



December 15, 2012

Ms. Marie Lorenzi, Senior Accountant
City of Turlock
156 S. Broadway, Suite 230
Turlock, CA 95380

Dear Ms. Lorenzi:

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 City of Turlock 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 October 24, 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 30, 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 reason:

- Unallowable transfer of Notes Receivable in the amount of \$32,000. The Housing Assets Transfer List did not list a loan receivable made to the Habitat for Humanity in the amount of \$32,000. Therefore, the Agency must account for the asset on its balance sheet. This item is not a cash equivalent, therefore will not affect the amount remitted to the county for disbursement to taxing entities, however this item will need to be included in the long range management plan. The Agency did not contest to this item.
- The request to retain \$1 million for the Disposition and Development Agreement (DDA) with EAH, Inc. was originally denied because it was not included on any Recognized Obligation Payment Schedule (ROPS). Finance continues to object to this item. After further review, we realize that this DDA relates to the line item titled Avena Bella – Phase II. Available LMIHF is pledged to meet the loan requirements of the DDA and the Agency is required to provide notice to the developer when the Agency has accumulated sufficient low/mod set aside funds to fund the entire \$4 million Agency loan. The requirement to set aside 20 percent of tax increment into the LMIHF ended with the passage of the redevelopment dissolution legislation. Therefore, the set aside funds will never accumulate to the \$4 million required. HSC section 34177 (d) requires these

balances to be remitted to the county auditor controller, and therefore, they are no longer available for this purpose.

To the extent the developer meets their required commitments and this DDA is determined to be an enforceable obligation, future tax increment can be used to fund the project.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be \$1,001,062.

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Requested retained balance not supported:	1,001,062
Total LMIHF available to be distributed:	\$ 1,001,062

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.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a long horizontal stroke extending to the left.

STEVE SZALAY
Local Government Consultant

cc: Ms. Kellie Weaver, City Clerk, City of Turlock
Ms. Lauren Klein, CPA, Auditor-Controller, Stanislaus County
California State Controller's Office