



January 25, 2013

Ms. Joann Shao, Accounting Manager
City of South El Monte
1415 N. Santa Anita Ave
South El Monte, CA 91733

Dear Ms. Shao:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated December 21, 2012 Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the South El Monte Improvement District 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 29, 2012. Finance issued a LMIHF DDR determination letter on December 21, 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 10, 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 adjustments:

- Finance originally adjusted \$680,000 of the \$979,765 transferred to Mayan's Development during the period January 1, 2011 through June 30, 2012. The transfer was per an Owner Participation Agreement (OPA), however, the OPA was amended on June 30, 2011 to include an additional \$680,000 in the form of a forgivable loan. Finance denied this transfer because HSC section 34163 (c) prohibits an RDA from amending or modifying existing agreements, obligations, or commitments with any entity for any purpose after June 27, 2011.

During the meet and confer process, the Agency contends the transfer was allowable because the OPA obligation was listed on the Enforceable Obligation Payment Schedule (EOPS) for the period August through December 2011 and on the Recognized Obligation Schedule (ROPS) for the period January through June 2012. While Finance maintains the law prohibits this amendment, Finance did not select this obligation to review and therefore, did not object to this item in our ROPS determination letters. The Agency relied on our determination letters and made \$680,000 in payments to the Mayan's Development. Therefore, Finance is revising our previous adjustment.

- July 2012 True-up payment to the County Auditor-Controller in the amount of \$35,694. Finance originally denied the Agency's request to retain this amount because supporting

documentation provided indicated the funding source was RPTTF. Subsequent to the meet and confer process, accounting records were provided illustrating the amount was paid with LMIHF. Therefore, we are reversing the adjustment of \$35,694.

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 adjustment continues to be necessary for the following reason:

- Trustee fees in the amount of \$1,334. Finance continues to deny the requested retention amount as the Agency has not adequately proven there will be insufficient property tax revenues to pay future obligations. HSC section 34179.5 (c) (5) (D) states that a successor agency shall provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements. Therefore, \$1,334 is not allowed to be retained.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$15,819 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 14,485
Finance Adjustments	
Add:	
Requested retained balance not supported:	1,334
Total LMIHF available to be distributed:	\$ 15,819

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 31, 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,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish extending to the left.

STEVE SZALAY
Local Government Consultant

cc: Mr. Anthony Ybarra, City Manager, City of South El Monte
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office