



REVISED

March 2, 2013

Mr. Jeff Briltz, City Manager  
City of Lemoore  
119 Fox Street  
Lemoore, CA 93245

Dear Mr. Briltz:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes California Department of Finance's (Finance) original Low and Moderate Income Housing Fund Due Diligence Review (DDR) determination letter dated November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Lemoore Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to 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 5, 2012.

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

- The Cinnamon Villas loan disbursement in the amount of \$2.68 million. Finance denied the Agency's request to retain \$2.68 million due to the loan agreement being entered into after June 27, 2011. The Agency contends the item is an enforceable obligation because the loan commitment was approved by the former RDA Board on March 15, 2011, payable from LMIHF. Finance determined the loan is an enforceable obligation to be paid out of LMIHF. Therefore, the amount is not available for distribution to the taxing entities.

Finance continues to believe the following adjustment 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 adjustment continue to be necessary for the following reason:

- The loan agreement with KCMD House Relocation Project in the amount of \$250,000. Finance denied the item as an enforceable obligation due to lack of a loan agreement obligating the RDA to provide funding to a third party. The Agency contends the item is an enforceable obligation because the former RDA Board approved a loan commitment to Kings County Management and Development (KCMD) on May 25, 2011 for the relocation of the dwelling unit. However, a loan agreement was not entered into prior to

June 27, 2011. Furthermore, Attachment D of the KCMD Management Agreement states that "KCMD...shall pay all costs or expenses of relocating the purchased house(s)...including but not limited to moving costs, land acquisition costs, city building fees and utility connection fees." Finally, the ROPS III meet and confer process continues to deny the expense. Therefore, this item is not an enforceable obligation and is added back to LMIHF for the DDR review.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be \$1,583,417 (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 1,333,417
Finance Adjustments	
Add: Unallowable ROPS item in Procedure 9	250,000
<b>Total LMIHF available to be distributed:</b>	<b>\$ 1,583,417</b>

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

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Housing Assets Transfer letter dated March 4, 2013 do not in any way eliminate the Controller's authority.

Please direct inquiries to Beliz Chappuie, Supervisor or Mindy Patterson, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish extending to the left.

STEVE SZALAY  
Local Government Consultant

cc: Ms. Cheryl Silva, Finance Director, City of Lemoore  
Ms. Cassandra Mann, Property Tax Manager, Kings County Auditor Controller  
California State Controller's Office