DEPARTMENT OF FINANCE
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REVISED

January 11, 2013

Ms. Arminé Chaparyan, Redevelopment Manager
City of Santa Clarita
23920 Valencia Boulevard, Suite 300
Santa Clarita, CA 91355-2196

Dear Ms. Chaparyan:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated December 15, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Santa Clarita successor agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on October 11, 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 on November 30, 2012 and Finance's Determination letter was issued on December 15, 2012. This letter makes further adjustments to the available LMIHF balance that should be remitted to the affected taxing entities.

Based on a review of additional or clarifying information provided to Finance during and after 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 adjustments:

- In our November 9, 2012 letter, Finance adjusted $2.9 million of the $5.3 million restricted bond proceeds as of June 30, 2012 because it was unclear the actual source of the $2.9 million. It is our understanding Agency LMIHF housing bond proceeds were used to purchase a City block intended for affordable housing. The Agency subsequently decided the development would be mixed use. Therefore, in May 2011, $2.9 million of non-housing funds were deposited back into LMIHF for the portion of the development that was mixed use. After reviewing the supporting documents provided by the Agency, Finance determined the $2.9 million that was transferred back into LMIHF can be considered as unspent bond proceeds. As such, Finance revised the adjustment of $2.9 million.

- In our previous determination letters, the amount needed to satisfy fiscal year 2012-13 LMIHF planned expenditures was reduced by $1.8 million because there were no payments identified in the Recognized Obligation Payment Schedule (ROPS) using LMIHF. The Agency contends retention of these funds is necessary to cover obligations where RPTTF will be insufficient. It is our understanding the Agency commingled the non-housing and housing funds in Redevelopment Obligation Retirement Fund (RORF) and did not distinguish the funding source. The Agency states the funds were used interchangeably due to the lack of guidance provided by ABx1 26.

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. Finance originally denied the Agency's request to retain $1.8 million because prior oversight board approval was not obtained and therefore, the Agency did not have the authority to use funding sources other than those identified and approved on the ROPS. However, the Agency provided Oversight Board (OB) Resolution No. 12-03, dated April 26, 2012 approving the Agency to use funds in the RORF, which may include funds that are considered LMIHF. The OB Resolution notes the necessity to use the RORF funding to alleviate potential cash flow issues for the ROPS period January through June 2012 and July through December 2012. Therefore, since prior OB approval was obtained, Finance will revise the previous adjustment of $1.8 million.

- The Agency contends retention of current balances is necessary for the purpose of a bond reserve and payment for enforceable obligations. Finance originally denied the Agency's request to retain $757,297 due to a lack of evidence there would be insufficient property taxes to pay future obligations.

  Finance approved RPTTF funding for the bond reserve and other enforceable obligations on ROPS III. The Agency provided a cash flow analysis showing a positive cash flow scenario for fiscal year 2012-13 if Finance approved the Agency to retain the requested funds. However, the Agency states there will be insufficient RPTTF to pay these obligations, if Finance does not allow the Agency to retain the requested funds.

  Based on the cash flow analysis provided, it appears debt service payments for ROPS II and III periods will not be jeopardized if the Agency is not allowed to retain the LMIHF balances they are requesting. The cash flow analysis includes a bond reserve in the amount of $735,652 that is due September 2013. The June 2013 RPTTF distribution will be sufficient to cover bond debt that is due, including the payment that is due in September 2013; therefore, the Agency should not include the reserve in this cash flow.

  Although Finance does not believe it necessary to retain LMIHF balances to make the required bond debt service payments, the Agency provided OB Resolution No. 12-04, dated August 21, 2012, approving the Agency to use reserve fund balances for the November 2011 through January 2012 pass through payments totaling $569,923, with the understanding that this will reduce the amount available to taxing entities upon completion of the DDR. Although, OB Resolution No. 12-04 did not mention the Agencies reserve balance could be used for the excess administrative costs pursuant to the cap, Finance approved $138,398 funded from the reserve balance on ROPS III. Therefore, of the $757,297 requested to be retained, Finance will revise the adjustment by $708,321 allowing $569,923 for pass through payments and $138,398 excess administrative expenses which were approved on ROPS III. As such, LMIHF available for distribution to the affected taxing entities will be adjusted by $48,976 thousand.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to $451,742 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	402,766
Finance Adjustments		
Add:		
Requested retained balance not supported:		48,976
Total LMIHF available to be distributed:	$	451,742

This is Finance's 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 31, 2012 do not in any way eliminate the Controller's authority.

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

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Carmen Magana, Finance Manager, Santa Clarita
Ms. Denise Covert, Administrative Analyst, Santa Clarita
Ms. Kristina Burns, Manager, Manager, Los Angeles County Auditor-Controller's Office
California State Controller's Office