOFA. Over the life of the Program, the total of all Program awards for any single Qualifying Infill Project, Qualifying Infill Area or multi-phased Qualifying Infill Project with over 200 units, including the Qualifying Infill Project within a Qualifying Infill Area, shall not exceed \$50 million. The Department will fund only one application for each Capital Improvement Project or portion thereof. In each NOFA, the Department will fund only one application for each Qualifying Infill Project and Qualifying Infill Area.

- (c) The applicant must demonstrate that the grant does not result in the developer or developers benefiting from the Qualifying Infill Project or Area or the Capital Improvement Project by realizing a profit that exceeds the commercially reasonable range for other developments of similar size and level of risk.
- (d) The applicant must show that Program funds are reasonably necessary for Project feasibility and no other source of compatible funding is reasonably available, including excess surplus amounts as defined by Paragraph (1) of Subdivision (g) of Section 33334.12 of the Health and Safety Code held by redevelopment agencies in their Low- and Moderate-Income Housing Funds.
- (e) The 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 pro-forma, sources and uses statement, or other feasibility documentation that is standard industry practice for the type of proposed housing development.
- (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 Title 25, California Code of Regulations 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) BID applicants must demonstrate that receipt of Program funds will not result in a decrease in the level of assessments for businesses in the business improvement area as provided in Chapter 3, Part 6, Division 18 (commencing with Section 36530) of the Streets and Highways Code.
- (h) Conditions precedent to the first disbursement of Program funds shall include receipt of all required public agency entitlements and all required funding commitments for the Qualifying Infill Project supported by the Capital Improvement Project. Alternatively, if the Qualifying Infill Project includes multiple phases or developments, no program funds shall be disbursed until all entitlements and funding commitments for at least the first phase of the Qualifying Infill Project have been received.
- (i) Prior to the disbursement of grant funds to joint applicants where one of the applicants is a BID, they shall submit to the Department documentation from the local permitting authority demonstrating that the applicant has received building permits for Affordable Units associated with the Qualifying Infill Project within the Qualifying Infill Area in an amount equal to or greater than the number of housing units in the approved grant application in terms of number of bedrooms and level of affordability.
- (j) Funds will be disbursed as progress payments for approved eligible costs incurred subject to the requirements of these Guidelines. In a Qualifying Infill Area, disbursement of funds for improvements in excess of those needed for the first phase of the Qualifying Infill Project shall be conditioned i) on the need for the additional improvements at the time of the disbursement request and ii) the receipt of evidence acceptable to the Department that the housing development(s) proposed to be supported by the additional fund disbursement are consistent with applicable planning and zoning requirements.
- (k) Where approval by a local public works department, or its equivalent, is required for the Capital Improvement Project, the applicant must submit, prior to the disbursement of grant funds, a statement from that department, 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.

Section 306. Performance Requirements

- (a) Recipients shall begin construction of the housing units to be developed in the Qualifying Infill Project and the housing designated in the application for a Qualifying Infill Area within the time set forth in the Standard Agreement but not more than 2 years from the date of the Program grant award.

- (b) The housing units to be developed in the Qualifying Infill Project and the housing designated in the application for a Qualifying Infill Area must be completed, as evidenced by receipt of a certificate of occupancy, within the period of time set forth in the Standard Agreement, but not more than five (5) years from the date of the award of the Program grant.
- (c) Program funds must be disbursed in accordance with deadlines specified in the Standard Agreement, and in no event later than the following disbursement deadlines. The Department may approve a disbursement extension deadline request up to the applicable Maximum Disbursement Extension Deadline (as shown below) if the Recipient demonstrates, to the satisfaction of the Department, that it has complied with the following performance milestones related to the Notice of Funding Availability (NOFA) round in which the Department made its award to the Recipient:

Table 1

NOFA Date	PERFORMANCE MILESTONE DATES		Maximum Disbursement Deadline
	Standard Agreement Executed	Disbursement Agreement Executed	
February 28, 2008	June 30, 2012	June 30, 2012	February 3, 2020
January 30, 2009	June 30, 2013	June 30, 2013	February 3, 2020
May 14, 2013	June 30, 2014	June 30, 2014	February 3, 2020
October 2, 2014	June 30, 2016	June 30, 2016	February 3, 2020
October 2017	January 31, 2020	January 31, 2020	February 1, 2022

**Prior year liquidation deadlines for IIG appropriations were extended by Item 2240-490, Budget Act of 2016 (Ch. 23, Stats. 2016)*

- (d) 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 (2) 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.

ARTICLE 3. APPLICATION PROCEDURES

Section 307. Eligible Applicants and Application Process

- (a) The Department shall offer Program funds through a NOFA in accordance with the procedures for MHP NOFAs set forth in 25 CCR Section 7317, consistent with the requirements of these Guidelines. Each NOFA may allocate funds between Qualifying Infill Projects and Qualifying Infill Areas. Applicants cannot submit an application for a Capital Improvement Project, or portion thereof, for which an application is submitted under the other allocation in the same NOFA or for which an award of Program funds has been made under previous NOFAs. Applicants may submit applications for different phases of a Capital Improvement Project under different NOFA's.
- (b) Applications shall be made on forms made available by the Department.
- (c) Applicant Entities shall be the following:
 - (1) For Qualifying Infill Projects, the nonprofit or for-profit developer of the Qualifying Infill Project is a required applicant, either by itself or as a joint applicant with a Locality or public housing authority with jurisdiction over the area in which the Qualifying Infill Project is located. Public agencies are not eligible as sole applicants for Qualifying Infill Projects. Transit districts, regional planning agencies, and joint powers authorities are not eligible joint applicants, except that joint powers authorities comprised entirely of eligible applicants are eligible, jointly with the developer of the Qualifying Infill Project, where the authority granted to the joint powers authority encompasses the activities necessary to comply with the requirements of the Program.
 - (2) For Qualifying Infill Areas, a Locality or public housing authority that has jurisdiction over the Qualifying Infill Area, or one of these entities together with a BID as joint applicants, provided that the BID includes, or is contained within, the Qualifying Infill Area. Transit districts, regional planning agencies, and joint powers authorities are not eligible applicants or joint applicants, except that joint powers authorities comprised entirely of eligible applicants are eligible, either individually or jointly with other eligible applicants, where the authority encompasses the activities necessary to comply with the requirements of the Program.
 - (3) Joint applications are permitted where each applicant individually is an eligible applicant. All recipients are to be joint and severally liable for breach of the Standard Agreement.

- (d) The Department shall evaluate applications for compliance with the threshold requirements listed in Section 308, and score them based on the application selection criteria listed in Sections 309 or 310. The highest scoring 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:
 - (1) target 45 percent of total funds to projects located in Southern California (Imperial, Kern, Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, San Luis Obispo, or Ventura);
 - (2) target 10 percent of total funds to projects located in the Central Valley (Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare counties); and
 - (3) target 45 percent of total funds to projects located in Northern California [those not located in the counties specified in previous paragraphs (d)(1) and (d)(2)].
- (e) The NOFA may specify a minimum number of ranking points for a Project to be eligible for funding.
- (f) The Department may elect to not evaluate compliance with some or all threshold requirements for applications that are not within a fundable range, as indicated by a preliminary point scoring. In the event of two or more applications having the same rating and ranking scores, the Department will apply a tie breaking criteria outlined in the NOFA.
- (g) Applications selected for funding shall be approved subject to conditions specified by the Department.

Section 308. Application Threshold Requirements

- (a) To be considered for Program funding, applications must include a Qualifying Infill Project, including those Qualifying Infill Projects used to establish the eligibility of a Qualifying Infill Area, and meet all of the following threshold requirements:
 - (1) The application must be for a Capital Improvement Project eligible pursuant to Section 303 and the applicant must be eligible pursuant to Section 307(c).
 - (2) (All proposed uses of Program funds must be eligible pursuant to Section 304.
 - (3) The application must be sufficiently complete to assess the feasibility of the application and its compliance with Program requirements.
 - (4) Construction of the Capital Improvement Project has not commenced as of the deadline for submittal of applications set forth in the NOFA.
 - (5) The Capital Improvement Project is infeasible without Program funds, and other available funds are not being supplanted by Program funds.
 - (6) The applicant or developer 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.
- (b) To be eligible for funding, a Qualifying Infill Area must meet all of the following threshold requirements:
 - (1) It must have a definite, described border.
 - (2) It must contain at least one Qualifying Infill Project completely within its borders.
 - (3) It must be subject to a public plan or ordinance adopted for the purpose of guiding development within the area. The process leading to the adoption of this plan or ordinance must have public notification as required by law and involved significant input from affected stakeholders, including potential developers. Examples of qualifying plans include specific plans, redevelopment area plans, or transit station area plans.

- (4) The 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(a)(4) and the Net Density proposed in the application for the purposes of rating pursuant to Section 310 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.
- (c) Applicants shall designate the proposed residential units in the Qualifying Infill Project, or within the Qualifying Infill Area that the 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.

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 development phase or 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.

- (d) 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 August 24, 2007 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.

Section 309. Application Selection Criteria for Qualifying Infill Projects

Applications for Capital Improvement Projects associated with Qualifying Infill Projects shall be rated using the criteria detailed below. Applicants may elect to exclude from consideration discrete phases or portions of their developments, provided that these portions or phases are not included for other purposes under

these Guidelines, including rating pursuant to this Section 309 and determining the maximum grant amount calculated pursuant to Section 305(a). For a Qualifying Infill Project consisting of a multi-phased development with 200 or more residential units which meets the eligibility and threshold requirements for a Qualifying Infill Project under Sections 303 and 308 respectively, the applicant may elect to be rated pursuant to the criteria in Section 310 and ranked for funding with Qualifying Infill Area applications for funds allocated in the NOFA for Qualifying Infill Areas. Points are not cumulative within each subparagraph unless otherwise specified.

(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) Completion of all necessary environmental clearances or mitigated negative declaration, including those required under the California Environmental Quality Act and the National Environmental Policy Act and all applicable time periods for filing appeals or lawsuits 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 discretionary local land use approvals, excluding design review, have been granted for the Qualifying Infill Project, including sites zoned for residential use by right pursuant to Subdivision (h) and (i) of Section 65583.2 of the Government Code, shall receive 30 points.

(B) Applications which demonstrate that the Qualifying Infill Project is consistent with 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 applicant can secure 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 Period	Permanent Period	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 Period	Permanent Period	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 Period		Points
At least 50% of total development cost less deferred costs		5

Ownership developments

Construction Period	Permanent Period	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 Period	Permanent Period	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 Period		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 amount 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 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 (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 Department of Housing and Urban Development’s (HUD) Supportive Housing Program (SHP), Home Investment Partnerships Program (HOME), Community Development Block Grant Program (CDBG), and the Local Government Special Needs Housing Program. Funding commitments issued by the Department simultaneously with the commitment of Program funds will be considered committed for the purposes of this paragraph.
- (C) For self-help homeownership developments utilizing USDA 502 Loans, those funds shall be considered committed if the 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% of deferred developer fee. The Department may require the applicant to evidence the availability of the proposed amount of owner equity or developer funds.

(4) Local Support - 20 points maximum

Points will be awarded for one of the following:

(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 twenty (20) 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 five (5) 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 Department of Housing and Urban Development's (HUD) Supportive Housing Program (SHP), 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 (MAI) conducted within one year of the application deadline. A commitment of local support in the form of a Local Fee Waiver must be supported by written documentation from the local public agency.

(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 three following scales. Applications designating ownership units, or a combination of rental and ownership units, must utilize the scale set forth in paragraph 3 below.

- (1) The scale used by MHP, as specified in 25 CCR Section 7320(b)(1). Applicants making this election shall be awarded 60/35 points for every one (1) point they would be eligible to receive using MHP's system (so that 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 scale used by TCAC to score 9 percent low income housing tax credit applications, under the Lowest Income point category. Applicants making this election shall be awarded 60/52 points for every one (1) point they would be eligible to receive using TCAC's system (so that applications eligible for the maximum possible 52 points using the 9 percent scale receive the maximum possible points in this category for the Program).
- (3) 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.
- (4) 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.
 - (5) 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(a)(4). Maps used for calculating Net Density shall be evidenced by a date stamped map certified by a California State-licensed professional such as an engineer, surveyor, or landscape architect.

- (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 12 1-bedroom units at 800 sq. ft. each, 12 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:

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

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

Then, 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 our 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 number 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 your 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-Bdrm	0.7
1-Bdrm	0.9
2-Bdrm	1.2
3-Bdrm	1.6
4-Bdrm	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 date stamped map certified by a California State-licensed professional such as an engineer, surveyor, or landscape architect.

- (1) 20 points will be awarded to a Qualifying Infill Project within one half mile of a Transit Station or Major Transit Stop as defined in Sections 302(l)(1) or (2) 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 mile of a Transit Station or Major Transit Stop as defined in Sections 302(l)(1) or (2) 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.
- (3) 5 points will be awarded to a Qualifying Infill Project within one mile of a Transit Station or a Major Transit Stop as defined in Sections 302(l)(3) or (4), 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.

- (4) 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.

(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 date stamped map certified by a California State-licensed professional such as an engineer, surveyor, or landscape architect.

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

- (1) The Qualifying Infill Project is within one-quarter (1/4) mile of a public park (one-half (1/2) 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), six (6) points, or within one-half (1/2 mile) (one (1) mile for Rural Area projects), four (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), seven (7) points, or within two (2) miles (four (4) miles for Rural Area projects), four (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 (1) mile of a locally recognized retail center with a minimum of fifty (50) full-time employees (two (2) miles for Rural Area projects), seven (7) points, or within two (2) miles (four (4) miles for Rural Area

projects), four (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 (1/4) mile of a public school or community college that residents of the Qualifying Infill Project may attend (one-half (1/2) mile for Rural Area projects), seven (7) points, or within one-half (1/2) mile (one (1) mile for Rural Area projects), four (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 (1/2) mile of a social service facility that operates to serve residents of the Qualifying Infill Project, seven (7) points or within one (1) mile, four (4) points.
- (6) For a Qualifying Infill Project that is reserved for qualified senior citizens under Sections 51.2, 51.3 and 51.4 of the Civil Code, the Qualifying Infill Project is within one-quarter (1/4) mile of a senior center or a facility regularly offering services specifically designed for seniors (one-half (1/2) mile for Rural Area projects), seven (7) points or within one-half (1/2) mile (one (1) mile for Rural Area projects), four (4) points.

(f) Consistency with Regional Plans –10 points Maximum

10 points will be awarded if the Qualifying Infill Project's location is consistent with an adopted regional blueprint plan or other adopted regional growth plan (including, but not limited to, an adopted regional transportation plan or sustainable communities strategy) with the stated intent of fostering efficient land use and that encourages infill development. Such plans must have been adopted by a regional council of government, metropolitan planning organization, or regional transportation planning agency, and must be in effect by the application due date. 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 regional council of government, metropolitan planning organization, or regional transportation planning agency confirming such consistency. No points will be awarded if either (i) the Qualifying Infill Project is located in an area without an adopted plan, or (ii) the Qualifying Infill Project has failed to demonstrate consistency with

an adopted plan by the aforementioned letter or resolution. As all jurisdictions are statutorily subject to Regional Housing Need Allocation (RHNA) Plans, which are required to promote infill development, a RHNA Plan does not qualify as an adopted plan under this scoring category.

Section 310. Application Selection Criteria for Qualifying Infill Areas and Large Multi-phased Projects

Applications for Capital Improvement Projects associated with Qualifying Infill Areas shall be awarded points using the criteria detailed below. 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(a). For a Qualifying Infill Project consisting of a multi-phased development with 200 or more residential units which meets the eligibility and threshold requirements for a Qualifying Infill Project under Sections 303 and 308 respectively, the applicant may elect to be rated pursuant to the criteria in this Section 310 and ranked for funding with Qualifying Infill Area applications for funds allocated in the NOFA for Qualifying Infill Areas. Points are not cumulative within each subparagraph unless otherwise specified.

(a) Area Readiness – 90 points Maximum

Readiness points will be awarded as follows:

- (1) Environmental Review Status - 25 points maximum
 - (A) Applications for Qualifying Infill Areas for which a program, master or tiered environmental impact report for which the applicable time periods to file appeals or lawsuits have lapsed or mitigated negative declaration has been adopted by the appropriate agency and the developments included in the application constitute subsequent projects subject to environmental review as such pursuant to CEQA Guidelines, Chapter 3, Title 14, CCR, commencing with Section 15000 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 five (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 (1) year prior to the application due date will receive five (5) points.
- (2) 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 discretionary local land use approvals, excluding design review, for not less than half of the housing units proposed for development within the Qualifying Infill Area have been granted, including sites zoned for residential use by right pursuant to Subdivision (h) and (i) of Section 65583.2 of the Government Code, will receive 25 points.
- (B) Applications which meet the criteria in Subparagraph (C) and demonstrate that all necessary discretionary 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, including sites zoned for residential use by right pursuant to Subdivision (h) and (i) of Section 65583.2 of the Government Code, will receive 20 points.

- (C) Applications which demonstrate that the Qualifying Infill Area is subject to a general plan, specific plan, redevelopment area 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 public works department, or its equivalent, for the Capital Improvement Project within the Qualifying Infill Area have been granted will receive five (5) points.

(3) 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.

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 a 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 substituted later 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 applicant to evidence the availability of the proposed amount of owner equity or developer funds.
- (4) Local Support - 20 points maximum
- (A) Points will be awarded for obtaining a commitment or commitments of state or locally administered funds authorized under the 2009 federal economic stimulus package (“Stimulus Funds”) for the Qualifying Infill Area or Capital Improvement Project in accordance

with the following scale, provided that the sum of the Stimulus Funds plus other local public agency funding totals an amount at least equal to 35 percent of the amount of the Program grant. A land donation supported by an appraisal may be considered a commitment.

Ten (10) points will be awarded if the amount of Stimulus Funds is at least 20 percent of the amount of the Program grant;

Six (6) points will be awarded if the amount of Stimulus Funds is at least 15 percent of the Program grant; or

Four (4) points will be awarded if the amount of Stimulus Funds is at least 10 percent of the Program grant.

Stimulus Funds shall be considered committed at time of application if evidenced by a letter of intent from the director of the agency responsible for administering it, subject to receipt of a binding commitment by the time the Department completes its application rating and ranking process.

Additional points will be awarded for one of the following:

- (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 25 percent of the Program grant will receive 10 points. A land donation supported by an appraisal may be considered a commitment.
- (C) 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 five (5) points. A land donation supported by an appraisal may be considered a commitment.
- (D) Three (3) points will be awarded for either of the following: (i) 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, or (ii) submittal of a letter of support from the legislative body or director of the planning department of the Locality having jurisdiction over the Qualifying Infill Area. No more than three (3) points are available under this subparagraph.

(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 point 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 point 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 For a suburban three-site QIA:

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 2-bedroom units times 1.2 plus 20 3-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% which yields 15 points for Density.

Unit Size (Bedrooms)	Factor
0-Bdrm	0.7
1-Bdrm	0.9
2-Bdrm	1.2
3-Bdrm	1.6
4-Bdrm	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)(1) 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 ten.

(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 (1/2) 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 (1/2) 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 less than 200 residential units will yield four (4) points each. Amenities serving Qualifying Infill Areas consisting of 200 or more residential units will yield two (2) points each. Each distinct amenity may be counted only once. The applicant shall designate the specific subcategory for each amenity identified. No more than 50 percent of a Qualifying Infill Area's amenities may be from any one

subcategory. Points for each amenity will be added to achieve the application score, not to exceed 20 points.

- (1) Amenities include:
- (A) Public parks (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).
 - (B) Locally recognized employment center with a minimum of fifty (50) 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.
 - (C) Locally recognized retail center with a minimum of fifty (50) full-time employees. A retail center is a downtown area or recognized neighborhood or regional shopping mall.
 - (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.
 - (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.
 - (F) Where designated units in this application which 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.

(f) Consistency with Regional Plans –10 points Maximum

10 points will be awarded if the Qualifying Infill Area's location is consistent with an adopted regional blueprint plan or other adopted regional growth plan (including, but not limited to, an adopted regional transportation plan or sustainable communities strategy) with the stated intent of fostering efficient land use and that

encourages infill development. Such plans must have been adopted by a regional council of government, metropolitan planning organization, or regional transportation planning agency, and must be in effect by the application due date. 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 regional council of government, metropolitan planning organization, or regional transportation planning agency confirming such consistency. No points will be awarded if either (i) the Qualifying Infill Area is located in an area without an adopted plan, or (ii) the Qualifying Infill Area has failed to demonstrate consistency with an adopted plan by the aforementioned letter or resolution. As all jurisdictions are statutorily subject to Regional Housing Need Allocation (RHNA) Plans, which are required to promote infill development, a RHNA Plan does not qualify as an adopted plan under this scoring category.

ARTICLE 4. PROGRAM OPERATIONS

Section 311. Legal Documents.

Upon the award of 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 or 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 of files, accounts and other records, and report 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 financing for the Capital Improvement Project. The Department may also arrange for publicity of the Department grant in its sole discretion;
- (g) 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 term of the Standard Agreement and according to the annual deadline identified in the Standard Agreement, the Recipient shall submit, upon request of the Department, an annual performance report regarding the construction of the Capital Improvement Project and the development, construction, affordability and occupancy of housing designated for development in the application. The reports will be filed on forms provided by the Department.
- (b) At any time during the term of the Standard Agreement, 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.

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 the State Prevailing Wage Law (Labor Code Sections 1720 – 1781), a grant under the Program shall be considered public funding for the construction, rehabilitation, demolition, relocation, preservation, or other physical improvement of the Capital Asset subject to the provisions of the State 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 the State Prevailing Wage Law. It is not the intent of the Department in these regulations to subject Qualifying Infill Projects or Qualifying

Infill Areas to the State Prevailing Wage Law by reason of Program funding of the Capital Improvement Project in those circumstances where such public funding would not otherwise make the Qualifying Infill Project or Qualifying Infill Area subject to the State Prevailing Wage Law. Although the use of Program funds does not require compliance with federal Davis Bacon wages, other funding sources may require compliance with federal Davis Bacon wages.

Section 315. Large, Multi-phased Project Modifications

For a Qualifying Infill Project awarded Program funds based on a multi-phased development with 200 or more residential units pursuant to Sections 308 and 309 of the IIG Guidelines (February 28, 2008), and Sections 309 and 310 of the IIG Guidelines (January 30, 2009), a Recipient may, upon Department approval, elect the following:

- (a) The project remains a multi-phased development with 200 residential units or more; but the original number of residential units used to calculate the Grant amount may be reduced. As a result of the reduction in number and/or type of residential units, the scope of work for the Capital Improvement Project associated with the project may also be reduced. In addition, the Grant amount originally awarded will be reduced accordingly based on the methodology used by Department to calculate the Grant award. The Recipient choosing to make this election shall be subject to all of the Program requirements imposed on multi-phased developments to include, but not be limited to:
 - (1) Completion of the minimum requirement of 200 residential units with 15% of the units consisting of affordable residential units.
 - (2) Recipients are joint and severally liable for breach of the Standard Agreement.
 - (3) Full repayment of the Program funds if all conditions are not met.
 - (4) The Recipient shall demonstrate, for review and approval by the Department, all funding commitments for first phase of housing no later than June 1, 2013. For the purposes of this section, "Funding Commitments" shall be evidenced by funding commitments exemplified in Section 309(a) of the 2008 and 2009 Program Guidelines.
- (b) The project converts to a Qualifying Infill Project (single or multi-phased development) and shall be subject to all of the requirements under the respective Program Guidelines to include, but not be limited to:

- (1) The Recipient must demonstrate that Program funds are necessary for Project feasibility.
- (2) The Recipient must submit, for review and approval by the Department, revised milestones for the Capital Improvement Project and housing units evidencing compliance with the performance requirements as required by the Program to include but not limited to Section 305(i) "Grant Terms and Limits" and Section 312 "Performance Requirements" (Program Guidelines February 28, 2008) or Section 306 "Performance Requirements" (Program Guidelines January 30, 2009).
- (3) The Project satisfies the threshold requirements of Section 307 "Application Threshold Requirements" (Program Guidelines February 28, 2008) or Section 308 "Application Threshold Requirements" (Program Guidelines January 30, 2009).
- (4) The actual Grant amount shall be calculated pursuant to Section 305 "Grant Terms and Limits" of the 2008 and 2009 Program Guidelines.
- (5) One or more recipients may elect to withdraw from the award if all parties concur and upon approval by the Department.

A Recipient's election to either remain as a multi-phased development with a minimum of 200 residential units or convert to a Qualifying Infill Project shall not amend housing construction and completion deadlines established in the Program Guidelines or any amendments therein. In addition, disbursement condition requirements identified in the IIG grant documents shall continue to apply.

In order to be considered for one of the above options, a Recipient must notify the Department of the chosen option election and submit documents demonstrating the feasibility of the modified project by no later than 5:00 pm on April 1, 2013. The Department shall review the election and submitted documents to ensure that the modified project shall satisfy the requirements of the Program, which include but are not limited to, completion of the Capital Improvement Project as it relates to the statutory disbursement deadline and the construction and completion of the housing development(s).