



October 31, 2022

Lynn von Koch-Liebert
Executive Director
California Strategic Growth Council
1400 Tenth Street
Sacramento, CA 95814
Submitted via email: ahsc@sgc.ca.gov

RE: Affordable Housing and Sustainable Communities (AHSC) Draft Round 7 Guidelines

Dear Executive Director von Koch-Liebert:

The San Diego region appreciates the opportunity to provide comments on the Affordable Housing and Sustainable Communities (AHSC) Draft Round 7 Program Guidelines and is grateful to have been selected for one of the in-person public workshops this year. The AHSC program is a critical program for the state to address the housing shortage and climate crisis. Each region must do its part to address the negative housing and climate trends we are seeing today.

The partners signed to this letter are committed to expanding efficient, clean, and competitive alternatives to driving alone. As we plan for our future mobility needs, we are also considering how the region can grow sustainably. As such, the San Diego Association of Governments (SANDAG) has developed a regional Housing Acceleration Program that will assist jurisdictions and affordable housing developers, alike, in identifying future development opportunities that align with current and planned transportation projects to reduce vehicle miles travelled and improve connectivity throughout the region.

Home to 3.4 million people and representing the second largest County and City in the State of California, our region continues to advocate that the AHSC program guidelines be updated to create a system that more fairly distributes program funds statewide. We are very pleased to see regional set-asides included again in the Round 7 draft guidelines. These mandated targets help ensure *every* region has the opportunity to partner with the state to provide much-needed affordable housing and transportation options that advance local goals and those of the Strategic Growth Council.

SANDAG, the City of San Diego, County of San Diego, Metropolitan Transit System (MTS), San Diego Housing Commission, San Diego Regional Chamber of Commerce, Circulate San Diego, and The San Diego Housing Federation have come together to show support for some of the guideline changes as well as highlight those areas that could be problematic for our region to successfully compete for this funding. Our collective comments are enclosed with this letter.

We share the Strategic Growth Council's goals to affirmatively further fair housing and build affordable housing near transit to reduce greenhouse gas (GHG) emissions. We believe that our recommendations offer an opportunity for the program to have a more equitable impact throughout the state. We look forward to continuing to collaborate with your offices to expand affordable housing and reduce GHG emissions in the San Diego region.

Sincerely,



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Enclosure: Regional Comments on AHSC Round 7 Draft Guidelines
CC: Marc Caswell, AHSC Program Manager, California Strategic Growth Council

With respect to specific proposed changes to the AHSC Draft Round 7 Program Guidelines, we offer the following comments:

Eligible Projects and Eligible Costs

Section 102(c)(1) and (d)(1) [Changes 16 and 21]. We oppose requiring transit to be in place at application, instead of at certificate of occupancy or even later. Transit investments are many years in the making and long-lasting. AHSC should seek to align with new transit investments that are in the works or even under construction, rather than exclude them. Currently, TCAC allows transit to be completed within one year of the scheduled completion and occupancy if construction of the facility is programmed into a Regional or State Transportation Improvement Program. We do support the language in this section that allows a walkable route to be in place at occupancy.

Section 103(a)(3)(B) [Change 59]. In the event the cap on the maximum total AHSC award increases to \$50 million, we also support increasing the cap on STI and TRA awards from \$10M to \$15M.

Section 103 (a)(3)(a)(v) We recommend that SGC considers increasing transit operations expenditures that directly expand transit service from 5 years to 10 years to ensure the services are sustainable.

Assistance Terms and Limits, Eligible Applicants, and Threshold Items

Section 104(a) [Change 69]. We strongly support increasing the maximum AHSC award from \$30M to \$50M.

Section 104(b)(2) [Change 70]. While few developments are affected by the percentage of total development cost (TDC) limits, those that tend to be in high-opportunity areas where the local government has or chooses to make available few resources for affordable housing. As a result, the limits run counter to the state's efforts to affirmatively further fair housing. SGC should eliminate these limits in favor of the per-unit and per-projects limits or at least create an exemption for developments in higher resource areas.

If SGC maintains the limits, it should remove the differential loan limits for developments seeking 9% vs. 4% LIHTC, as many of our agencies have recommended to HCD in previous letters regarding Round 2 of the SuperNOFA. Given that both programs are now competitive, there is no rationale to push developers towards 4% credits, and the differing loan limits severely complicate switching from one credit type to another to maximize chances for final funding after AHSC funds are received. If so, it should also set the percentage of TDC limits the same for 4% and 9% LIHTC developments. Regardless of this decision, SGC should clarify that the percentage of TDC limits use only housing funds in both the numerator and denominator. Lastly, as a purely technical matter, the \$300,000 base loan amount for developments not utilizing LIHTC should apply to projects not receiving 9% *or* 4% credits.

Section 104(c)(5)(F) [Change 93]. The proposed language relating to ongoing ownership covenants is inconsistent with standard practices. Only resale restrictions remain in force across successive owners. Equity sharing agreements, on the other hand, relate only to the first buyer, with the funds upon sale or refinance reverting to SGC or the grantee to assist future homebuyers buy a different home. SGC should replace the language here with the language from Section 104(c)(4)(D) which is correct.

Section 106(a)(7) [Change 104]. If SGC changes the Enforceable Funding Commitment (EFC) definition, as proposed in Appendix A, to remove LIHTC equity which constitutes a significant % of the capital stack for affordable developments within the San Diego region, the 90% EFC requirement will disqualify most projects leveraging LIHTC. Moreover, the EFC requirement does not exist in any other HCD program and has lost any value, especially since leverage is rewarded already in the points section. It appears to be an antiquated holdover from the days when AHSC had the two-tiered application process with concept applications preceding actual applications. Consistent with all other programs, SGC should eliminate the EFC threshold requirement.

Section 106(a)(8) [Changes 105 and 107]. Consistent with the TCAC policy that has worked extremely well, SGC should allow applications for developments that have received entitlements and CEQA approval but remain in the 30-day appeal window. This will save a year for developments that are not appealed, and the developer can withdraw if an appeal is filed. Separately, we oppose removal of the current language allowing environmental approvals for rental assistance and operating subsidies after the application deadline. Many Housing Authorities will not commit Project Based Vouchers to a project until all other capital financing is secured, which creates a “chicken and egg” dilemma for applicants. Moreover, availability of vouchers does not impact readiness. NEPA clearance relates to the release of funds and does not affect a project’s ability to proceed to construction. Voucher commitments and clearances are not a necessity until the building is operational. For these reasons, SGC should maintain the current language and not require at application environmental clearances related solely to rental and operating assistance.

Section 106. (a)(8) – CEQA and NEPA Clearance - We strongly oppose the removal of STI and TRA NEPA and CEQA exemptions and requests that it be reinstated as seen in previous AHSC rounds.

Unless SGC confirms that SB 922 will exempt all STI and TRA improvements from the CEQA process, requiring STI and TRA projects to complete environmental clearance by the March 2023 deadline is unrealistic and will make most STI and TRA projects ineligible. This will jeopardize some projects from being able to get the points for STI and TRA improvements.

The State has also previously exempted NEPA clearance for Project Based Vouchers (PBVs). Getting NEPA clearance for PBVs take time and has no bearing on whether a project can be built. Again, if the State requires this environmental clearance by March 2023, some applicants will not be able to apply.

Currently, the San Diego Housing Commission requires NEPA approval prior to closing construction financing, not prior to applying for the NOFA.

Section 106(a)(15) [Change 120]. Consistent with the comment in Section 102(c)(1) and (d)(1), we oppose requiring transit to be in place at application, instead of at certificate of occupancy or even later.

106(a)(17) [Change 121]. While we greatly value housing element compliance, requiring a development to be located in a city or county that is compliant penalizes private developers who are working to secure approvals to build affordable housing in these jurisdictions. In addition, at the present time, about half of the jurisdictions in the San Diego County do not have compliant housing elements. The majority are working closely with HCD and making a good faith effort to come into compliance.

As a general rule, housing element compliance should only be required for programs for which local governments are the sole applicants (such as IIG Qualifying Infill Areas). For this reason, SGC should eliminate housing element compliance as a threshold requirement. At a minimum, SGC should limit this requirement to local government applicants as is the case with the proposed Annual Progress Report requirement in Section 106(a)(18).

Section 106(a)(26) [Change 151]. While we appreciate educating residents on the health impacts of air pollution and SGC's efforts to reduce the burden of this existing program requirement, developers are not well suited to conduct this activity, the vague nature of the requirement is unlikely to provide significant benefit, and even these efforts add cost and complexity. It is preferable to rely on air districts to engage in this activity. As a result, SGC should eliminate this requirement.

Section 106(a)(28) [Change 155]. While we support closing the digital divide and providing internet access to residents, the requirement to provide high speed internet service to each low-income unit for 15 years cannot be paid with AHSC funds and will cause a significant ongoing hit to operating cash revenue, thereby reducing private loan proceeds. SGC should limit the requirement to three years, which aligns with Section 103(b)(1)'s limit on operational costs that may be included in AHSC eligible costs.

Scoring Criteria

Section 107 [Change 159]. We appreciate the enhanced focus on equity in the narrative-based policy scoring, but SGC should reduce other points in the narrative-based section rather than lessen the weighting of the quantitative policy scoring section.

Section 107(a) [Change 160]. The GHG efficiency category should continue to measure reductions "per AHSC dollar." The proposed replacement of this reference with a "per project" reference negates the efficiency nature of the calculation.

Section 107(d)(3) [Change 201]. While we greatly appreciate state and local efforts to make excess and surplus property available for affordable housing, a development on such property is not inherently better than any other development. As a result, we oppose points exclusively available to excess and surplus sites. If the points remain, SGC at least should require that the site be donated to reduce costs.

Section 107(g) [Changes 207 and 208]. Consistent with our comment in Section 106(a)(17), while we greatly value a jurisdiction obtaining pro-housing status, granting points to developments located in a pro-housing city or county penalizes private developers who work to build affordable housing in jurisdictions that don't have the pro-housing status. As a general rule, pro-housing status should only be rewarded in programs for which local governments are the sole applicants (such as IIG Qualifying Infill Areas). For this reason, SGC should eliminate the points for developments located in pro-housing jurisdictions. At a minimum, SGC should limit these points to local government applicants as is the case with the proposed Annual Progress Report requirement in Section 106(a)(18). To the extent state law requires points for developments in pro-housing jurisdictions, the benefit should be limited to 1 point to minimize the negative impacts on private developers who have no ability to influence a jurisdiction's policies.

Section 107(h) [Change 224]. While anti-displacement is a critically important and valuable goal, most of the evidence-based best practices for anti-displacement are policies that must be enacted at the jurisdiction

level. Requirements for the affordable housing developers applying for AHSC funding should be right-sized to activities that are appropriate for the developers themselves, and that do not create an outsized burden in terms of time and expense, relative to the impact. In addition, research shows that the provision of affordable housing is the most direct and long-term way to prevent displacement. SGC should streamline this section by not requiring projects to have their proposed activities supported by an assessment of housing needs and displacement vulnerability study. In addition, SGC should eliminate the workplan and only require submittal of a commitment letter with a non-profit or locality.

Section 107(h)(1)(B) [Change 226]. The 5-mile radius for local procurement and contracting is quite narrow, especially in rural areas. SGC should consider procurement local when within a much broader radius of at least 10 if not 20 miles.

Section 107 Scoring Criteria: Importance of Active Transportation Projects. We are suggesting that SGC reinstate the full 10 points for only active transportation projects (ATP), and not dilute this category by adding four points for transit improvements. Bike and pedestrian improvements will be very important for projects in jurisdictions with less participation and/or transit operators' project readiness. ATP is a defining component of the AHSC program, and if ATP features are not given significant weight in the scoring these improvements will not be prioritized by applicants in the way they need to be.

Application Process

Section 108(e) [Change 295]. We urge that HCD address negative point issues independent of, and prior to, an application. It is better for all parties to get to closure on the penalty when there is no rush of an application cycle and to avoid pointless applications.

Section 108(h)(2) [Change 305 and 314]. We strongly support mandated Geographic targets.

Defaults and Cancellations

Section 112(c) [Change 417]. We oppose removing the right to appeal an award cancellation. Developers should have the ability to make their case to department leadership.

Appendix A - Definitions

Enforceable Funding Commitment definition in Appendix A [Change 444]. If SGC continues to utilize an EFC threshold (see our comment in Section 106(a)(7) recommending elimination), the definition must include tax credit equity. Otherwise, no development proposing to use tax credits can possibly pass the 90% threshold, making all such application ineligible. Moreover, now that both 4% and 9% credits are competitive, SGC should count both towards the threshold. In addition, the definition should allow for partial land donations and lease write downs, which are also valuable funding sources and by their nature pro-rated. Lastly, the definition should clarify that project-based vouchers are not part of the EFC calculation.

Standardization of Transit Ridership Models. While we are pleased to see the introduction of an optional Caltrans ridership calculation tool, and a new requirement for agencies to provide justification for the ridership estimates they calculate using their own modeling, making it voluntary will not compel applicants

to use it if their own ridership estimates are higher than those generated by the tool. Truly leveling the playing field will be making the tool mandatory, and no other ridership calculations should be accepted.