

# Program Update #1: Statewide Mitigation Bank for Significant Transportation Impacts

## Executive Summary

This document provides a high-level preview of the Statewide Mitigation Bank (Mitigation Program) framework established by Assembly Bill (AB) 130. The document is intended to support early understanding and discussion among stakeholders and policymakers. The program details described in this document are illustrative and will be refined through subsequent stakeholder engagement, public comment, and revisions prior to finalizing the programmatic guidance.

In June 2025, Governor Gavin Newsom signed into law Assembly Bill (AB) 130, enacting a suite of policies designed to accelerate housing development in California.<sup>1</sup> Among other provisions, AB 130 established a statewide framework to facilitate California Environmental Quality Act (CEQA) lead agencies' use of location-efficient affordable housing and related infrastructure as mitigation for significant transportation impacts. While housing is already an eligible form of CEQA transportation mitigation, AB 130 creates a standardized, state-administered option that allows lead agencies to satisfy mitigation obligations by contributing to the Transit-Oriented Development Implementation Fund (TDIF), with investments made through the Transit-Oriented Development Implementation Program (TDIP). This document presents a project update on development of a draft programmatic framework for the Mitigation Program and summarizes ongoing efforts to design and implement the program following the enactment of AB 130, with details to be refined through subsequent stakeholder engagement and public comment prior to finalizing program guidelines.

## Administration and Design

The California Department of Housing and Community Development (HCD) will administer the Mitigation Program, receiving contributions into the TDIF and selecting investments in mitigating projects (i.e., affordable housing and related infrastructure projects) through the TDIP pursuant to guidelines that HCD will issue by July 1, 2026.<sup>2</sup> The Governor's Office of Land Use and Climate Innovation (LCI) will concurrently develop and issue parallel guidance on Mitigation Program administration, including pricing and accounting, defining "location-efficient" areas, and verification of contributions.<sup>3</sup> HCD's TDIP guidelines and LCI's Mitigation

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<sup>1</sup> Committee on Budget, Chapter 22, Statutes of 2025.

<sup>2</sup> Cal. Health & Resources Code § 53560.

<sup>3</sup> Cal. Pub. Res. Code § 21080.44(d).

Program guidelines will work in combination to detail the Mitigation Program's functions and requirements.

As noted above, the Mitigation Program will give lead agencies an option to mitigate significant transportation impacts from projects subject to CEQA. CEQA mitigation requirements are defined in statute and clarified through case law, and any use of affordable housing or related infrastructure projects to mitigate significant transportation impacts must comply with those standards. Similar to mitigation for any other CEQA resource area and as defined in statute and clarified through case law, transportation mitigation must be supported by substantial evidence; be feasible, enforceable, and monitorable; have a nexus to a legitimate governmental interest; be roughly proportional; and not be improperly deferred. As a matter of good practice, such mitigation should also be additional, meaning it would not otherwise occur at that time **but for** the requirement to mitigate a project's significant impacts. Therefore, providing funding for affordable housing and related infrastructure projects that would not have been built "but for" the Mitigation Program could be considered additional under certain circumstances.

## Participation

### General Program Participation Rules

Participation in the Mitigation Program is optional.<sup>4</sup> "Participating projects" will consist of projects where the lead agency (1) determines that it will have a significant transportation impact under the California Environmental Quality Act and (2) elects to participate in the Mitigation Program. "Mitigating projects" will include projects applying for funding from HCD through the TDIP to complete investments in affordable housing and related infrastructure projects.

Lead agencies will have the sole discretion to determine whether to utilize the Mitigation Program, an alternative locally or regionally administered program, and/or other on-site options to address CEQA requirements for mitigation.<sup>5</sup> Lead agencies will also determine whether a project will have a significant transportation impact meriting the implementation of mitigation measures, as well as the level of reduction needed to get to a less-than-significant impact.

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<sup>4</sup> Cal. Pub. Res. Code § 21080.44(b)(3) ("[A] project applicant *may use* the Transit-Oriented Development Implementation Fund as one optional strategy to mitigate a significant transportation impact...") (emphasis added).

<sup>5</sup> Cal. Pub. Res. Code § 21080.44(b)(1)(B) ("This section shall not preclude the lead agency's use of other mitigation strategies, including, but not limited to, transportation demand management, transit improvements, active transportation infrastructure, road diets, or utilizing local or regional mitigation banks and exchanges.")

## Initial Implementation Phase

To support the rollout of the Mitigation Program and effective management of administrative workload, the program will be implemented in phases. During the initial implementation phase, program access will be limited to publicly funded projects.

Based on programmatic considerations, including aggregate demand, administrative capacity, and the availability of mitigation offsets, HCD, in coordination with LCI, may expand access to additional lead agencies upon request. This phased approach is intended solely to support effective early implementation and is not intended to alter or limit lead-agency authority over CEQA determinations or mitigation decisions.

## Contributions and Assessment of Mitigating Projects

Pursuant to CEQA Guidelines Section 15064.3, the significance of transportation impacts is generally measured using vehicle miles traveled (VMT). AB 130 directs LCI to develop technical methodologies for two core components of the Mitigation Program listed below.

- 1) The contribution per VMT that will be assessed to determine “participating project” contributions; and
- 2) the anticipated VMT reductions that will be attributed to “mitigating projects.”<sup>6</sup>

In developing these methodologies, LCI will focus on criteria to ensure accurate, feasible pricing and transactions that satisfy statutory requirements of CEQA mitigation measures as defined within the CEQA Statute and clarified through relevant case law.

## Investment of Mitigation Program Funds

AB 130 directs HCD to invest Mitigation Program contributions to the TDIF in three priority categories: (1) affordable housing or related infrastructure in location-efficient areas within the same region as a “participating project”; (2) other affordable housing or related infrastructure within the same region; and (3) affordable housing or related infrastructure in location-efficient areas within adjacent regions to the “participating project.”<sup>7</sup> HCD will establish in guidelines how the Mitigation Program will consider these categories when selecting mitigation investments in TDIP.

AB 130 defines “regions” as the territory of Metropolitan Planning Organizations (MPOs) or, outside MPO jurisdiction, Regional Transportation Planning Agencies (RTPAs).<sup>8</sup> As required by

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<sup>6</sup> Cal. Pub. Res. Code § 21080.44(d)(1), (d)(4).

<sup>7</sup> Cal. Pub. Res. Code § 21080.44(c)(1).

<sup>8</sup> Cal. Pub. Res. Code § 21080.44(a).

the bill, LCI will develop, in consultation with state departments, a definition of “location-efficient” areas.<sup>9</sup>

## Verification and Additionality

AB 130 further directs LCI to develop a process for validating a “participating project’s” contribution to the Mitigation Program “to provide certainty” to the local lead agency and project applicant that participation in the Mitigation Program satisfies CEQA mitigation obligations.<sup>10</sup> LCI and HCD will also confirm that Mitigation Program investments are additional (i.e., that they provide funds for which no other source could otherwise be secured) by reviewing “mitigating projects’” funding structures and other relevant factors contributing to the determination.

## What’s Next

AB 130 provides that Mitigation Program contributions may be deposited into the TDIF on or before July 1, 2026.<sup>11</sup> In advance of that date, LCI and HCD will be developing their respective Mitigation Program guidance. Concurrently, HCD will begin identifying eligible mitigation investments to support timely and effective mitigation options.

Looking ahead, LCI and HCD will engage stakeholders over the coming months to gather input on key program design elements. Feedback received through these discussions and public comment will inform updates to the draft guidance before it is finalized. Additional program updates will be shared as this work progresses into the new year.

--End Document--

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<sup>9</sup> Cal. Pub. Res. Code § 21080.44(d)(2).

<sup>10</sup> Cal. Pub. Res. Code § 21080.44(d)(3).

<sup>11</sup> Cal. Pub. Res. Code § 21080.44(b)(2).