



December 15, 2012

Mr. Nelson Smith, Finance Director
City of Bakersfield
1600 Truxtun Avenue, Suite 300
Bakersfield, CA 93301

Dear Mr. Smith:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Bakersfield Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on October 15, 2012. Finance issued a LMIHF DDR determination letter on November 9, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer Session was held on December 6, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance is revising some of the adjustments made in our previous DDR determination letter. Specifically, we are revising the following adjustment:

- The Agency contends retention of current balance in the amount of \$5.5 million is necessary for housing obligations. During fiscal year 2012-13, \$2 million of LMIHF was approved for spending, and LMIHF funding was not requested on ROPS III. Therefore, Finance disallowed the Agency's request to retain the balance of \$3.5 million in LMIHF.

The Agency states LMIHF funding was approved in ROPS January through June 2012 period (ROPS I), and funds had not been expended by the time the DDR review was completed, therefore these funds were included in the DDR balance. Upon further review, Finance determined, \$1,237,675 can be retained by the Agency since LMIHF was approved as a funding source for ROPS I. Therefore, Finance is revising the adjustment by \$1,237,675. The following amounts can be retained for enforceable obligations:

- \$102,729 – 19th Street Senior Housing (Proposition 1C match)
- \$653,874 – 19th Street Senior Housing (Housing DDA)
- \$206,211 – CalHFA Loan – Cottages
- \$233,487 – 19th Street Loft DDA
- \$41,374 – Creekview DDA

However, Finance continues to believe some of the adjustments made to the DDR's stated balance of LMIHF available for distribution to the taxing entities is appropriate. HSC section 34179.6 (d) authorizes Finance to make these adjustments. We maintain the adjustments continue to be necessary for the following reasons:

- Retaining balances for the Millcreek Courtyard Senior Residence agreement in the amount of \$1.2 million continues to be denied. The Agency disputed Finance's determination of this item through the ROPS III Meet and Confer process. Based on further evaluation and consideration of this project, Finance continues to object to this project as an enforceable obligation as defined in HSC section 34171. (d). Further explanation and detail regarding Finance's decision will be communicated through the ROPS III Meet and Confer letter. Therefore, this project is not an enforceable obligation and not eligible for funding from the LMIHF.
- The Agency concurred with Finance's adjustment in the amount of \$1,022,968 in our letter dated November 9, 2012. RPTTF funding in the amount of \$1,022,968 was approved for the ROPS period January through June 2013 period, as such, Finance deems it not necessary for Agency to retain the requested funds for the following obligations:
 - \$342,155 – Creekview Villas Down Payment Assistance for SEPA Housing
 - \$89,852 – Creekview Villas Down Payment Assistance for SEPA Housing
 - \$590,961 – Parkview Cottages Down payment Assistance for OTKP Housing

The Agency's LMIHF balance available for distribution to the affected taxing has been revised to \$1,232,691 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (990,277)
Finance Adjustments	
Add:	
Requested retained balance not supported:	2,222,968
Total LMIHF available to be distributed:	\$ 1,232,691

This is Finance's final determination of the LMIHF balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

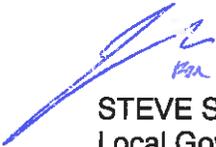
Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter and Finance's Housing Assets Transfer letter dated August 30, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Kylie Le, Supervisor or Brian Dunham, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Joshua Rudnick, Deputy City Attorney II, City of Bakersfield
Ms. Ann K. Barnett, Auditor-Controller, County of Kern
California State Controller's Office