

December 15, 2012

Ms. Marie Marron Berkuti, Finance Manager/Treasurer
City of Solana Beach
635 South Highway 101
Solana Beach, CA 92075

Dear Ms. Berkuti:

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 November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Solana Beach 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. The Meet and Confer Session was held on November 26, 2012.

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.

- Using the 2010-11 City financial reports, submitted Recognized Obligation Payment Schedules (ROPS), and the Housing Assets Transfer List, Finance estimated what the June 30, 2012 LMIHF unencumbered cash balance should be. This varied significantly to the balance stated in the DDR. Given the short turnaround for Finance's document request, the Agency was unable to provide explanations or documents to reconcile the variance prior to the issuance of our November 9, 2012 letter. Therefore, Finance made a \$255,621 adjustment. During the Meet and Confer process, the Agency provided additional documentation to substantiate that the retention of this amount is required to fund enforceable obligations.

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, which were not disputed. Specifically:

- Balances in the amount of \$193,699 transferred to the City for ROPS January through June 2012 line item Nos. 14 and 15. These ROPS line items were denied in our letter to the Agency dated April 26, 2012. Therefore, this amount must be remitted to the county for disbursement to the taxing entities.

- Restricted funds requested to fund future obligations in the amount of \$2,000. This amount is not supported by a ROPS. Therefore, this amount must be remitted to the county for disbursement to the taxing entities.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$195,699 (see table below).

| LMIHF Balances Available For Distribution To Taxing Entities | |
|---|-------------------|
| Available Balance per DDR: | 0 |
| Finance Adjustments | |
| Add: | |
| Denied on ROPS: | 193,699 |
| Restricted funds not supported by an enforceable obligation: | 2,000 |
| Total LMIHF available to be distributed: | \$ 195,699 |

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.

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

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Juan Perez, Senior Auditor and Controller Manager, San Diego Auditor Controller
Ms. Nenita DeJesus, Senior Accountant, San Diego Auditor Controller
California State Controller's Office