

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
**DIVISION OF STATE FINANCIAL ASSISTANCE**

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**March 15, 2023**

**MEMORANDUM FOR:** POTENTIAL APPLICANTS

**FROM:** Jennifer Seeger, Deputy Director  
 Division of State Financial Assistance

**SUBJECT:** **Infill Infrastructure Grant - Catalytic Qualifying Infill Area Program Guidelines and Notice of Funding Availability Phase II Application Solicitation**

The California Department of Housing and Community Development (Department or HCD) is pleased to announce the release of this Phase II Application Solicitation for approximately \$105 million in funds available under the Infill Infrastructure Grant Program - Catalytic Qualifying Infill Area (IIGC or Program) as follows:

Available Funding	
Jurisdiction Type	Approximate Funding Available
Small Jurisdictions	\$15 million
Large Jurisdictions	\$90 million
<b>Total Funds Available:</b>	<b>\$105 million</b>

*\*Please refer to Appendix A for a list of Small Jurisdictions*

## BACKGROUND

On November 30, 2022, the Department released a Request for Concept Proposals as part of a two-phased application review process. The purpose of the Phase I Application was two-fold: 1) to serve as a demand survey to inform the Department on the diversity, scale, needs and challenges of interested applicants and 2) to determine eligibility based on threshold criteria and program goals as outlined in the programmatic statutory requirements.

This Phase II Application Solicitation serves as phase II in the application process and is open to all Applicants who submitted a Phase I Application that has been reviewed by the Department and determined to be an eligible Catalytic Qualifying Infill Area and an eligible Capital Improvement Project.

The primary goal of IIGC is to promote infill housing development by providing financial assistance for Capital Improvement Projects that are an integral part of, or necessary to facilitate the development of Catalytic Qualifying Infill Areas. Under the Program, grants are available as gap funding for infrastructure and other capital improvements necessary for specific residential or mixed-use infill development proposals.

## **APPLICATION PROCESS**

**The Phase II Application must be submitted electronically via the HCD IIGC Phase II Application Portal, available online at <https://hcd.ca.gov/grants-and-funding/programs-active/infill-infrastructure-grant> no later than 4:00 p.m. Pacific Time on April 10, 2023.**

Please note that applications will only be accepted from Applicants which submitted a Phase I Application and received an invitation to apply in phase II. Any Applicant submitting a Phase II Application that did not received an invitation to submit a Phase II Application from HCD will be disqualified and their application will not be reviewed.

As Catalytic Qualifying Infill Areas need not be contiguous, eligible Applicants selected to submit Phase II Application may be allowed to combine Catalytic Qualifying Infill Areas that were previously submitted as separate Phase I Applications into a single Application. The Department will accept and review no more than one Phase II Application per Applicant.

The Phase II Application will be posted to the website no later than March 15, 2023. To receive information regarding online workshops and other updates, please subscribe to the HCD email list at <https://www.hcd.ca.gov/contact-us/email-signup>.

If you have further questions, please contact [infill@hcd.ca.gov](mailto:infill@hcd.ca.gov).

Attachment

**Infill Infrastructure Grant Program –  
Catalytic Qualifying Infill Area**

**Program Guidelines and Notice of Funding Availability  
Phase II Application Solicitation**



**Gavin Newsom, Governor  
State of California**

**Lourdes M. Castro Ramírez, Secretary  
Business, Consumer Services and Housing Agency**

**Gustavo Velasquez, Director  
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**March 15, 2023**

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## Article 1. General Overview

### Section 100. Authorizing Legislation, Applicable Law, Purpose, and Scope

The Infill Infrastructure Grant Program - Catalytic Qualifying Infill Area (IIGC or Program) implements and interprets Part 12.5 (commencing with Section 53559) of Division 31 of the Health and Safety Code (HSC), amended by Assembly Bill 157 Chapter 570 Statutes of 2022 (AB 157), which establishes the greater Infill Infrastructure Grant Program of 2019, hereinafter referred to as the Infill Infrastructure Grant Program (IIG-2019).

Among other things, AB 157 expands the definition of Capital Improvement Project to include Adaptive Reuse.

AB 157 also expands the Program to fund Capital Improvement Projects that are an integral part of a Catalytic Qualifying Infill Area.

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

Under the Program, grants are available as gap funding for infrastructure improvements, Factory-Built Housing components, and Adaptive Reuse necessary for specific residential or mixed-use infill developments. Sites and parcels that make up Catalytic Qualifying Infill Areas must have been either previously developed (within the last ten years) or largely surrounded by sites developed with Urban Uses. Eligible improvements include, but are not limited to, the creation, development, or rehabilitation of Parks or Open Space, water, sewer or other utility service improvements, streets, roads, or transit linkages or facilities, facilities that support pedestrian or bicycle transit, traffic mitigation, sidewalk or streetscape improvements, Factory-Built Housing components, Adaptive Reuse, and site preparation or demolition.

This Phase II Application Solicitation describes the Program guidelines and announces the funding availability (Program guidelines and the Notice of Funding Availability are incorporated in this single document). The Phase II Application Solicitation sets forth specific eligibility requirements and selection criteria for the Phase II Application. In addition to the Phase II Application Solicitation, Applicants should carefully review the Request for Concept Proposals, and Phase I Application in preparing a Phase II Application.

Funds will be allocated through a competitive process for Large and Small Jurisdictions. Nothing in this Phase II Application Solicitation is intended to be, nor should be, interpreted to amend or repeal rules, regulations or requirements set forth in prior

versions of IIG guidelines or their amendments; this Phase II Application Solicitation shall have no retroactive application. This Phase II Application Solicitation shall, however, replace all prior versions of guidelines for the purposes of applying to the funding offered subsequent to their publication.

## Section 101. Uniform Multifamily Regulations

The Uniform Multifamily Regulations (UMR) (Cal. Code Regs., tit. 25, Section 8300 et seq.), effective November 15, 2017, and as subsequently amended, are hereby incorporated by reference, except to the extent any UMR provision would be inconsistent with this Phase II Application Solicitation.

## Section 102. Definitions

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

“Accessible Housing Unit(s)” refers collectively to “Housing Units with Mobility Features” and “Housing Units with Hearing/Vision Features” as defined below:

- (a) A “Housing Unit with Mobility Features” means and refers to a housing Unit that is located on an accessible route and complies with the requirements of 24 C.F.R. Section 8.22 and all applicable provisions of Uniform Federal Accessibility Standards (UFAS) or the comparable provisions of the Alternative Accessibility Standard, including but not limited to Sections 809.2 through 809.4 of the 2010 Standards for Accessible Design. A Housing Unit with Mobility Features can be approached, entered, and used by persons with mobility disabilities, including individuals who use wheelchairs. Such units must also comply with California Building Code (CBC) 11B.
- (b) A “Housing Unit with Hearing/Vision Features” means and refers to a housing Unit that complies with 24 C.F.R. Section 8.22, and all applicable provisions of UFAS or the comparable provisions of the Alternative Accessibility Standard, including but not limited to Section 809.5 of the 2010 Standards for Accessible Design. Such Units must also comply with CBC 11B.

“Adaptive Reuse” means the repurposing of building structures for residential purposes, such as former office use, commercial use, or business parks. When referring to building structures, Adaptive Reuse means retrofitting and repurposing of existing buildings that create new residential rental units, and expressly excludes a Capital Improvement Project that involves rehabilitation of any construction affecting existing residential units that are, or have been, recently occupied.

“Affirmatively Furthering Fair Housing” is defined, in accordance with Government Code (GC) Section 8899.50, subdivision (a)(1), to mean taking meaningful actions, in

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

"Affordable Unit" means a Unit that is made available at an affordable rent, as defined in HSC 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 HSC 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.

"Alternative Accessibility Standard", also referred to as the HUD Deeming Notice (HUD-2014-0042-0001), means the Alternative Accessibility Standard for accessibility set out in HUD's notice at 79 Fed. Reg. 29671 (May 23, 2014), when used in conjunction with the requirements of 24 C.F.R. pt. 8, 24 C.F.R. Section 8.22, and the requirements of 28 C.F.R. pt. 35, including 28 C.F.R. Section 35.151 and the 2010 Standards for Accessible Design as defined in 28 C.F.R. Section 35.104.

"Applicant" means the entity or entities applying to the Department for the Program grant funding, as defined in Section 201 of this Phase II Application Solicitation.

"Area Median Income" or "AMI" means the most recent applicable county median family income published by the California Tax Credit Allocation Committee (TCAC). For Tribal Applicants, if the HUD income for a county/parish located within a Tribal Entity's service area is lower than the United States median, the Tribal Entity may use the United States median income limit.

"Assisted Unit" means a housing Unit that is subject to Program Rent and/or occupancy restrictions as a result of financial assistance provided under the Program.

"Award" means a commitment of money in the form of a Program grant that is made by the Department to an eligible Applicant.

"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 are limited to the time between 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. This level of service must have been publicly posted by the provider in the 12 months preceding the Phase II Application due date.

“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.

“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.

“Capital Improvement 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 housing within the identified Catalytic Qualifying Infill Area. Capital Improvement Projects that may be funded under the Program include, but are not limited to, those described in Section 203.

“Catalytic Qualifying Infill Area” means Real Property identified in the Recipient’s Phase II Application for a Program Award and meeting the criteria set forth in Section 202 of this Phase II Application Solicitation, inclusive of the proposed Housing Development(s) meeting the criteria set forth in Section 204 of this Phase II Application Solicitation.

“Commercial Space” means any nonresidential space located in or on the property of a Housing Development that is, or is proposed to be, rented or leased by the owner of the Housing Development, the income from which shall be included in Operating Income.

“Covenant” or “Affordability Covenant” means an instrument which imposes development, use, and affordability restrictions on the real property site(s) of the Housing Development(s) in the Catalytic 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 IIGC Award to the Recipient.



“Developer” means the legal entity used to demonstrate the capacity, experience, and site control of the Housing Development and which controls the Housing Development during development and through occupancy. A nonprofit or for-profit Developer may include a Tribal Entity as defined herein.

“Disability” means the definitions of Disability in the Americans with Disabilities Act (42 U.S.C. Section 12102) or the California Fair Employment and Housing Act (Part 2.8 commencing with Section 12900) of Division 3 of Title 2 of the GC).

“Disadvantaged Communities” means any of the following:

- (a) Concentrated areas of poverty.
- (b) Areas of high segregation and poverty and areas of low to moderate access to opportunity, as identified in Opportunity Area Maps developed by the department and the TCAC.
- (c) Communities of concern, Disadvantaged Communities identified pursuant to Section 39711 of the HSC, and Low-Income communities as defined in subdivision (d) of Section 39713 of the HSC.
- (d) Areas of high housing cost burdens.
- (e) Areas with high vulnerability of displacement; areas related to Tribal Entities.
- (f) Any other areas experiencing disproportionate impacts of California’s housing and climate crisis.
- (g) Applicants may propose alternative definitions to Disadvantaged Communities in consultation with the Department.

“Disbursement Agreement” means an agreement executed by the Recipients and the Department which governs the terms, disbursement, and uses of Program funds, and includes at a minimum, conditions for payment, a specific description of the Capital Improvement Project, a description of all sources and uses, and a Capital Improvement Project budget containing cost items for the design, development, and construction of the Capital Improvement Project.

“Efficiency Unit” means a Unit containing only one habitable room. A room in a structure that is a single-family house at the time of the Phase II Application will not be considered to be an Efficiency Unit eligible for Program funds.

“Eligible Households” means households whose incomes do not exceed 60 percent of AMI (for rental projects) or 120 percent of AMI (for ownership projects). AMI for rental

projects will be calculated in accordance with the regulations and procedures governing the low-income housing tax credit program, as administered by TCAC, or other lower income limits agreed to by the Developer and the Department. Household income will be calculated based on Units in accordance with TCAC rules and procedures. (The rules and procedures set forth in 25 California Code of Regulations (CCR) Section 6932 et. seq., do not apply.) For Tribal Households, as calculated in accordance with the Native American Housing and Self Determination Act, using the greater of the income of the county/parish located within a Tribal Entity's service area or the United States median income.

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

"Enforceable Funding Commitment" means a letter or other document evidencing, to the satisfaction of the Department, a commitment of funds or a reservation of funds by a project funding source for construction or permanent financing, including, but not limited to, the following:

- (a) Private financing from a lender other than a mortgage broker, the Applicant, or an entity with an identity of interest with the Applicant, unless the Applicant is a lending institution actively and regularly engaged in residential lending;
- (b) Deferred-payment financing, residual receipts payment financing, grants and subsidies from public agencies;
- (c) Funds awarded by another Department program. Proof of Award must be issued prior to final rating and ranking of the Phase II Application.
- (d) A Land Donation in fee for no other consideration that is supported by an appraisal and/or purchase/sale agreement, or some other instrument of title transfer ("Land Donation"), or a Local Fee Waiver resulting in quantifiable cost savings for the project where those Fee Waivers are not otherwise required by federal or state law ("Local Fee Waiver"), shall be considered a funding commitment. The value of the Land Donation will be the greater of either the original purchase price or the current appraised value as supported by an independent third-party appraisal prepared by a Member Appraisal Institute-qualified appraiser within one year prior to the Phase II Application deadline. A funding commitment in the form of a Local Fee Waiver must be supported by written documentation from the local public agency. A below market lease that meets the requirements of UMR Section 8316 would be considered a Land Donation (\$1 per year).

- (e) Owner equity contributions or developer funds. Such contributions or funds shall not be subsequently substituted with a different funding source or forgone if committed in the Phase II Application, except that a substitution may be made for up to 50 percent of the deferred developer fee. The Department may require the Applicant to evidence the availability of the proposed amount of owner equity or developer funds.
- (f) For homeownership affordable Housing Developments only: Construction loans which will be repaid with revenue from the sale of homes to low- or moderate-income homebuyers.
- (g) Funds for transportation Capital Improvement Projects where those are an eligible Program cost. Funds must be programmed for allocation and expenditure in the applicable Capital Improvement Project plan consistent with the terms and timeframes of the Standard Agreement.
- (h) Enforceable Funding Commitment Letters must contain the following:
  - (1) Name of the Applicant or Developer;
  - (2) Project name;
  - (3) Project site address, assessor's parcel number, or legal description; and
  - (4) Amount, interest rate (if any), and terms of the funding source.

The assistance will be deemed to be an Enforceable Funding Commitment if it has been awarded to the project or if the Department approves other evidence that the assistance will be reliably available. The Enforceable Funding Commitment may be conditioned on certain standard underwriting criteria, such as appraisals, but may not be generally conditional. Examples of unacceptable general conditions include phrases such as "subject to senior management approval", or a statement that omits the word "commitment", but instead indicates the lender's "willingness to process an application" or indicates that financing is subject to loan committee approval of the project. Contingencies in commitment documents based upon the receipt of tax-exempt bonds or low-income housing tax credits will not disqualify a source from being counted as committed.

"Extremely Low Income" means households with Gross Incomes not exceeding 30 percent of AMI as set forth in HSC Section 50106.

"Factory-Built Housing" as set forth in HSC 19971 means a residential building, dwelling unit, or an individual dwelling room or combination of rooms thereof, or building component, assembly, or system manufactured in such a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage, or destruction of the part, including units designed for use as part of an institution for resident or patient care, that is either wholly manufactured or is in substantial part manufactured at an offsite location to be wholly or

partially assembled onsite in accordance with building standards published in the California Building Standards Code and other regulations adopted by the commission pursuant to Section 19990. Factory-built housing does not include a mobilehome, as defined in Section 18008, a recreational vehicle, as defined in Section 18010.5, or a commercial modular, as defined in Section 18012.5.

"Fiscal Integrity" means that the total Operating Income plus funds released pursuant to the Regulatory Agreement from the operating reserve account is sufficient to:

- (a) Pay all current Operating Expenses;
- (b) Pay all current debt service (excluding deferred interest);
- (c) Fully fund all reserve accounts (other than the operating reserve account) established pursuant to the Regulatory Agreement; and
- (d) Pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the permitted annual distributions shall not be considered in determining Fiscal Integrity.

"Gross Income" means all income as defined in CCR Title 25 Section 6914.

"Housing Development" means a proposed residential or mixed-use residential development project located within the Catalytic Qualifying Infill Area and designated in the Phase II Application that meets the criteria set forth in Section 204. The Units in Housing Developments are the basis for calculation of the maximum grant amount in the Phase II Application.

"HUD" means the U.S. Department of Housing and Urban Development.

"Indian Area" means the area within which a Tribally Designated Housing Entity is authorized by one or more Indian tribes to provide assistance for affordable housing pursuant to the Native American Housing and Self Determination Act (NAHASDA) at 25 U.S.C. Section 4103.

"Indian Country" means:

- (a) All land located in "Indian Country" as defined by 18 U.S. Code (USC) 1151;
- (b) All land within the limits of a Rancheria under the jurisdiction of the United States Government;
- (c) All land held in trust by the United States for an Indian tribe or individual; and
- (d) All land held by an Indian tribe or individual subject to a restriction by the United States against alienation.

"Intellectual Disability" means a condition characterized by either significant limitations in intellectual functioning (reasoning, learning, problem-solving) or adaptive behavior (everyday social and practical skills).

"Large Jurisdiction" means a county that is not a Small Jurisdiction, or any city within that county.

"Local Public Entity" or "Locality" means any county, city, city and county where a county means the unincorporated areas of that county.

"Lower Income" or "Low Income" means households with Gross Incomes not exceeding 80 percent of AMI as set forth in HSC Section 50079.5.

"Major Transit Stop" means a site containing any of the following:

- (a) An existing rail or bus rapid Transit Station.
- (b) A ferry terminal served by either a bus or rail transit service.
- (c) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during peak hours. Peak hours are limited to the time between 7 AM to 10 AM, inclusive, and 3 PM to 7 PM, inclusive, Monday through Friday, or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider in the 12 months preceding the Phase II Application due date.

"Moderate Income" means households with Gross Income not exceeding 120 percent of AMI as set forth in HSC Section 50093.

"MHP" shall mean the Multifamily Housing Program authorized and governed by Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the HSC and the Multifamily Housing Program Final Guidelines dated March 30, 2022, and as subsequently amended.

"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.

"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:

- (a) The preservation of natural resources;
- (b) The managed production of resources;
- (c) Public and/or residential outdoor recreation; or
- (d) Public health and safety.

“Operating Expenses” means the same as defined in UMR Section 8301(k).

“Operating Income” means all income generated in connection with operation of the Housing Development including rental income for Assisted Units and non-Assisted Units, rental income for Commercial Space or commercial use, laundry and equipment rental fees, rental subsidy payments, and interest on any accounts, other than approved reserve accounts, related to the Housing Development. "Operating Income" does not include security and equipment deposits, payments to the Developer for Supportive Services not included in the Department-approved operating budget, cash contributed by the Developer, or tax benefits received by the Developer.

“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.

“Phase I Application” means the first step of the IIGC application process.

“Phase II Application” means the second step of the IIGC application process which involves competitive rating and ranking of selected applications which, as determined by the Department, included Catalytic Qualifying Areas and eligible Capital Improvement Projects.

“Phase II Application Solicitation” means this document, adopted and published pursuant to Health and Safety Code section 53559, which combines the Program guidelines and the Notice of Funding Availability, as may be amended from time to time.

“Principal” means employees of the Developer who are in a position responsible for the oversight and management of development activities.

“Program” means the Infill Infrastructure Grant Program - Catalytic Qualifying Infill Area as implemented by this Solicitation.

“Recipient” means the eligible Applicant as defined in Section 201 of this Solicitation receiving a commitment of Program funds for an approved Capital Improvement Project. Upon receiving an Award of funds, the Applicant will be referred to as the “Recipient” in the Department’s legal documents.

“Regulatory Agreement” means the written agreement between the Department (or other public entity) and the Developer in connection with the Housing Developments. Such Regulatory Agreement is recorded as a lien on the Housing Developments to control the use and maintenance of the Housing Development, including restricting the cost and occupancy of the Assisted Units.

“Request for Concept Proposals” means a two-stage application process for IIGC funding:

- (a) In Phase I, eligible Applicants provide a Phase I Application which:
  - (1) Informs the Department about the diversity, scale, needs and challenges of eligible Catalytic Qualifying Infill Areas, and
  - (2) Describes how the proposed Catalytic Qualifying Infill Area meets or exceeds threshold criteria and Program goals outlined by statute.
- (b) In Phase II, the Department releases a Phase II Application Solicitation and Phase II Application detailing programmatic requirements including specific scoring criteria.

"Rehabilitation" is defined in line with Section 50096 of the HSC, and includes improvements and repairs made to a residential structure acquired for the purpose of preserving its affordability.

“Rent” means the same as “gross Rent,” as defined in accordance with the Internal Revenue Code (IRC) (26 USC 42(g)(2)(B)). It includes all mandatory charges, other than deposits paid by the tenant, for use and occupancy of an Assisted Unit, plus a utility allowance established in accordance with TCAC regulations, if applicable. For units assisted under the Housing Choice Voucher (HCV) or similar rental or operating subsidy program, Rent includes only the tenant contribution portion of the contract Rent.

“Restricted Unit” means the same as that term set forth by UMR Section 8301 for rental affordable Housing Developments, excluding units restricted at levels above 60 percent of AMI, or the same as “Affordable Unit” for homeownership Affordable Housing Developments.

“Retail Center” means a downtown area or recognized neighborhood or regional shopping mall.

“Rural Area” has the meaning set forth in HSC Section 50199.21.

“Senior” means a housing type meeting the requirements of MHP Guidelines Section 7302(e)(3).

“Small Jurisdiction” means a county with a population of less than 250,000 as of January 1, 2019, or any city within that county.

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

“Supportive Services” means social, health, educational, income support and employment services and benefits, coordination of community building and educational activities, individualized needs assessment, and individualized assistance with obtaining services and benefits (UMR Section 8301(t)).

“TCAC” means the California Tax Credit Allocation Committee.

“TCAC/HCD Opportunity Area Map” means the most recently approved TCAC/HCD Opportunity Map that measures and provides a graphical representation of place-based characteristics linked to critical life outcomes, such as educational attainment, earnings from employment, and economic mobility. For projects on federal land, and properties not identified on the TCAC/HCD Opportunity Area Map, the Applicant may use the TCAC/HCD Opportunity Area Map’s census tract nearest to the main entry for the Housing Developments <https://treasurer.ca.gov/ctcac/opportunity.asp>.

“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 the Phase II Applications set forth in this Phase II Application Solicitation.

“Tribal Entity” means a Tribe, or a Tribally Designated Housing Entity. An Applicant that is any of the following:

- (a) An Indian Tribe as defined under USC Section 4103(13)(B) of Title 25.
- (b) A Tribally Designated Housing Entity under 25 USC 4103 (22) and HSC Section 50104.6.5
- (c) If not a federally recognized Tribe as identified above, either:
  - (1) Listed in the Bureau of Indian Affairs Office of Federal Acknowledgment Petitioner List, pursuant to Federal Code of Regulations (CFR) Section 83.1 of Title 25; or
  - (2) Indian Tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of consultation pursuant to GC Section 65352.3.

“Tribal Household” means a household with (1) at least one household member who is recognized as a Tribal member by an Indian Tribe; and (2) a Gross Income not to exceed 60 percent of the AMI, in accordance with HSC Section 53559(e)(3)(C). For



purposes of this definition, AMI is determined by the greater of the median income of the county (or equivalent geographic location) in which the Indian Area is located, or the median income of the United States, in accordance with NAHASDA.

“Tribal Trust or Restricted Land” means any land title which is either held in trust by the United States for the benefit of any Indian Tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian Tribe exercises governmental power.

“Unit” has the same definition as UMR Section 8301(x).

“Urbanized area” means an incorporated city. For sites in unincorporated areas, the site 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.

“Urban Uses” means any residential, commercial, industrial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

“Very Low Income” means households with Gross Incomes not exceeding 50 percent of AMI as set forth in HSC Section 50105.

“Workforce Housing Opportunity Zone” or “Zone” means an area of contiguous or noncontiguous parcels identified on a city or county’s inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of GC Section 65583 established pursuant to Section 65621.

**Section 103. Funding Amounts, Terms, and Limits**

(a) Funding Amounts

The minimum Program Award amount is \$15 million in Large Jurisdictions and \$5 million in Small Jurisdictions. The maximum Program Award amount is \$45 million in Large Jurisdictions and \$15 million in Small Jurisdictions.

<b>Funding Minimum and Maximum Award Amounts</b>			
<b>Catalytic Qualifying Infill Areas</b>	Large Jurisdictions	Minimum	\$15 million
		Maximum	\$45 million
	Small Jurisdictions	Minimum	\$5 million
		Maximum	\$15 million

(b) Funding Terms

(1) Grant Terms

The maximum Program Award amount shall be determined by the total number of Units identified in the Phase II Application, the bedroom count of these Units, and the density and affordability of the housing to be developed. In acknowledgement that some proposed Capital Improvement Projects will utilize Program funds for infrastructure investments that must occur in advance of final plans for Housing Developments, the Department will allow some flexibility to awardees in final Unit count without penalizing Award levels. The total eligible Award amount shall be based upon the lesser of the amount necessary to fund the Capital Improvement Project or the maximum amount permitted by the IIGC Grant Amount Calculation table provided below.

<b>IIGC Grant Amount Calculation Table<sup>1</sup></b>					
<b>(Amounts are represented on a per Unit basis)</b>					
<b>Income Level &amp; Tenure</b>	<b>0-Bdrm</b>	<b>1-Bdrm</b>	<b>2-Bdrm</b>	<b>3-Bdrm</b>	<b>4-Bdrm</b>
200% FMR <sup>2</sup> or exceeds CALHFA Sales Prices or Non-Restricted	\$4,300	\$8,500	\$12,700	\$16,900	\$21,200
Moderate Income Owner	\$32,500	\$36,600	\$43,700	\$52,100	\$56,300
Low Income Owner	\$36,600	\$40,800	\$49,200	\$57,600	\$63,400
60% AMI Rental	\$36,600	\$40,800	\$49,200	\$57,600	\$63,400
50% AMI Rental	\$42,300	\$47,900	\$54,900	\$66,000	\$70,400
30% AMI Rental	\$49,200	\$52,100	\$59,100	\$76,000	\$80,200

<sup>1</sup> Unit amounts are based on December 2022 Consumer Price Index at [https://data.bls.gov/pdq/SurveyOutputServlet?data\\_tool=dropmap&series\\_id=CUUR0400SA0,CUU](https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUUR0400SA0,CUU) per U.S. Bureau of Labor Statistics (BLS).

<sup>2</sup> 200% Fair Market Rent (FMR) Unit: A 200 percent FMR Unit is a rental unit with a proposed monthly rent, which is equal to or greater than 200 percent of its county's FMR as defined by HUD.

Grant amounts established by the IIGC Grant Amount Calculation table may be increased based on proposed housing Units per acre, as represented in the following Net Density Adjustment Factor table below.

<b>Net Density Adjustment Factor</b>	
<b>Net Density (Housing Units per acre)</b>	<b>Adjustment Factor</b>
Fewer than 45	1
45 – 49.9	1.04
50 – 54.9	1.08
55 – 59.9	1.12
60 – 64.9	1.16
65 – 69.9	1.20
70 – 74.9	1.24
75 – 79.9	1.28
80 – 84.9	1.32
85 – 89.9	1.36
90 – 94.9	1.40
95 – 99.9	1.44
100 – 104.9	1.48
105 and above	1.52

(2) Lifetime Grant Maximum

Over the life of the IIG program (to include the Infill Incentive Grant program of 2007, the Infill Infrastructure Grant program of 2019, any future IIGC NOFAs or future iterations of the Program), the total of all IIG awards for any single Housing Development, Qualifying Infill Project, Qualifying Infill Area, or Catalytic Qualifying Infill Area shall not exceed \$90 million.

(3) Disbursement of Grant Funds

Program grant funds used for the completion of the Capital Improvement Project must be disbursed in accordance with the deadlines specified in the Phase II Application Solicitation, Standard Agreement, and Disbursement Agreement. The Recipient must provide final disbursement requests by the disbursement deadline specified in the Phase II Application Solicitation and Standard Agreement.

Conditions precedent to the initial disbursement of Program funds shall include receipt of all required public agency entitlements and all required funding commitments for the Capital Improvement Project(s).

Grant funds will be disbursed as progress payments for approved eligible costs incurred subject to the requirements of this Phase II Application Solicitation.

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.

The Disbursement Agreement shall be executed within two years of Award and prior to commencement of any construction.

(4) Loan of Grant Funds

Where Housing Developments receive low-income housing tax credits, the Recipient may provide Program funds to the Developer in the form of a zero percent deferred payment loan, with a term of at least 55 years. The loan may be secured by a deed of trust, which shall be subordinate to all Department loan and grant documents, and which may be recorded with the local county recorder's office, provided the beneficiary of the loan shall not under any circumstances exercise any remedy, including, without limitation, foreclosure, under the deed of trust without the prior written consent of the Department, in its sole and absolute discretion. The loan may not be sold, assigned, assumed, conveyed, or transferred to any third party without prior written Department approval, which is at the Department's sole and absolute discretion. For Catalytic Qualifying Infill Areas assisted by other Department funding programs, repayment of the loan between the Recipient and the borrower of the grant funds shall be limited to (1) no repayments to the Recipient until the maturity date or (2) repayment only from distributions (as that term is used in 25 CCR Section 8301(h)) received from the operation of housing developed in the Catalytic Qualified Infill Area pursuant to the Phase II Application which was awarded the grant. The Recipient shall be responsible for all aspects of establishing and servicing the loan. The provisions governing the loan shall be entirely consistent with this Phase II Application Solicitation 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/Developer 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 Catalytic Qualifying Infill Area receiving low-income housing tax credits regardless of the date of the Program Award.

(c) Funding Limits

Use of multiple HCD funding sources on the same Units utilized in the calculation of the Capital Improvement Project grant amount is permitted, subject to the following limitation:

- (1) The HCD Repeal of Stacking Prohibition of Multiple Department Funding Sources Memorandum, dated August 20, 2021, and as published on the Department's website at [www.hcd.ca.gov/grants-funding/docs/admin\\_memo21-06\\_stacking\\_prohibition\\_repeal.pdf](http://www.hcd.ca.gov/grants-funding/docs/admin_memo21-06_stacking_prohibition_repeal.pdf), is hereby incorporated by reference as if set forth in full herein, and it shall apply with equal force as all other provisions set forth herein. This memorandum includes the following interpretative guidance:

A maximum of four HCD funding sources comprised of no more than two development loans and two housing-related infrastructure grants may be used on a single project. Housing related infrastructure grants are those grants provided through the Affordable Housing and Sustainable Communities Program (AHSC) - Housing Related Infrastructure (HRI) grants, Transit-Oriented Development (TOD) Implementation Program - Infrastructure grants, and Infill Incentive Grant Program of 2007 (IIG-2007) and Infill Infrastructure Grant Program of 2019 (IIG-2019), including the Catalytic Qualifying Infill Area component.

- (2) "Department Funding Sources" do not include:
  - (A) Offsite infrastructure funds; or
  - (B) Existing loans or grants under any Department funding source listed above that are at least 14 years old and will be assumed or recast as part of an acquisition and Rehabilitation project.

Additionally, once a project is awarded Department funds, the Recipient acceptance of these Department funds is acknowledging the project as submitted and approved by the Department and is the project that is to be funded and built. Any partitioning of the project shall make that Award null and void, as the awarded project is no longer feasible as originally submitted and approved and because the awarded funds are unable to be assumed or assigned.

- (3) Total HCD funding, including funds awarded under this Phase II Application Solicitation, shall not exceed the following percentages of the total development cost:
- 40 percent of total development costs for Housing projects utilizing 9 percent tax credits
  - 50 percent of total development costs for projects utilizing 4 percent tax credits
  - 75 percent of total development costs for projects not utilizing tax credits

For purposes of calculating total HCD funding, all Housing Development and Capital Improvement Project funding shall be considered. Additionally, prior awards made to the Capital Improvement Project or any component of the application, any funds awarded pursuant to this Phase II Application Solicitation, and any applicable future HCD awards subsequent to any award made pursuant to this Phase II Application Solicitation shall be considered.

The funding cap set forth in this subdivision is applicable to all Department funding sources listed in the HCD Repeal of Stacking Prohibition of Multiple Department Funding Sources Memorandum [https://www.hcd.ca.gov/grants-funding/docs/admin\\_memo21-06\\_stacking\\_prohibition\\_repeal.pdf](https://www.hcd.ca.gov/grants-funding/docs/admin_memo21-06_stacking_prohibition_repeal.pdf) dated August 20, 2021. For IIGC, the sources to which the funding cap apply also include grants. This HCD-wide Department funding cap applies to all Department awards.

At the sole discretion of the HCD's Director, funding levels in excess of the percentages above may be approved as exceptions to the limits if they uniquely advance state policy priorities. Examples include large applications that include transformative community investments and advance climate goals through infill development, high density construction and proximity to transit.

To request an exception, the Applicant must submit justification prior to submitting an application under this Phase II Application Solicitation. It is in the Applicant's interest to submit justification as early as possible. After justifications are submitted, a recommendation from staff will be made based upon the strength of evidence and submitted to the Director for consideration. If approved, Applicants must submit documentation of approval with any subsequent Department applications for the applicable project. A form for outlining the justification of the exception request will be provided by the Department.

## Section 104. Distribution of Funds

To the extent eligible Phase II Applications that advance the goals and priorities of the program are received, the Department will strive to make at least one Award in each of the following categories to the extent eligible concept proposals were received:

Distribution Categories
Small Jurisdictions
Large Jurisdictions with Catalytic Qualifying Infill Area site(s) located in a metropolitan county
Large Jurisdictions with Catalytic Qualifying Infill Area site(s) located in a suburban jurisdiction
Large Jurisdictions with Catalytic Qualifying Infill Area site(s) located in an incorporated city within a nonmetropolitan county, a nonmetropolitan county that has a micropolitan area, or Rural Area

*Note: Regional definitions (metropolitan county, nonmetropolitan county, suburban jurisdiction, etc.) are set forth in the Department's March 21, 2022, [Default Density Standard Option – 2020 Census Update memorandum](#).*

The Phase II Applications within each distribution category will be rated and ranked within these categories and compete against one another. The top scoring Phase II Application in each category will be recommended for an Award. If sufficient funds are unavailable to fully award to top scoring Phase II Application in each category, funds will be prioritized to the category with the Phase II Application demonstrating Capital Improvement Project readiness as detailed in Section 302, Tiebreaker Score.

Additionally, to the extent additional IIGC funds are made available, the Department will strive towards equitable geographic distribution of funds considering Awards made under this Phase II Application Solicitation (e.g., Awards made under this Phase II Application Solicitation will count towards future geographic distribution targets in future solicitations or NOFAs).

## Article 2. Program Eligibility

### Section 200. General Threshold Eligibility

To be eligible for an Award, Capital Improvement Projects must meet the following threshold requirements:

- (a) The proposal is submitted by an eligible Applicant pursuant to Section 201;
- (b) The Phase II Application includes a Catalytic Qualifying Infill Area that meets the requirements of Section 202;

- (c) The Phase II Application proposes an eligible Capital Improvement Project pursuant to Section 203;
- (d) All proposed uses of Program funds are eligible pursuant to Section 203;
- (e) The Phase II Application proposes at least one eligible Housing Development(s) pursuant to Section 204;
- (f) The Phase II Application is complete pursuant to Article 4;
- (g) The Phase II Application achieves a minimum point score for Scoring Criteria as set forth in Section 402(f).
- (h) The Phase II Application demonstrates that funds requested under this Phase II Application Solicitation shall supplement, not supplant, other available funding.

#### Section 201. Eligible Applicant

- (a) Eligible Applicant means a city, county, city and county, or public housing authority that has jurisdiction over a Catalytic Qualifying Infill Area. A metropolitan planning organization may participate as a co-Applicant.
- (b) For the purpose of this Section 201, “public housing authority” shall be interpreted to include a Tribally Designated Housing Entity.
- (c) Only Applicants invited to submit a Phase II application are eligible to apply.

#### Section 202. Eligible Catalytic Qualifying Infill Area

- (a) A Catalytic Qualifying Infill Area is an area or areas which constitute a large catalytic investment in land that will accommodate a mix of uses, including affordable or mixed-income housing and may include a contiguous area or multiple noncontiguous parcels located within an Urbanized Area that meets the following requirements:
  - (1) For Large Jurisdictions as identified in Appendix A, a contiguous area or combination of identified noncontiguous parcels which have been previously developed, or where at least 75 percent of the perimeter of the area or each parcel, if noncontiguous, adjoins parcels that are developed or have been previously developed with Urban Uses.
  - (2) For Small Jurisdictions (as defined in Appendix A) either of the following shall apply:



- (A) A contiguous area or combination of identified noncontiguous parcels 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 GC, which states the following: an inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the Locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites, and an analysis of the relationship of the sites identified in the land inventory to the jurisdiction's duty to Affirmatively Further Fair Housing.
  - (B) A contiguous area or combination of identified noncontiguous parcels that have been previously developed, or where at least 50 percent of the perimeter of the area or non-contiguous parcels adjoin parcels that are developed with Urban Uses.
- (b) All Phase II Applications (in reference to both 75 percent and 50 percent perimeters) shall include dimensioned maps (with all measurements necessary to establish the perimeters) and a complete description of the Catalytic Qualifying Infill Area boundaries and adjacent land uses.
- (1) Perimeters bordering navigable bodies of water and improved Parks shall not be included in the perimeter calculation.
  - (2) No parcel within or adjoining the area is classified as agricultural or natural and working lands according to the California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) Tool.
- (c) In addition, a Catalytic Qualifying Infill Area shall meet all the following conditions:
- (1) The Catalytic Qualifying Infill Area shall be located in a city, county, or city and county in which the general plan of the city, county, or city and county has an adopted housing element that has been found by the Department, pursuant to Section 65585 of the GC, at time of Application to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the GC. For the purposes of this section alone, jurisdictions that are undergoing Department review of their housing element at the time of Award, and jurisdictions that are receiving Department technical assistance to bring their housing element into compliance at the time of Award, shall both be deemed to be in a presumptive state of

substantial compliance by the Department. All Awards premised on presumptive substantial compliance shall include conditions in their respective Standard Agreements requiring that prior to funds disbursement, the subject jurisdiction must have received a final housing element certification letter from the Department.

- (2) Be located in an area currently designated or planned for mixed-use or residential development pursuant to one of the following:
  - (A) A general plan adopted pursuant to Section 65300 of the Government Code.
  - (B) A sustainable communities strategy adopted pursuant to Section 65080 of the GC.
  - (C) A specific plan adopted pursuant to Section 65450 of the Government Code.
  - (D) A Workforce Housing Opportunity Zone established pursuant to Section 65620 of the GC.
  - (E) A Housing Sustainability District established pursuant to Section 66201 of the GC.
- (3) Applicants shall provide a demonstration of the Catalytic Qualifying Infill Area location's consistency with an adopted sustainable communities strategy or alternative planning strategy pursuant to Section 65080 of the GC.

### Section 203. Eligible Capital Improvement Project(s)

- (a) Capital Improvement Project(s) must adhere to the definition provided in Section 102.
- (b) Capital Improvement Project sites must be free from severe adverse environmental conditions, such as the presence of toxic waste, that is economically infeasible to remove or cannot be mitigated.
- (c) Capital Improvement Projects must comply with site control requirements as set forth at UMR Sections 8303 and 8316 with, and the following:
  - (1) The Applicant shall demonstrate site control for the purposes of completing the proposed the Capital Improvement Project at the time of the Phase II Application and throughout the term of the Award.

- (2) The following shall apply to offsite work proposed for Capital Improvement Projects and shall be evidenced prior to the disbursement of Program funds:
  - (A) The Recipient/Developer shall have a right of way or easement, which is either perpetual, or of sufficient duration to meet Program requirements, and which allows the Recipient and/or Developer to access, improve, occupy, use, maintain, repair, and alter the property underlying the right of way or easement; and
  - (B) The Recipient/Developer shall have an executed encroachment permit for construction of improvements or facilities within the public right of way or on public land.
- (3) For Capital Improvement Projects developed in Indian Country, the following exceptions apply:
  - (A) Where site control is a ground lease, the lease agreement between the Tribal Entity and the Capital Improvement Project owner is for a period not less than 50 years; and
  - (B) An attorney's opinion regarding chain of title and current title status is acceptable in lieu of a title report.
- (d) At the time of the Phase II Application due date, construction of the Capital Improvement Project has not commenced.
- (e) The following applies to the Eligible Use of Funds:
  - (1) Funds shall be used only for approved eligible costs that are incurred on the Capital Improvement Projects as set forth in this section.
  - (2) Capital Improvement Project costs must be reasonable and necessary compared to similar infrastructure projects of modest design in the general area of the Capital Improvement Projects.
  - (3) The eligible Applicant must demonstrate that no other source of compatible funding is reasonably available as evidenced in the Capital Improvement Projects development budget.
  - (4) Funds shall only be used for physical improvements of a Capital Asset.
  - (5) Funds shall only be used for eligible costs, including the construction, Rehabilitation, demolition, relocation, preservation, acquisition, or other physical improvements of the following:

- (A) The creation, development, or rehabilitation of Parks or Open Space.
- (B) Water, sewer, internet, or and other utility service improvements, including relocation of such improvements.
- (C) Streets, roads, or bridges.
- (D) Transit linkages or facilities, including, but not limited to, related access plazas or pathways, and bus or transit shelters.
- (E) Facilities that support pedestrian or bicycle transit, including bike lanes, crosswalk improvements, and pedestrian scaled lighting.
- (F) Traffic mitigation, including roundabouts, turn lanes, or raised islands.
- (G) 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.
- (H) Adaptive Reuse (as defined in Section 102).
- (I) Site preparation or demolition related to the Capital Improvement Project or planned Housing Development.
- (J) Structured Parking, including:
  - Structured Parking spaces that are required replacement of Transit Station parking spaces (including replacement required by a transit agency), or public Structured Parking required as a condition of approval for the Housing Development(s) within one-half mile of a Major Transit Stop or Transit Station, not to exceed \$50,000 per space.
  - Residential Structured Parking and mechanical parking lifts. The minimum residential per unit parking spaces in Structured Parking, as required by local land-use entitlement approval, not to exceed one parking space per residential unit, and not to exceed \$50,000 per permitted space.
- (K) Required environmental remediation (as directed by the regulatory agency directing the environmental remediation) and associated costs for regulatory oversight necessary for the development of the Capital Improvement Projects or Catalytic Qualifying Infill Area, where the total cost of the remediation and associated costs for

regulatory oversight of environmental investigations does not exceed 50 percent of the Program grant amount.

Oversight of environmental investigations and cleanups by a regulatory agency is required for any Program funding regardless whether funding use is directed to that funding activity. Regulatory oversight ensures environmental investigations and cleanups comply with federal, state, and local regulations and provides a higher level of certainty that a property is safe for the use or proposed reuse for human and/or ecological receptors and is required if environmental remediation costs are being requested under this grant. Environmental regulators in California include the California Department of Toxic Substances Control (DTSC) Site Mitigation and Restoration Program, the California Regional Water Quality Control Boards (Regional Boards), and several Local Agencies. A list of self-certified Local Agencies is available on website at <http://dtsc.ca.gov/local-agency-resources/>.

- (L) 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
  - (M) Soft costs such as those incidentally but directly related to construction or other pre-development components including, but not limited to, planning, engineering, construction management, architectural, and other design work, required mitigation expenses such as mitigation design or testing, appraisals, legal expenses, and necessary easements. Soft costs shall not exceed 20 percent of costs associated with the funding request for the Capital Improvement Project.
  - (N) Other Capital Asset costs approved by the Department for the Capital Improvement Projects.
  - (O) Impact fees required by local ordinance are eligible for Program funding only if used for the identified Capital Improvement Projects. Funded impact fees may not exceed 5 percent of the Program Award.
  - (P) Factory-Built Housing (as defined in Section 102).
- (6) The following costs are not eligible for Program funding:

- (A) Development fees or profit.
  - (B) Costs of site acquisition for housing and mixed-use structural improvements.
  - (C) Costs of new housing or mixed-use structure construction and Rehabilitation not including Adaptive Reuse and Factory-Built Housing costs described in 203.
  - (D) Soft costs related to ineligible costs.
  - (E) In-lieu fees for local inclusionary programs.
- (f) The Capital Improvement Project complies with accessibility and fair housing requirements in Section 500.

#### Section 204. Eligible Housing Development

The Phase II Application must propose Housing Development Units sufficient to meet the minimum IIGC grant request amount set forth in Section 103, and demonstrate all the following:

- (a) Include a total of not less than 15 percent of Affordable Units, as follows:
  - (1) For projects that contain both rental and ownership units, units of either or both product types may be included in the calculation of the affordability criteria and maximum grant calculation.
  - (2) To the extent included in a Phase II Application, for the purpose of calculating the percentage of Affordable Units, the Department may consider the entire master development in which the development seeking grant funding is included.
  - (3) Where applicable, an 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.
- (b) Include Net Densities on the parcels to be developed that are equal to or greater than the densities described below (Note: Regional definitions (metropolitan county, nonmetropolitan county, suburban jurisdiction, etc.) are set forth in the Department's March 21, 2022, [Default Density Standard Option – 2020 Census Update memorandum](#)):

- (1) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.
  - (2) For an unincorporated area in a nonmetropolitan county not included in clause (1): sites allowing at least 10 units per acre.
  - (3) For a suburban jurisdiction: sites allowing at least 20 units per acre.
  - (4) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.
  - (5) A Capital Improvement Project located in a Rural Area shall include average Net Densities on the parcels to be developed of at least 10 units per acre
  - (6) Notwithstanding paragraph (b) above 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 Phase II 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 paragraph (b) above. Any exception shall become inoperative on January 1, 2026.
- (c) Housing Development sites are free from severe adverse environmental conditions, such as the presence of toxic waste, that is economically infeasible to remove or cannot be mitigated;

Oversight of environmental investigations and cleanups by a regulatory agency is required for any Program funding regardless of whether funding use is directed to that funding activity. Regulatory oversight ensures environmental investigations and cleanups comply with federal, state, and local regulations and provides a higher level of certainty that a property is safe for the use or proposed reuse for human and/or ecological receptors and is required if environmental remediation costs are being requested under this grant. Environmental regulators in California include the California Department of Toxic Substances Control (DTSC) Site Mitigation and Restoration Program, the California Regional Water Quality Control Boards (Regional Boards), and several Local Agencies. A list of self-certified Local Agencies is available on website at <http://dtsc.ca.gov/local-agency-resources/>.

- (d) Where Capital Improvement Project improvements on the Housing Development sites are proposed, those sites must comply with site control requirements set forth at UMR Sections 8303 and 8316, and the following:
- (1) Applicant shall ensure the Housing Development has site control prior to the commencement of housing construction. For a proposed Housing Development, evidence specifying the proposed site control details (i.e., a memorandum of understanding or a letter signed by an authorized representative specifying the proposed site use and site control entity) should be provided to the Department at the time of Phase II Application. Where site control already exists, documentation should be provided at the time of Phase II Application.
  - (2) For Housing Developments developed in Indian Country, the following exceptions apply:
    - (A) Where site control is a ground lease, the lease agreement between the Tribal Entity and the project owner is for a period not less than 50 years; and,
    - (B) An attorney's opinion regarding chain of title and current title status is acceptable in lieu of a title report.
  - (3) Where site control is in the name of another entity, the Applicant shall provide documentation, in form and substance reasonably satisfactory to the Department (e.g., a purchase and sale agreement, an option, a leasehold interest/option, a disposition and development agreement, an exclusive right to negotiate with a public agency for the acquisition of the site), which clearly demonstrates that the Applicant/Developer has some form of right to acquire or lease the project property (e.g., the entity's organizational documents, a purchase and sale agreement, and option, an assignment).
  - (4) Where site control will be satisfied by a long-term ground lease, the Department will require the execution and recordation of the Department's form lease rider, which shall be entered into by and among the ground lessor, the ground lessee, the Department, and any other applicable parties. In all cases, the lease rider shall be recorded against the fee interest in the project property.
- (e) Each planned Housing Development has a realistic plan to assure financial feasibility in time to meet required program milestones in Section 600.
- (f) Rental Housing Developments will maintain Fiscal Integrity consistent with planned Rents in the Assisted Units. While IIGC will not require underwriting consistent with UMR Section 8310, both Rental Housing Developments and ownership Housing Developments will be financially feasible as evidenced by



documentation consistent with standard industry practice for evaluating feasibility, such as documentation of sources and uses, multi-year proformas, and other forms of documentation satisfactory to the Department. Nothing in this provision shall abrogate or modify the application of UMR Section 8310 where incorporated or referenced elsewhere in this Solicitation.

- (g) A demonstration that the Applicant/Developer(s) have a viable plan to secure sufficient funding, derived from sources other than this part for the timely development of the Housing Development(s).
- (h) A demonstration that the Developer of the Housing Development(s) can timely complete environmental reviews to allow commencement of construction as set forth in Section 600.
- (i) A demonstration that the Developer of the Housing Development has or can secure necessary entitlements from the local jurisdiction to allow commencement of construction as set forth in Section 600.
  - (1) For Housing Developments located in the unincorporated area of the county, the Department shall allow the Applicant to meet the requirement requesting a submission of all necessary entitlements and permits and a certification that the Capital Improvement Project is shovel-ready 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 Housing Developments within the area in the event that the funding requested pursuant to this subdivision is awarded.
- (j) The Housing Development(s) meet accessibility and fair housing requirements pursuant to Section 500 below. Housing associated with the Capital Improvement Project must also provide a preference for Accessible Housing Unit(s) to persons with disabilities requiring the accessibility features of those units in accordance with CCR, Title 4, Section 10337(b)(2).
- (k) Housing Developments must be physically capable of accommodating broadband service with at least a speed of 25 megabits per second for downloading and 3 megabits per second for uploading (25/3). Internet service and its ongoing fee are not required.
- (l) Housing Developments comply with the restrictions on demolition as set forth in UMR Section 8302;
- (m) Eligible Tribal Entity Applicants applying for a Capital Improvement Project grant, where the eligible Capital Improvement Project and housing are sited within the State of California in Indian Country or on Tribal Trust or Restricted Land, must

also comply with the following:

- (1) Housing occupancy must be limited to Tribal Households to the greatest extent possible.
- (2) A 30-year Affordability Covenant shall be recorded against the fee estate of the Housing Development(s) (or the real property identified in the Phase II Application for development of the Restricted housing Units) to ensure the affordability of the units thereon. The Affordability Covenant shall be recorded with the Bureau of Indian Affairs (BIA) prior to initial disbursement of funds.
- (3) If successful, the Eligible Tribal Applicant must meet the following conditions prior to disbursement of funds, to the extent applicable, and subject to any modifications or waivers provided pursuant to HSC Section 50406, subdivision (p) (AB 1010 (Chapter 660, Statutes of 2019)) and memorialized in the Standard Agreement:
  - (A) BIA Consent. BIA has consented to Applicant's execution and recordation (as applicable) of all Department-required documents, including the affordability Covenant required by HSC Section 53359, subdivision (g)(2)(C).
  - (B) Personal and Subject Matter Jurisdiction. Personal and subject matter jurisdiction over the Standard Agreement, Capital Improvement, affordability Covenant, or any matters arising from any of them is in state court and the Department has received any legal instruments or waivers, all duly approved and executed, as are or may be legally necessary and effective to provide for such personal and subject matter jurisdiction in state court.
  - (C) Title Insurance. The Department has received title insurance for the Capital Improvement Project that is satisfactory to the Department. Notwithstanding the foregoing sentence, upon a showing of good cause, for Applicants unable to provide a conventional title insurance policy satisfactory to the Department, this condition may be satisfied by a title status report issued by the BIA Land Title and Records Office and pursuant to a title opinion letter issued for the benefit of the Department but paid for by the Applicant.
  - (D) Recordation Requirements. Where recordation of instruments is a condition of Award funding or otherwise required under or pursuant to the Standard Agreement, the subject instrument is recorded with the Land Titles and Records Office at the BIA or in the appropriate official records of the county in which the Capital

Improvement Project or Housing Development property is located, as may be applicable.

- (n) Construction shall not have commenced on any Units designated in the Phase II Application prior to the deadline for the Phase II Application submittal set in Section 402.

### Section 205. Conditional Commitments

Awardees shall comply with Program requirements, and Awards may be conditioned on the following:

- (a) The local jurisdiction completing any actions to expedite rezoning to accommodate density, completing environmental reviews to support ministerial approvals, and granting fee waivers or other incentives to expedite the Housing Development(s) that are used in qualifying for an Award.
- (b) Submission by Recipients of reports on progress of Capital Improvement Projects, including, but not limited to, substantiation of grant expenditures and housing outcomes, including levels of affordability as provided in the Phase II Application.

## Article 3. Selection Criteria

### Section 301. Rating and Ranking

Eligible Phase II Applications from Small Jurisdictions and Large Jurisdictions will be rated and ranked according to the selection criteria set forth in this section. The Phase II Applications from Small Jurisdictions and Large Jurisdictions will compete within their respective set-aside pools defined in Section 104 and will not compete against each other. The Phase II Applications that pass the initial threshold review will be scored using the Selection Criteria outlined below. The Phase II Applications determined to be incomplete, or not meeting Program eligibility criteria set forth in Article 2, including minimum point score will not be fully evaluated.

<b>Selection Criteria</b>	
<b>Criterion</b>	<b>Maximum Points</b>
Number of Housing Units	20
Depth and Duration of Affordability	20
Net Density	10
Proximity to Transit	10
Proximity to Amenities	10
Adaptive Reuse Ordinances	10
Publicly Owned Lands	7
CEQA Streamlining	7
Anti-Displacement Strategies	3
Community Outreach and Engagement	3
<b>Total Points Available</b>	<b>100</b>

(a) Number of Housing Units – 20 points maximum

Points will be awarded for the number of housing Units proposed in the Phase II Application to be developed within the Catalytic Qualifying Infill Area. Furthermore, if the number of housing Units evidenced at close of construction financing is less than the number identified in the Phase II Application, the Department may reduce the Award accordingly.

After the threshold review, the total number of housing Units will be ranked from highest to lowest. Each Phase II Application will be assigned to one of three scoring categories (high, medium, or low) in ranked order. Points will be assigned as follows:

<b>Point Schedule</b>	
<b>Scoring Category</b>	<b>Points</b>
High	20
Medium	10
Low	5

(b) Depth and Duration of Affordability – 20 points maximum

The Phase II Applications will be awarded points based on the percentage of Units in the proposed Housing Development(s) restricted to occupancy by various income groups. The Phase II Applications designating only rental units in the proposed Housing Development(s) shall be scored following the calculation procedures used by TCAC. The Phase II Applications designating ownership units, or a combination of rental and ownership units, must utilize the scale set

forth in paragraph (2) below. Where appropriate based on the mix of income groups, the Phase II Applications must demonstrate units affordable to Lower-Income groups are spatially integrated throughout the Housing Development.

- (1) For rental units used as the basis for point scores in the Phase II 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 Housing Development is located, following a simplified version of the calculation procedures used by TCAC. Rents shall be restricted in accordance with the Rent and income limits specified in the Phase II Application and approved by the Department and set forth in a legally binding agreement recorded against the Housing Development with a duration of at least 55 years. Rents shall not exceed 30 percent of the applicable income eligibility level.
  - (2) Owner-occupied units shall be subject to a recorded Covenant with a duration of at least 30 years that includes either a resale restriction or a requirement for sharing equity upon resale. The following scale must be used for developments that include ownership units:
    - (A) 0.30 points will be awarded for each percent of total units that are owner-occupied and restricted to occupancy by households with incomes not exceeding the Moderate-Income limit.
    - (B) 0.80 points will be awarded for each percent of total units that are owner-occupied and restricted to occupancy by households with incomes not exceeding the Lower-Income limit.
    - (C) 0.60 points will be awarded for each percent of total units that are rental units restricted to occupancy by households with incomes not exceeding 50 percent of AMI.
    - (D) 1.0 points will be awarded for each percent of total units that are rental units restricted to occupancy by households with incomes less than or equal to 30 percent of AMI.
- (c) Net Density – 10 points maximum

The Phase II Applications will be scored based on the extent to which the Net Densities on the parcel or parcels to be developed in the Housing Developments in the Phase II Application exceed the required density specified in Section 204(b). 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) Density Adjustment

Net Density will be adjusted by Unit size (and Commercial Space as applicable) as follows:

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

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

$$12 \times 0.9 \text{ (one-bedroom Units)} = 10.8$$

$$12 \times 1.2 \text{ (two-bedroom Units)} = 14.4$$

To attribute density to the Commercial Space, utilize the square footage and bedroom count of the largest Unit in the project to determine how many whole Units would fit into the square footage of the Commercial Space.

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

$$4 \times 1.2 \text{ (two-bedroom Units)} = 4.8$$

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

$$(10.8+14.4+4.8)/30 = 1/.75=1.3333 \times 100 = 133.33 \text{ percent.}$$

Density Adjustment	
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) Point schedule

Points will be awarded in accordance with the following schedule:

<b>Point Schedule</b>	
<b>Adjusted Net Density as a Percentage of Required Density</b>	<b>Points</b>
150 percent or more	10
140 percent to 149.9 percent	8
130 percent to 139.9 percent	6
120 percent to 129.9 percent	4
110 percent to 119.9 percent	2
Less than 110 percent	0

(d) Proximity to Transit – 10 points maximum

Points will be awarded for the extent to which the Catalytic Qualifying Infill Area includes accessibility to a Transit Station, Major Transit Stop, or other areas yielding significant reductions in vehicle miles traveled (VMT). The distance to a Transit Station, Major Transit Stop, or other areas shall be measured by a pedestrian access route from the nearest boundary of the Housing Development to the outer boundary of the site of the Transit Station or Major Transit Stop and evidenced by a scaled map.

A Phase II Application proposing a project located on multiple noncontiguous parcels shall be scored proportionately in the transit amenities based upon each site's score. Proportional scoring means, for a project to score the maximum 10 points, each site must independently score 10 points for transit.

- (1) A Housing Development within one-half mile of an existing Transit Station, a Major Transit Stop, or other transportation amenities yielding significant reductions in VMT, measured along a pedestrian access route from the nearest boundary of the Housing Development to the outer boundary of the site of the Transit Station, Major Transit Stop, or other transportation amenities yielding significant reductions in VMT shall receive 10 points.
- (2) A Housing Development within one-half mile of a planned Transit Station, a Major Transit Stop, or other areas yielding significant reductions in VMT, measured along a pedestrian access route from the nearest boundary of the Housing Development to the outer boundary of the site of the Transit Station, Major Transit Stop, or other areas yielding significant reductions in VMT shall receive 7 points.

(e) Proximity to Amenities – 10 points maximum

Points will be awarded to proposals based on the proximity or accessibility of every Housing Development in the Phase II Application to the following existing or planned amenities that will be in the service when the construction of the Housing Development is completed. The distance to amenities shall be evidenced by a scaled map.

A Phase II Application proposing a project located on multiple noncontiguous parcels shall be scored proportionately in the amenities based upon each site's score. Proportional scoring means, for a project to score the maximum 10 points, each site must independently score 10 points for amenities.

- (1) A Housing Development located within one-quarter mile (one-half mile for Rural Area projects) of a Park (not including school grounds unless there is a bona fide, formal joint use agreement between the jurisdiction responsible for the Parks/recreational facilities and the school district providing availability to the general public of the school grounds and/or facilities), shall receive 2 points, or if within one-half mile (one mile for Rural Area projects) 1 point.
- (2) A Housing Development located within one mile of a locally recognized Employment Center with a minimum of 50 full-time employees (two miles for Rural Area projects), shall receive 2 points, or if within two miles (four miles for Rural Area projects) 1 point.
- (3) A Housing Development located within one mile of a locally recognized Retail Center with a minimum of 50 full-time employees (two miles for Rural Area projects), shall receive 2 points, or if within two miles (four miles for Rural Area projects), 1 point.
- (4) A Housing Development located within one-half mile of a Social Service or community center facility that operates to serve residents of the Housing Development, shall receive 2 points, or if within one mile, 1 point.
- (5) A Housing Development located within one-quarter mile of a public elementary, middle, high school, adult education campus of a school district, or community college that residents of the Housing Development may attend (one-half mile for Rural Area projects), shall receive 2 points, or if within one-half mile (one mile for Rural Area projects), 1 point.



(f) Adaptive Reuse Ordinances – 10 points maximum

Up to 10 points (two points per activity) will be awarded for a Phase II Application located in an area with existing or planned ordinances and other zoning and building provisions that facilitate Adaptive Reuse, including the following ordinances that:

- (1) Demonstrate that, if the existing commercial, office, or retail structure intended for reuse as housing does not occupy the entirety of the underlying parcel, the Adaptive Reuse Capital Improvement Project will be permitted to add to the existing building or structure provided that the addition is consistent with the existing or planned zoning of the parcel.
- (2) Promote Adaptive Reuse of existing non-residential buildings and underutilized sites that support development of housing as a climate strategy;
- (3) Incentivize building and site reuse at a community scale to encourage activation of nearby shopping, jobs, schools, recreational spaces, and transit;
- (4) Eliminate or allow nonconformance with certain development regulations that would make Adaptive Reuse of eligible buildings infeasible, including standards related to parking and loading, height, density, floor-area ratio, and open space;
- (5) Encourage Adaptive Reuse Capital Improvement Projects that allow construction of new structures where existing buildings do not utilize the entire project site provided the additions or new structures are consistent with existing or planned zoning of the parcel;
- (6) Prioritize ministerial review of Adaptive Reuse Capital Improvement Projects;
- (7) Allow alternative building and fire code compliance for eligible Adaptive Reuse Capital Improvement Projects able to demonstrate alternative means or methods of protecting public health, safety, and welfare;
- (8) Allow alternative compliance with public works standards, where alternative compliance will protect public health, safety, and welfare;
- (9) Include adoption of a zoning overlay outlining specific provisions to incentivize Adaptive Reuse;

- (10) Identify areas of the jurisdiction where Adaptive Reuse incentives could be applied.
- (11) Other strategies that promote Adaptive Reuse and intensification of land uses.

(g) Publicly Owned Lands – 7 points maximum

A Phase II Application will be awarded 7 points if a Catalytic Qualifying Infill Area is located on either excess state-owned property or surplus land:

- (1) For excess state-owned property, the Catalytic Qualifying Infill Area must be located on a site selected under EO-N-06-19 to enter into a ground lease with the state to create Affordable Housing on excess state-owned property.
- (2) For surplus land owned by a local agency, including transit agencies:
  - (A) Land donations made in fee title must be supported by a transfer agreement and demonstrated written conformance with the Surplus Land Act.
  - (B) Land donations made as a low-cost, long-term lease must be supported by written conformance with Surplus Land Act.

(h) CEQA Streamlining– 7 points maximum

Up to 7 points will be awarded for streamlining provisions related to California Environmental Quality Act (CEQA) (Division 13 (commencing with Section 21000) of the Public Resources Code):

- (1) Seven points will be awarded to the Phase II Applications that demonstrate acceleration of housing production through the establishment of streamlined, program-level CEQA analysis and certification of general plans, community plans, specific plans with accompanying Environmental Impact Reports (EIR), and related documents.
- (2) Seven points will be awarded to the Phase II Applications that demonstrate documented practice of streamlining housing development at the project level, such as by enabling a by-right approval process or by utilizing statutory and categorical exemptions as authorized by applicable law, such as Pub. Resources Code, Sections 21155.1, 21155.4, 21159.24, 21159.25; Gov. Code, Section

65457; Cal Code Regs., tit. 14, Sections 15303, 15332; Pub. Resources Code, Sections 21094.5, 21099, 21155.2, 21159.28.

- (3) Seven points will be awarded for utilizing statutory exemptions such as ministerial approval processes pursuant to Public Resource Code Section 21080 or the statutory exemptions pursuant to the Sustainable Communities and Climate Protection Act (SB 375).

(i) Community Outreach and Engagement – 3 points maximum

(1) Community Outreach and Engagement Activities

Points will be awarded for the extent to which the Phase II Applications demonstrate community outreach and engagement in project planning, including efforts to involve Disadvantaged Communities and Low-Income residents, particularly local community residents and businesses from the area within and surrounding the Catalytic Qualifying Infill Area. This will be evaluated based on indicators including:

- Collaboration with community-based organizations to develop the community engagement plan, publicize community engagement activities, and/or execute community engagement activities;
- Number of community engagement activities;
- Types of community engagement activities, with an emphasis on types of activities most likely to reach Disadvantaged Communities and Low-Income residents (e.g., canvassing, participating in events held by community-based organizations, holding in-person events (as opposed to online events));
- Number and types of methods of outreach and noticing of events, with an emphasis on types of methods most likely to reach Disadvantaged Communities and Low-Income residents (e.g., flyers, canvassing);
- Number of community members participating in community engagement activities, particularly from Disadvantaged Communities and Low-Income residents;
- Examples of how meaningful feedback from participants was solicited and documented;
- Activities are held at times convenient for working families;

- Translation is provided (state which language(s));
- Childcare and/or food are provided at events.

- (A) Up to 2 points total may be awarded for completed community outreach and engagement activities.
- (B) Up to 1 point total may be awarded for planned community outreach and engagement activities.

Applicants should submit a detailed narrative describing how their completed and/or planned community outreach and engagement activities involve Disadvantaged Communities and Low-Income residents, particularly from the area within and surrounding the Catalytic Qualifying Infill Area, including by addressing the indicators above. The narrative should clearly state for each activity whether it is completed or planned.

(2) Outcomes of Community Outreach and Engagement

- (A) Up to 2 points total may be awarded for the extent to which the proposed project addresses community-identified needs. This will be evaluated based on indicators including:
- Number of community needs identified through the community engagement process for Catalytic Qualifying Infill Area and/or other relevant community engagement processes;
  - Number of community-identified needs addressed by the proposed project;
  - Extent to which the proposed project addresses the community-identified needs;
  - Number of community-based, grassroots organizations expressing support for the proposed project, particularly organizations that represent Disadvantaged Communities and/or Low-Income residents.

Applicants should submit a detailed narrative describing the community needs identified through the community engagement process and if and how the project addresses each community-identified need.

Applicants are also encouraged to submit letters of support from local community-based, grassroots organizations describing the community

engagement process and how feedback from local residents was incorporated into the project.

(j) Anti-displacement Strategies – 3 points maximum

Applicants are required to develop a housing needs and displacement vulnerability assessment and anti-displacement plan for the communities within and adjacent to the Catalytic Qualifying Infill Area. The assessment should describe the communities within and adjacent to the Catalytic Infill Area with both descriptive and quantitative information. Housing needs and displacement vulnerability should be explained using the most recent economic statistics and demographic information available (U.S. Census or other more recently collected local information is acceptable). The assessment should also describe adopted and proposed local policies and programs related to displacement, such as policies described in the jurisdiction's housing element, other government policies, and any non-governmental organization work on Anti-Displacement. The assessment must clearly state for each policy and program whether it is adopted or proposed. In order for a proposed policy or program to count towards points for this section, the assessment must include an implementation plan for the proposed policy or program, including an identified lead organization, a timeline with key milestones, and the current status of the work.

The assessment must address both direct displacement (e.g. where a residential building is demolished as part of the project, displacing residents of that building) and indirect displacement (e.g. where investment in the Catalytic Qualifying Infill Area causes costs to rise in and/or around the Catalytic Qualifying Infill Area, making the area unaffordable for existing area residents). The assessment must identify local businesses and other vulnerable local organizations (e.g., nonprofit organizations, churches, community centers) where relevant. The assessment may be an existing document that meets the goals stated above.

Applicants are also encouraged to submit letters of support from local community-based, grassroots organizations for the policies and programs adopted or proposed in the Housing Needs and Displacement Vulnerability Assessment and Anti-Displacement Plan.

(A) Up to 3 points will be awarded based on the strength of the Housing Needs and Displacement Vulnerability Assessment and Anti-Displacement Plan. The Department's assessment will include consideration of the following indicators:

- Completeness and accuracy of the housing needs and displacement vulnerability assessment;

- Number of publicly identified adopted anti-displacement policies and programs;
- Number of publicly identified proposed anti-displacement policies and programs with implementation plans;
- Extent to which adopted and proposed anti-displacement policies and programs are well suited to have an impact on the displacement vulnerabilities identified in the assessment;
- Number of community-based, grassroots organizations expressing support for the policies and programs adopted or proposed in the Housing Needs and Displacement Vulnerability Assessment and Anti-Displacement Plan, particularly organizations that represent Disadvantaged Communities and/or Low-Income residents.

The narratives provided in Sections (i) and (j) will be tailored to the characteristics of the Catalytic Qualifying Infill Area and the community. For Catalytic Qualifying Infill Areas where the areas within and surrounding the project are home to many Low Income and Moderate Income residents, local business, and community-serving organizations, more robust community engagement and anti-displacement strategies will be expected. Applicants should describe the existing community within and surrounding the proposed Catalytic Qualifying Infill Area using Census and other data in their Housing Needs and Displacement Vulnerability Assessment and Anti-Displacement Plan.

### Section 302. Tiebreaker Score

In the event of tied point scores, the Department shall rank tied Phase II Applications based on four factors pursuant to the following tie-breaker criteria, until there is no longer a tie:

- (a) One tie-breaker point will be awarded to the Phase II Applications on the extent the Applicant can demonstrate commitment for at least 75 percent of the total development costs (less deferred development costs) derived from sources other than the Program for the timely development of the Housing Development(s) and Capital Improvement Projects(s) in the Catalytic Qualifying Infill Area.
- (b) An additional tie-breaker point will be awarded for obtaining all land use approvals or entitlements necessary prior to issuance of a building permit, including any required discretionary approvals.

Catalytic Qualifying Infill Areas for which the planning department confirms eligibility for streamlined ministerial approval (including but not limited to the

Senate Bill 35 (2017) Streamlined Ministerial Approval Processing) are eligible for this point.

For Catalytic Qualifying Infill Areas located within city limits where a FEMA Major Disaster Declaration has been made up to three years preceding the Phase II Application due date, this point will be awarded for certification that all necessary land use approvals or entitlements necessary prior to issuance of a building permit will be completed within 90 days of Award.

For Catalytic Qualifying Infill Areas located outside of city limits where a FEMA Major Disaster Declaration has been made and the local government responsible for land use approvals or entitlement review is not a city, the Applicant must, in addition to providing this certification, demonstrate to the Department's satisfaction that the project contributes to providing housing for disaster-impacted households.

- (c) An additional tie-breaker point will be awarded to Applicants that demonstrate site control for the Housing Development component of the Phase II Application at the time of the Phase II Application.

## **Article 4. Application Process and Timeline**

### **Section 400. Introduction to the Process**

The Phase II Application Solicitation for Catalytic Qualifying Infill Area Awards will be a two-phase process:

- (a) In Phase I, eligible Applicants provided a Phase I Application on Department-provided forms. The purpose of the Phase I Application phase was twofold: 1) to serve as a "demand survey" to inform the Department about the diversity, scale, needs and challenges of eligible Catalytic Qualifying Infill Areas, and 2) to describe how the proposed Catalytic Qualifying Infill Area meets or exceeds threshold criteria and program goals outlined by statute.
- (b) In Phase II, the Department will release a Phase II Application Solicitation detailing programmatic requirements including specific scoring criteria. All Applicants deemed eligible in Phase I will be invited to apply unless the Program promises to be significantly oversubscribed, as discussed in Section 401(b), below.

### **Section 401. Phase I Application Requirements**

- (a) Eligibility Criteria

The Catalytic Qualifying Infill Area Phase I Application must certify the statutorily required eligibility criteria detailed in the Request for Concept Proposals, as well

as Article 2 of this Phase II Application Solicitation. This includes:

- (1) General Threshold Requirements (Section 200);
- (2) Eligible Applicant Requirements (Section 201);
- (3) Catalytic Qualifying Infill Area Threshold Requirements (Section 202);
- (4) Capital Improvement Project Threshold Requirements (Section 203);
- (5) Housing Development Threshold Requirements (Section 204).

(b) Invitations to Apply

The Department will review the Phase I Applications to determine program eligibility. Applicants that meet general eligibility requirements will be invited to submit Phase II Applications. However, to the extent the Department receives the Phase I Applications in excess of 250 percent of available funds, invitations to apply will be prioritized based on shovel readiness of the proposed Capital Improvement Project. Eligible Applicants invited to submit a Phase II Application will be evaluated based on the selection criteria set forth in Article 3 above.

An eligible Applicant who is invited to apply must submit a Phase II Application that is substantially consistent with the Phase I Application. Proposal components identified in HSC 53559(f)(1)(B) as ranking criteria may not be significantly modified in the Phase II Application unless the modification would result in a higher score (e.g., a higher number of Affordable Units, greater depth of affordability, or higher Net Densities).

#### Section 402. Phase II Application Process

To be eligible for funding, Applicants who have submitted a Phase I Application and have been invited to submit a Phase II Application must submit a Phase II Application and all required supporting documents as set forth in the request for the Phase II Application invitation.

(a) Application Submission Process

The Phase II Applications must meet eligibility requirements (as detailed in Sections 200, 201, 202, 203, and 204 of this Phase II Application Solicitation) upon submission. The Phase II Applications that do not meet the filing deadline requirements will not be eligible for funding. The Phase II Applications must be on the Department forms and cannot be altered or modified by the Applicant. It is the Applicant's responsibility to ensure the Phase II Application is clear,



complete, and accurate. Excel forms must be submitted in Excel format, not as a PDF document.

(b) Electronic Submission

The Phase II Application materials must be submitted electronically via the HCD IIGC Phase II Application Portal using the Phase II Application forms and must include all required information as detailed in the Phase II Application forms. A link to the HCD IIGC Phase II Application Portal is available at the Department's webpage at <https://www.hcd.ca.gov/grants-and-funding/programs-active/infill-infrastructure-grant>.

(c) The Phase II Application Workshops and Pre-Application Consultations

The Department may conduct the Phase II Application workshops and/or webinars for this Phase II Application Solicitation. Please visit the IIG website at <https://www.hcd.ca.gov/infill-infrastructure-grant> for the dates and registration information. Pre-Application consultations with the IIGC team are also available and can be requested by contacting [infill@hcd.ca.gov](mailto:infill@hcd.ca.gov).

(d) Disclosure of Application

Information provided in the Phase II Application will become a public record available for review by the public pursuant to the California Public Records Act (Gov. Code, Section 6250 et seq.). As such, any materials provided are subject to disclosure to any person making a records request under this Act. HCD cautions Applicants to use discretion in providing information not specifically requested, including, but not limited to, bank account numbers, social security numbers, personal phone numbers and home addresses. By providing this information to HCD, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

(e) Prior Awards

Applicants must disclose all awards of loans and grants for the Capital Improvement Project and the Housing Developments listed in the Phase II Application at the time of Phase II Application submittal. Applicants seeking to substitute previously awarded HCD funds, including but not limited to substitutions to increase the amount of an award, must first withdraw their previous award in writing and provide reasonable justification that the substitution is necessary to ensure project feasibility. A consultation with Department Program staff is required at the time of the withdrawal. Substitutions based solely upon Applicant preference or convenience will not be permitted. However, it is allowable for Applicants that wish to retain their previous award to apply for

another funding source available within this Phase II Application Solicitation, so long as the previous award is unmodified.

Any changes to a previously approved and awarded project are subject to Department review and approval and may result in the loss or reduction of the Award.

(f) Minimum Point Score.

The Phase II Applications meeting all the threshold requirements set forth in Article 2 and achieving a minimum point score of 70 points in Scoring Criteria set forth in Article 3 will be considered for funding pursuant to the process described below. However, depending on the type and quality of Phase II Applications received, the Department may adjust the minimum point score requirement as needed. For more information on other policy priorities please see Section 104

(g) Appeals

(1) Basis of Appeals

- (A) Upon receipt of the Department's written notice that a Phase II Application is incomplete, has failed threshold review, or has otherwise been determined to provide an insufficient basis for an Award, Applicants under this Phase II Application Solicitation may appeal such decision(s) to the Branch Chief or their designee pursuant to this section.
- (B) No Applicant shall have the right to appeal a decision of the Department relating to another Applicant's Phase II Application (e.g., eligibility, Award). Any request to appeal HCD's decision regarding a Phase II Application shall be reviewed for compliance with the Phase II Application Solicitation. All decisions rendered shall be made by the Branch Chief or their designee. The decision shall be final, binding, and conclusive, and shall constitute the final action of the Department.
- (C) The appeal process provided herein applies solely to decision of the Department made in this Phase II Application Solicitation. For greater specificity, Applicants may refer to the appeal procedure set forth in Section "V. Appeals" in the Multifamily Finance Super Notice of Funding Availability dated March 30, 2022, Amended June 10, 2022, which is incorporated hereto by this reference, and which the Department shall, to the extent not contrary to this Phase II Application Solicitation and feasible, substantially follow.

(2) Appeal Process and Deadlines

- (A) Process: To file an appeal, Applicants must submit to the Branch Chief or their designee, by the deadline set forth below, a written appeal which states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the Applicant must provide a detailed reference to the area or areas of the Phase II Application that provide clarification and substantiation for the basis of the appeal. No new or additional information will be considered if this information would result in a competitive advantage to an Applicant. Once the written appeal is submitted to the Department, no further information or materials will be accepted or considered thereafter. Appeals are to be submitted to Department at [infill@hcd.ca.gov](mailto:infill@hcd.ca.gov) according to the deadline set forth in Department review letters.
- (B) Filing Deadline: Appeals must be received by the Department no later than five business days from the date of the Department's threshold review, or initial score letters, as applicable, representing the Department's decision made in response to the Phase II Application.

(3) Decision

Any request to appeal the Department's decision regarding a Phase II Application shall be reviewed for compliance with this Phase II Application Solicitation. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department.

(h) Negative Points and Disencumbrance Policies

The Department's Negative Points Policy ([Administrative Notice Number 2022-01](#)) and Disencumbrance Policy ([Administrative Notice Number 2022-02](#)), dated March 30, 2022 and published on the Department's website at <http://www.hcd.ca.gov/grants-and-funding>, are hereby incorporated by this reference to this Phase II Application Solicitation.

The Department shall apply the Negative Points Policy with equal force as all other provisions set forth herein. The Department shall implement the Negative Points Policy with reasonable and necessary discretion to advance IIGC policy and funding goals.

If the Applicant is subject to a negative points assessment based on the criteria outlined in the Department's Negative Points Policy or is determined

to be ineligible for funding, HCD shall notify the Applicant in writing in the initial point score letter.

The Disencumbrance Policy applies only to the Capital Improvement grant funds and will not impact any development loan funds awarded subsequent to the submittal of the Phase II Application for Housing Developments included in the Phase II Application. For the purposes of the Capital Improvement Project grant funds, funds will meet the requirements of the Disencumbrance Policy upon commencement of the associated Capital Improvement Project.

(i) Award Announcements

HCD will announce Program Awards via an eblast and on the IIGC website.

(j) Timeline

The complete Phase I and Phase II Applications may be submitted on Department forms to the Department via the HCD IIGC Phase II Application Portal according to the timeline below:

Program Timeline	
Request for Concept Proposals Release	November 30, 2022
Phase I Application Release	December 29, 2022
HCD IIGC Phase I Application Portal Opens	December 29, 2022
HCD IIGC Phase I Application Portal Closes	January 31, 2023
Phase II Application Solicitation Release	March 2023
Phase II Application Workbook Posted	March 2023
Phase II Applications Due	April 2023
Award Announcements	July 2023

**Section 403. Application Evaluation Procedures.**

(a) Substituting previously awarded Department funds is prohibited, except as provided below:

- (1) Applicants seeking to substitute previously awarded funds must request withdrawal of their prior Award in writing and provide reasonable justification that the substitution is necessary to ensure project feasibility. Substitutions based solely upon Applicants' preference or convenience will not be permitted. Department approval of the withdrawal is required prior to the Phase II Application due date without assurance of receiving a new Award. This prohibition applies to funds awarded under any Department program, including a prior IIG Award.

- (b) The Phase II Applications selected for funding shall be approved subject to conditions specified by the Department in accordance with the Phase II Application Solicitation and applicable law.
- (c) In a funding round where the total funding requested in the Phase II Applications exceeds the total funding available in the Phase II Application Solicitation, the Department may elect not to evaluate compliance with some or all eligibility requirements for the Phase II Applications that do not rank high enough to be awarded, as indicated by a preliminary point scoring.
- (d) The Phase II Applications will be reviewed, and negative points assessed, consistent with the Department's Negative Points Policy detailed in Section 402(h).

#### Section 404. Application Content and Application Eligibility Requirements

- (a) The Phase II Application shall be made on a form(s) made available by the Department, without modification, Department forms shall request the information deemed necessary to evaluate the Phase II Applications for compliance with this Phase II Application Solicitation and all applicable statutes, regulations, and similar rules. Without limiting the generality of the foregoing, the Phase II Application may require the eligible Applicant(s) to specify all sources and amounts of funding for which they are applying.
- (b) A Phase II Application shall be deemed complete when the Phase II Application meets all Eligibility Requirements, as set forth in Article 2, and the Department's Phase II Application form.
  - (A) During the Phase II Application review the Department staff may request clarifying information, provided it does not affect the competitive scoring.
- (c) The Phase II Applications shall be evaluated for compliance with the threshold and eligibility requirements of this Phase II Application Solicitation, and applicable statutes, and scored based on the Phase II Application Selection Criteria listed in Article 3. The Phase II Applications with the highest number of points shall be selected for funding, provided they meet all threshold and eligibility requirements and achieve specified minimum scores as identified herein. The Department may make adjustments to the selection process to ensure reasonable distribution of funds as described in Section 104.

## Article 5. Other State and Federal Requirements

### Section 500. Applicable Laws, Rules, Guidelines, and Regulations

The Recipient who applies under this Phase II Application Solicitation agrees to comply with all applicable state and federal laws, rules, guidelines, and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Housing Developments and Capital Improvement Project, the Recipient, its contractors or subcontractors, and any loan or grant activity, including without limitation those listed in this Phase II Application Solicitation.

The Recipient is required to ensure the Developer complies with the same applicable duties listed above through its contracts with the Developer.

Where the proposed project type presents a fair housing issue, the Department reserves discretion to require a fair housing legal opinion from Recipient's counsel.

The Recipient shall comply with the following requirements:

(a) Article XXXIV

The Recipients shall comply with Article XXXIV. IIGC funds are not subject to Article XXXIV, Section 1 of the California Constitution, as clarified by the Public Housing Election Implementation Law (HSC Sections 37000 - 37002). The IIGC funds do not directly fund the housing units, but rather fund the infrastructure that supports the housing units. However, due to other public funding for IIGC Assisted Units, including other HCD funding sources, that may require Article XXXIV compliance, Recipients shall comply with Article XXXIV.

(b) California Preservation Notice Law

All Applicants and special purpose entities must, at all times, comply with, and not be in violation of, California's Preservation Notice Law (Gov. Code, Sections 65863.10, 65863.11, 65863.13).

(c) California State Prevailing Wage Law

IIG funds are subject to California prevailing wage law, as set forth in Labor Code Section 1720 et seq. and require the payment of prevailing wages unless the project meets one of the exceptions of Labor Code 1720 (c) as determined by the Department of Industrial Relations (DIR). The DIR can be contacted via its website at <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>. Applicants

are urged to seek professional advice as to how to comply with California prevailing wage law.

(d) State Relocation Requirements

- (1) The Recipient who develops a Housing Developments or Capital Improvement Project resulting in displacement of persons, businesses, or farm operations shall be solely responsible for providing the assistance and benefits set forth in this section and in applicable state and federal law and shall agree to indemnify and hold harmless the Department from any liabilities or claims for relocation-related costs.
- (2) All persons, businesses, or farm operations that are displaced as a direct result of the development of a Housing Developments or Capital Improvement Projects shall be entitled to relocation benefits and assistance as provided in Title 1, GC, Division 7, Chapter 16, commencing at Section 7260, and Title 25 CCR, Subchapter 1, Chapter 6, commencing at Section 6000. Additionally, to the extent applicable, local relocation law as well as the Federal Uniform Relocation Assistance and Real Property Acquisition Act, 49 C.F.R. Part 24, including Appendix A to Part 24, shall apply. To the extent of any variation in the applicable relocation laws, the stricter standard shall apply. Displaced tenants who are not replaced with Eligible Households under this Program shall be provided relocation benefits and assistance from funds other than Program funds.
- (3) The Recipient shall prepare or update a relocation plan in compliance with the Title 25 CCR, Section 6038, and any other applicable relocation laws or regulations. The relocation plan shall be subject to the review and approval by the Department prior to the disbursement of Program funds and prior to actual displacement of persons, businesses, or farm operations.
- (4) All Eligible Households who are temporarily displaced as a direct result of the Housing Developments or Capital Improvement Projects shall be entitled, upon initial occupancy of the Housing Development, to occupy Assisted Units meeting the tenant occupancy standards set forth in UMR Section 8305.
- (5) All ineligible households who are temporarily displaced as a direct result of the Housing Developments or Capital Improvement Projects shall be entitled, upon initial occupancy of the Housing Development, to occupy any available non-Assisted Units for which they qualify.
- (6) Notwithstanding the preceding subparagraphs, tenants who are notified in writing prior to their occupancy of an existing Unit that the

Unit may be demolished or otherwise be made unavailable as a result of funding provided under the Program shall not be eligible for relocation benefits and assistance under this section. The form of any notices used for this purpose shall be subject to Department approval.

(e) Nondiscrimination and Fair Housing Requirements

Recipients shall ensure adoption of a written non-discrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, Disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Program funds.

Recipients shall ensure adoption of written policies for providing reasonable accommodations, reasonable modifications, and auxiliary aids and services for effective communications with residents and Applicants with Disabilities.

Recipients shall ensure compliance with all applicable state and federal law, including, without limitation, the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.); the Americans with Disabilities Act of 1990; the Fair Housing Act; the Fair Housing Amendments Act of 1988; the California Fair Employment and Housing Act; the Unruh Civil Rights Act; GC Section 11135; Section 504 of the Rehabilitation Act of 1973; and all regulations promulgated pursuant to those statutes (including 24 C.F.R. Section 100, 24 C.F.R. Section 8, and 28 C.F.R. Section 35).

(f) Americans with Disabilities Act and Physical Accessibility Requirements

Recipients shall ensure Developer compliance with all applicable state and federal building codes and accessibility laws and standards. All Housing Developments shall adhere to the accessibility requirements set forth in: (i) California Building Code Chapters 11A and 11B; (ii) the federal Fair Housing Act (42 U.S.C. Section 3601 et seq.) and its regulations at 24 Code of Federal Regulations part 100 (particularly 24 C.F.R. Section 100.205), and its design and construction requirements, including: ANSI A117.1-1986, and the Fair Housing Accessibility Guidelines, March 6, 1991, in conjunction with the Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines, June 28, 1994; and (iii) the Americans with Disabilities Act of



1990 (42 U.S.C. Section 12101 et seq.) and its Title II and Title III regulations at 28 Code of Federal Regulations parts 35 and 36; and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) and the implementing HUD regulations at 24 Code of Federal Regulations Part 8. In addition, Housing Developments shall adhere to either the Uniform Federal Accessibility Standards (UFAS) (24 C.F.R. Section 8.32), or HUD's Alternative Accessibility Standard. In addition, the Recipient/Developer shall ensure that the project meets the following requirements:

- (1) New construction projects: All new construction projects must provide a minimum of 15 percent of the Restricted Units with mobility features, and a minimum of 10 percent of the Restricted Units with hearing and vision features.
- (2) Rehabilitation project: All Rehabilitation projects must provide a minimum of 10 percent of the Restricted Units with mobility features, and a minimum of 4 percent of the Restricted Units with hearing and vision features. At least one of each common area facility type and amenity, as well as paths of travel between Accessible Housing Units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing CBC Chapter 11(B) as a design standard. In all other respects, applicable building codes will apply. The Director may approve a partial or full exemption to the requirements for the number of Accessible Housing Units in excess of those required by the ADA, Section 504, or California Building Code (CBC) Chapter 11B provided:
  - (A) The exemption does not pertain to any accessibility features required by applicable building codes, the CBC Chapter 11B, or federal law, including the required minimum 5 percent Units with mobility features and 2 percent Units with hearing and vision features. These CBC Chapter 11B and federal law minimums are calculated on all Units in the project, not just Restricted Units, and
  - (B) The eligible Applicants will ensure that Developers and project's architect demonstrate that full compliance with requirements that exceed those otherwise required by building codes or state or federal law would be infeasible or create an undue financial and administrative burden. Accessibility must be provided to the maximum extent feasible.
- (3) Senior projects: Senior new construction projects must provide a minimum of 50 percent of all Restricted Units with mobility features. Senior Rehabilitation projects must provide a minimum of 25 percent of all Restricted Units. The Department's Director may approve a waiver for a Senior Rehabilitation project pursuant to the provisions stated in the

previous paragraph.

- (4) All projects with elevators must comply with CBC Chapter 11(B) accessibility requirements for elevators.
- (5) All project owners with adaptable dwelling Units must provide adequate and visible notice to tenants of their ability to request conversion of adaptable features in their Units to more accessible versions.
- (6) Percentage requirements shall be calculated based on the number of Restricted Units (as defined in UMR) in the building and rounded up to the nearest whole number. However, CBC Chapter 11B and federal laws requiring a minimum 5 percent Units with mobility features and 2 percent Units with hearing and vision features are calculated on all Units in the project, not just Restricted Units. The required number of Units shall be the higher of these two calculations.
- (7) Accessible Housing Units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project and be available in a sufficient range of sizes and amenities so that an individual with Disabilities' choice of living arrangements is comparable to that of other persons eligible for housing assistance under the same project consistent with 24 C.F.R. Section 8.26.
- (8) Compliance and Verification: Prior to loan closing but after construction completion, the Recipient shall provide a certification of compliance, signed by the entity which owns the Housing Development and the project architect as well as third party documentation confirming compliance (by a Certified Access Specialist (CAS) with demonstrated experience meeting federal accessibility standards, or by an architect with demonstrated experience meeting federal accessibility standards.
- (9) Accessible Housing Units: Recipients of Program funds for all new and existing projects with fully Accessible Housing Units shall ensure the entities which own and operate such projects adopt suitable means to assure that information regarding the availability of Accessible Housing Units reaches eligible individuals with Disabilities and shall take reasonable nondiscriminatory steps to maximize the utilization of such Units by eligible individuals whose Disability requires the accessibility features of the particular Unit. Such information shall be included in marketing plans. To this end, when an Accessible Housing Unit becomes vacant, before offering such Unit to an applicant who does not need the features of the Unit, the project shall offer such Unit:
  - (A) First, to a current occupant of another Unit of the same project having a Disability requiring the accessibility features of the vacant

Unit and occupying a Unit not having such features, or if no such occupant exists, then

- (B) Second, to an eligible qualified applicant on the waiting list having a Disability requiring the accessibility features of the vacant Unit.
- (C) If no applicant meeting the criteria in subsections (A) or (B) is available, the Accessible Housing Unit may be offered to a tenant or applicant who does not need the Unit's accessibility features.
- (D) When offering an Accessible Housing Unit to an applicant not having a Disability requiring the accessibility features of the Unit, the owner or manager shall require the applicant to agree to move to a non-accessible Unit when a comparable Unit is available. This agreement shall be incorporated in the lease or a lease addendum.

(g) Violence Against Women Act

Where applicable, the Recipients shall ensure that individuals are not denied assistance, evicted, or have their assistance terminated because of their status as survivors of domestic violence, dating violence, sexual assault, or stalking, or for being affiliated with a victim, pursuant to 34 USC Section 12491.

Recipients have an obligation to inform such prospective and existing tenants of the rights and protections available to them under federal law by providing them with a Notice of Occupancy Rights Form HUD-5380 and VAWA Self-Certification Form HUD-5382. Notice must be given at the time an applicant is denied housing, at the time an applicant is admitted to housing, or when a tenant is notified of eviction or termination. Recipients are also required to comply with additional protections afforded to survivors under state law pursuant to CIV Section 1946.7 (early lease termination without penalty) and CIV Sections 1941.5 and 1941.6.

(h) Pet Friendly Housing Act

Recipients shall ensure that Developers will authorize residents of the Housing Developments to own or otherwise maintain one or more common household pets pursuant to the Pet Friendly Housing Act of 2017 (HSC Section 50466).

## Article 6. Performance Requirements

### Section 600. Important Deadlines

#### (a) Performance Deadlines

Performance Milestones					
	Commence Construction	Complete Construction	Securing Housing Perm. Financing Commitment	Execute Standard Agreement	Execute Disburs. Agreement
<b>Capital Improv. Project</b>	Within two years of Award	Within four years of Award	n/a	Within two years of Award	Within two years of Award
<b>Housing Dev.</b>	Within four years of Award	Within seven years of Award	Within four years of Award	n/a	n/a

- (1) The Capital Improvement Project shall commence construction of the Capital Improvement Project funded under this Phase II Application Solicitation within two years of Award.
- (2) The Capital Improvement Project shall complete construction of the Capital Improvement Project funded under this Phase II Application Solicitation within four years of Award.
- (3) Developers shall begin construction of the housing units to be developed in the Housing Developments within the time set forth in the Standard Agreement but not later than four years from date of Award letter.
- (4) The Housing Developments(s) shall complete construction of the housing units which were used as the basis for calculating the Program Award within seven years of securing all permanent financing commitments. Completion of construction must be evidenced by a certificate of occupancy or equivalent documentation submitted to the Department.
- (5) Additionally, Housing Development permanent financing commitments for, at minimum, the initial phase of housing development shall be secured no later than four years from date of Award to meet the Housing Development commencement milestones.

- (A) If funding commitments are not secured in accordance with subsection (5) above the Recipient may be required to fully repay disbursed Program grant funds.
  - (B) If development of the housing Units has not progressed in a reasonable period of time from the date of the Award, the Recipient will be required to repay disbursed Program grant funds. The proportion of the amount to be repaid (A) to the total grant amount (B) shall be the same as the number of housing Units where construction has not timely commenced (C) to the total number of designated housing Units (D) (Formula:  $A=C/D * B$ ).
- (6) A Standard Agreement shall be executed within two years of Award.
  - (7) A Disbursement Agreement shall be executed within two years of Award.
  - (8) Under exceptional circumstances and for delays outside of the Applicant's control, the Department reserves the right to grant an extension to a deadline of performance milestones.
- (b) Disbursement Deadline

Program funds must be disbursed by the liquidation date of June 30, 2027. The Recipient must submit final disbursement requests no later than March 31, 2027.

## Article 7. Operations

### Section 700. Legal Documents

- (a) Standard Agreement.

Upon the Award of Program funds to a Capital Improvement Project, the Department shall enter into a Standard Agreement with the Recipient, which shall commit funds from the Program, subject to specified conditions, in an amount sufficient to encumber the approved Program grant amount. The Standard Agreement shall require the Recipient to comply with the requirements and provisions of this Phase II Application Solicitation, and generally applicable state contracting rules and requirements, and all other applicable laws. A Standard Agreement shall be executed within two years of the date of the Award letter. The Standard Agreement shall contain the following:

- (1) A description of the approved Capital Improvement Project and the approved Housing Development(s), and the permitted uses of Program funds;

- (2) The amount and terms of the Program grant;
- (3) Provisions governing the construction work and, as applicable, the acquisition and preparation of the site of the Capital Improvement Project;
- (4) 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;
- (5) Provisions relating to the development, construction, affordability and occupancy of the Housing Developments supported by the Capital Improvement Projects;
- (6) Provisions related to administering the Program in a manner to Affirmatively Further Fair Housing and taking no action that is materially inconsistent with Affirmatively Furthering Fair Housing pursuant to Government Code Section 8899.50.
- (7) Provisions relating to the placement of a sign on, or in the vicinity of, the Capital Improvement Project site, indicating that the Department has provided financing for the Capital Improvement Project, or provisions relating to the Department's arrangement, in its sole and absolute discretion, for publicity of the Program Award. The Department may also arrange for publicity of the Department grant in its sole discretion;
- (8) Remedies available to the Department in the event of a violation, breach or default of the Standard Agreement;
- (9) Requirements that the Recipient permit the Department or its designated agents and employees the right to inspect the Capital Improvement Project and all books, records and documents maintained by the Recipient in connection with the Program grant;
- (10) Special conditions imposed as part of Department approval of the Capital Improvement Project;
- (11) Other terms and conditions required by federal or state law;
- (12) Provisions regarding the required execution and the recordation of an affordability Covenant against the fee estate of the Housing Development(s) within the Catalytic Qualifying Infill Area in accordance with UMR Sections 8310(f) and 8315. Such Covenant shall be in the

form and substance satisfactory to the Department, and it shall run for a term of at least 55 years; and

- (13) Other provisions necessary to ensure compliance with the requirements of the Program and applicable state and federal laws.

(b) Disbursement Agreement

Upon the Award of Program funds, the Department shall also enter into a Disbursement Agreement with the Recipient, which shall govern disbursement of funds from the Program to ensure timely completion of the Capital Improvement Project and Housing Development(s), subject to specified conditions, in an amount sufficient to encumber the approved Program grant amount. The Disbursement Agreement shall require the Recipient to comply with the requirements and provisions of this Phase II Application Solicitation, and generally applicable state contracting rules and requirements, and all other applicable laws. The Disbursement Agreement shall be executed within two years and prior to commencement of any construction except as may be allowed for emergency repairs to existing structures required to eliminate hazards or threats to health and safety. The agreement shall contain provisions relating to the use of funds, disbursement schedule, contractors and subcontractors, construction responsibilities, general conditions of disbursement, conditions precedent to individual disbursement, and other provisions which ensure an orderly disbursement of funds and timely completion of the Capital Improvement Project and Housing Development(s).

(c) Covenant

Upon the Award of Program funds, the Department shall also enter into a Covenant with the real property Owner ("Owner" shall include all successors, assigns and transferees of any or all of the Owner's interest in the Housing Development(s) and/or ownership unit(s), and the property on which they are located), which shall ensure the construction and continued operation of the rental Housing Development, or construction of and resale restrictions on ownership units, in consideration for the Program grant. The Covenant shall be executed and recorded on the fee title of any Housing Development(s), and/or ownership unit(s) assisted by Program funds before any disbursement of funds and before commencement of construction. The Covenant shall contain provisions relating to the repair and maintenance of the property or improvements of the rental Housing Development(s) and ownership unit(s), affordability or resale restrictions on same, and encumbrances, liens, and charges, and such other provisions as the Department may require in order to ensure compliance with Program requirements.

## Section 701. Defaults and Cancellations.

- (a) In the event of a breach or violation of any of the provisions of the Standard Agreement, the Department may give written notice to the parties to the Standard Agreement 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, the Department, at its sole discretion, may declare a default under the Standard Agreement and may seek legal remedies for the default including, without limitation, the following:
- (1) An order from a court of competent jurisdiction for specific performance of the defaulted obligation;
  - (2) The appointment of a receiver to complete the Capital Improvement Project and Housing Developments(s) in accordance with Program requirements;
  - (3) Recapture of some or all grant funds disbursed prior to the date of the declaration of default;
  - (4) Such other remedies as may be available under the Standard Agreement, or available in law or equity;
  - (5) Declaration of default for all other Departmental funding which has been cross defaulted to the Program Award. In the event the Capital Improvement Project or Housing Development(s) is or has been awarded additional Departmental funding, any and all such funding, including the award of IIGC funds, will be cross-defaulted to and among one another in the respective loan documents or, where applicable, grant documents. A default under one source of Departmental funding shall be default under any and all other sources of Departmental funding in the Capital Improvement Project.
- (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 and milestone dates established in the Standard Agreement or Disbursement Agreement;
  - (3) Funding conditions have not been or cannot be fulfilled within the timeframes set forth in this Phase II Application Solicitation or in grant documents executed in connection with the Program Award;



- (4) There has been a material change, not approved by the Department, in the proposed Housing Development(s) or the Principals or management of the Recipient/Developer or Capital Improvement Project.
- (5) Recipient has failed to give the Department proper notice of a delay which will result in a failure to meet milestone dates. Recipient's contracts with third parties require that the Department be put on notice of any changes and delays which will put the project out of compliance with milestone dates.

The Department may, at its sole discretion, extend deadlines set forth in the documents related to the Program Award, if the Recipient/Developer submits a written request for extension as soon as Recipient/Developer is aware that it will not meet, or has not met, an applicable deadline. Requests for extension must demonstrate good cause for the failure to meet the deadline, specify the circumstances which lead to the delay, and specify the date(s) on which Recipient/Developer first became aware of said circumstances. In no event shall any extension of deadlines waive or alter application of the Department's Disencumbrance Policy.

- (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. The Director's decision shall be final and binding on all parties.

#### Section 702. Reporting Requirements

- (a) Recipients of funds shall report to the Department on the progress of Capital Improvement Projects, including, but not limited to, substantiation of grant expenditures and housing outcomes, including levels of affordability as provided in the Phase II Application.
- (b) Until receipt of the certificate of occupancy, 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.
- (c) Upon receipt of the certificate of occupancy, the Recipient and Owner of the parcel of land that is being developed will be responsible for monitoring the Housing Developments to ensure the requirements set forth in the Standard Agreement and/or Covenant and verify compliance with the requirements of the Program.
- (d) To ensure adequate tracking of Housing Development(s) and verify compliance with the requirements of the Program, the Department retains the right to monitor the Recipient and Owner during the term of the Standard Agreement and/or

Covenant.

- (e) 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 Capital Improvement Project. At the Department's request, the Recipient or Owner shall provide, at its own expense, a financial audit prepared by a certified public accountant.

## **Article 8. Other Terms and Conditions**

### **Section 800. Right to Modify or Suspend and Program Compatibility**

- (a) Right to Modify or Suspend

The Department reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of this Phase II Application Solicitation at any time, including without limitation, the amount of funds available hereunder. If such an action occurs, the Department will notify all interested parties via HCD email list and will post the revisions to the IIGC website. Please subscribe to HCD's email list at <https://www.hcd.ca.gov/contact-us/email-signup>.

- (b) Conflicts

It is the duty and responsibility of the Applicant to review funding sources utilized for a project to ensure the requirements for those funding sources are compatible with HCD program requirements.

In the event of any conflict between the terms of this Phase II Application Solicitation and either applicable state or federal law or applicable regulation, the Department may modify these Program requirements as minimally necessary to ensure Program compatibility. Applicants are deemed to have fully read and understand all applicable state and federal laws, regulations, and guidelines pertaining to the relevant program, and understand and agree that HCD shall not be responsible for any errors or omissions in the preparation of this Phase II Application Solicitation.

## Appendix A

Large Jurisdictions include the unincorporated county and any incorporated city located within the following counties: <sup>3</sup>:

Large Jurisdictions		
Alameda	Placer	Santa Barbara
Contra Costa	Riverside	Santa Clara
Fresno	Sacramento	Santa Cruz
Kern	San Bernardino	Solano
Los Angeles	San Diego	Sonoma
Marin	San Francisco	Stanislaus
Merced	San Joaquin	Tulare
Monterey	San Luis Obispo	Ventura
Orange	San Mateo	

Small Jurisdictions include the unincorporated county and any incorporated city located within the following counties: <sup>4</sup>:

Small Jurisdictions		
Alpine	Kings	San Benito
Amador	Lake	Shasta
Butte	Lassen	Sierra
Calaveras	Madera	Siskiyou
Colusa	Mariposa	Sutter
Del Norte	Mendocino	Tehama
El Dorado	Modoc	Trinity
Glenn	Mono	Tuolumne
Humboldt	Napa	Yolo
Imperial	Nevada	Yuba
Inyo	Plumas	

<sup>3</sup> Based on the Department of Finance provided provisional population and housing estimates for the state, counties, and cities dated January 1, 2019. (E-5 Population and Housing Estimates for Cities, Counties, and the State – January 1, 2011-2019).

<sup>4</sup> Based on the Department of Finance provided provisional population and housing estimates for the state, counties, and cities dated January 1, 2019. (E-5 Population and Housing Estimates for Cities, Counties, and the State – January 1, 2011-2019).