



December 15, 2012

Cathy Orme, Finance Director
City of Rohnert Park
130 Avram Ave.
Rohnert Park, CA 94928

Dear Ms. Orme:

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 Successor Agency to the Community Development Commission of the City of Rohnert (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 December 7, 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 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:

- Finance originally denied the Agency's request to retain \$174,709 due to a lack of evidence there would be insufficient property taxes to pay the specified obligations. During the Meet and Confer process, the Agency conceded that \$25,783 of the above were originally paid for with LMIHF but subsequently reimbursed with bond proceeds. Therefore, these balances are available for distribution to the taxing entities.

Of the remaining \$148,926, the Agency contends \$120,000 was used to pay off an outstanding loan to the Sonoma County Community Development Commission, and therefore, Finance should not make the \$120,000 adjustment. Finance recognizes this amount was approved on ROPS III. However, this payment has already been factored into Finance's calculation in determining the amount of LMIHF needed for fiscal year 2012-13. To allow the Agency to retain these balances for this loan would essentially fund the obligation twice.

The Agency is requesting the remaining \$31,365 for housing related administrative expenses that occurred after February 1, 2012. Obligations associated with the former RDA's previous statutory housing obligations are not enforceable obligations. Upon the transfer of the former RDA's housing functions to the new housing entity, Health &

Safety Code section 34176 requires that, “all rights, powers, duties, obligations and housing assets,shall be transferred” to the new housing entity. This transfer of “duties and obligations” necessarily includes the transfer of statutory obligations, to the extent any continue to be applicable. To conclude that such costs should be on-going enforceable obligations of the successor agency could require a transfer of tax increment for life – directly contrary to the wind down directive in ABx1-26/AB1484.

- Balances needed to satisfy enforceable obligations for the 2012-2013 fiscal year was adjusted by \$315,790 out of the \$510,790 requested. Approved LMIHF funding for fiscal year 2012-13 totaled 195,000 (\$75,000 on ROPS II for Vida Nueva and \$120,000 on ROPS III for the Sonoma County Community Development Commission loan – referenced above). Therefore, balances needed to satisfy ROPS for the 2012-2013 fiscal year has been adjusted to total \$195,000.

During the Meet and Confer process, the Agency claims the debt service payment for the City’s Series 2007 Housing Tax Allocation Bonds in the amount of \$510,790 was paid for with the LMIHF. The Agency provided documentation to support these claims. However, the funding source that was requested and approved on ROPS II for this item was RPTTF, and for an amount that exceeded the actual payment by \$342,491. Pursuant to HSC 34177 (a) (3), expenditures approved in the ROPS can only be made from the funds identified. However, HSC 34177 (a) (4) allows Agencies, with prior approval from the oversight board, to pay enforceable obligations from sources other than those listed on the ROPS. It is not evident that prior oversight board approval was obtained and therefore, the Agency did not have the authority to use funding sources other than those identified and approved on the ROPS. In addition, because RPTTF was requested and approved, the Agency should have received tax increment funding to cover this expense.

The Agency’s LMIHF balance available for distribution to the affected taxing entities continues to be \$1,010,453 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	\$	519,954
Finance Adjustments	\$	-
Add:		
Adjustment to balances not supported:	\$	315,790
Requested retained balances not supported:	\$	174,709
Total LMIHF available to be distributed:	\$	1,010,453

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.

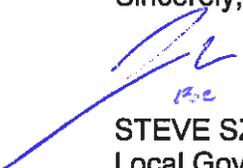
Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain 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.

Please direct inquiries to Zachary Stacy, Manager or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Erick Roeser, Property Tax Manager, County of Sonoma
California State Controller's Office