DEPARTMENT OF FINANCE
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REVISED

November 14, 2013

Mr. Steve Lantsberger, Economic Development Director
City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345

Dear Mr. Lantsberger:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Meet and Confer Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated December 15, 2012 and its revised determination letter dated April 11, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Hesperia Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on October 12, 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 4, 2012; Finance issued a determination letter on December 15, 2012.

Upon receipt of this letter, the Agency provided additional documentation not originally provided to Finance, and requested an additional review. Finance reviewed the information, and issued a revised determination letter on April 11, 2013. The Agency then provided further clarification. This letter serves as the final determination letter pursuant to such request.

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

- Disallowed transfer in the amount of $14,560,618. Finance received additional documentation from the Agency, confirming the funds originated from the 2007 Hesperia Public Financing Agency Revenue Bond proceeds loaned to the City of Hesperia (City) for a Public Improvement Loan, (PIL) and not from the LMIHF. Therefore, this adjustment has been reversed.

- Requested retained balances in the amount of $2,347,732 for bond payments. The request to retain LMIHF for bond payments was denied by Finance because the Agency did not request funds from the Redevelopment Property Tax Trust Fund (RPTTF) during prior Recognized Obligation Payment Schedule (ROPS) periods. Subsequent to the

issuance of the Meet and Confer determination letter, the Agency provided further documentation and clarification to support the request.

After the passage of ABx1 26 and AB 1484, the Agency created three Redevelopment Agency Retirement Obligation Fund (RORF) accounts where the RPTTF distribution was deposited. One of the RORF accounts was identified by the Agency as a "Housing RORF", which was included in the LMIHF DDR balances. Documentation provided by the Agency supports bond payments in the amount of $2,290,797. Therefore, Finance is adjusting the amount to $56,935 ($2,347,732 – $2,290,797).

- Adjustment to assets held as of June 30, 2012 in the amount of $9,847,916. The LMIHF balance dedicated to the payment of inclusionary housing obligations was denied by Finance in our letter dated October 12, 2012 as an inclusion to the Recognized Obligation Payment Schedule (ROPS) for the period January through June 2013.

  Thereafter, the Agency requested to retain these same funds to pay a different obligation. Based on additional information provided by the Agency, $5,650,000 is encunmbered pursuant to the settlement agreement. Therefore, Finance is adjusting the amount to $4,197,916 ($9,847,916 – $5,650,000).

Finally, Finance notes the Agency has provided documentation showing it used bond proceeds, not LMIHF, to fund the PIL to the City in the amount of $14,560,618, and to fund two Supplemental Educational Revenue Augmentation Fund payments (SERAF I/II) totaling $9,842,254. These three obligations have appeared on previously submitted ROPS, including the most recent ROPS for the period July through December 2013 as Item Nos. 22, 23 and 24, totaling $19,739,845. However, because the funds used to fund the PIL and the SERAF I/II payments originated from bond proceeds, and not LMIHF, these items are not considered assets of the Hesperia Housing Authority. Therefore, please be advised that Finance will continue to deny these items as enforceable obligations, regardless of the funding source, and despite the receipt of a Finding of Completion.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to $4,254,851 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	-
Finance Adjustments		
Add:		
Adjustment to the June 30, 2012 balance	$	4,197,916
Request to retain balances not supported		56,935
Total LMIHF available to be distributed:	$	4,254,851

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 September 18, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,

JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Anne M. Duke, Deputy Finance Director, City of Hesperia
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
California State Controller's Office