October 31, 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:

The Sustainable Communities for All Coalition and our allies applaud the hard work of the Strategic Growth Council (SGC) and your staff to date on the Affordable Housing and Sustainable Communities Program (AHSC) guideline development. As you finalize the revision to the draft program guidelines, we offer the following recommendations organized by SB 862 goals and based on our extensive experience with similar programs and policies and the regional Sustainable Communities Strategies.

ENSURE THAT THE PROGRAM MEETS THE REQUIREMENT THAT 50% OF FUNDS ARE INVESTED IN HOMES AFFORDABLE TO LOWER-INCOME HOUSEHOLDS

We know it is important to the SGC that the AHSC program meets the requirement to invest 50 percent of program funds in homes affordable to lower-income households. To ensure that this requirement is met without the need for substantial rejiggering after the scoring is complete, we recommend the following changes:

1. **Increase the restricted unit threshold.** Revise section 103(a)(1)(D)(iii) on page 12 of the guidelines to require that a Housing Development "include at least 50 ~~20~~ percent of the total residential units as Restricted Units."

   Clearly, if just 20 percent of homes in AHSC-funded projects are affordable to lower-income households, it may prove difficult to meet the program-wide 50 percent requirement. Additionally, as noted below, projects that are predominantly market-rate are the ones most likely to cause displacement.

2. **Increase the value of the Community Orientation category.** Revise Chart 2 in section 107 on page 31 to weigh all three categories equally.

   AB 32 prioritizes co-benefits, and SB 862 lists "preserving and developing affordable housing for lower income households" as explicit goals (along with achieving other co-benefits). Yet the relative weights of the three scoring categories severely devalue these attributes in project selection, as they account for only 15 to 20 percent of the total score.

3. **Decrease the market-rate housing infrastructure subsidy.** Revise section 104(f)(1) to read as follows: "The total housing-related infrastructure grant amount is $15,000 ~~35,000~~ per residential unit in the proposed Housing Development, and $50,000 per Restricted Unit."

   The market for transit-oriented and infill apartments and condominiums has improved since the state TOD program first proposed funding market-rate developments. This level of subsidy may no longer be necessary to induce market-rate developers to build in these areas. It could, therefore, be lowered and the funds invested in other projects.

ENSURE THAT 50 PERCENT OF PROGRAM FUNDS ARE INVESTED IN PROJECTS THAT BENEFIT DISADVANTAGED COMMUNITIES

We know it is important to the SGC that the AHSC program meets the requirement that 50 percent of program funds are invested in projects that benefit disadvantaged communities under SB 535. In order to do so, we recommend the following changes:

1. **Clarify and strengthen mechanisms to meet the requirement.** While the draft guidelines may provide some incentive to submit applications for projects that benefit disadvantaged communities, they are neither specific nor strong enough to ensure that the AHSC program meets its SB 535 goals.

   First, we are pleased that section 106(b) on page 28 provides a mechanism for project applications to demonstrate that they would help meet SB 535 requirements. In addition, the guidelines should make clear what process will be put in place to ensure that 50 percent of AHSC program funds benefit disadvantaged communities. For example, in the process description on page 30, describe how the circles at the bottom of the page 32 chart will be applied.

Second, we recommend revising section 107(p)(3)(B) on page 52 to ensure that all projects receiving additional points for advancing SB 535 goals provide *meaningful* – not merely nominal – benefits to disadvantaged communities. That section should be revised as follows: "Applications requesting Program Funds to benefit a Disadvantaged Community as defined in Section 106(b)~~(a)(10)~~ may earn an additional XX points in this section by describing how at least ~~providing~~ three (3) ~~more examples for~~ co-benefits provide direct, meaningful, and assured benefits to lower-income residents of a disadvantaged community." (Note that the change in section number above merely corrects a typo and the additional language is consistent with ARB guidance.)

2. **Target affordable homes for extremely low income households.** Revise section 103(a)(1)(D) on page 11 to require at least 10 percent of the homes in a Housing Development to be affordable to extremely low income households (those at or below 30 percent of the area median income, or AMI).

   SB 862 sets an upper income limit of 80 percent of AMI, but does not address the substantial differences between what a household earning $45,000 and one earning $12,000 can afford. Without deeper targeting than that required by the statute, disadvantaged communities are unlikely to substantially benefit from the affordable-home investments, as most residents in these communities are unable to afford higher rent levels.

   Additionally, 50 percent of extremely low income households are seniors or have disabilities and would greatly benefit from the increased mobility offered by living near transit. Lastly, this change would spread the program's benefits more widely across the income spectrum and provide a proven solution to homelessness, a high priority in places like Los Angeles, San Francisco, and Sacramento.

3. **Increase the restricted unit threshold.** As recommended above, revise section 103(a)(1)(D)(iii) on page 12 of the Guidelines to require that a Housing Development "include at least 50 ~~20~~ percent of the total residential units as Restricted Units."

   A development with just 20 percent of homes available to lower income households is unlikely to benefit a disadvantaged community. Instead, it is more likely to cause economic displacement of residents living in the area, as the addition of market-rate homes drives up rents of surrounding homes.

STRENGTHEN ANTI-DISPLACEMENT PROVISIONS TO REDUCE GHG EMISSIONS AND REFLECT CURRENT BEST PRACTICES

We are pleased that the SGC has included anti-displacement language in the draft guidelines, and we know that protecting local residents from displacement induced by AHSC program investments is an important objective of this program. To build on our mutual goal and reflect current best practices, we strongly encourage you to apply anti-displacement protections as a threshold requirement for all projects and to strengthen the existing language. The proposed changes below will help ensure that projects funded by the AHSC program provide benefits to existing lower-income residents rather than result in their physical or economic displacement. Those most vulnerable to displacement are also the highest-propensity transit riders. Preventing their displacement, then, both furthers equity and reduces GHG emissions and air pollution.

1. **Apply physical displacement protections as a threshold requirement for *all* projects.** Delete section 106(a)(11)(D) on page 27, which applies physical displacement protections as a threshold requirement only for *housing* developments, and replace it with the following language under section 106(a), which describes the application threshold requirements for *all* projects:

   > "(14) Where a proposed Project involves the demolition or rehabilitation of existing units occupied by lower-income households, the proposed Project will provide relocation assistance and timely one-for-one replacement with comparably sized units that are located within ½ mile, affordable to the displaced households, and include a first right of return for displaced households."

   Anti-displacement protections should not apply only to housing developments, as currently required in section 106(a)(11)(D). Indeed, non-residential investments, such as transit and active transportation, are more likely than affordable homes to cause displacement as they attract new residents willing to pay higher rents.

2. **Make *economic* displacement protections a *threshold* requirement in subsequent funding rounds.** The guidelines currently include economic displacement protections as a scoring criterion but should specify the following in section 107(o) on page 50: "These policies shall be a threshold requirement in Section 106(a) for future funding rounds."

   The economic displacement protections scoring criterion in this round will give future applicants adequate opportunity and guidance to prepare to satisfy the threshold requirement in future rounds.

3. **Apply economic displacement protections to *all* projects.** Revise section 107(o), which awards points for economic displacement protections only for projects located in or benefitting disadvantaged communities, as follows:

"~~For Projects located within or benefitting a Disadvantaged Community~~ XX points will be provided for Projects located in jurisdictions with ~~demonstration of~~ policies~~, strategies~~ or programs designed to ~~avoid~~ prevent the displacement of lower-income residents and businesses of the project area and community.

"NOTE: The Department recognizes not all Projects will be located in neighborhoods where lower-income residents face current or future risk of displacement ~~'benefitting' or 'located within' a Disadvantaged Community may have a need to evaluate displacement risk and/or include anti-displacement strategies~~. Applicants may provide evidence for Department review demonstrating that there is no displacement risk for the next ten years in the project area and community or as a result of the Project.[1] Those applications will not be evaluated on the criteria and the points will not be factored into their score."

Anti-displacement protections should not be restricted only to projects located in or near disadvantaged communities. Disadvantaged residents living in high-cost, urban areas that are not "disadvantaged communities" as defined by CalEPA may be at most risk of displacement from new development and rising rents.

In addition, anti-displacement policies should be adopted by the jurisdiction, not the proposed project, as displacement impacts will often be felt outside the geographic footprint of a project.

4. **Strengthen the economic displacement policy examples.** Replace the examples in section 107(o)(1), which focus on relocation assistance rather than policies that prevent displacement, with examples such as the following: anti-harassment policies, condominium conversion restrictions, rent stabilization, just cause eviction, and land banking.

   Anti-displacement strategies or policies should go beyond relocation assistance to include policies that truly prevent displacement, rather than merely mitigate it. (See Appendix 1 for a list of anti-displacement policy examples.)

INCREASE TRANSIT AND TRANSIT RIDERSHIP

We appreciate the emphasis in the guidelines on both transit capital projects and programs to reduce GHGs while promoting co-benefits such as better connectivity, access to jobs, homes, and other services, and increased transit ridership. The following suggested changes would provide potential applicants additional flexibility to submit innovative projects that achieve these ends.

[1] The Metropolitan Transportation Commission and others have developed measurements of displacement risk. We would be happy to share these with you and discuss they could apply to this program.

1. **Include Bus Hubs as a Major Transit Stop**. The TOD pathway described in section 102(a)(3) on page 10 should be amended to include Bus Hubs as defined in Appendix A (i) that have bus services that meet the definition in Appendix A (nnn) for "Qualifying High Quality Transit."

   The current focus in the TOD pathway is on rail, bus rapid transit, and express buses, but there are many transit-rich areas served by general bus service that have high ridership and the potential for increased ridership. In particular, many low-income communities rely heavily on Bus Hubs and are primed for significant increased ridership, especially those in the Central Valley and Inland Empire.

2. **Clarify transit pass eligibility.** Section 107(i)(6) on page 43 refers to "residents." We assume this refers to <u>residents of a project area</u>, but encourage you to clarify the sentence. We strongly support allowing transit pass programs to target K-12, community college, and university students, among other groups.

   One of the major goals of this program is to increase transit ridership, but limiting the groups eligible for transit pass programs would miss significant opportunities to maximize transit ridership and GHG reductions and to generate significant public health and economic co-benefits for communities.

3. **Allow housing developers to run transit pass programs.** Where a housing developer would like to provide its residents with free or discounted passes funded by this program, but neither a transit agency nor a nonprofit is willing to partner in such a program, allow the developer to serve as the program administrator. (Section 105(a)(3) on page 22.)

   This will further the AHSC program goals of increasing transit ridership and draw on the developer's existing relationship with residents to build residents' comfort level with using the transit system.

INCREASE BICYCLE AND PEDESTRIAN INFRASTRUCTURE AND PROGRAMS

Active transportation projects and programs are a needed component to provide connectivity to transit and other key destinations within and around potential Project Areas and reduce VMT. The following proposed changes would facilitate the integration of Active Transportation investments into project applications.

1. **Establish Active Transportation Infrastructure as a separate category.** Separate the "Transportation- or Transit-Related Infrastructure" eligible use category into "Active Transportation Infrastructure" and "Transit-Related Infrastructure" in section 103, Table 3, on page 11.

These categories of uses provide distinct travel and co-benefits and should *both* be emphasized on all projects, not one in lieu of the other. This would also better prompt project applicants to integrate active transportation into their projects.

2. **Include walking or bicycling as a mode shift in ICPs.** The ICP threshold criteria should specify that all projects must demonstrate mode shift to walking, bicycling, and/or transit. (Section 102(b)(2), page 10.) A similar change should be made to award points for "mode shift to walk and bicycle trips that reduce VMT" as evidenced by anticipated pedestrian and bicycle counts for the scoring criteria in section 107(h) on page 41.

   All projects should be allowed to demonstrate mode shift to **walking or biking** in addition to, or in lieu of, transit use to meet the threshold criteria for reducing GHGs.

3. **Emphasize proximity and walkability/bikeability.** Combine sections 107(g) and (j) on pages 38 and 44, and rename the criteria "Proximity and Accessibility to Walkable Supportive Land Uses." The new combined criteria should require that in order to receive points, each amenity must be within a half-mile of a transit station that currently exists or will be included as part of the project design, as defined by the "walkable corridor" features currently listed as (A) through (E) under section 107(j).

   Ultimately, the amenities in the table under subsection (g) are accessed via walking or bicycling from the qualifying transit station only if robust walk and bike networks are in place. Their proximity to transit alone does not maximize the potential to reduce vehicle trips to these amenities.

ACHIEVE ENHANCED AIR POLLUTION REDUCTION

The integration of green infrastructure into projects promises to significantly enhance the GHG reduction potential of projects and provides numerous additional co-benefits including but not limited to carbon storage, avoided emissions and enhanced resiliency through energy conservation and mitigation of the urban heat island effect, improved air quality, and more livable, healthy communities. To ensure that integrated green infrastructure investments realize their full potential impact, we make the following recommendations.

It is important to ensure an integrated approach to GHG reductions that includes green infrastructure (and its associated carbon sequestration benefits) as part of the AHSC Program and as a Primary Capital Use and eligible funded project.

1. **Integration of Green Infrastructure into transit.** Identify appropriate Transit and Station Areas infrastructure changes as also applicable to Green Infrastructure in Table 5 on pages 17-18, including improvement of bus waiting areas and noise mitigation projects.

Both of these project examples can be enhanced and even reduce costs and improve air quality by integrating trees and related vegetation for shade, noise mitigation, and cooler ambient temperatures.

2. **Include additional conservation elements in the scoring.** Add "Creation and/or preservation of parks, urban forests and open space" into section 107(l)(3) on page 47 as an eligible scoring component of Green Infrastructure and Conservation within Community Greening and Natural Resource Conservation.

   Creating parks, urban forests and protecting open space are the primary focal points of green infrastructure and conservation within urban areas. Points should be awarded for meeting this critical component of sound development of a sustainable communities strategy.

3. **To ensure that energy use is integrated into projects' overall GHG Based Score, we request more clarity in Chart 3 on page 32.**

   On page 30, the introduction of section 107 states "points will be assigned based upon the demonstration of reduction of auto trips, energy use and carbon sequestration (pending guidance from ARB)…." Depending on size and scope of a given project, significant GHG reductions could be achieved from green infrastructure through energy conservation and carbon sequestration, thus optimizing overall reductions.

SUPPORT OR IMPROVE PUBLIC HEALTH AND OTHER CO-BENEFITS

The project application and selection process should provide the flexibility and scoring incentives that also help "lessen the impacts of climate change" in addition to other co-benefits, as identified by state statute.

1. **Expand co-applicant eligibility to non-profits.** Add "qualified non-profit organization" as an eligible co-applicant with a Public Agency for Capital Use projects into section 105(a)(2) on page 22.

   Local government capacity and expertise on green infrastructure projects have diminished dramatically over the last several years. Qualified non-profits have a demonstrated record of success and leadership in working with public agencies to bring parks, urban forests and open space to communities across the state.

2. **Incorporate adaptation to climate change as a co-benefit.** Revise section 107(p) on page 51 to include "ability to lessen impacts and effects of climate change" (i.e. promote adaptation to climate change) to the Extent to Which the Project Addresses Co-Benefits.

Among the complementary benefits encouraged by law in SB 535, section 39712(b) (6) of AB 1532 encourages investments to “lessen the impacts and effects of climate change on communities, economy and environment.” Investments in integrated strategies that include green infrastructure and other elements can help lessen these impacts by reducing heat island effect, stormwater runoff and flood risk, among others. This section should be broadened to reference AB 1532 and this co-benefit along with the criteria of SB 535.

3. **Include natural flood-risk solutions.** Include non-structural solutions for flood risk reduction and attenuation as an eligible use of funds under Construction in Table 5 on page 16.

   Flood risk projects that utilize non-structural solutions such as riparian restoration often cost less than grey infrastructure solutions, last longer, and include multiple co-benefits.

IMPROVE CONNECTIVITY AND ACCESSIBILITY TO JOBS, HOMES AND SERVICES

Further integration of green infrastructure into elements of Construction, Complete Streets and Transit Areas will enhance connectivity. We offer the following suggestions to strengthen the ability to achieve this.

1. **Include greenways**. Add “greenways” as an eligible use of funds under Complete Streets and Non-Motorized Transportation in Table 5 on pages 16-17.

   Greenways are walkways and bikeways that also improve mobility, but do so with added benefits of green infrastructure.

2. **Integration of Complete Streets and Non-Motorized Transportation Projects**. Identify appropriate Complete Streets and Non-Motorized Transportation projects as also applicable to Green Infrastructure, including streetscape improvements, traffic calming projects, shade structures, and bicycle paths in Table 5 on pages 16-17.

   All of these project examples can be enhanced and even reduce costs by integrating trees and related vegetation for shade, traffic calming, and cooler ambient temperatures.

3. **Include community gardens and orchards as transit-supportive land uses.** Add “community garden” and “community orchard” as eligible Category 1 Transit-Supportive Amenities and Services in section 107(g)(1) on page 39.

   Like parks or farmers market, these are community assets that can occur within a half mile of a Qualifying Transit Station for which points could be awarded for improving access, especially in DACs.

4. **Reward connectivity to green space.** In section 107(g)(1) on page 39, shift the "Park or playground" amenity listed in Category 2 to Category 1.

    Increasing connectivity and accessibility to parks, playgrounds, schools and active outdoor recreation provides additional public health benefits that are directly pertinent to the overarching goals of California's GHG reduction efforts and AB 1532 and should be valued as such.

PROTECT AGRICUTURAL LANDS TO SUPPORT INFILL DEVELOPMENT

Guidelines should ensure that no TOD or ICP project will result in conversion of agricultural land or open space for unrelated purposes.

1. **Prohibit use of funds for conversion.** Add a new ineligible cost to section 103(c) on page 15 that reads: "(8) Costs for any project or component thereof which will result in loss or conversion of agricultural land or open space for other uses."

    Development of these resources is counter to the goals of SB 375, AB 32, and the SGC's Sustainable Agricultural Lands Program.

In conclusion, we appreciate your consideration of our recommendations and are available at your convenience to discuss them. Thank you for your leadership in implementing the Affordable Housing and Sustainable Communities Program in a manner that maximizes greenhouse gas reductions and economic, environmental and public health benefits to our state and, especially, to our most disadvantaged communities. We look forward to working with you as you complete the guidelines, and develop, implement, monitor, and evaluate the program.

Sincerely,

David Zisser, Public Advocates Inc.

Chuck Mills, California ReLeaf

Jeanie Ward-Waller, Safe Routes to Schools National Partnership

Denny Zane, Move LA

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APPENDIX 1. Sample Local Anti-Displacement Policies

October 31, 2014

Direct Displacement

1. **One-for-one replacement** of all units occupied by lower-income households, including a) first right of return for displaced households, b) rents affordable to same income levels as displaced households (e.g., ELI, VLI, or LI), c) long-term affordability restrictions, d) location within the same neighborhood, e) timely replacement of lost units, and f) comparable unit size.
2. **Relocation benefits** at the same level as required by the Uniform Relocation Act for households displaced by new development.

Economic Displacement

3. **Just Cause eviction** ordinance to protect tenants from arbitrary, discriminatory or retaliatory evictions while ensuring that landlords can lawfully evict tenants for a legitimate reason.
4. **Anti-harassment** ordinance to protect tenants from harassment and threats that amount to constructive eviction without ever taking formal eviction action.
5. **Rent stabilization** ordinance to protect existing tenants against rising rents that result from investment in TOD neighborhoods.
6. **Relocation assistance** requirement to financially assist tenants who must move due to Ellis Act, condo conversion, or other no-fault evictions.
7. **Condominium conversion** restrictions to help protect the stock of existing rental housing, including limitations on the number of units that can be converted per year; relocation assistance for displaced tenants; and one-for-one replacement, inclusionary units, or fees to mitigate the loss of rental housing.
8. **Acquisition and rehabilitation** program to improve and preserve market rate affordable units as permanently affordable homes, including a tenant right of first refusal policy.
9. **"Source of income" non-discrimination** ordinance that prohibits discrimination against Section 8 voucher holders by landlords.
10. **Land banking** program, including dedication of publicly owned land, to preserve and protect parcels for affordable housing development.