Mayor's Office of Housing and Community Development
City and County of San Francisco

London N. Breed
Mayor

Eric D. Shaw
Director

Dear Director Robles, Treasurer Ma and CDLAC Committee members,

On behalf of the City and County of San Francisco ("CCSF" or the "City"), the Mayor's Office of Housing and Community Development (MOHCD) is pleased to comment on the California Debt Limit Allocation Committee's (CDLAC) proposed regulations (April 27, 2022, Agenda Item 5). Overall, the proposed regulations capture many important issues. However, there are a number of specific items in the regulations that threaten San Francisco's efforts to build and preserve affordable housing. We have listed our concerns in order of priority:

§ 5230 (g) (1) (G) Community Revitalization Definition for Tiebreaker and Scoring

The current "community revitalization plan" definition is too open-ended and should instead assess actual investments in community revitalization. CDLAC should create a clear definition that corresponds to actual investments. We suggest that community revitalization plans eligible for the tiebreaker points be defined as a redevelopment plan or other local revitalization that includes commitments to construct affordable housing. Further the QRRP project applying for bonds should also meet one of the following:

- Be part of a revitalization plan that includes public redevelopment investments (including master developer expenditures that are reimbursable from public funds) in infrastructure or community service facilities totaling over $30 million in the prior 5 years or already committed funds for the upcoming 5 years.
- Be providing replacement housing for public housing units disposed of under HUD's Section 18 Demolition/Disposition or Rental Assistance Demonstration (RAD) program
- Receive HUD Choice Neighborhoods grants

We would also suggest that the Community Revitalization Area definition be expanded to include HUD Neighborhood Revitalization Strategy Areas (NRSA).

We continue to request that projects in these areas, regardless of housing type, be prioritized with a 120th point so that CDLAC can demonstrate that it equally values low-income communities which have seen decades of underinvestment or disinvestment.

§ 5230 (g) (1) (B) Penalties for Deeply Targeted Units, Length of Rent Savings Calculation, and Negative Rent Savings

We concur with the rent savings floor of 30% AMI for units with rental subsidies. However, we would ask that the rental subsidy definition also include local or state rent and operating subsidy programs such as:

- San Francisco's Local Operating Subsidy Program (LOSP) and Senior Operating Subsidy (SOS) program
- Los Angeles County's Flexible Housing Subsidy Pool
- Capitalized Operating Services Reserves (COSRs) from HCD's No Place Like Home program (NPLH).

We would ask that the 40% AMI floor for units without rental subsidies be struck from the regulations. This floor was written to ensure projects do not propose rents that are infeasible for projects to stably operate in the long term. However, the TCAC operating expense minimums and underwriting guidelines already accomplish this goal. The AMI is high enough in jurisdictions such as San Francisco that we are able to stably operate projects without vouchers that have average AMI's below 40%. An example is our Hunters Point Shipyard Block 52 and 54 project (CA-22-499) that applied in CDLAC Round 1 2022, which had no vouchers but an average AMI of 36%. The proposed rule discourages deep rent targeting, which is needed to meet the needs of the most rent burdened low-income Californians, particularly in high income areas with deep income disparities.

Where restricted rents are above the County FMR, they should count as negative rent savings since it is not fair to count a rent savings benefit where none exists. CDLAC should delete the sentence that reads, "In the event that this calculation results in a negative number for any particular unit(s), the rent savings benefit for such unit(s) shall be zero." Our suggestion is in line with CDLAC's already adopted practice of using a negative Threshold Basis Limit (TBL) adjustment for counties below the median TBL.

Currently the rent savings in the tiebreaker is only accounting for 15 years of rent savings. This fails to value the full 55 years of rent savings guaranteed by the restrictions put in place by CDLAC. This ignores the true benefit of these investments in affordability in favor of funding less affordable projects, which is in direct opposition of the state's commitment to house our lowest income residents. We would ask that the rent savings account for the full 55 years in the tiebreaker since that is the actual public benefit offered by this investment.

§ 5170 – Preservation Project Definition

We do not support the changes in Section 5170 to the definition of a preservation project. We would recommend that the definition be left unchanged so that scarce preservation dollars are targeted for projects in clearer need. The intent of this pool is to provide funds for projects at risk of converting to market. This regulation change would allow resyndications of Section 8 projects with existing TCAC regulatory agreements that are in no way at risk of conversion to market. These projects are also already able to leverage debt for rehabilitations using rents from their Section 8 contract. Allowing these projects to compete

in the preservation pool may take up funds that would otherwise go to projects actually at risk of converting to market.

§ 5020, 5230(m), 5231(g) & 5240 Supplemental Allocation Process

While 2022 has seen extraordinary cost overruns – we must plan systematically going forward. We agree the supplemental allocation system needs to be updated to allow projects to deal with unforeseen and extraordinary costs. The current system can incentivize developers, as a matter of strategy, to underestimate initial bond requests and then return for supplemental allocations at which point they can take advantage of the high tiebreaker that is easily achieved with smaller bond requests. This effectively penalizes project sponsors who make right-sized requests in their first application and thus receive worse tiebreaker scores. CDLAC should close this loophole by instead reserving a portion of bonds for an over-the-counter application process for supplemental bonds and capping the amount of supplemental allocations. Such a process will better meet the timing needs for projects and allow them to request a more exact amount closer to their construction closing date to meet the 50% test. In order to disincentivize using a supplemental allocation except in extraordinary cost overrun situations, negative points for a period of 1 year should be applied to any applicant who seeks a supplemental allocation. In order to not penalize projects due to extraordinary increases in construction and financing costs in 2022, these negative points should only be assessed for supplemental requests starting in 2023. Each year 2% of the QRRP allocation should be set aside for this purpose and if unused it should be allocated in the final round of the year. Projects should not be able to request more than 10% of their original bond request as a supplemental allocation and should take steps to minimize developer fee (removing deferred fee and General Partner equity) in order to be eligible for a supplemental allocation.

§ 5182 (a) & § 5230 (f) State Credit Oversubscription

Projects should not be eligible for a bond allocation if they requested state credits that are no longer available. State credits are meant to be a gap financing resource and the use of state credits should be limited to projects that need them for financial feasibility. Projects that request state credits and do not receive them due to oversubscription should not be eligible for a bond allocation. Allowing projects to request state credits and receive a bond allocation regardless of not receiving a state credit award, will promote oversubscription of state credits by projects that otherwise do not need state credits for financial feasibility.

If the Committee chooses to allocate bonds to projects that requested state credits that are no longer available, negative points should be assessed if a project receives bonds under this scenario and then subsequently returns such an allocation of bonds.

§ 5231 (f) Skipping

Skipping to the next project for remaining bonds should be allowed for projects scored within one point of the skipped project, as opposed to the currently proposed requirement that it have the same score. Developments with 19 AFFH points are otherwise equal to 20-

AFFH point developments for this purpose and should be treated as such. We otherwise support the other new skipping limitations and appreciate this thoughtful approach.

§ 5231 (e) (3-4) Final Round Remaining Bonds and Waitlist

The proposed regulations allow rural projects that do not receive allocations in their pool to compete for remaining bonds in the final round of the year and on project waitlist. The committee has recognized that rural projects are different and deserve to compete on their own. This pool has also had the highest proportion of 120-point projects. Rural projects have a separate allocation pool, which has been oversubscribed in each round leading to the full statewide rural project allocation going to rural projects. Since rural projects are already receiving their full state allotment of bonds, we do not believe it is fair to let rural projects compete for bonds from other pools or set-asides, which could then artificially inflate the allocation to rural projects beyond the amount outlined by the Committee. We would suggest leaving this section of the regulations as is and not deleting the prohibition against including rural projects in the remaining bonds and waitlist projects.

§ 5170 Permanent Supportive Housing Definition

Section 5230(j) relating to AFFH points and Section 5231(g)(1)(F) of the tiebreaker use the term Permanent Supportive Housing. The term is not currently defined and CDLAC should define the term in Section 5170 to read, "A QRRP project receiving points pursuant to Section 5230(g) as a Special Needs Project for which the special needs units are 'supportive housing' as defined by Section 50675.14 of the Health and Safety Code."

§ 5230 (g) (2) (A) Lack of Adjustment for Union Labor in the Tiebreaker

The current proposed CDLAC regulations do not adequately value San Francisco's investment in our construction workforce or in construction training and apprenticeship opportunities, through affordable housing development. We would ask that an additional adjustment be added for projects subject to prevailing wages where the general contractor is also signatory to at least one union construction trade. This is in line with TCAC's existing threshold basis limit adjustments that account separately for both prevailing wages and union labor requirements. A recent report from the RAND corporation found that using union labor increased costs by 14.5% beyond the cost of paying prevailing wages. A bond request adjustment factor of 14.5% should thus be added in the CDLAC tiebreaker for projects subject to prevailing wages where the general contractor is also signatory to at least one union construction trade

§ 5230(j), 5231(a), and the second 5231(f) Soft cap for 120th Point

We agree with the implementation of a 50% soft cap on the 120th point for highest- and high-resources area developments but the specific language in Section 5231(f) fails to adequately achieve this goal. The cap needs only to apply to the 120th point – as written it applies to all 20 AFFH points. In order to avoid concentrating AFFH projects in a few pools CDLAC instead should rank projects according to score and tiebreaker, regardless of pool or

set-aside, and then turn off the 20th AFFH point once 50% of bonds have been awarded to 20-point AFFH applications. Then the remaining projects would all be ranked as if they had received 119 points. This process would also provide a framework to more fairly allocate state credits.

§ 5133 Carry-forward

CDLAC should clarify that, when an issuer informs CDLAC that carry-forward will be applied to a particular application likely to receive an award within a given round, CDLAC will reduce the allocation to that project and make the "savings" available to other applicants within the same pool, set-aside, or region within that same round. If for some reason, carryforward is applied to a project after allocations for a round are complete, CDLAC should apply the "savings" to the same pool, set-aside, or region in the subsequent round. This will help direct bond allocations to meet CDLAC's original goals in creating and allocating to specific pools and set-asides, each of which meets particular policy priorities.

Thank you for the opportunity to comment and we look forward to continuing the work of housing all Californians. Please let us know if we can clarify any of our points or provide any additional information.

Sincerely,

William Wilcox

Tax-Exempt Bond Program Manager
San Francisco Mayor's Office of Housing and Community Development
william.wilcox@sfgov.org