MidPen HOUSING
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September 18, 2026

Housing Development and Finance Committee
651 Bannon Street, Suite 400
Sacramento, CA 95811

RE: Comments on the First Draft HDFC Regulations

Dear Executive Director Jonathan Klein and Staff,

We appreciate the tremendous work of the Housing and Development Finance Committee (HDFC) staff to develop the first draft of the HDFC regulations and invite public input. We recognize that combing multiple housing finance programs into one coherent set of regulations is not a simple undertaking and requires iteration. Furthermore, we commend Staff for demonstrating a commitment to robust dialogue with affordable housing industry stakeholders and for seeking to provide as much transparency as possible throughout this process. For example, we have appreciated the memos and ancillary documents accompanying the first draft of the regulations that seek to summarize and explain the rationale for pieces of the regulations.

MidPen Housing is one of the nation's leading nonprofit developers, owners, and managers of high-quality, affordable housing and onsite resident services. Since MidPen was founded in 1970, we have developed 140 communities and over 10,400 homes for low-income families, seniors and those with supportive housing needs throughout Northern California.

The HDFC first draft regulations clearly demonstrate a desire to maximize alignment with TCAC and CDLAC regulations. Examples include rent and income limits, site control requirements, developer fee, and more. We thank Staff for identifying these provisions and definitions and incorporating them in the HDFC regulations.

Our priority comments are grouped together at the top, and other comments follow below:

Priority Comments

31005(e) State Credit Coordination
We support a pathway for HDFC projects to be paired with state tax credits, and recommend that $225.5 million of state credits be set-aside to be ministerially paired with HDFC projects, including the $200 million of enhanced state credits that CDLAC is already statutorily empowered to set aside for Mixed-Income Program (MIP) projects annually, and all of the farmworker state credits ($25 million of enhanced state credits, plus $500,000 of baseline state credits). We recommend that the $200 million referenced be used for HDFC

programs broadly, not just MIP. This is consistent with award patterns from 2024 to 2025, in which projects with HCD/MIP funding applied for 128% of state credits and were awarded 45% of state credits. Ministerial allocation is critical to ensure that state-funded projects do not get stuck in the pipeline. Currently, subsection (e)(1) indicates a separate application to CTCAC is still required for any state tax credit request, and we recommend clarifying that a separate application is *not* required for the $225.5 million set-aside for HDFC projects.

Enhanced state tax credits are a critical source of gap financing for deeply affordable projects, and have consistently been funded at a higher level than the Multifamily Housing Program (MHP). If HDFC projects do not have access to state credits, there will be a marked decrease in production of deeply affordable units, because the scoring for non-HDFC bonds allocated by CDLAC's evaluation system favors cost-efficient projects. Additionally, having more sources of flexible funding available to HDFC projects will lead to a smoother and more predictable sort.

We strongly recommend that HDFC work with CDLAC to ensure that the Extremely Low-Income/Very Low-Income (ELI/VLI) and Homeless set-asides are retained at their current proportional share of the CDLAC bond cap to ensure a path to success for deeply affordable, locally-funded projects, many of which will need access to the state credits that remain at CDLAC to win funding.

31005(f) 9% Credit Coordination

We support a pathway for HDFC projects to access 9% tax credits and encourage HDFC and TCAC to work closely with one another on an effective programmatic solution. Pairing some 9% credits with HDFC projects is critical to making limited HDFC funding go further, especially in small funding rounds (as 2027 Round 1 is expected to be). This is particularly important for HDFC projects receiving Joe Serna Jr., Farmworker Housing Grant Program awards, which almost always need 9% credits. While we recognize that this does not fully achieve the goal of fully funding projects, given the transitional nature of this immediate implementation phase, we believe this is the best possible path forward.

Additionally, we strongly recommend making HDFC awards prior to TCAC Round 2 so projects can apply for 9% credits if they are not awarded funding at HDFC.

32022(a)(3) Readiness to Proceed
The draft regulations require construction to commence within 270 days of an HDFC award. Given the lack of predictability yet in this new funding system, sponsors would likely have to put a considerable amount of predevelopment capital at risk to move forward design to the construction documents stage in order to meet the 270-day deadline in anticipation of an award.

For projects receiving a ministerial allocation of 4% credits, we recommend tying the construction commencement timeline to receipt of the TCAC award, given current uncertainty about how HDFC and 4% awards will line up. If projects are allowed to apply for state credits and 9% credits without a guaranteed award (see our comments on Sections 31005(e) and (f)), the deadline should allow for two rounds of application plus time to close after the second.

32040 Scoring Criteria Categories

At a high level, we are concerned that the proposed scoring framework effectively functions as a set of threshold requirements, and that these requirements present a relatively low bar to entry. The result is a lack of differentiation between projects in score, and instead a reliance on cost efficiency in the tiebreaker. This risks the HDFC system not serving high public benefit projects as it ought to.

Outside of the 10% Supportive Housing set-aside, the scoring system does not prioritize deeply affordable housing (per Section 32040(a), projects that average 60% AMI receive full points, which is the threshold of any tax credit project). Given that resources requested from HDFC will vary greatly depending on targeting, it is very likely that projects with higher AMI targeting and a lower funding request will win. This is inconsistent with the State's goal of serving the lowest income Californians. We recommend that HDFC change the Affordability scoring in Section 32040(a) to require a 50% AMI average, maintaining the threshold for the ELI/VLI set-aside in the current CDLAC allocation system.

32040(b)(1)(D) Special Needs Housing

We appreciate the alignment between proposed definition of Special Needs Housing Type and the definition of Special Needs in the TCAC regulations. This alignment provides good flexibility for projects seeking funding from either system in future years. However, we are concerned that Special Needs projects are at a structural disadvantage in the proposed HDFC regulations. Unlike Supportive Housing projects, Special Needs projects do not have a dedicated set-aside of funding, and therefore are likely to compete in their geographic region. However, compared to other housing types, Special Needs projects are likely to have larger resident services budgets and lower rental income, which increase the public funds request and negatively impact the cost efficiency tiebreaker. This disadvantage begs the question – what incentive do projects have to apply as Special Needs, and do projects with 25% Special Needs units have a viable pathway to successfully competing for HDFC funding? We strongly support the tiebreaker benefit proposed for the Special Needs housing type, and further encourage HDFC to consider changes to the scoring and set-asides that provide Special Needs applicants with a viable pathway to obtain an award. One option would be to replace the Supportive Housing set-aside with a Special Needs set-aside and increase the share of total funding to account for both project types.

32040(b)(1)(E) Supportive Housing

We are concerned about the requirement that 40% of restricted units be reserved for people experiencing Chronic Homelessness or youth Homelessness exiting institutions. In our experience as a resident services provider and operator of PSH, we find that properties typically are healthiest and operate well when the share is 25% (in line with the TCAC threshold) or 100% (fully PSH). We recommend setting this threshold at 25%. Doing so will also provide a consistent standard and provide projects flexibility across HDFC, TCAC, and CDLAC programs.

32040(b)(1)(G) High-Density Housing
We recommend eliminating the High-Density Housing type, as this housing type does not target deeply low-income or higher-need Californians in the way that the other housing types do, and there are already priorities in the scoring for projects that qualify for the Affordable Housing and Sustainable Communities (AHSC) and TOD Implementation programs, which have a similar policy goal to build climate-friendly housing.

32040(c) Climate and Location Priorities
We appreciate that the draft HDFC regulations do not replicate the determinative point for High and Highest Resource Areas in the CDLAC system and instead provide multiple alternative pathways to receiving maximum points. One additional pathway we suggest adding is for projects located in distressed neighborhoods where the affordable housing provides stability for households experiencing displacement. Additionally, we request that HDFC mirror the TCAC regulations in allowing for projects to lock in their Opportunity Map status for up to 7 years after site control.

32042(d)(1) Regional Allocation Methodology
We appreciate HDFC's intention to establish a transparent methodology using publicly accessible data for the regional allocations. We present a couple recommendations for data sources:

- The first draft proposes using HUD's Comprehensive Housing Affordability Strategy (CHAS) data. CHAS draws on federal ACS data that isn't otherwise publicly available. The current set is based on 2018-2022 ACS estimate, and includes raw counts of households by AMI level, cost burden, household income, etc. A drawback of CHAS data for this purpose is that the data is dated and only provides a moment-in-time snapshot of the amount of households of a certain kind in a given place. Instead, HDFC should consider using the share of the Very Low Income units planned in each County's aggregated RHNA number. Using RHNA as the baseline data source has the advantage of 1) being a future-looking measure of housing need that takes into account population growth, and 2) pairing housing finance resources with the housing planning process. HCD publishes the number of VLI units by jurisdiction on a publicly accessible dashboard and HDFC can aggregate this data into Counties.

- The draft proposes using HUD's Fair Market Rents (FMRs) to account for regional housing cost differences. Like CHAS, FMRs are based on federal 5 year ACS estimates, which has a lag in data (for example, FY 2026 FMRs are based on 2023 ACS data). Fundamentally, FMRs are a nationally-indexed measure of rental costs, not construction costs. Because HDFC is allocating resources for development, the cost adjustment measure should take into account the regional differences across the state of California of what it takes to build a unit. Instead, HDFC should consider using TCAC's annually published Threshold Basis Limits. The basis limits have a few advantages: 1) they are based on actual affordable housing construction cost data, 2) the scope is only the state of California so weights and adjustments will be more sensitive than a national measure, 3) they are updated annually based on application as well as cost cert data and so have less lag time.

32042(d)(3) Regional Allocation Methodology – Limit on Single Jurisdiction Award
We recommend including a region-level funding threshold below which the rule to not allow awards in any one city to exceed 50% of a given geographic region's allocation in a single round does not apply. This rule would be problematic in rounds with low funding. For example, in Round 1 of 2027, this rule would cap an award a project in San Francisco could receive at $26 million, which is likely too low to make a project feasible. This rule would make funding a single project in a smaller region like the Northern Region infeasible.

32073(b)(1) Project Monitoring Fee
Instead of including monitoring fee as part of the interest, we strongly recommend a fixed, "above the line" per unit monitoring fee system, to provide simplicity and certainty during the underwriting process by tax credit investors and private lenders for initial permanent loan and future refinance permanent loans. The fee system can start with a base per unit fee for smaller-sized projects (up to 100 units) requesting one HDFC source, with a reduced per unit fee for units exceeding 100, etc., and with a small addition fee per unit for additional programs requested.

Other Comments

32014(a) Environmental Compliance
We recommend eliminating the requirement that the Phase I and Phase II environmental reports be dated within 12 months prior to the application due date. This is an expensive and unnecessary requirement for most sites where environmental conditions have a very low probability of changing during the development process. We recommend a more reasonable time period of three to five years. If HDFC is concerned that conditions may have changed, it could make awards conditional on obtaining an update prior to loan closing.

Additionally, we recommend adding at the end of paragraph (a)(2) that if an environmental concern is identified in the Phase I, and that concern can be addressed through mitigation, which is included as a budget line item in the application, then a Phase II report will not be required.

32041(a)(1)(A) Tie-Breakers: Rent Savings Benefit
We recommend treating all units covered by Project-Based Rental Subsidy as 30% AMI units when calculating Rent Savings Benefit, regardless of their actual income targeting, the same way the current CDLAC tiebreaker system treats these units. In an age where project-based rental subsidies are becoming even more scarce, we think it is appropriate to place more value on this resource.

32041(a)(2) Tie-Breakers: Population Benefit
We recommend adding farmworker housing projects as a tie-breaker factor within the Population Benefit section. California continues to face a severe shortage of affordable housing for agricultural workers, who play a critical role in the state's economy and food supply. Providing a tie-breaker preference for projects that create or preserve housing serving farmworker households would further HDFC's mission of addressing critical housing needs without materially affecting the overall scoring framework. This targeted preference would help ensure that scarce housing resources are directed to a population with well-documented housing challenges while supporting the State's agricultural workforce. In past rounds of the SuperNOFA, farmworker housing was treated as special needs for scoring, and the population benefit in the tie breaker should include farmworker housing.

32041(a)(3) Tie-Breakers: Location Benefit
We interpret HDFC's intention as setting Greenhouse Gas Reduction benefit as a subcategory of Location Benefit, and mutually exclusive from the other three subcategories (Resource Area, Community Revitalization Area, Community-Based Developer); however, there seems to be a paragraph numbering error in listing Greenhouse Gas Reduction as its own benefit category as 32041(a)(4). Please clarify. Additionally, the mutual exclusivity of the subcategories are currently buried in different parts of paragraph (3) and can be confusing.

32041(b) Tie-Breakers: Denominator
This paragraph currently does not distinguish between 4% and 9% federal tax credit request, while the "HDFC Application Evaluation & Selection Explainer" document only lists 9% federal tax credits as part of the denominator. Please clarify.

32041(b)(1) Tie-Breakers: Unadjusted Bond Amount Denominator

We strongly recommend going down to 27.5% from the currently proposed 30% of aggregate basis, to be consistent with CDLAC and to avoid unnecessary waste of bond allocation. In addition, please specify that this amount should be set to $0 for a 9% project.

32045(b)(3) & (4) Application Ranking
Subparagraph (3) states funding order shall start with each set-aside, followed by each geographic region, while subparagraph (4) says the exact opposite. Please clarify.

Furthermore, we are not clear on how a project in a Supportive Housing or Emerging Developer set-aside can get a second chance in a geographic region in the currently described round robin that involves set-asides and geo regions at the same level. For example, if a project that is ranked #3 in Emerging Developer Set-Aside ranks #1 in its geo region, but there is only enough funding for 2 projects in the Emerging Developer Set-Aside, will this project replace the old #1project in that geo region to get an award, and the old #1 and #2 projects in that geo region be ranked #2 and #3 now?

32045(d) Application Ranking – Allocation Limits for Housing Types
The current language can be interpreted in two ways and we request clarification. The first interpretation is that *only* the 2 Housing Types that had limits specified in Section 32040, which are the Senior Housing Type and the High Density Housing Type, will have maximum allocation limits, each limited to 25% of all awards; the second interpretation is that ALL of the 8 housing types specified in Section 32040 will have maximum allocation limits, with only 2 housing types having a fixed 25% limit specified in the guidelines in Section 32040 (each 25%), and the remaining 6 housing types will have maximum allocations specified outside of the guidelines (perhaps in the NOFAs). Please clarify the language so there is no ambiguity, and if the second interpretation is correct, please specify when and where the maximum allocation limits will be announced/published.

To be clear, we strongly recommend eliminating the High Density Housing Type altogether, as illustrated in our comments to Section 32040(b)(1)(G) above.

32061(c)(1) Operating Budget Requirements
Remove the word “recurring” as not all operating expenses are recurring expenses.

32062(d) Capitalized Operating Reserves
It is not clear how the Capitalized Operating Reserve differs from the Operating Reserve. Is the intention to cover resident services reserves or maintenance reserves (such as what we have for transit passes or unusual maintenance requirements such as environmental testing)? We need flexibility - the condition that "capitalizing the reserves is the only way to ensure long-term project sustainability" is quite ambiguous. It could be argued that any project would need a reserve of any amount for long-term sustainability, as every project eventually has declining NOI and Cash Flow.

32063(d) Use of Operating Income
We interpret this paragraph to be restricting the use of Cash Flow After Debt Service, as Operating Income needs to cover Operating Expenses and all must-pay Debt Service obligations first, before it can be used to cover the items in subparagraph (2). Please consider revising to use the appropriate term.

32067(h) Eligibility for HDFC Funds During Construction
We believe it is not a great use of public resources to cover more bank construction loan interest added to a project's development cost as a result of HDFC funds being withheld as a construction source, regardless of the financial performance of the Sponsor.

32070(a) Award Limits - Maximum Per-Unit Funding
We recommend that the regulations eliminate hard caps on per-unit. Hard caps must be updated regularly to avoid artificially constraining projects, and are duplicative of the tiebreaker, which is intended to balance public benefit and cost. If hard caps are retained, we recommend increasing them annually to reflect inflation and construction costs, and including a regional adjustment factor. We recommend that these updates are made through annual regulatory updates.

32070(a)(4): Award Limits - Maximum Per-Project Funding
For the same reasons detailed in our comments on Section 32070(a) regarding maximum per-unit funding, we recommend removing the hard cap on per-project funding. The proposed $50 million cap will limit the size of some projects in the highest cost areas.

32070(c) Developer Fee
We recommend removing the $10MM limit on total developer fee to take full advantage of 4% tax credit equity for large projects.

32073(a) Interest Rate
We think subparagraph (3) is an abbreviated duplicate of subparagraph (1).

32073(b)(1)(B) Interest Rates & Repayment
This needs to state the "lessor of" or "greater of". Additionally, this provision will prove a problem down the road. When refinancing in year-20 with a new 30-year loan, the lender will need to underwrite the cost in year 31+. Interest accruals may be far too big to be feasible, particularly as the underwriting standards are set to 1.15 DCR and a 15-year minimum cash flow. We don't see this working as it is stated.

32073(b)(2) Deferrals of Accrued Interest
This seems contradictory to (b)(1)(B) as it is circular with respect to "pay allowable Distributions". Allowable Distributions are defined as any distributions after mandatory

expenses per waterfall (or "use of cash flow"). In effect, this means there is no effective condition upon which accrued interest would not be deferred. It is not clear what this section is intending to address. Any share of residual receipts that is set at the time of close cannot be changed thereafter.

32073(b)(4)(B)(3) Residual Receipts
We recommend removing this section. If we have a property struggling financially, missing the underwriting projections, we may negotiate with the Public Housing Authority to add Section 8 units. This may entail reducing the sponsor's share of cash flow, since the loan amount would have been different *if* the additional units were included in the underwriting. However, it could still be the case that the cash flow remains consistent with the underwriting.

32084(b) HDFC Fees
This provision states that HDFC may establish fees for a variety of activities, including monitoring and compliance review. We are concerned that this may overlap with other fees, like the monitoring fee described in 32073(b). It needs to be clear that the Monitoring Fees are paying for separate activities from what is covered here. Agencies regularly approve reserve draws, budgets, audits, etc. We regularly need to appeal compliance findings.

32087(b)(1) Appeals and Procedure
Seven days is a very tight turnaround for submitting an appeal, particularly when, for example, we have received negative points and need to extensively research an issue to provide a response.

32090(e) Cost Savings at Permanent Loan Conversion
Pro-rata basis should be defined. The intent is likely to make reference to disbursing to funders in proportion to their contributions. However, this may or may not be the same definition as what is used in connection with the 50% of cash flow toward soft debt. Not all loans to the project will be soft debt.

We also would like language that permits investments into reserves such as resident services reserves or capitalized replacement reserves. Such reserves could be defined in terms of uses that make the property feasible for 30 years.

32091(b) Disbursement of COSR Funds – Ongoing Annual Disbursement
The annual disbursement limit needs to be changed to 5% per year *cumulatively*. In other words, if a property doesn't draw in early years, that amount is added to the amount that can be drawn in later years. It is not uncommon that a property has a declining NOI from year 10. As such, it is not uncommon that a project has no cash flow issues in the first 10 years and begins to encounter them in the following 10.

32091(c)(1) Disbursement of COSR Funds – Conditions for Disbursement
Need to include "costs incurred in connection with casualty loss (property damage) to the extent not covered by insurance proceeds and approved capital expenditures to the extent not sufficiently funded through reserves."

32092: Prevailing Wage Requirements
We recommend that HDFC clarify what types of projects prevailing wage applies to. Our understanding is that at least some of the programs - MHP and AHSC, we believe - have statutory requirements to pay prevailing wage, while others do not. That should be made clear here, or in the program-specific sections, where it is not currently stated.

32096(c)(1) Reporting Requirements – Annual Audit
The Audited Financial Statements Handbook will need to be updated alongside the adoption of HDFC regulations, since there are sections of the audit requirements that are program specific.

32096(c)(3) Reporting Requirements – Annual Operating Budget
We request the inclusion of provisions that specify HDFC's turnaround time for approvals (30 days), and that no response within 30 days is considered approved. In our experience, there have been years where it was not uncommon that we don't get approval until far into the budget year.

32098 Compliance Review and Enforcement
We support the shift in approach to negative points reflected in this Section, which requires a "demonstrated pattern" of non-compliance, resulting in "progressive" enforcement. We also recommend:

- Create a standardized quarterly notification system informing applicants of the status of negative points levied against them
- For curable negative point violations, build in a quarter-long "cure period" – beginning on the date an applicant is notified of an infraction – during which negative points are not in effect
- Do not count negative points against the applicant during the appeals process
- Better align penalties with the severity of infractions

32114 Transfer & Sales
The language in this section needs to state "Sponsor or affiliates of the Sponsor" as the Sponsor can never transfer limited partner equity interests. This is performed by the partners in a partnership.

In the subsection (g) mention of nonprofit general partners, the language needs to include partners controlled by nonprofit organizations pursuant to BOE rules. This needs to cover LLC general partners under the control of qualified nonprofit managing members that are affiliates of the Sponsor. And within the LLC, there may be other partners that are not

affiliates of the Sponsor, but still qualify as under the control of the sponsor affiliate. By example and for reference, these rules are defined under the BOE regulations as it relates to welfare exemptions.

Subsection (h) should include an exception to repay HDFC-approved operating deficit loans paid by Sponsor or an affiliate thereof to the Project.

323042(c) Set-Asides and Geographic Regions - Set-Asides, Rural Allocation
Because the proposed HDFC regulations reduce the rural set-aside to 10%, compared to the 20% historically allocated under MHP, this Section should clarify that the rural set-aside must be satisfied exclusively with non-Joe Serna, Jr. Farmworker Housing Grant (FWHG) Program funds. In the most recent SuperNOFA funding round, rural communities received no funding outside of the FWHG Program, demonstrating the continued need for dedicated rural funding sources beyond those already reserved for farmworker housing. Allowing FWHG Program funds to count toward the rural set-aside would effectively double count resources that are already targeted to a specific population and would diminish the value of a dedicated rural allocation. Rural communities face a broad range of housing needs, not solely farmworker housing, and this change would ensure that rural communities receive meaningful and diversified housing investments.

33000(a)(2)(B)(1) MHP – Ineligible Uses of Funds
We recommend specifying that deposits to reserves beyond those required by HDFC are "pursuant to the approved operating budget".

33002 Serna (FWHG) – Definition of "Substantial Income"
We respectfully request that HDFC clarify that the "substantial income" test used to determine Joe Serna, Jr. Farmworker Housing Program (FWHG) eligibility requirements and adopt the USDA Rural Development standard. Current FWHG regulations define an agricultural worker as an individual who derives a "substantial portion" of their income from agricultural employment, but do not specify a percentage threshold. The associated program forms likewise use the term "substantial income" without defining a specific standard. The industry has generally accepted 50% of income as "substantial income" as that is listed on an HCD website.

To promote consistency and ease of administration, HDFC should expressly identify the threshold that will be used for determining eligibility. Clear alignment with USDA's farmworker eligibility standards would reduce ambiguity, avoid conflicting interpretations among funding sources, and facilitate the use of HDFC resources in projects that frequently layer multiple rural housing programs. Clarity on this issue will improve implementation and ensure the regulations are administered consistently statewide. This revision would also allow sponsors to house more agricultural workers and address the seasonal nature of the industry.

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33004(a)(1)(G) AHSC
We request clarity on what is defined as “within proximity to” or “near” the amenities listed.

California is a pivotal moment for affordable housing that presents an opportunity to transform our financing system in a way that produces more homes faster, more cheaply, and more efficiently. We appreciate your consideration of our comments and look forward to continued dialogue. Please feel free to contact Nevada V. Merriman, Vice President of Policy & Advocacy, at 650-477-6195 or nmerriman@midpen-housing.org.

Best Regards,



Matthew O. Franklin
President and CEO

CC: Nevada V. Merriman, Vice President of Policy & Advocacy, MidPen Housing