



December 15, 2012

Mr. David A. Klug, Redevelopment Manager  
City of Pasadena  
100 North Garfield Avenue, Room S116  
Pasadena, CA 91101

Dear Mr. Klug:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Pasadena successor agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (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 November 29, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance continues to believe the adjustments made to the DDR's stated balance of LMIHF available for distribution to the taxing entities are appropriate. HSC section 34179.6 (d) authorizes Finance to make these adjustments. We maintain the adjustments continue to be necessary for the following reasons:

- The Agency contends the retention of \$339,697 is necessary. It is our continued understanding the remaining balance of the Casa Maria sales proceeds were transferred from LMIHF to another housing fund. As such, the amount of June 30, 2012 balance continues to be adjusted by \$339,697.
- The Agency contends the retention of current balances is necessary for the purpose of meeting future debt service and other enforceable obligations. The Agency indicated the retention of \$4.6 million for obligations is necessary because Redevelopment Property Tax Trust Fund (RPTTF) will be insufficient to pay approved obligations. Finance originally denied the Agency's request to retain funds due to a lack of evidence there would be insufficient property taxes to pay future obligations.

During the Meet and Confer process, the Agency provided additional information including a projection of annual revenue and spending requirements. The cash flow analysis indicates the Agency will have a negative cash flow; however, the cash flow analysis inappropriately includes the Senate Bill (SB) 481 obligation. Through the ROPS III Meet and Confer process, Finance continues to deny the SB 481 obligation. With the

exclusion of SB 481 obligations from the cash flow, the Agency will have a positive cash flow. Therefore, Finance deems it not necessary for the Agency to retain the requested funds. As such, the LMIHF available for distribution to the affected taxing entities continues to be adjusted by \$4.6 million.

Should the Agency experience a cash flow shortage when obligations are due, HSC provides successor agencies with various methods to address short term cash flow issues. These may include requesting a loan from the city pursuant to HSC section 34173 (h), or accumulating reserves for future obligations. The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation. Since the Agency has alternatives to address short term cash flow shortages, Finance deems it is not necessary for the Agency to retain the requested funds.

- The Agency contends the retention of current balances is necessary. The retained balance of \$1 million for the Mar Vista project continues to be denied. The project was denied as in inclusion on the Housing Asset Transfer (HAT) form in Finance's letter dated August 31, 2012. It is not considered an enforceable obligation of the former redevelopment agency (RDA) because it was entered into between the City of Pasadena and the National Community Renaissance, and the former RDA was not a party to the agreement. Therefore, Finance deems it not necessary for Agency to retain the requested funds.
- Through the ROPS III Meet and Confer process, Finance maintains the costs to monitor and manage affordable housing totaling \$108,237 are not enforceable obligations. Finance denied the items as HSC section 34176 (a) (1) states if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a redevelopment agency, all rights, powers, duties, obligations and housing assets shall be transferred to the city, county, or city and county. Since the City assumed the housing functions, the administrative costs associated with these functions are the responsibility of the housing successor.

The Agency contends the items are enforceable obligations because the costs of carrying out the former RDA's obligation to monitor and enforce affordability covenants are contractual and statutory obligations of the former RDA and HSC section 34176 (a) (1) excepts from the transfer to the housing successor "enforceable obligations retained by the successor agency," which includes the successor agency's obligation to assure that funds are made available to pay the cost of carrying out the former RDA's housing obligations. However, the City assumed the housing functions and the administrative costs associated with these functions are the responsibility of the housing successor. Furthermore, the contracts provided for the monitoring services are between the City and various third parties and the former RDA is not a party to the agreements prior to June 27, 2011. Therefore, retention of LMIHF is not necessary.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be \$4.3 million (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (1,939,555)
Finance Adjustments	
Add:	
Adjustment to June 30, 2012 balance:	\$ 339,697
Requested restricted balance not supported:	\$ 4,647,231
Requested retained balance not supported:	1,210,628
<b>Total LMIHF available to be distributed:</b>	<b>\$ 4,258,001</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 Housing Assets Transfer letter dated August 29, 2012 do not in any way eliminate the Controller's authority.

Mr. Klug  
December 15, 2012  
Page 4

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

Sincerely,



**STEVE SZALAY**  
Local Government Consultant

**cc:** Mr. Steve Mermell, Assistant City Manager, City of Pasadena  
Mr. Robert Ridley, Controller, City of Pasadena  
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller  
California State Controller's Office