DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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January 11, 2013

Mr. Gary Parsons, Economic Development Manager
City of Ridgecrest
100 W California Avenue
Ridgecrest, CA 93555

Dear Mr. Parsons:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated December 10, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Ridgecrest 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 November 14, 2012. Finance issued a LMIHF DDR determination letter on December 10, 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 January 7, 2013.

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.

- Down payment assistance loans in the amount of $19,127. Supporting documentation indicates these funds were committed prior to June 27, 2011. Therefore, these funds are not available for distribution to the affected taxing entities. As such, we are reversing the adjustment of $19,127.

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 reason:

- A senior housing project loan in the amount of $3 million. The Letter of Commitment between the Agency and Ridgecrest Pacific Associates dated March 23, 2011 stated, "The loan is subject to the final execution of a promissory note, deed of trust, regulatory agreement, and an Owner Participation Agreement (OPA)." However, the condition was not fulfilled prior to ABx1-26 since the RDA executed the OPA on December 25, 2011, when it had no authority to do so. Specifically, HSC section 34163 (a) prohibits redevelopment agencies from making loans or enter into agreements after June 27, 2011. The obligation to fulfill the commitment ended on June 28, 2011; therefore, this is

not an enforceable obligation. As such, Finance deems it is not necessary for Agency to retain the requested funds.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to $7,244,940 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	4,244,940
Finance Adjustments		
Add:		
Adjustment to the June 30, 2012 balance:		3,000,000
Total LMIHF available to be distributed:	$	7,244,940

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: Ms. Tess Sloan, Assistant Finance Director, City of Ridgecrest
Ms. Ann K. Barnett, Auditor-Controller, Kern County
California State Controller's Office