CALIFORNIA HOUSING CONSORTIUM

October 31, 2014

Ken Alex, Chair
Strategic Growth Council
1400 10th Street
Sacramento, CA 95814

Re: Affordable Housing and Sustainable Communities Program Draft Guidelines

Dear Chair Alex and Members of the Strategic Growth Council:

Thank you for the opportunity to provide comments and participate in the stakeholder process on the Affordable Housing and Sustainable Communities Program Draft Guidelines. The California Housing Consortium (CHC) is a statewide housing advocacy organization representing the development, building, financial, and public sectors united in a non-partisan effort to produce and preserve housing affordable to Californians at all income levels. Our members have helped develop over 248,000 affordable homes in California.

Our comments are organized around two overarching issues: affordability and project feasibility. A few issues are highlighted below and additional comments are included in the attachment provided.

Affordability

While living near transit increases ridership among people of all incomes, low-income people demonstrate the highest transit ridership in TOD neighborhoods in California's four largest metro areas. U.S. Census data on commuting reveals that workers living in transit-accessible neighborhoods and earning less than $25,000 per year take transit, walk, or bike at much higher rates than higher earners who also live in these neighborhoods. Additionally, because transit is a desirable amenity, rents and property values near transit are typically higher on average than for similar homes further from transit. Displaced low-income households often relocate to areas with cheaper housing at the outskirts of metropolitan areas, forcing them to rely on older, high-polluting cars to access jobs and services. This means that investments in TOD affordable to lower-income households will give the state the biggest

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GHG benefit, which the legislature recognized by requiring that 50% of AHSC funds be invested to provide housing opportunities for lower-income households.

For these reasons, we believe that projects funded by the AHSC program should include at least 50% of the total units as Restricted Units for households with incomes of 60% AMI or below, and affordability should be a large component of the overall scoring, with points available for units serving households with incomes up to 60% AMI.

Project Feasibility

Developing affordable homes near transit has several inherent challenges. First, while all land development involves a calculation of risk and return, the past success of TOD has made investment in land surrounding new transit investments a less risky proposition in strong markets. The accompanying speculation drives up land and property prices making it difficult for local governments and affordable housing developers to acquire important parcels or to preserve existing affordable housing. Second, even if land can be acquired by local governments and affordable housing developers, developing TOD is costly and complex—in part due to the need for such infrastructure investments as structured parking, roads, sidewalks, water, etc.—making affordable and workforce housing production difficult in these areas. CHC is concerned that many of the regulations will create additional challenges that will impact project feasibility, for example:

- Requiring projects to be not less than 100 units in Metropolitan Areas and not less than 50 units in Non-Metropolitan Areas in untenable. Very few TOD projects are built with this many units, although still meeting the net density requirements of the program and resulting in high GHG reductions. Instead, projects should be not less than 40 units in Metropolitan Areas and not less than 25 units in Non-Metropolitan Areas.

- Requiring public agencies as co-applicants could deter applicants from jurisdictions that lack the in-house technical experience required to efficiently administer funding draws or cause delays in administering funds. Additionally, making all applicants jointly and severally liable could be seen as too risky for conventional financers that project developers rely on to fund a significant portion of the total developments costs.

- While the Air Resources Board has yet to establish the methodologies for demonstrating GHG reductions, this threshold standard will ensure that all projects reduce GHG emissions. For that reason, it appears duplicative to also provide points based on the extent to which the project will achieve GHG Emission Reductions measured in metric tons. Additionally, estimating reductions in metric tons will be both difficult and costly and may introduce an element of uncertainty for financers and investors in the project.

Thank you for your consideration in this matter. Please do not hesitate to contact CHC's Policy Director, Marina Wiant, at (916) 930-5248 if you have any questions.

Sincerely,

Ray Pearl
Executive Director

<u>Additional Comments on AHSC Draft Guidelines</u>

<u>Issues Related to Affordability</u>

Section 103(a)(1)(D)(iii) and 107(m) Minimum Affordable

Proposal: Project must include at least 20% of the total units as Restricted Units and points will be awarded based on the percentage of units serving various income levels.

Comment: Projects funded by the AHSC program should include at least 50% of the total units as Restricted Units. Additionally, Restricted Units should be set for households with incomes of 60% AMI or below. In order to further encourage development of affordable housing, affordability should be a large component of the overall scoring, with points available for units serving households with incomes up to 60% AMI.

Section 102 Eligible Projects

Proposal: Two types of eligible projects – TOD and ICP – but only TOD requires a housing component.

Comment: Every application for both the TOD and ICP pathway should dedicate some funding to development of new affordable homes.

Section 104(f)(1) Infrastructure Grant Amounts

Proposal: The total housing-related infrastructure grant is $35,000 per residential unit and $50,000 per restricted unit.

Comment: With only a 20% minimum requirement for Restricted Units in a project, this proposal could result in projects receiving a greater infrastructure subsidy for market rate than for restricted units. The market-rate infrastructure grant should be decreased to $25,000 per unit and the restricted infrastructure grant should be increased to $60,000.

Section 107(n) Location Affordability Index

Proposal: Points will be awarded based on HUD's Location Affordability Index (LAI).

Comment: 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 projects with poor access to transit being funded over those with robust access transit.

<u>Issues Related to Project Feasibility</u>

Section 103(a)(1)(D)(i) Minimum Project Size

Proposal: Project must be not less than 100 units in a Metropolitan Area and not less than 50 units in a Non-Metropolitan Area

Comment: Very few TOD projects are ever built with this many units, although still meeting the net density requirements of the program. Instead, projects should be not less than 40 units in a Metropolitan Area and not less than 25 units in a Non-Metropolitan Area.

Section 107(a) GHG Emission Reductions
Proposal: Points based on extent to which the project will achieve GHG Emission Reductions measured in metric tons
Comment: 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.

Section 104(d) Subsidy Limits
Proposal: Program funds will be provided as a loan for permanent financing with the same terms as MHP financing set forth in 25 CCR 7308 and the maximum loan amount shall be calculated pursuant to 25 CCR 7307 based on the number of restricted units, affordability, unit sizes, location, and on the basis of loan calculation as specified in the program NOFA.
Comment: MHP financing terms are outdated for these kinds of projects. These terms include:

- 30 year fixed term, which impacts access to permanent financing, increasing financing costs, and interest rates, reducing the number of lenders who are willing to underwrite these projects, and requires complicated financial restructuring;
- Initial base loan amount of $30,000 per restricted unit, which is extremely low considering that projects in areas with amenities and transit typically have higher land values and therefore larger gaps than projects contemplated under MHP guidelines;
- Limit of $1.2 million for developer fees, which is less that the maximum limit set forth by CTCAC, will prevent addition tax credit equity from being contributed to the project, and do not reflect the greater predevelopment costs, infrastructure improvements, and risks undertaken by developers of these types of project.

Section 104(c) Maximum Award Per Project Area
Proposal: A single project area cannot receive more than one award.
Comment: This limit is problematic for phased projects, projects applying for transit and housing funds at separate times, and different housing developments within the same project area. Instead, consideration should be given to creating limits on the total amount of funds a project area can receive over the life of the program.

Section 105(a)(1)(A) Applicants
Proposal: A public agency that has jurisdiction over the project area is a required applicant, either by itself or jointly and all joint applicants will be considered co-recipients and be held jointly and severally liable for the completion of the project.
Comment: The jurisdictions should not be the applicant; this could lead to preferential treatment of certain projects over others. Instead the jurisdiction and MPO should provide letters of support for the project. This also poses additional administrative hurdles and potential delays in administering and drawing down of funds. Some jurisdictions downsized following the economic downturn and the dissolution of redevelopment, or may otherwise be too small, inexperienced, or reliant on outside contractors to efficiently administer funding draws. This could deter application in jurisdictions that could benefit the most from this type of funding. Additionally, making all applicants jointly and severally liable could have some very negative impacts on the viability of projects. In particular, this may be seen as too risky for conventional financiers that project developers rely on to fund a significant portion of the total project costs. Applicants should only be responsible for their portion of the project, so long as GHG reduction is part of every component and jurisdictions are no longer applicants.

Section 104(c) Maximum Award Per Jurisdiction Per Cycle
Proposal: The maximum project award(s) within the geographic boundary of a locality is limited to $15 million per NOFA funding cycle.
Comment: It is not logical to treat all cities equally regardless of their size; however, ensuring equitable distribution of funds is essential. The $15 million cap per jurisdiction should be replaces with a different mechanism for regional distribution, such as a broader Northern CA/Southern CA/Rural thresholds or eliminating the $15 million limit as funding for AHSC increases.

Section 105(b) Concept Proposal
Proposal: All applicants must submit a concept proposal, which will be reviewed to assess eligibility based on select program elements to determine whether an applicant will be invited to submit a full application.
Comment: While the intent behind the concept proposal is noble, the components are so similar to a complete application that this will not provide a benefit to the developer. Additionally, the concept proposal may lead to a subjective selection of projects.

Section 107(d)(2) Experience Points
Proposal: Points will be awarded for programmatic experience.
Comment: Due to the complex nature of these types of projects, experience points should be awarded for development experience.

Section 102(a)(3) TOD Requirements
Proposal: Project must be served by at least one qualifying transit station
Comment: The definition of "qualifying transit station" should be more flexible. For example, bus hubs and ferries should qualify. Additionally, the required frequencies of the major transit station should also be more flexible. Several Metropolitan Areas have transit with slightly less frequencies

than required; perhaps the guidelines could have incremental steps to get to higher frequencies, as housing near transit will increase ridership and therefore increase frequency of transit.

Section 107(e)(4) Leverage of Prior Planning Efforts
Proposal: Points will be awarded to projects which implement a policy or program of certain previously adopted local plans.
Comment: Unfortunately, many plans referenced by this requirement are outdated. Leveraging prior planning efforts would therefore serve little purpose and this point criterion should be eliminated.

Section 107(f) Accessibility to Qualified Employment Areas
Proposal: Qualified Employment Area is determined by utilizing the instructions provided for the mapping and reporting data accessible through http://onthemap.ces.census.gov.
Comment: This metric has historically been problematic due to inaccuracies. A different metric should be used for calculating qualified employment area than census data.