August 16, 2024

Federal Housing Finance Agency
Division of Housing Mission & Goals
400 7th Street SW, 9th Floor
Washington, D.C. 20219

RE: **Response to the Request for Input on opportunities to improve the Affordable Housing Program**

Dear Federal Housing Finance Agency:

We appreciate the Affordable Housing Program's (AHP) role in filling financing gaps and making critically needed affordable homes financially feasible. Thank you for the opportunity to provide input on improvements to AHP. Our comments pertain solely to the program as it relates to California and the Federal Home Loan Bank (FHLBank) of San Francisco. We have limited experience with the program rules of other states and FHLBanks.

First and foremost, we urge the FHLBanks to increase funding levels for both AHP overall and the maximum per-development loan amounts. Current loan limits often fund no more than one to three percent of development costs. If this is not possible, FHLBanks should simplify the application and long-term project monitoring so that the work required of applicants is more commensurate with the program's limited financial support. Examples of streamlining include:

- Increasing the operating expenses benchmark to $10,000 per unit for California generally and $12,000 per unit in San Francisco and Los Angeles MSAs, indexed in future years to industry-wide cost increases or inflation. In addition, AHP should further increase both of these limits by $3000 for permanent supportive housing units. In our experience, most projects exceed the current limits, requiring exceptions that are burdensome for both developers and AHP staff and almost always ultimately approved. Moreover, successfully serving persons who were formerly homeless entails additional staffing and security costs.

- Eliminating the RSMeans construction cost benchmarks. No other California funder has such a benchmark in large part because experience has shown that RSMeans cost benchmarks lag real costs in an inflationary environment and are therefore not reliable to use in California. Explaining variances is likewise burdensome on developers and AHP staff and generally ultimately accepted.

In addition, we offer the following specific recommendations:

- AHP should accept service expenses "above the line" if required or incentivized by other committed or likely funders. Services are beneficial to tenants and directly or indirectly mandated by most public funders, all of whom allow these as operating expenses before calculating debt service coverage ratios. Doing so would not constitute AHP funds "paying for" services; it would simply treat services as comparable to other necessary operating expenses such as utilities and repairs.

- Consistent with the practices of all other California public lenders, AHP should include so-called "float-up" provisions in regulatory agreements. In the unlikely future event that a development loses operating subsidy such as project-based rental assistance or goes into foreclosure, it may be necessary to raise rent limits and/or relax occupancy restrictions on special-needs units to maintain the development as affordable housing. In addition, the float-up language is critical to tax credit investors and bank lenders for underwriting purposes as these corporations would otherwise require substantial transition reserves in the absence of such language, driving up the cost of development substantially. Any float-up revisions would remain subject to AHP approval.

- AHP should allow developers to request additional subsidy without cancelling an existing award. Currently, this ability is offered by some but not all FHLBanks. Given rapidly rising construction costs due to sustained economic growth in the SF FHLBank region coupled with instability in the tax credit equity market, it is common for developments to face funding shortfalls after receiving their AHP award. Allowing developers to request additional subsidy without terminating their existing award is critical to ensure a functioning finance system as well as consistent standards, transparency, and fairness. Rescinding awards based on the need for additional subsidy would introduce a degree of uncertainty and risk that would likely render many developments infeasible due to developer, investor and lender concerns.

- The developer fee benchmark of 15% of total development cost should allow any portion of developer fee that is contributed back to the project as equity by the developer to be deducted from both the numerator and denominator of the equation. Projects seeking 4% housing tax credits often contribute developer fee in excess of "cash fee" limits in order to increase eligible basis, 4% tax credits, and investor equity, which is in all parties' interest and should not be penalized or disincentivized.

- AHP should allow for the "grandfathering" of existing tenants who are currently over-income (i.e., deem these occupied units to meet the existing income targeting requirement) if: 1) there is evidence that at the time of initial occupancy the tenant was income-certified and met the unit income targeting commitments, and 2) the applicant

agrees to re-rent the unit at the existing income targeting upon unit turnover.

- With respect to land donation points, AHP should allow must-pay ground lease rents up to $100 per year, consistent with the standards of the California Tax Credit Allocation Committee.

- Whereas AHP governance documents such as the Implementation Plan and Reference Guide have significantly less specificity than many public funding programs, applicants often have questions not addressed by the documents. AHP should publish and keep updated a Frequently Asked Questions document so that applicants are aware of guidance AHP staff already has provided in similar situations.

Thank you again for the opportunity to comment. We are happy to discuss any of these recommendations in further detail and assist in any way with implementation.

Sincerely,

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