October 30, 2014

Ken Alex, Chair
Mike McCoy, Executive Director
Strategic Growth Council
1400 Tenth Street
Sacramento, CA  95814

**RE: Draft Guidelines for the Affordable Housing and Sustainable Communities Program**

Dear Chair Alex and Director McCoy:

Thank you for the opportunity to provide comments supporting the development of the Affordable Housing and Sustainable Communities (AHSC) program.

The Non-Profit Housing Association of Northern California (NPH) is the collective voice of those who support, build, and finance affordable housing. We promote the proven methods of the nonprofit sector and focus government policy on housing solutions for lower income people who suffer disproportionately from the housing crisis.

East Bay Housing Organizations (EBHO) is the leading affordable housing advocacy coalition working throughout Alameda and Contra Costa Counties. As a 30-year old non-profit membership organization, EBHO's mission is to preserve, protect and expand affordable housing opportunities for the lowest income communities.

We applaud the Strategic Growth Council, the Department of Housing and Community Development, and the other members of the advisory team for preparing the draft guidelines for this first-of-its-kind, integrated housing, transportation, and green infrastructure program. We appreciate the immense effort and blending of expertise that went into creating the draft AHSC guidelines so quickly.

Before we offer detailed recommendations by section, we think it is critical to begin with an overall comment about the need to **increase the program's focus on serving California's lowest income households both by avoiding displacement as new infrastructure investments occur, and by deepening the income targeting of the households served**. While living near transit increases ridership among people of all incomes, extremely low- and very low-

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income people demonstrate the highest transit ridership and lowest car ridership in transit-oriented development (TOD) neighborhoods across California.[1]

Forthcoming research also indicates that extremely low- and very low-income households have the highest propensity to reduce vehicle miles traveled when living in job and service dense areas, meaning that even without established high quality transit rural and suburban communities can make significant GHG reduction contributions. For these reasons, NPH and EBHO would like to see a greater emphasis on affordability in the AHSC program guidelines to achieve the greatest greenhouse gas reduction potential.

We support the following list of detailed recommendations, which will enhance the greenhouse gas reduction potential, and maximize the feasibility of the AHSC program:

**Section 102: Eligible Projects (No Housing Requirement for ICP)**
**Recommended Modification**: Every application for *both* the TOD and Integrated Connectivity Project (ICP) pathway should include an affordable homes component.
**Rationale**: The ICP pathway requires the existence of nearby transit, jobs, and services, which makes the site an ideal location to build and preserve housing for lower income households in order to achieve Vehicle Miles Traveled (VMT) reductions and increase transit ridership as transit services improve. If we improve the transit in the ICP areas, but do not add or preserve affordable homes, it is likely we will see lower transit ridership. Further, as land values increase, it will be it more difficult to develop affordable homes later on, and harder for low-income households to stay in the area.

**Section 102 (a) (3): TOD requirements**
**Recommended Modification:** The current TOD pathway prioritizes rail. The guidelines should provide flexibility around the type of transit mode, as long as the transit has frequent service and multiple lines with connections to key destinations; for example, Bus Hubs should count as a Major Transit Stop.
**Rationale:** The current definition of a "major transit stop" leaves out valuable TOD areas served by general bus service, which low-income households use more commonly than rail. In addition, the "major transit stop" definition is not consistent with the statutory definition in Public Resources Code 21064.3. We believe it would be preferable to follow the statutory definition: a site containing

[1] "Why Creating and Preserving Affordable Homes Near Transit is a Highly Effective Climate Protection Strategy" *http://www.chpc.net/dnld/AffordableTODResearchUpdate070114.pdf*

an existing rail station, a ferry terminal served by bus or rail transit, or the intersection of two or more routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute period.

**An additional pathway and metric** that has been suggested to us in order to identify a QTS and ensure both a) access **and** b) affordability, would be the following:

a) Using some of the same parameters already identified in the AHSC Draft Guidelines, a transit user at the QTS must be able in 30 minutes (with maximum of one transfer) to get to the following places: job center (at the defined "low density" level), K-12 school or community college, grocery, medical facility, park or recreation facility, library, child care or senior center.
**and**
b) The cost of one monthly transit pass per bedroom, when added to housing cost (rent plus utilities) equals less than 45% of income, using TCAC standards for income per unit. Senior pass rates could be used for senior projects, and youth rates for any beyond the first two bedrooms/passes. If reduced rate passes are being provided, those discounted rates would be used for the calculation.

This could replace the point category at 103(n) which uses the HUD Location Affordability Index. The Index relies on assumptions about car usage, does not take into account the actual cost of transit, and simply generalizes about a neighborhood's transportation activities.

**<u>Section 103 (a)(1)(D)(i) Minimum Project Size</u>**
**Recommended Modification:** Reduce the TOD minimum project size to 40 units and the ICP minimum to 30 units.
**Rationale:** It is extremely difficult to find infill sites of 100 units in TOD areas; the current minimums would drastically limit applicants and leave out high quality VMT-reducing projects. This is a case where we can learn from the evolution of the HCD TOD Housing program. In each round, the TOD Housing program reduced the minimum project size leading up to Round Three, which used 40 units to the acre as the minimum. There is no evidence that a project with more units will produce a greater return on VMT/GHG reduction per unit; on the other hand, criteria such as density, lower parking requirements, and proximity to job density are highly effective VMT/GHG reduction strategies, as documented by the California Housing Partnership's reports.

In addition, affordable housing development requires multiples sources of funding including from the local jurisdiction and with the elimination of redevelopment it will be very difficult to secure sufficient funding to develop projects of 100 units or more.

**Section 103 (a)(1)(D)(iii) Minimum Affordability requirements**
**Recommended Modification:** The minimum threshold of affordability should be at least 50%, with a minimum of 10% for extremely low-income households. Also, the maximum income depth threshold should be reduced to 60% AMI for rental homes, but could stay at 80% Area Median Income (AMI) for ownership units.
**Rationale:** The California Housing Partnership's reports documented a direct correlation between lower incomes and lower VMT and GHG generation in proximity to transit and job centers. Requiring only 20% affordable units controverts this research and does not align with the Legislature's clear intent in authorizing the program. Without a higher percentage of homes dedicated to serving low-income households, we increase the risk of displacement of the highest propensity transit riders. Also, one of the program goals is to leverage other resources for the production of affordable units. Since the main resource that can to produce low-income rental housing is the Low Income Housing Tax Credit, the program should defer to the LIHTC program in setting maximum affordability terms for rental units. The current maximum LIHTC-eligible income level is 60% AMI.

**Section 103 (a)(1)(D)(iv) Net Density and FAR**
**Recommended Modification:** The definition of Net Density should change to only include the housing components.
**Rationale:** This change would make the definition consistent with the one used in the Infill Infrastructure Grant (IIG) program definition, which allowed permanent streets, required drainage facilities, sidewalks, parks, public rights of way, easements, encroachments and dedicated open space as deductible areas. The IIG program definition also accounts for variations in bedroom size. The AHSC Guidelines should mirror these program definitions.

**Section 104 (c) Only One Award per Project area [for life of program]**
**Recommended Modification:** Allow multiple Project Areas per Major Transit Stop, and build in flexibility for overlapping Project Areas.
**Rationale:** If this provision were left unchanged, it would prevent phased projects, projects applying for transit and housing funds at separate times, and different housing developments within the same project area from qualifying for the program. Additional homes near the same transit site would increase the use

of that transit, as well as the surrounding bike and pedestrian amenities. The Strategic Growth Council should remove this prohibition.

**Section 104 (c) $15 million per jurisdiction**

**Recommended Modification:** The $15 million cap per jurisdiction should be replaced with a different mechanism for regional distribution, or the $15 million cap should be scaled as the funding for AHSC increases.
**Rationale:** It is not logical to treat all cities equally regardless of their size; however, ensuring equitable distribution of funds is essential. We do not recommend eliminating this provision entirely; rather, we encourage the scaling of the $15 million dollar cap in future rounds of AHSC funding.

**Section 104 (d) (1&2) Subsidy limits based on Multifamily Housing Program (MHP) Loan Terms**

**Recommended Modification:** To encourage use of 4% credits, the guidelines should set the base subsidy at 50% above MHP-A levels for projects committing to leverage 4% LIHTC. For projects electing to apply for 9% LIHTC funding, the guidelines should set the base subsidy at 25% less than MHP-A levels.
**Rationale:** 4% Credits are a noncompetitive, potentially unlimited federal resource. Unfortunately, the elimination of redevelopment agency funding and the exhaustion of the Proposition 1C housing bond funding caused a dramatic decline in California's use of 4% credits because the level of subsidy in this program is too low to produce financially feasible infill affordable home developments. It is critical that the state do everything in its power to incent developers to leverage this federal resource. The AHSC program has the potential to leverage hundreds of millions in additional federal 4% credit subsidy dollars by increasing the base MHP-A subsidy levels for applicants committing to use this uncapped federal resource.

**Recommended Modification:** Do not require a 30-year loan term.
**Rationale:** The 30-year, fixed-term standard is no longer state of the art in affordable housing finance. Requiring the use of this out-of-date standard will negatively affect access to permanent financing and reduce the number of lenders who are willing to underwrite AHSC developments.

**Recommended Modification:** Increase developer fee limit for applicants using 4% Credits to match the maximum allowed in the TCAC regulations.
**Rationale:** A developer fee limit of $1.2 million will prevent additional federal tax credit equity contributions for AHSC program recipients.

**<u>Section 104 (f) (1): Housing Infrastructure Awards</u>**
**Recommended Modification:** The market-rate infrastructure grant should be decreased to $25,000 per unit, and the restricted infrastructure grant should be increased to $60,000.
**Rationale:** The profitability of market-rate TOD and infill projects has increased in recent years, suggesting that a lower market rate subsidy is needed to incentivize these forms of development. Further, with only a 20% minimum requirement for restricted affordable units in a project, this current grant structure could result in AHSC-funded projects receiving a greater infrastructure subsidy for market rate than for affordable rent restricted units.

**<u>Section 105 (a) (1) (A): Jurisdiction as Applicant</u>**
**Recommended Modification:** Jurisdictions should provide a letter of support, but not be required as an applicant. Also, AHSC should use TCAC's local agency review protocol to invite both local jurisdiction and MPO input, rather than asking MPOs to rank projects through a separate process.
**Rationale:** It does not make sense in every case for a jurisdiction to be an applicant, especially where it would require a jurisdiction to select developer co-applicants/housing proposals through a public process that could delay implementation. The jurisdiction can signal their interest and approval in a project by providing a letter of support. In addition, while we acknowledge that the Legislation specifically mentions a role for the MPOs, the best way to incorporate MPO input is through a process similar to TCAC's local agency review that allows the MPO (as well as the local jurisdiction) to evaluate the application. We make this recommendation because affordable housing development is extremely sensitive to delays and uncertainty caused by subjection to multiple review processes. Whatever the AHSC program adopts to address this, it should not require time-consuming and risk-inducing procedures beyond those already used in the industry.

**<u>Section 105 (a) (1) (A): All Applicants will be Jointly and Severally Liable</u>**
**Recommended Modification:** Co-applicants should independently maintain responsibility and liability for completing their portions of an AHSC project, as long as GHG reduction is a part of each component and can be delivered as promised.
**Rationale:** The jointly and severally liable requirement would likely result in lengthy legal negotiations between co-applicants and prevent a significant portion of them from moving forward altogether because co-applicants cannot take responsibility for components out of their control. This applies to both public agencies and private developers.

**Section 105(b) Concept Proposal**

**Recommended Modification:** Increase time for NOFA workshops and/or reduce the requirements needed to participate in the Concept Proposal stage.

**Rationale:** While the intent behind the concept proposal is laudable, the required components mirror that of a complete application, which essentially requires applicants to endure an extensive and duplicative process. If the intent is to minimize the effort of evaluating projects, we recommend more comprehensive NOFA workshops, or requiring less of the application to be complete at the concept proposal stage; for example only the project description and threshold requirements.

**Section 106 (a) (2): Sustainable Communities Strategy (SCS) Plan Consistency**

**Recommended Modification:** Mandatory MPO role should be limited to confirming consistency with SCS. The current role laid out in the guidelines should remain, but not be expanded.

**Rationale:** This will ensure the integration of prior planning efforts like Priority Development Areas and the Smart Growth Concept Map, while avoiding the need for an additional approval process that risks duplication of efforts and delay. MPOs contributing funds or land will inherently give MPOs a larger role and will advantage projects they support.

**Section 107 chart 2 Scoring Criteria categories**

**Recommended Modification:** Increase Community Orientation value and specifically make affordability points a higher percentage of total scoring.

**Rationale:** Deep affordability is critical to meet goals of VMT reduction, higher transit ridership, and anti-displacement.

**Section 107 (a) Points for GHG emission reductions**

**Recommended Modification:** GHG reduction targets should be used as thresholds rather than points. GHG reduction targets should be estimated based on a simple chart of known GHG-reducing measures that can be combined to see if the applicant meets the appropriate threshold.

**Rationale:** It is difficult to precisely predict GHG reductions at time of application. Awarding points for predicted GHG reductions would (1) lead to tremendous gamesmanship on the part of applicants desperate to score well; and (2) have a chilling effect on investors and lenders in AHSC projects who would be deeply concerned that developer predictions of GHG reductions that were relied to obtain AHSC funds are later not met when projects start operating. Investors and lenders would demand new forms of financial and performance guarantees that are prohibitively expensive to comply with, leading to a significant increase in the cost of financing AHSC developments, and a much smaller pool of developers willing to take on this type of increased liability. Making GHG reduction targets a threshold based on estimates from a checklist of known GHG reduction strategies would create a simple, yet defensible case that GHG reductions are being met by this program, and avoid the unintended effect of making leveraged private financing (debt and equity) more expensive and possibly infeasible.

**<u>Section 107 (d) (2) Capacity/Experience/Past Performance for Programs</u>**
**Recommended Modification:** Add scoring criteria for housing development and management experience. Use CTCAC 9% competitive scoring regulations Sec. 10325(c)(2)(A) for owner and manager experience points. Or, use the HCD MHP guidelines, but only if they are modified to provide credit for successful experience beyond the last five years.
**Rationale:** The AHSC program would be badly served if it did not have a mechanism for ensuring that program awards go to teams with a proven ability to develop, own and operate these complex properties. All other competitive state housing finance programs have such requirements. CTCAC's are preferred because they don't limit the qualification period to just the prior five years, which is problematic for these still rare, exceedingly complex and time-consuming developments.

**<u>Section 107 (e) (1) Points for Project Funds Leveraged from other sources</u>**
**Recommended Modification:** Acknowledge the loss of redevelopment and other housing funding sources when assigning leveraging points.
**Rationale:** Without knowing the maximum points for this category, we can't know how heavily weighted leveraging will be, but the guidelines should note that the availability of local funds has diminished dramatically since the dissolution of RDA. Further, this will disadvantage smaller jurisdictions if leveraging is given too high a priority.

**<u>Section 107 (m) Affordability Points</u>**
**Recommended Modification:** Include points for 60% AMI units and keep the total points for this category high so that it is more difficult to max out quickly on points for this category.
**Rationale:** As referenced above, affordability should be a core component of the program guidelines.

**<u>Section 107 (e) (4) Leverage of Prior Planning Efforts</u>**
**Recommended Modification:** Reward and encourage quality, integrated planning but use a different method than the points for eleven adopted local

plans.
**Rationale:** Many of the plans listed in the draft guidelines are not commonly pursued by jurisdictions and may not recognize a jurisdiction's level of support for sustainability.

**Section 107 (n) Location Affordability Index**
**Recommended Modification:** Eliminate scoring related to the Location Affordability Index (LAI).
**Rationale:** HUD's Location Affordability Index gives estimates of the percentage of a family's income dedicated to the combined cost of housing and transportation in a given location. This means that a household with a severe transit burden but low housing burden would receive the same LAI score as a household with a severe housing burden but low transit burden. Thus, awarding points based on LAI could lead to the funding of projects with poor access to transit being over those with robust access transit. The goal of using the Location Affordability Index is duplicative of other scoring criteria (quality of transit and affordability) and does not add value in this context.

These recommendations will result in a program that attracts transformative, GHG-reducing projects. We are enthusiastic about the launch of this new program and would be pleased to discuss any of these recommendations further.

Thank you for your kind consideration of these comments,

Sincerely,

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of Northern California

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cc: Members of the Strategic Growth Council
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