

# Infill Infrastructure Grant Program Qualifying Infill Projects Guidelines

To ease in review, language identified in red text throughout this document represents text that is generally consistent across all multifamily funding programs subject to AB 434 and Health and Safety Code section 53559, subdivision (c).

Please refer to the Department's [Multifamily Finance Super NOFA](#) webpage to view all Designated Program guidelines, including the Defined Terms appendix.



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Infill Infrastructure Grant Program – Qualifying Infill Projects

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## Article 1. General

### Section 100. Purpose and Scope.

- (a) These guidelines implement and interpret Part 12.5 (commencing with Section 53559) of Division 31 of the Health and Safety Code, as amended from time to time, which establishes the Infill Infrastructure Grant (IIG) Program of 2019 (IIG-2019 or Program). The primary objective of IIG-2019 is to promote infill housing development by providing financial assistance for Capital Improvement Projects<sup>1</sup> that are an integral part of, or necessary to facilitate the development of, a Qualifying Infill Project.
- (b) 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 development projects. The Qualifying Infill Project site must have either been previously developed or be 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 features, sidewalk or streetscape improvements, Factory-Built Housing components, Adaptive Reuse, and site preparation or demolition.

Funds will be allocated through a competitive process, based on the merits of the individual application. The application selection criteria are described in the Universal Scoring Appendix and includes the following scoring categories: extent to which the project serves households at the lowest income levels, state policy priorities, Project Applicant and property manager experience, project readiness, Adaptive Reuse/infill/proximity to amenities, sustainable building methods, and cost containment.

- (c) Nothing in these IIG-2019 guidelines 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; these IIG-2019 guidelines shall have no retroactive application. These guidelines shall, however, replace all prior versions of guidelines for the purposes of applying to the funding offered subsequent to their publication.

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<sup>1</sup> All capitalized terms are defined in Appendix A.

- (d) These IIG-2019 guidelines are authorized by Health and Safety Code section 53559, subdivisions (i) and (k), and they establish terms, conditions, and procedures for all IIG-2019 funding offered pursuant to Health and Safety Code section 53559, subdivision (c)(1) and **the Multifamily Finance Super NOFA – Round 2**. On September 27, 2022, the Legislature amended Health and Safety Code section 53559, adding a new subdivision (c) which requires the Department to harmonize IIG-2019 with MHP in three (3) respects:
- (1) Specified IIG-2019 funds are to be made available at the same time as any MHP funds available;
  - (2) Specified IIG-2019 applications are to be rated and ranked in a manner consistent with MHP applications; and
  - (3) Specified IIG-2019 funds are to be administered consistent with MHP.

### **Section 101. Uniform Multifamily Regulations (UMRs) and Other Authorities Incorporated by Reference.**

- (a) The Uniform Multifamily Regulations (UMR) (Cal. Code Regs., tit. 25, § 8300 et seq.), effective November 15, 2017, and as subsequently amended, are hereby incorporated by reference as if set forth in full herein, with the exceptions of UMR Section 8304(c) and any UMR provision that would be inconsistent with these guidelines.
- (b) The following administrative notices, policies, and guidance are hereby incorporated herein by reference and shall be deemed to have the same force and effect as if set forth in full herein:
  - (1) The Department’s [“Disencumbrance Policy”](#) (Administrative Notice No. 2022-02), dated March 30, 2022, as amended on December 19, 2022, and as may be subsequently amended;
  - (2) The Department’s [“Negative Points Policy”](#) (Administrative Notice No. 2022-01), dated March 31, 2022, as amended on November 9, 2022 and April 3, 2023, and as may be subsequently amended; and
  - (3) The Department’s [“Repeal of Stacking Prohibition of Multiple Department Funding Sources”](#) (Administrative Notice No. 21-06), dated August 20, 2021, and as may be subsequently amended.

### **Section 102. Definitions.**

In addition to the definitions found in in the IIG-2019 statutory scheme and the UMRs, the definitions in Appendix A – Defined Terms shall apply to these guidelines.

In the event of a conflict, the definitions in Appendix A – Defined Terms shall prevail for the purposes of these guidelines and application to the Designated Programs. The

defined terms will be capitalized throughout the guideline text. References to sections herein refer to sections of these guidelines unless otherwise noted.

## **Article 2. Administration of Funds.**

### **Section 200. Eligible Capital Improvement Projects.**

- (a) To be eligible for funding, a Capital Improvement Project must be an integral part of, or necessary to facilitate the development, of the Qualifying Infill Project(s) identified in the application. Applications which do not identify a Qualifying Infill Project will not be eligible for funding.
- (b) The Qualifying Infill Project for which a Capital Improvement Projects grant may be awarded must:
  - (1) Meet the definition of a Qualified Infill Project under Appendix A;
  - (2) Include not less than 15 percent of Affordable Units to be developed in the Qualifying Infill Project as Affordable Units, as follows.
    - (A) For Qualifying Infill 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.
    - (B) To the extent included in a Capital Improvement Project grant application, for the purpose of calculating the percentage of Affordable Units, the Department may consider the entire master development in which the development seeking grant funding is included.
    - (C) Where applicable, an Eligible Applicant may include a replacement housing plan to ensure that dwelling units housing persons and families of Lower- or Moderate-Income are not removed from the Lower- 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.
  - (3) Include Net Densities on the parcels to be developed that are equal to or greater than the densities described below:
    - (A) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 20 units per acre.
    - (B) For an unincorporated area in a nonmetropolitan county not included in clause (A): sites allowing at least 15 units per acre.
    - (C) For a suburban jurisdiction: sites allowing at least 25 units per acre.

- (D) For a jurisdiction in a metropolitan county: sites allowing at least 45 units per acre.
  - (E) For a Rural Area: sites allowing at least 15 units per acre.
  - (F) A city with a population greater than 100,000 in a standard metropolitan statistical area or a population of less than 2,000,000 may petition the Department for, and the Department may grant, an exception to the density requirements set forth in this subsection, if the city believes it is unable to meet the density requirements described herein. The city shall submit the petition with its application and shall include the reasons why the city believes the exception is warranted. The city shall provide information supporting the need for the exception, including, but not limited to, any limitations that the city may encounter in meeting the density requirements described herein. Any exception shall be for the purposes of this section only. This subdivision shall become inoperative on January 1, 2026.
  - (G) For each round of funding, the NOFA shall identify which counties are deemed nonmetropolitan, which are deemed nonmetropolitan with micropolitan areas, which are deemed suburban, and which are deemed metropolitan.
- (4) Be located in an area designated for mixed-use or residential development pursuant to one of the following:
    - (A) A general plan adopted pursuant to Government Code (GC) Section 65300.
    - (B) A sustainable communities strategy adopted pursuant to GC Section 65080.
    - (C) A specific plan adopted pursuant to GC Section 65450.
    - (D) A Workforce Housing Opportunity Zone established pursuant to GC Section 65620.
    - (E) A Housing Sustainability District established pursuant to GC Section 66201.
  - (5) The Eligible Applicant must identify a mechanism, such as a minimum density ordinance or a recorded, binding covenant, acceptable to the Department to reliably ensure that future development will occur at an overall Net Density equaling or exceeding that set forth in Section 200(b)(3). This mechanism must be in effect and legally enforceable prior to the initial disbursement of Program funds.
  - (6) Eligible Applicants shall designate the proposed residential units in the Qualifying Infill Project that the Eligible Applicant intends to utilize for the purpose of establishing the maximum Program grant amount pursuant to Section 205, and for the purpose of rating applications pursuant to Sections 400 and 401. Any such designated units must be utilized for both purposes.

- (7) The application must demonstrate that the percentage of Affordable Units, and units restricted to other income limits and rents as designated for the purpose of determining the maximum Program grant amount in Section 205 and for rating purposes pursuant to Section 402, shall be maintained or exceeded through the completion of each residential development proposed in the application. The Department may modify the requirement set forth in the previous sentence to conform to a similar local public agency requirement, provided that the Department determines that the local requirement will reliably result in completion of the required Affordable Units as set forth in Section 403.
- (c) At the time of the application due date, the construction or Adaptive Reuse work of the Capital Improvement Project and the Qualifying Infill Project has not commenced, except for emergency repairs to existing structures required to eliminate hazards or threats to health and safety.
- (d) The Capital Improvement Project (to the extent applicable) and the Qualifying Infill Project meet accessibility requirements pursuant to Section 300 below. Qualifying Infill Projects must also provide a preference for Accessible Housing Unit(s) to persons with disabilities requiring the accessibility features of those units in accordance with California Code of Regulations (CCR), Title 4, Section 10337(b)(2).
- (e) In addition to the IIG-2019 requirements described herein, projects proposed by Tribal Entity Applicants must also meet the following additional requirements:
- (1) Located in Indian Country, or located on fee or trust land within the state of California;
  - (2) Project occupancy will be limited to Tribal Households to the greatest extent possible; and
  - (3) The Applicant meets the following conditions of award funding to the extent applicable, and, subject to any modifications or waivers as provided for in HSC Section 50406, subdivision (p) (Assembly Bill 1010 (Chapter 660, Statutes of 2019)) that shall be set forth in a Standard Agreement. It is noted that these same conditions do not need to be satisfied initially to engage in the competitive award process.
    - (A) BIA Approval. To the extent required by applicable law, the Bureau of Indian Affairs (BIA) has approved the Applicant's execution and recordation (as applicable) of all Department-required documents that are subject to 25 CFR Section 152.34 or 25 CFR Section 162.12, prior to Award disbursement.
    - (B) Personal and Subject Matter Jurisdiction. Personal and subject matter jurisdiction in regard to the Standard Agreement, Project, or any matters arising from either of them is in a court of competent jurisdiction 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 a court of competent jurisdiction.

- (C) Title Insurance. The Department has received title insurance for the property underlying the 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 or pursuant to a title opinion letter issued for the benefit of the Department but paid for by the Applicant. Such title status report may be uncertified, so long as a certified title status report is submitted to the Department prior to the disbursement of Award funds.
- (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 for Projects on trust or restricted land and, in all cases, in the appropriate official records of the County in which the Project property is located.

(f) Multiple Department Funding Sources

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

(A) The Department [Repeal of Stacking Prohibition of Multiple Department Funding Sources](#) Memo shall remain applicable. A maximum of four (4) Department Funding Sources comprised of no more than two (2) development loans and two (2) housing-related infrastructure grants may be used on a single Project. Housing related infrastructure grants are those grants provided through the Affordable Housing Sustainable Communities (AHSC) program - Housing Related Infrastructure (HRI) grants, Transit Oriented Development (TOD) Implementation Program - Infrastructure grants, and Infill Incentive Grant Program of 2007 (IIG-2007) Infill Infrastructure Grant Program of 2019 (IIG-2019).

(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.



- (3) Additional limitations on use of multiple department funding sources may be specified in the Notice of Funding Availability (NOFA).
- (4) Limits on Department Funding, including loan or grant funds, on a per Unit, per project, and/or per Recipient/Sponsor basis, may be further specified in the NOFA.
- (g) Once a project is awarded Department funds, the Recipient/Sponsor acceptance of these Department funds is acknowledging the project as submitted to and approved by the Department is the project that is to be funded and built. Any bifurcation 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.

### **Section 201. Eligible Applicant.**

- (a) "Eligible Applicant" means one of, or any combination of, the following:
  - (1) A nonprofit or for-profit Developer of a Qualifying Infill Project.
  - (2) Tribally Designated Housing Entity that is the Sponsor of a Qualifying Infill Project.
- (b) Eligible Applicant shall maintain a controlling interest in the Qualifying Infill Project throughout the full term of the Department's use restriction on the Qualifying Infill Project.

### **Section 202. Threshold Requirements.**

Projects shall be eligible for an Award of funds if the application demonstrates that all the following threshold requirements have been met:

- (a) The application involves an Eligible Capital Improvement Project pursuant to Section 200;
- (b) The Applicant is an Eligible Applicant pursuant to Section 201;
- (c) All proposed uses of Program funds are eligible pursuant to Section 203;
- (d) The application is complete pursuant to Sections 400 and 401;
- (e) Achieve a minimum point score for Universal Scoring criteria as set forth in the NOFA.
- (f) The Qualifying Infill Project (s), as proposed in the application, is financially feasible as evidenced by documentation such as, but not limited to, Enforceable Funding Commitments, market study, project proforma, sources and uses statement, or other

feasibility documentation that is standard industry practice for the type of proposed housing development.

- (g) The Qualifying Infill Project will maintain Fiscal Integrity consistent with proposed Rents in the Assisted Units. UMR Section 8310 underwriting requirements will not be used to evaluate feasibility of Qualifying Infill Projects. However, the Qualifying Infill Project shall be financially feasible as evidenced by documentation consistent with industry custom and practice, such as information regarding sources, uses, and mandatory debt service, multi-year proformas, and proposed operating budgets. Nothing in this provision shall be interpreted to abrogate or modify application of UMR Section 8310 where incorporated or referenced elsewhere in these Guidelines.
- (h) A Phase I Environmental Site Assessment (ESA) – and a Phase II Environmental Site Assessment, if the Phase I ESA revealed known or potential contamination – which has or have been completed and dated within 12 months prior to the application deadline, indicates that the Qualifying Infill Project and Capital Improvement Project 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;
  - (1) This requirement is not applicable where a Tribal Entity Applicant is proposing a Qualifying Infill Project and a Capital Improvement Project that are located in Indian Country.
- (i) The Qualifying Infill Project site is reasonably accessible to public transportation, shopping, medical services, recreation, schools, and employment in relation to the needs of the Qualifying Infill Project tenants.
- (j) Qualifying Infill Project involving new construction, acquisition and substantial Rehabilitation, or conversion of nonresidential structures to residential dwelling Units must be constructed in a manner to accommodate broadband service with at least a speed of 25 megabits per second for downloading and 3 megabits per second for uploading (25/3). The owner of the Qualifying Infill Project is not required to provide free internet service to the tenants.
- (k) The Qualifying Infill Project complies with the restrictions on demolition as set forth in UMR Section 8302;
- (l) The Qualifying Infill Project and Capital Improvement Project complies with the site control requirements as set forth at UMR Sections 8303 and 8316 with the additional requirement that the Applicant shall maintain site control of sufficient duration to meet Program requirements.
  - (1) The following shall apply to Qualifying Infill Project(s):
    - (A) Where site control is in the name of another entity, the Applicant shall provide documentation, in form and substance reasonably satisfactory to the Department, which clearly demonstrates that the Applicant has the right,

either directly or indirectly (contractually or through its organizational control of the entity with site control), to acquire or lease the Qualifying Infill Project property prior to or concurrent with construction closing. Acceptable documentation may include, but is not limited to, 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, or contractual or organizational documentation evidencing such control.

- (B) Where site control will be satisfied by a long-term ground lease, Recipient is responsible for ensuring that the owner of the fee estate and the owner of the leasehold estate execute and record the Department's Covenant on the title to the Qualifying Infill Project site and the ground lease must be for a term which is no less than the term of the Covenant.
  - (C) For projects developed in Indian Country, the following exceptions apply:
    - i. Where site control is a ground lease, the lease agreement between the Tribal Entity and the owner of the Qualifying Infill Project is for a period not less than 50 years. The Recipient is responsible for ensuring that the Tribal Entity and owner of the Qualifying Infill Project execute the Department's Covenant; and
    - ii. An attorney's opinion regarding chain of title and current title status is acceptable in lieu of a title report.
  - (D) If an Applicant's site control documentation (e.g., option) will or may expire prior to the anticipated date of the Program Award as specified in the NOFA, the Applicant will satisfy the threshold site control requirement so long as evidence of a valid extension is submitted during the application review period. For purposes of this paragraph, "evidence of a valid extension" means an option (and/or other applicable site control documentation) that is fully executed prior to the expiration of the site control documentation, and that extends the term of the site control documentation through the actual date of the Program award
- (2) The following shall apply to offsite work proposed and evidenced for Capital Improvement Projects through time of final disbursement:
- (A) Recipient 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 to access, improve, occupy, use, maintain, repair, and alter the property underlying the right of way or easement; and
  - (B) Recipient shall have an executed encroachment permit for construction of any improvements or facilities within the public right of way or on public land.

(m) The Capital Improvement Project and the Qualifying Infill Project comply with accessibility and fair housing obligations in Section 300, as applicable.

### **Section 203. Eligible Use of Funds.**

Funds shall be used only for approved eligible costs that are incurred on the Capital Improvement Projects as set forth in this section. In addition, the costs must be reasonable and necessary and must be consistent with the lowest reasonable cost consistent with the Project's scope and area as determined by the Department.

- (a) Funds shall only be used for Capital Asset related expenses as required by Section 16727 of the GC.
- (b) Eligible costs include the construction, Rehabilitation, demolition, relocation, preservation, acquisition, or other physical improvements of the following:
  - (1) The creation, development, or Rehabilitation of Parks or Open Space.
  - (2) Water, sewer, or other utility service improvements (including internet infrastructure), including relocation of such improvements.
  - (3) Street, road, and bridge construction and improvement.
  - (4) Structured Parking, including:
    - (A) Structured Parking spaces that are required replacement of Transit Station parking spaces (including replacement required by a transit agency), or public Structured Parking required as a condition of approval for the Qualifying Infill Project within one-half mile of a Major Transit Stop or Transit Station, not to exceed \$50,000 per space.
    - (B) Residential Structured Parking and mechanical parking lifts. The minimum residential per Unit parking spaces in Structured Parking, as required by local land-use entitlement approval, not to exceed one parking space per residential Unit, and not to exceed \$50,000 per permitted space.
  - (5) Transit linkages and facilities, including, but not limited to, related access plazas or pathways, and bus and transit shelters.
  - (6) Facilities that support pedestrian or bicycle transit, including bike lanes, crosswalk improvements, and pedestrian scaled lighting.
  - (7) Traffic mitigation measures, including roundabouts, turn lanes, or raised islands.
  - (8) Site clearance, grading, preparation, and demolition necessary for the development of the Capital Improvement Projects.

- (9) Sidewalk or streetscape improvements, including, but not limited to, the reconstruction or resurfacing of sidewalks and streets or the installation of lighting, signage, or other related amenities.
- (10) Storm drains, stormwater detention basins, culverts, and similar drainage features.
- (11) Adaptive Reuse.
- (12) 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 Qualifying Infill Project, 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 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/>.

- (13) Site acquisition or control for the Capital Improvement Projects including, but not limited to, easements and rights of way, and real property acquired for Adaptive Reuse. Such costs must be deemed reasonable and demonstrated by documentation that may include appraisals, purchase contracts, or any other documentation as determined by the Department.
- (14) Soft costs such as those incidentally but directly related to construction or other pre-development components including, but not limited to, planning, engineering, construction management, architectural, and other design work, required mitigation expenses such as mitigation design or testing, appraisals, legal expenses, and necessary easements. Soft costs shall not exceed 10 percent of costs associated with the funding request for the Capital Improvement Projects.
- (15) Other Capital Asset costs approved by the Department and required as a condition of local approval for the Capital Improvement Projects.
- (16) 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.

(17) Factory-Built Housing (as defined in Appendix A)

(c) The following costs are not eligible:

- (1) Developer Fees or profit.
- (2) Costs of site acquisition for housing and mixed-use structural improvements, unless the site contains building structures and the Capital Improvement Project described in the Application includes Adaptive Reuse of said building structures or Factory-Built Housing.
- (3) Costs of new housing or mixed-use structure construction and Rehabilitation not including Adaptive Reuse and Factory-Built Housing costs.
- (4) Soft costs related to ineligible costs.
- (5) In-lieu fees for local inclusionary programs.

**Section 204. Cost Limitations.**

(a) Capital Improvement Projects costs must be reasonable and necessary.

- (1) Costs must be reasonable compared to similar infrastructure projects of modest design in the general area of the Capital Improvement Projects.
- (2) The Eligible Applicant must demonstrate no other source of compatible funding is reasonably available as evidenced in the Capital Improvement Projects development budget.

**Section 205. Grant Terms and Limit.**

- (a) The maximum Program Award amount shall be established by the total number of Units identified in the Qualifying Infill Project, the bedroom count of these Units, and the density and affordability of the housing to be developed. Replacement housing Units may be included in the calculation of the total maximum grant amount. The Department shall publish a table listing per Unit grant limits for each NOFA based on these factors. The total eligible Award amount shall be based upon the lesser of the amount necessary to fund the Capital Improvement Projects or the maximum amount permitted by the IIG-2019 Grant Amount Calculation Table provided in the NOFA.
- (b) Minimum and maximum Award amounts for a Qualifying Infill Project are identified in the NOFA.
- (c) 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.

- (d) Where the Qualifying Infill Project is receiving low-income housing tax credits, the Recipient may provide Program funds to the Sponsor of the Qualifying Infill Project in the form of a zero percent deferred payment loan, with a term of at least 55 years. The loan may be secured by a deed of trust, which may be recorded with the local county recorder's office, provided the beneficiary of the loan shall not under any circumstances exercise any remedy, including, without limitation, foreclosure, under the deed of trust without the prior written consent of the Department, in its sole and absolute discretion. The loan may not be sold, assigned, assumed, conveyed, or transferred to any third party without prior, written Department approval, which is at the Department's sole and absolute discretion. For Qualifying Infill Projects assisted by other Department funding programs, repayment of the loan between the Recipient/Sponsor shall be limited to (1) no repayments to the Recipient until the maturity date or (2) repayment only from Distributions from the Qualifying Infill Project within the meaning of 25 CCR Section 8301(h). The Recipient shall be responsible for all aspects of establishing and servicing the loan. The provisions governing the loan shall be entirely consistent with these guidelines and all documents required by the Department with respect to the use and disbursement of Program funds. All documents governing the loan between the Recipient/Sponsor shall contain all the terms and conditions set forth in this subdivision and shall be subject to the review and approval of the Department prior to making the loan. This subdivision shall apply to any Qualifying Infill Project receiving low-income housing tax credits regardless of the date of the Program Award.
- (e) Conditions precedent to the initial disbursement of Program funds shall include receipt of all required public agency entitlements and all required funding commitments for any proposed Qualifying Infill Project supported by the Capital Improvement Projects, as well as execution and, where applicable, recordation of the legal documents described in Section 500.
- (f) Grant funds will be disbursed as progress payments for approved eligible costs incurred subject to the requirements of these guidelines.
- (g) Where approval by a local public works department, or an entity with equivalent jurisdiction, is required for the Capital Improvement Projects, 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 Projects is consistent with all applicable policies and plans enforced or implemented by that department or entity.
- (h) Grants awarded, but for which development of the related housing Units has not progressed in a reasonable period of time from the date of the grant Award, shall be recaptured, as required by HSC Section 53559, subdivision (k).

## Article 3. General Requirements

### Section 300. State and Federal Laws, Rules, Guidelines and Regulations.

The Recipient must comply with all applicable local, state, and federal laws, constitutions, codes, standards, rules, guidelines, and regulations, including, without limitation, those that pertain to accessibility, construction, health and safety, labor, fair housing, fair employment practices, affirmatively furthering fair housing, nondiscrimination, and equal opportunity.

#### (a) Nondiscrimination and Fair Housing Requirements

- (1) To the furthest extent applicable and subject to federal preemption, the Recipient must comply with all relevant laws, including, without limitation, the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.); the Unruh Civil Rights Act (Civ. Code, § 51); Government Code section 11135 (the prohibition of discrimination in state-funded programs); Government Code section 8899.50 (the duty to affirmatively further fair housing); California's Housing Element Law (Gov. Code, § 65583 et seq.); California Code of Regulations, title 2, sections 12264 – 12271 (legally permissible consideration of criminal history information in housing); Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.); the Fair Housing Act (FHA) and amendments (42 U.S.C. § 3601 et seq.); the Fair Housing Amendments Act of 1988; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Architectural Barriers Act of 1968 (42 U.S.C. § 4151 et seq.); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 – 6107); and all federal and state regulations implementing these laws.

#### (b) Americans with Disabilities Act of 1990 and Physical Design Accessibility Requirements

- (1) Recipient shall comply generally with all applicable state and federal building codes and standards, as well as with all design and accessibility laws.
- (2) Recipient shall ensure that the Qualifying Infill Project is in compliance with the following housing and building accessibility requirements:
  - (A) California Building Code Chapters 11A and 11B;
  - (B) the Fair Housing Act (42 U.S.C. § 3601 et seq.) and its implementing regulations at 24 Code of Federal Regulations part 100, and the ANSI A117.1-1986 design and construction standard incorporated by reference at 24 Code of Federal Regulations part 100.201a;



- (C) the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) and its implementing regulations at 28 Code of Federal Regulations part 35 (Title 11) and part 36 (Title III);
- (D) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and its implementing regulations at 24 Code of Federal Regulations part 8; and
- (E) the Uniform Federal Accessibility Standards (UFAS) at 24 Code of Federal Regulations part 40, or, in the alternative, the 2010 ADA Standards for Accessible Design.

(c) Prevailing Wage Law Requirements

Recipients' use of Program funds is subject to California's prevailing wage law (Lab. Code, § 1720 et seq.). Recipients are urged to seek professional legal advice about the law's requirements. Prior to disbursing the Program funds, the Department will require a certification of compliance with California's prevailing wage law, as well as all applicable federal prevailing wage law. The certification must verify that prevailing wages have been or will be paid (if such payment is required by law), and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the general contractor(s) and the Recipient (including all co-Recipients).

(d) Article XXXIV, Section 1 of the California Constitution

All Qualifying Infill Projects shall comply with Article XXXIV unless they fall within one or more statutory exceptions under the Public Housing Election Implementation Law (PHEIL) (Health & Saf. Code, §§ 37000 – 37002). Article XXXIV documentation of compliance shall be subject to review and approval by Department prior to the announcement of Award recommendations. Even if IIG-2019 funding is awarded for infrastructure which does not come within the purview of Article XXXIV, if the Affordable Units used to calculate the award are financed by public sources, including other Department funding sources, governed by Article XXXIV, then IIG-2019 funding shall be conditioned upon compliance with Article XXXIV. Tribal Entities are not required to demonstrate compliance with or exemption from Article XXXIV for Projects located in Indian Country where an Indian tribe exercises jurisdiction.

Except as indicated above, Applicants must submit documentation that shows the Qualifying Infill Project's compliance with or exemption from Article XXXIV. If a Qualifying Infill Project is subject to Article XXXIV, the Applicant must submit an allocation letter from the Local Public Entity that shows that there is Article XXXIV authority for the Project. A local government official with authority should prepare the allocation letter, and it should include the following:

- (1) The name and date of the proposition and the number of Units that were approved;

- (2) A copy of the referendum and a certified vote tally;
- (3) The number of Units that remain in the Local Public Entity’s “bank” of Article XXXIV authority (i.e., the number of Units that are still available for allocation); and
- (4) The number of Units that the Local Public Entity will commit to this Qualifying Infill Project, including the Manager’s Unit.

If a Qualifying Infill Project satisfies a statutory exception to Article XXXIV, then the Applicant must submit an Article XXXIV opinion letter from the Applicant’s legal counsel. The Article XXXIV opinion letter must demonstrate that the Applicant has considered both the legal requirements of Article XXXIV and the relevant facts of the Qualifying Infill Project (e.g., all funding provided by public bodies, including state, county, or city sources; the number of Low-Income restricted Units; and the general content of any regulatory restrictions). Any conclusion that a Qualifying Infill Project is exempt from Article XXXIV must be supported by facts and a specific legal theory for exemption that itself is supported by the Constitution, statute, and/or case law.

### **Section 301. Relocation Requirements.**

- (a) The Recipient who develops a Capital Improvement Project which results 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.
- (b) All persons, businesses or farm operations that are displaced as a direct result of the development of a Capital Improvement Project shall be entitled to relocation benefits and assistance as provided in Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code and the Department’s implementing regulations at California Code of Regulations, title 25, sections 6000 – 6198. Additionally, to the extent applicable, local relocation law as well as the Federal Uniform Relocation Assistance and Real Property Acquisition Act, 49 CFR 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.
- (c) The Recipient shall prepare or update a relocation plan in conformance with the provisions of California Code of Regulations, title 25, section 6038, and any other applicable relocation laws. The relocation plan shall be subject to the review and approval by the Department prior to the execution and approval of the Standard Agreement and prior to actual displacement of persons, businesses, or farm operations. If no persons, businesses, or farm operations will be displaced as a direct result of the development of the Capital Improvement Project, then the Recipient shall execute a certification, on a form prepared by the Department, prior to execution and approval of the Standard Agreement.

## Article 4. Application Requirements

### Section 400. Application Process.

- (a) The Department shall periodically issue a NOFA that specifies, among other things, the amount of funds available, summary application requirements, the criteria of rating points, minimum eligibility threshold point scores, the deadline for submittal of applications, the schedule for rating and ranking applications and awarding funds, and the general terms and conditions of funding commitments. A NOFA may declare as ineligible those applications for which the Department has issued, or concurrently will issue, a special NOFA pursuant to subsection (c)(4), below. Applications selected for funding shall be approved at grant amounts, terms, and conditions specified by the Department. For each Capital Improvement Project selected for funding, the Department shall issue an Award letter and standard agreement. With respect to any NOFA involving funding from one or more Designated Programs, the Department may require Applicants to specify all sources and amounts of funding for which the Applicant is applying. This requirement may be set forth in either the NOFA or the application.
- (b) 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 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.
- (c) In order to implement goals and purposes of the Program, the Department may adopt measures to direct funding awards to designated Project types including, but not limited to, Rural Area Projects, Projects located in areas needing additional funding to achieve a reasonable geographic distribution of Program funds, Projects preserving continued affordability, and Projects with specified funding characteristics. These measures may include, but are not limited to:
  - (1) Issuing a special NOFA for designated project types.
  - (2) Awarding bonus points within a particular NOFA to designated project types.
  - (3) Reserving a portion of funds in the NOFA for designated project types.
  - (4) Notwithstanding anything in these guidelines to the contrary, a special NOFA issued pursuant to this subsection may establish an over-the-counter application process, meaning the Department continuously accepts and rates applications according to minimum threshold criteria published in a

NOFA for the process, and makes Awards to applications that meet or exceed these criteria until the funding available for the process is exhausted. At a minimum, a special NOFA shall include a description of the application process and funding conditions, shall require compliance with Section 202, and shall establish minimum funding threshold criteria based on the rating criteria set forth in Section 402; and

- (d) Applications selected for funding shall be approved subject to conditions specified by the Department.
- (e) The Department may elect to not evaluate compliance with some or all eligibility requirements for applications that are not within a fundable range, as indicated by a preliminary point scoring.
- (f) Applications will be reviewed, and negative points assessed, consistent with the Department's Negative Points Policy. The Negative Points Policy, dated March 30, 2022, (and amended on November 9, 2022 and April 3, 2023), is published on the Department's [website](#).

#### **Section 401. Application Content and Application Eligibility Requirements.**

- (a) Applicants shall use the application made available by the Department, without modification. In the event any NOFA involves funding from one or more Designated Programs, the application may require the Applicant(s) to specify all sources and amounts of funding for which they are applying.
- (b) An application is complete when it satisfies all of the following:
  - (1) The application meets all threshold requirements, as set forth in the NOFA, Section 202, and the application.
  - (2) The application provides sufficient information for the Department to assess the Qualifying Infill Project's *feasibility* according to Section 202(g) and industry standards.
  - (3) The application includes organizational documents for each Applicant entity. Resolutions must be submitted within sixty (60) calendar days of the conditional award notification and in advance of Standard Agreement execution. Applicants are strongly encouraged to submit resolutions at the time of application to ensure timely access to funds as Standard Agreements will be prioritized based on the receipt and review of all required documents.
- (c) The Department may reduce the score of an application that does not include all information necessary for scoring.
- (d) Applications shall be evaluated for compliance with the threshold and eligibility requirements of these guidelines, and applicable statutes, and scored based on the

application scoring criteria listed in Article IV of the Super NOFA – Universal Scoring Criteria. The applications with the highest number of points shall be selected for funding, provided that they meet all threshold and eligibility requirements and achieve specified minimum scores as identified in the NOFA.

#### **Section 402. Application Scoring and Selection.**

- (a) All scoring criteria are found in Article IV of the Super NOFA – Universal Scoring Criteria.
- (b) Any reference outside of these guidelines and the Universal Scoring Criteria in the current Super NOFA, including references in the guidelines or regulations for any Designated Program, to the ranking and rating or the administration of funds in a manner consistent with MHP shall not be interpreted as authorizing funding criteria or requirements that conflict with those approved by the voters through a statewide initiative or referendum.

#### **Section 403. Performance Deadlines.**

- (a) Recipients must commence construction of Capital Improvement Projects no later than two years from Award date and must complete construction no later than four years from Award date, which shall include recordation of a Notice of Completion.
- (b) Program grant funds used for the completion of the Capital Improvement Projects must be disbursed in accordance with the deadlines specified in the NOFA and Standard Agreement. The Recipient must provide final disbursement requests at least three months prior to the disbursement date specified in the NOFA and Standard Agreement.
  - (1) An extension of these performance requirements, if determined to be necessary by the Department, will be specified in the Department’s NOFA.
- (c) Additionally, the Qualifying Infill Project used as the basis for calculating the Capital Improvement Projects grant amount in the application must meet the following:
  - (1) Within 24 months of any Award of Program funds, all permanent financing commitments shall be secured and construction of the Qualifying Infill Project must be commenced.
  - (2) The Qualifying Infill Project must complete construction of the housing Units which were used as the basis for calculating the Program Award within three years of securing all permanent financing. Completion of construction must be evidenced by a certificate of occupancy or equivalent documentation submitted to the Department.
- (d) All Recipients must demonstrate, to the Department’s satisfaction, substantial compliance with the timelines set forth herein. For Recipients failing to make the required demonstration, their Grant Awards shall revert to the Department, and they

will be required to repay disbursed Program grant funds attributable to units for which construction was not timely commenced or completed. The proportion of the amount to be repaid (A) to the total grant amount (B) shall be the same as the number of residential Units where construction has not timely commenced or completed (C) to the total number of designated residential Units (D) (Formula:  $A=C/D * B$ ).

- (e) In addition to (a) through (d), all Recipients will be subject to the Department's Disencumbrance Policy. The Disencumbrance Policy, Administrative Notice Number 2022-02 dated March 30, 2022, and amended on December 19, 2022, is published on the Department's [website](#).
- (f) A Standard Agreement shall be executed within two years of Award.
- (g) A Disbursement Agreement shall be executed within two years of Award.
- (h) Program funds must be disbursed no later than the liquidation date.

## Article 5. Operations.

### Section 500. Legal Documents.

- (a) Upon the award of Program funds to a Qualifying Infill Project, the Department shall enter into one or more agreements with the Recipient and such other parties as the Department may require, including a Standard Agreement, 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 these guidelines, and generally applicable state contracting rules and requirements and all other applicable laws. The agreement or agreements shall contain the following:
  - (1) A description of the approved Capital Improvement Project, the approved Qualifying Infill Project, and the permitted uses of Program funds;
  - (2) The amount and terms of the Program grant;
  - (3) The use restrictions to be applied to the Qualifying Infill Project as consideration for the Program grant;
  - (4) Provisions governing the construction of the Capital Improvement Project and Qualifying Infill Project and, as applicable, the acquisition of the Capital Improvement Project site, and the disbursement of grant proceeds;
  - (5) Special conditions imposed as part of Department approval of the Capital Improvement Project;

- (6) Requirements for the execution and the recordation of the agreements and documents required under the Program;
  - (7) Terms and conditions required by federal or state law;
  - (8) The approved schedule of the Capital Improvement Project, including commencement and completion of construction, and, if applicable, land acquisition, Rehabilitation work, and occupancy;
  - (9) The approved Capital Improvement Project development budget and sources and uses of funds and financing;
  - (10) Requirements for reporting to the Department;
  - (11) Terms and conditions for the inspection and monitoring of the Capital Improvement Project and Qualifying Infill Project in order to verify compliance with the requirements of the Program;
  - (12) Provisions regarding compliance with California's Relocation Assistance Law (Gov. Code, § 7260 et seq.) and the implementing regulations adopted by the Department (Cal. Code Regs., tit. 25, § 6000 et seq.), or to the extent applicable, compliance with federal Uniform Relocation Act requirements;
  - (13) Provisions regarding compliance with Article XXXIV;
  - (14) 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 grant;
  - (15) Remedies available to the Department in the event of a violation, breach, or default of the agreement, to include the reversion of the grant Award if the Recipient has not substantially met specified performance standards;
  - (16) Other provisions necessary to ensure compliance with the requirements of the Program and applicable state and federal laws; and
  - (17) Provisions identifying the modification or waiver of state housing finance requirements for Tribal Entities pursuant to HSC Section 50406, Subdivision (p).
- (b) The Recipient and Department, and such third parties as required by the Department, shall enter into a disbursement agreement which shall govern the manner, timing, and conditions of the disbursement of Program funds, and which must be executed prior to any disbursement of Program funds. The disbursement agreement provisions may include general conditions to disbursement, draw request procedures, a disbursement schedule, and remedies upon an event of default.



- (c) In consideration for the IIG-2019 Award to the Recipient, the Recipient shall ensure a covenant is recorded against the fee interest of the real property site(s) of the Qualifying Infill Project (the “Covenant”), which shall impose development, use, and affordability restrictions upon the real property. The Covenant shall be binding, effective and enforceable commencing upon its execution and shall continue in full force and effect for a period of not less than 55 years (or, if necessary, 50 years for Qualifying Infill Projects in Indian Country) after a certificate of occupancy or its equivalent has been issued for the Affordable Housing Development by the local jurisdiction or, if no such certificate is issued, from the date of initial occupancy of the Affordable Housing Development. The covenant shall be subject only to those liens, encumbrances, and other matters of record approved by the Department pursuant to UMR sections 8310(f) and 8315.

### **Section 501. Defaults and Cancellations.**

- (a) In the event of a breach or violation by the Recipient of any of the provisions of the Standard Agreement, the disbursement agreement, or Covenant the Department may give written notice to the Recipient 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 option, may declare a default under the relevant document(s) and may seek legal remedies for the default including the following:
- (1) The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the Project in accordance with Program requirements.
  - (2) The Department may seek such other remedies as may be available under the relevant agreement or any law.
  - (3) In the event the Qualifying Infill Project or Capital Improvement Project is or has been awarded additional Department funding, any and all such funding will be cross-defaulted to and among one another in the respective loan or, where applicable, grant documents. A default under one source of Departmental funding shall be a default under any and all other sources of Department funding in the Project.
- (b) The Department may cancel funding commitments under any of the following conditions:
- (1) The objectives and requirements of the Program cannot be met;
  - (2) Implementation of the Capital Improvement Project or Qualifying Infill Project cannot proceed in a timely fashion in accordance with the approved plans and schedules;
  - (3) Special conditions have not been fulfilled within required time periods; or



(4) There has been a material change, not approved by the Department, in the Capital Improvement Project or Qualifying Infill Project or the principals or management of the Recipient or Project.

Upon Recipient demonstration of good cause for failure to comply with any or all of the conditions of this subsection, the Department may extend the date for compliance and shall provide the extension in writing.

(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 Department's Director.

## **Section 502. 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 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 development(s) in the Qualifying Infill Project(s) 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) in the Qualifying Infill Project(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.

# Appendix A – Defined Terms

All capitalized terms used throughout these guidelines shall, unless they have a program-specific definition or their context suggests otherwise, be given the same meanings of terms as defined in the Multifamily Housing Program guidelines or as ascribed in the UMRs (Chapter 7, Subchapter 19, Section 8301).

This appendix includes combined definitions for all AB 434 program guidelines and replaces former guidelines definitions sections: 7301 (MHP), 201 (Serna), 102 (VHHP), and 102 (IIG). Definitions specific to a particular set of program guidelines are identified by the color coding noted below:

IIG- Specific Guidelines Definition – Purple

MHP (“Universal”) Guidelines Definition - Black

Serna- Specific Guidelines Definition – Green

VHHP- Specific Guidelines Definition - Blue

**AB 434** - Assembly Bill No. 434, Chapter 192, Statutes of 2020.

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

- (1) 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 ADA 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 CBC 11B.
- (2) A “Housing Unit with Hearing/Vision Features” means and refers to a housing unit that complies with 24 CFR 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 ADA Standards for Accessible Design. Such units must also comply with CBC 11B.

**Adaptive Reuse** – means the repurposing of building structures (e.g., offices, commercial spaces, business parks) for residential purposes. When referring to building structures, Adaptive Reuse means the retrofitting and repurposing of existing buildings in order to create new residential rental Units, and expressly excludes a 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 Housing Development** - has the same meaning as "Rental Housing Development" defined below.

**Affordable Rents** - Rents established for Assisted Units in accordance with Section 7312 of the MHP guidelines.

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

**Agricultural Employment** - means employed in the cultivation and tillage of the soil; the production, cultivation, growing and harvesting of any agricultural or horticultural commodities; the raising of livestock, bees, furbearing animals, or poultry; dairying, forestry, and lumbering operations; and any work on a farm as incident to or in conjunction with such farming operations, including the delivery and preparation of commodities for market or storage. Agricultural Employment also includes work done by any person who works on or off the farm in the processing of any agricultural commodity until it is shipped for distribution, whether or not such person is encompassed within the definition specified in subdivision (b) of Section 1140.4 of the Labor Code.

**Agricultural Worker** - an individual who derives, or prior to retirement or disability derived, a substantial portion of his/her income from Agricultural Employment.

**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 CFR pt. 8, 24 CFR Section 8.22, and the requirements of 28 CFR pt. 35, including 28 CFR Section 35.151 and the 2010 Standards for Accessible Design as defined in 28 CFR Section 35.104.

**Applicant** - the entity or entities applying to the Department for the Program funding. Such entity or entities may also be the Sponsor, as defined in Section 7303 of the MHP Guidelines and as consistent with UMR Section 8301(s). Upon receiving an Award of funds, the Applicant or co-Applicants will, both individually and collectively, be referred to as the "Recipient" in the Department's legal documents relative to an Award of a grant, or as "Sponsor" in the Department's legal documents relative to an Award of a loan. For the purpose of Designated Program guidelines, an Applicant or co-Applicant that only receives an Award of grant funding will, both individually and collectively, be referred to as the "Recipient."

**Area Median Income or AMI** - means the most recent applicable county median family income published by California Tax Credit Allocation Committee (TCAC). For Tribal Entity 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.

**Article XXXIV** - Article XXXIV, Section 1 of the California Constitution. This constitutional provision requires local voter approval before a state public body can develop, construct, or acquire a low-rent housing project in any manner. The Public Housing Election Implementation Law (PHEIL) (Health & Saf. Code, §§ 37000 – 37002) sets forth statutory exceptions to this constitutional requirement.

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

**At Risk of Homelessness** - the condition of individuals or households who meet the definition of at risk of homelessness in 24 CFR Part 578.3.

**Award** - a commitment of money in the form of a Program grant or a loan that is made by the Department to an Applicant.

**Bus Hub** - 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 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday, or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider in the 12 months preceding the application due date.

**Bus Transfer Station** - 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** - the construction, rehabilitation (as that term is defined below in Appendix A), demolition, relocation, preservation, acquisition, or other physical improvement of a Capital Asset that is an integral part of, or necessary to facilitate the development of, a Qualifying Infill Project. Capital Improvement Projects that may be funded under the Program include, but are not limited to, those described in Section 200 of the IIG guidelines.

**Case Manager** - a social worker or other qualified person who assists in individualized service planning, and the assessment, coordination, monitoring, referral, and advocacy of services to meet tenants' supportive services needs, including, but not limited to, access to medical and mental health services, substance abuse services, vocational training, employment, home and community-based services and crisis management and interventions. Resident service coordinators are not Case Managers.

**CDLAC** - the California Debt Limit Allocation Committee.

**Chronic Homelessness or Chronically Homeless** - the condition experienced by people defined as "Chronically Homeless" under the federal Continuum of Care Program, at 24 CFR Part 578.3.

It also includes the condition of individuals and families:

- (1) Residing in a place not meant for human habitation, emergency shelter, or safe haven, after experiencing Chronic Homelessness as defined in 24 CFR Section 578.3, and subsequently residing in a permanent housing project within the last year.
- (2) Residing in transitional housing who were experiencing chronic homelessness as defined in 24 CFR Section 578.3 prior to entering the transitional housing; or

- (3) Residing in an existing supportive housing project receiving MHP funding for Rehabilitation or being replaced by an MHP-funded project, provided that, upon initial occupancy, the individuals were experiencing chronic homelessness as defined in 24 CFR Section 578.3 or qualified under Section 7303(f).

**Commercial Space** - any nonresidential space located in or on the property of an Affordable Housing Development that is, or is proposed to be, rented, or leased by the owner of the Project and that is or will be used to serve clients or customers. The income from the Commercial Space shall be included as Operating Income.

**Community-Based Developer** – means a nonprofit entity (including a Tribal Entity) and/or a for-profit entity, as required by the applicable funding Program, which satisfies all of the following requirements at the time of application, as reasonably determined by the Department:

- (a) The entity shall have been operating in the community to be served by the Project described in the application for a period of at least twenty-four (24) consecutive months immediately preceding application submittal;
- (b) The entity shall reasonably define the community to be served by specifying and delineating the applicable neighborhood geographic area on a map showing, among other things, the boundaries thereof and the number of square miles contained therein, not to exceed ten (10) square miles for non-Rural Areas or twenty (20) square miles for Rural Areas; and such defined community shall:
  - (1) be primarily or exclusively located in a Moderate and/or Low Resource area or in a High Segregation & Poverty area, as designated in the most recently updated TCAC/HCD Opportunity Area Map or in such comparable federal map(s) as approved by the Department;
  - (2) include the Project to be funded by the award; and
  - (3) subject to subsection (c) immediately following, include the entity's corporate office within its boundaries.
- (c) The entity satisfies either of the following geographic requirements, as applicable:
  - (1) Where the proposed Project is located in a non-Rural Area, either: (A) the entity maintains a corporate office within five (5) miles of the proposed Project, or (B) the entity has developed, owned, or operated at least three (3) deed-restricted affordable housing projects located within ten (10) miles of the proposed Project; or
  - (2) Where the proposed Project is located in a Rural Area, either: (A) the entity maintains a corporate office within ten (10) miles of the proposed Project, or (B) the entity has developed, owned, or operated at least

three (3) deed-restricted affordable housing projects located within twenty (20) miles of the proposed Project.

(d) The entity satisfies both of the following experience requirements:

- (1) The entity has developed, owned, or operated at least one (1) Rental Housing Development that is equivalent to the proposed Project in size, scale, level of amenities, and occupancy. The Department may determine experience by evaluating the experience of the entity itself or the experience of senior staff within the organization. If the experience requirement is satisfied by one or more of the Community-Based Developer's senior staff members, then the Standard Agreement and the loan documents shall include a Sponsor obligation to provide the Department with immediate written notice in the event of such member's or members' departure from or termination by the entity.
  - (2) The entity has at least five (5) years' experience in the delivery of Culturally Competent Services and/or Community Benefit Programs to Very Low Income and/or Lower Income households in the communities served by the entity. This experience must include direct, in-person delivery of at least two (2) Culturally Competent Services and/or Community Benefit Programs to the general public within ten (10) miles of the proposed Project. Such services or programs must have been provided on an ongoing basis and during core business hours, and they cannot have been provided at an existing affordable housing project.
- (e) The entity serves no more than three (3) distinct geographic communities, as demonstrated by the location or delivery site of corporate offices, affordable housing projects, Culturally Competent Services, and/or Community Benefit Programs.
- (f) The entity has community knowledge, commitment to long-term community investment, and population-specific cultural competency, as demonstrated by evidence of at least two (2) of the following:
- (1) Receipt of grant funds for services within the relevant community.
  - (2) Bilingual staff members that provide daily language assistance during the entity's delivery of services to the relevant community.
  - (3) A record of hiring within the community.
  - (4) Membership in or recruitment from a local Urban League (or substantially equivalent) organization.

**Community Benefit Programs** – Such programs include, but are not limited to, the following:

- (1) Free or reduced-cost childcare, after-school care, youth development, or adult daycare programs.
- (2) Community center facilities that are staffed and open to the public at least once a week or a minimum of seven (7) hours each week.
- (3) A medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week.
- (4) Technical assistance or lending to, or investment in, at least ten (10) small businesses within five (5) miles of the proposed Project.
- (5) Job training, digital literacy training, college outreach (linking potential students to college resources and information), or other employment or educational programs or outreach.
- (6) Financial counseling, housing counseling, free tax return assistance, or other economic empowerment programs.
- (7) Food distribution programs.

**Comprehensive Case Management** - individualized services planning and the provision of connections to mental health, substance abuse, employment, health, housing retention, and similar services.

**Coordinated Entry System or CES** - a centralized or coordinated process developed pursuant to 24 CFR Section 578.7(a)(8), as that section read on May 1, 2016, designed to coordinate program participant intake, assessment, and provision of referrals. A centralized or coordinated assessment system covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool.

**Culturally Competent Services** – means services that respect diversity in the community and that respond effectively across cultures, regardless of differences in language, communication styles, abilities, disabilities, beliefs, attitudes, and behaviors.

**Department or HCD** - the California Department of Housing and Community Development.

**Designated Programs** - the Infill Incentive Grant Program of 2007 (IIG-2007), the Joe Serna, Jr. Farmworker Housing Grant Program (FWHG or Serna), the Multifamily Housing Program (MHP), the Housing for a Healthy California Program (HHC), the Transit Oriented Development (TOD) Implementation Program, and the Veterans Housing and Homelessness Prevention Program (VHHP) to the extent that AB 434 requires that funds



from such programs be made available at the same time as funds are made available under MHP, that the applications for funding under such programs are to be rated and ranked in a manner consistent with MHP and that the administration of funds made available under such programs shall be consistent with MHP. “Designated Programs” also includes the Infill Infrastructure Grant Program of 2019 (IIG-2019) with respect to Capital Improvement Projects for Large Jurisdictions.

**Developer** – the legal entity that the Department relies upon for capacity, experience, and site control of the Qualifying Infill Project, and which controls the Rental Housing Development during development and through occupancy.

**Disability** - meeting 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 Government Code) and shall be broadly construed to include:

- (1) individuals with a mental or physical disability that limits a major life activity;
- (2) individuals regarded or perceived as having a mental or physical disability that limits a major life activity. This includes being perceived as having or having had a disorder or condition that has no present disabling effect but may become a mental or physical disability;
- (3) individuals having a record of a mental or physical disability that limits a major life activity. A “record” of mental or physical disability includes previously having, or being misclassified as having, a record or history of a mental or physical disability; and/or
- (4) individuals who are, or are perceived as, associated with a person who has, or is perceived to have, a mental or physical disability.
- (5) For purposes of this definition:
  - (A) “Mental disability” includes, but is not limited to, having any mental or psychological disorder or condition, intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, and chronic or episodic conditions that limits a major life activity. This includes disabilities such as autism spectrum disorders, schizophrenia, clinical depression, bipolar disorder, post-traumatic stress disorder, and obsessive-compulsive disorder.
  - (B) “Physical disability” includes, but is not limited to, having any physiological disease, disorder, condition, cosmetic disfigurement, anatomical loss that affects one or more of the following body systems or the operation of an individual organ within a body system: neurological; immunological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; circulatory; skin; endocrine; brain; and normal cell growth; and that limits a major life activity.

(C) “Major life activity” shall be construed broadly and includes, but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and social activities.

(D) “Limits” shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity. A mental or physical disability “limits” a major life activity if it makes the achievement of the major life activity difficult.

(E) Disabilities also include Intellectual/Developmental Disabilities as defined in Designated Program Guidelines and acquired brain injuries (which have both a physical and mental disability component); chronic and recurring disabilities, and medical conditions as defined in Government Code Section 12926(i), such as cancer.

**Distributions** – is defined in accordance with UMR Section 8301(h).

**Efficiency Unit** - a Unit containing only one habitable room. A room in a structure that is a single-family house at the time of application will not be considered to be an Efficiency Unit eligible for program funds.

**Eligible Households** - households whose incomes do not exceed 60 percent of AMI (or 80 percent of AMI, as applicable under Serna), as 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 a Project Sponsor and the Department. Household income will be calculated based on Units in accordance with TCAC rules and procedures.

**Emergency Shelter** - has the meaning set forth in 24 CFR 578.3.

**Emerging Developer** - as determined by the Department in its reasonable discretion, means an entity, including a Tribal Entity, that has developed, owned, or operated at least one (1) but not more than four (4) Rental Housing Developments that are equivalent to the proposed Rental Housing Development in size, scale, level of amenities, and occupancy. The Department may determine experience by evaluating the experience of the entity itself or the experience of senior staff within the organization. If the experience requirement is satisfied by one or more of the Emerging Developer’s senior staff members, then the Standard Agreement and the loan documents shall include a Sponsor obligation to provide the Department with immediate written notice in the event of such member’s or members’ departure from or termination by the entity.

**Enforceable Funding Commitment** - 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:

- (1) 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;
- (2) Deferred-payment financing, residual receipts payment financing, and grants from public agencies;
- (3) Funds awarded by another Department program. Proof of award must be issued prior to final rating and ranking of the Program application.
- (4) A land donation in fee for no other consideration that is supported by an appraisal and/or purchase/sale agreement, or some other instrument of title transfer ("Land Donation"), or a local fee waiver resulting in quantifiable cost savings for the Project where those fee waivers are not otherwise required by federal or state law ("Local Fee Waiver"), shall be considered a funding commitment. The value of the Land Donation will be the greater of either the original purchase price or the current appraised value as supported by an independent third-party appraisal prepared by a Member Appraisal Institute-qualified appraiser within one year prior to the application deadline. A funding commitment in the form of a Local Fee Waiver must be supported by written documentation from the local public agency. A below market lease that meets the requirements of UMR section 8316 would be considered a land donation (\$1 per year).
- (5) Owner equity contributions or developer funds. Such contributions or funds shall not be subsequently substituted with a different funding source or forgone if committed in the application, except that a substitution may be made for up to 50 percent of the deferred Developer Fee. The Applicant shall be prepared, upon Department request, to provide evidence that the proposed amount of owner equity or developer funds is actually available at the time of application.
- (6) Funds for transportation projects, if an eligible use of a Designated Program. Funds must be programmed for allocation and expenditure in the applicable Project plan consistent with the terms and timeframes of the Standard Agreement.
- (7) Enforceable Funding Commitment Letters must contain the following:
  - (A) The name of the Applicant or Development Sponsor,
  - (B) The Project name,
  - (C) The Project site address, assessor's parcel number, or legal description; and
  - (D) The 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** - households with Gross Incomes not exceeding 30 percent of Area Median Income as set forth in Health and Safety Code section 50106.

**Factory-Built Housing** - as set forth in Health and Safety Code section 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 California Building Standards Commission pursuant to Health and Safety Code section 19990. Factory-Built Housing does not include a mobilehome, as defined in Health and Safety Code section 18008, a recreational vehicle, as defined in Health and Safety Code section 18010.5, or a commercial modular, as defined in Health and Safety Code section 18012.5.

**Farmworker Housing** - a Rental Housing Development where at least 25 percent of the units are restricted to Agricultural Households.

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

- (1) pay all current Operating Expenses;
- (2) pay all current debt service (excluding deferred interest);
- (3) fully fund all reserve accounts (other than the operating reserve account) established pursuant to the Regulatory Agreement; and
- (4) 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.

## **Fund - the Joe Serna, Jr. Farmworker Housing Grant Fund.**

**Gross Income** - all income as defined in CCR Title 25 Section 6914.

**Homeless or Homelessness** - the condition of individuals and households who meet the definition of “homeless” in 24 CFR Part 578.3. “Homelessness” includes “Chronic Homelessness” as defined in Designated Program guidelines. Occupants of a development undergoing Rehabilitation with Designated Program funds, or being replaced by an MHP-funded development, shall be deemed to qualify under this definition if they qualified upon initial occupancy.

**Housing First** - is defined in accordance with Welfare and Institutions Code section (WIC) Section 8255.

**HUD** - the U.S. Department of Housing and Urban Development.

**Indian Country** – means the following:

- (1) All land located in “Indian country,” as defined by 18 U.S. Code (USC) 1151;
- (2) All land within the limits of a Rancheria under the jurisdiction of the United States government;
- (3) All land held in trust by the United States for an Indian tribe or individual; or
- (4) All land that is held by an Indian tribe or individual, and that is subject to a restriction by the United States against alienation.

**Initial Operating Year** - the initial period of operation of the Rental Housing Development, beginning at the time of the initial occupancy of the completed Project and ending on the last day of the fiscal year for the development.

**Intellectual/Developmental Disability** - a Disability that is covered under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 USC Sections 15001 and 15002(8) and implementing regulations at 45 CFR section 1325.3) or WIC 4512(a), and Disabilities that make a person eligible for services from the California Regional Center System. It includes a severe, chronic Disability that:

- (1) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (2) manifests before the age of 22;
- (3) is likely to continue indefinitely;

- (4) results in substantial functional limitations in three or more of the following areas of major life activity:
  - (A) self-care,
  - (B) receptive and expressive language,
  - (C) learning,
  - (D) mobility,
  - (E) self-direction,
  - (F) capacity for independent living, or
  - (G) economic self-sufficiency; and
- (5) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

The definition includes Intellectual Disabilities, cerebral palsy, epilepsy, and autism spectrum disorder. It also includes conditions that are closely related to Intellectual Disability or that require similar treatment (WIC Section 4512(a)).

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

**Large Family** - a housing type meeting the requirements of MHP guidelines Section 7302(e)(1).

**Large Jurisdiction** - a county that is not a Small Jurisdiction, or any city within that county.

**Lead Service Provider or LSP** - the organization that has overall responsibility for the provisions of Supportive Services and implementation of the supportive service plan in the Project. The LSP may directly provide Comprehensive Case Management services or contract with other agencies that provide services. For HUD-VASH tenants, the LSP will enable the applicable Veterans Affairs Case Manager to administer services in accordance with the HUD-VA Supportive Housing (VASH) Program.

**Local Public Entity** - any county, city, city and county, Tribal Entity, a community redevelopment agency or successor agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24, and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low income. It also includes two or more Local Public Entities acting jointly.

**Lower Income or Low-Income** - households with Gross Incomes not exceeding 80 percent of Area Median Income as set forth in Health and Safety Code Section 50079.5.

**Major Transit Stop** - a site containing any of the following:

- (1) An existing rail or bus rapid transit station.
- (2) A ferry terminal served by either a bus or rail transit service.
- (3) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during peak hours. Peak hours are limited to the time between 7:00 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 application due date.

**Manager's Unit** - a unit in which the onsite manager of the Project resides. A Manager's Unit will not be considered to be an Assisted Unit, nor will it be considered to be a Restricted Unit for the purpose of calculating allowable Distributions. A Manager's Unit will be considered to be a Restricted Unit for the purpose of allocating development costs and may qualify for a loan amount up to the amount applicable to the 60 percent of AMI level.

**Net Cash Flow** – means that portion of Operating Income that remains after payment of the mandatory expenses, costs, and fees that are identified at Section 7313(a) of the MHP Guidelines. Such Net Cash Flow shall be applied in accordance with UMR Section 8314(a)(2): 50 percent of the Net Cash Flow will be apportioned to the Sponsor as Distributions, and 50 percent of the Net Cash Flow will be apportioned to the Department as residual receipts.

**Net Density** - 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.

**Net Income** - the same as defined in California Code of Regulations, Title 25, Section 6916.

**NOFA** - the Notice of Funding Availability issued by the Department to announce that funds are available and that applications for that funding may be submitted.

**Nondiscretionary Local Approval Process** - means a process for development approval involving no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the "objective zoning standards", "objective subdivision

standards", or "objective design review standards" in effect at the time that the application is submitted to the local government but uses no special discretion or judgment in reaching a decision. A nondiscretionary process involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. "Objective Zoning Standard, Objective Subdivision Standard, and Objective Design Review Standard" means standards that involve no personal or subjective judgment by a public official and that are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development Applicant or proponent and the public official prior to submittal.

**Nonprofit Corporation** - the same as defined in HSC Section 50091.

**Older Adults in Need of Supportive Services** - individuals who are age 55 or older and who need Supportive Services to maintain and stabilize their housing, including individuals meeting the following criteria:

- (1) Eligible under Medi-Cal 1915(c) waiver programs including the Home and Community-Based Alternatives Waiver, the Multipurpose Senior Services Program (MSSP), the AIDS Waiver, the Assisted Living Waiver, the Home and Community-Based Services for the Developmentally Disabled (HCBS-DD) Waiver, and the Self-Determination Program (SDP) Waiver;
- (2) Eligible for services under the Program of All-Inclusive Care for the Elderly or Community-Based Adult Services (CBAS);
- (3) Eligible for services through Enhanced Care Management or Community Supports (also known as "In Lieu of Services") provided through Cal-AIM or similar programs;
- (4) Eligible for services through the In-Home Supportive Services Program;
- (5) Eligible for services similar to those listed in (1)-(4) above through the Department of Developmental Services (DDS) or the Regional Centers, including Independent Living Services and Supported Living Services;
- (6) Older Veterans who need services similar to those listed in (1)-(5) above but are served through the VA; and/or
- (7) Older adults at risk of institutionalization and eligible for long term care.

Eligibility for these programs must be established by the agency responsible for determining eligibility for the benefits provided by them.

**Open Space** - a parcel or area of land or water that is essentially unimproved and dedicated to one or more of the following purposes:

- (1) the preservation of natural resources;



- (2) the managed production of resources;
- (3) public and/or residential outdoor recreation; or
- (4) public health and safety.

**Operating Expenses** - the same as defined in UMR Section 8301(k).

**Operating Income** - all income generated in connection with operation of the Affordable Housing Development including rental income for Assisted Units and non-Assisted Units, fair market value 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 Affordable Housing Development. "Operating Income" does not include security and equipment deposits, payments to the Sponsor for Supportive Services not included in the Department-approved operating budget, cash contributed by the Sponsor, or tax benefits received by the Sponsor.

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

**Permanent Supportive Housing or Supportive Housing** - means the same as defined under Health and Safety Code Section 50675.14(b)(2) and refers to Assisted Units.

**Pooled Transition Reserve Fund** – means the same as specified and described in the Department’s Pooled Transition Reserve Policy.

**Principal** - employees of the Sponsor who are in a position responsible for the oversight and management of development activities.

**Program** – in the MHP guidelines, the term ‘Program’ is defined as the Multifamily Housing Program (MHP). Each Designated Program guidelines defines Program separately.

**Program** – in the Serna guidelines, the term ‘Program’ is defined as the Joe Serna, Jr. Farmworker Housing Grant Program.

**Program** – in the VHHP guidelines, the term ‘Program’ is defined as the Veterans Housing and Homelessness Prevention Program, authorized by Proposition 41, the Veterans Housing and Homeless Prevention Bond Act of 2014.

**Program** – in the IIG guidelines, the term ‘Program’ is defined as the Infill Infrastructure Grant Program of 2019 (IIG-2019).

**Project** – an Affordable Housing Development for which funding is being requested, and includes the development, the construction or Rehabilitation, and the operation thereof, and the financing structure and all agreements and documentation approved in connection therewith.

**Project-Specific Transition Reserve** – is defined in accordance with Health and Safety Code section 50468, subdivision (d)(1).

**Qualified Project Rental or Operating Subsidy** – is defined in accordance with Health and Safety Code section 50468, subdivision (d)(3), and shall include any other means of rental assistance or operating assistance identified by the Department in its Pooled Transition Reserve Policy.

**Qualifying Infill Project** - a residential or mixed-use residential development project designated in the Program application that is located within an Urbanized Area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with Urban Uses. A property is adjoining the side of a project site if the property is separated from the project site only by an improved public right-of-way. QIP applications from Tribal Entities may request an exemption to the requirement to be located within an Urbanized Area.

**Recipient** - the eligible Applicant as defined in Section 201 of the IIG guidelines receiving a commitment of Program funds for an approved Capital Improvement Project.

**Regulatory Agreement** - the written agreement between the Department and the Sponsor that will be recorded as a lien on the Affordable Housing Development to control the use and maintenance of the Project, including restricting the rent and occupancy of the Assisted Units.

**Rehabilitation** - the term as defined in HSC Section 50096, including improvements and repairs made to a residential structure acquired for the purpose of preserving its affordability.

**Related Support Facilities** - include but are not limited to:

- (1) water and sewer facilities and other utilities directly related to the proposed Rental Housing Development.
- (2) physical improvements for childcare services, recreational activities, meeting room(s) all of which are intended for use of Project residents.
- (3) solar and other alternative energy efficient systems.

**Rent** - 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.

**Rental Housing Development** - a structure or set of structures with common financing, ownership, and management, and which collectively include(s) five or more dwelling units that are or will be subject to Department-approved affordability, occupancy, and/or rent restrictions as a condition of Department funding. Such dwelling units may include efficiency units as defined in HSC Section 50675.2, subdivision (d). No more than one of the dwelling units may be occupied as a primary residence by a person or household who is the owner of the structure or structures. For the purpose of Designated Program guidelines, “Rental Housing Development” does not include any “health facility” as defined by HSC Section 1250 or any “alcoholism or drug abuse recovery or treatment facility” as defined in HSC Section 11834.02. A Rental Housing Development includes, without limitation, the real property, the improvements located thereon, and all fixtures and appurtenances related thereto. **Note:** Where any Applicant is demonstrating experience in its application for Program funding, the term “Rental Housing Development” will also be interpreted to mean a structure or set of structures with common financing, ownership, and management, and which collectively include(s) five or more dwelling units that are subject to the affordability, occupancy, and/or rent restrictions of any Local Public Entity, any Tribal Entity, or the federal government. In such cases, the term is also subject to any additional requirements that appear in context.

**Rent-Up Costs** - costs incurred in connection with marketing and preparing an Assisted Unit for occupancy while the unit is on the housing market but not yet rented to its first tenant.

**Residential Hotel** - any building that contains six or more Residential Hotel Units, where a majority of the units are Residential Hotel Units. Single-family houses are not considered Residential Hotels.

**Residential Hotel Unit** - also referred to as a single room occupancy unit or an “SRO,” means an Efficiency Unit that:

- (1) is occupied as a primary residence; and
- (2) is subject to state landlord-tenant law pursuant to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. The term also includes a unit in an “SRO Project” as described in Title 4 CCR, Section 10325(g)(3).

**Restricted Unit** - the same as that term is defined in UMR Section 8301(q), excluding units restricted at levels above 60 percent of AMI for MHP and VHHP, or above 80 percent AMI for Serna.

**Rural Area** - has the meaning set forth in Health and Safety Code Section 50199.21.

**Rural Development or RD** - the United States Department of Agriculture acting through the Rural Housing Service, formerly known as the Farmers Home Administration.

**Safe Haven** - has the meaning set forth in 24 CFR 578.3.

**Schedule of Rental Income or SRI** - is submitted to and approved by the Department prior to permanent financing closing and as required by the Regulatory Agreement. The SRI sets forth the rent roll, which identifies each tenant household in a form and manner that is reasonably acceptable to the Department; includes information requested by the Department (e.g., tenant household size, income, current rent, proposed rent adjustments); and provides estimated income for Assisted Units, non-Assisted Units, and Commercial Space or use.

**Senior** - a housing type meeting the requirements of MHP guidelines Section 7302(e)(3).

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

**Special Needs** - a housing type meeting the requirements of MHP guidelines Section 7302(e)(5).

**Special Needs Population(s)** - means one or more of the following groups who need Supportive Services to maintain and stabilize their housing:

- (1) people with disabilities;
- (2) At Risk of Homelessness, as defined above in Appendix A;
- (3) individuals with substance use disorders;
- (4) frequent users of public health or mental health services, as identified by a public health or mental health agency;
- (5) individuals who are fleeing domestic violence, sexual assault, and human trafficking;
- (6) individuals who are experiencing Homelessness and individuals experiencing Chronic Homelessness as defined above in Appendix A;
- (7) homeless youth as defined in Government Code Section 12957, subdivision (e)(2);
- (8) families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county;
- (9) individuals exiting from institutional settings or at risk of placement in an institutional setting;
- (10) Older Adults in Need of Supportive Services; or
- (11) other specific groups with unique housing needs as determined by the Department.

Special Needs Populations does not include “seniors or Veterans” unless they otherwise qualify as a “Special Needs Population” as required by other statutory laws.

**Sponsor** – means the same as defined in Section 7303 of the MHP guidelines and as consistent with the definition of “Sponsor” at UMR Section 8301(s).

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

**Super NOFA** - a NOFA issued by the Department announcing availability of funding for one or more Designated Programs as required by AB 434 and Health and Safety Code section 53559, subdivision (c).

**Supportive Housing** - housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the Supportive Housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

**Supportive Services** - 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)).

**Supportive Services for Veteran Families Program (SSVF)** - the program established pursuant to 38 CFR Part 62 and operated by the VA.

**Supportive Services Costs** - the costs of providing tenant service coordination, case management, and direct resident and Supportive Services. It includes:

- (1) The cost of providing tenants with information on and referral to 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; and
- (2) salaries, benefits, contracted services, telecommunication expenses, travel costs, supplies, office expenses, staff training, maintenance of on-site equipment used in services programs, such as computer labs, incidental costs related to resident events, and other similar costs approved by the Department.

Supportive Services Costs shall be calculated in accordance with UMR Section 8314.

**Target Population** – this definition in the Serna guidelines has the same meaning as Agricultural Worker.

**Target Population** – this definition in the VHP guidelines has the same definition as stated in Health & Safety Code 50675.14(b)(3)(A).

**TCAC** - the California Tax Credit Allocation Committee.

**TCAC/HCD Opportunity Area Map** - the most recently approved TCAC/HCD Opportunity Area 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 Project.  
<https://treasurer.ca.gov/ctcac/opportunity.asp>

**Transitional Housing** - buildings configured as Rental Housing Developments but operated under Program requirements that call for the termination of assistance and recirculation of the Assisted Unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, but no longer than twenty-four (24) months. Projects serving persons experiencing Homelessness, including Chronic Homelessness, shall comply with the core components of Housing First set forth in Welfare and Institutions Code section 8255.

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

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

**Tribal Entity** – Tribe or a tribally designated housing entity. An Applicant that is any of the following:

- (1) An Indian Tribe as defined under 25 USC Section 4103(13)(B).
- (2) A Tribally Designated Housing Entity under 25 USC Section 4103(22).
- (3) If not a federally recognized tribe as identified above, either:
  - (a) Listed in the Bureau of Indian Affairs Office of Federal Acknowledgment Petitioner List, pursuant to 25 CFR part 83.1, and has formed and controls a special purpose entity in compliance with UMR Section 8313.2; or
  - (b) An 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, and that has formed and controls a special purpose entity in compliance with UMR Section 8313.2.

**Tribal Households or Tribal Household** – means a household that includes at least one (1) member of either of the following:

- (1) An Indian Tribe as defined under 25 USC Section 4103(13)(B); or
- (2) A non-federally recognized tribe that is either (a) listed in the Bureau of Indian Affairs Office of Federal Acknowledgment Petitioner List, pursuant to 25 CFR part 83.1; or (b) an 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.

**Unit** - has the same definition as UMR Section 8301(x).

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

**Urbanized Area** - 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 that is served by public sewer and water systems.

**VA** - the United States Department of Veterans Affairs.

**Very Low Income** - households with Gross Incomes not exceeding 50 percent of Area Median Income as set forth in Health and Safety Code Section 50105.

**Veteran** - any person who actively served within one or more of the military services of the United States who was called to and released from active duty or active service, for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within that 90-day period. This includes all Veterans regardless of discharge status.

**Veterans with a Disability Experiencing Homelessness** - Veterans experiencing the same condition as individuals experiencing “Chronic Homelessness”, excluding the requirement of having experienced Homelessness for a defined period of time, and as defined in 42 U.S.C. 11360(10)(A) and as determined by a medical doctor or nurse practitioner.

**VHHP Eligible Household** - a household whose composition includes at least one Veteran, as defined in subsection (h) of the VHHP guidelines, who meets the criteria of Target Populations, as defined in subsection (f) of the VHHP guidelines, and whose Gross Incomes do not exceed the income limit specified by TCAC.

**Walkable Route** - a route which, after completion of the proposed Project, shall be free of negative environmental conditions that deter pedestrian circulation, such as barriers; stretches without sidewalks or walking paths; noisy vehicular tunnels; streets, arterials or

highways without regulated crossings that facilitate pedestrian movement; or stretches without adequate lighting.

**Workforce Housing Opportunity Zone or Zone** - 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 Government Code Section 65583 established pursuant to Section 65621.