DEPARTMENT OF FINANCE

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March 21, 2014

Mr. Allen Parker, City Manager
City of San Bernardino
201 North E Street, Suite 301
San Bernardino, CA 92401

Dear Ms Jenkins:

Subject: Housing Assets Transfer Form

This letter supersedes Finance's Housing Asset Transfer Form letter dated August 31, 2012. Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the City of San Bernardino as Housing Successor Agency (Agency) submitted a Housing Assets Transfer Form (Form) to the California Department of Finance (Finance) on August 1, 2012, for the period February 1, 2012 through August 1, 2012. Finance issued its determination related to those transferred asset on August 31, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items that was objected to by Finance. The Meet and Confer session was held on February 1, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of those specific items being disputed.

- Exhibit A, Items 3, 5, 7 through 37, 45 through 49, and 52 through 67 – Finance no longer objects to the transfers of Items 3, 5, 7 through 11, 15, 22, 24 through 33, 37, 45, 47, 48, and 52 through 67 to the Agency; however, Finance continues to object to the transfers of Items 12 through 14, 16 through 21, 23, 34 through 36, 46, and 49. Finance originally objected to the transfers because the assets were not owned by the former Redevelopment Agency (RDA) or sufficient documentation was not provided to confirm the properties meet the definition of a housing asset or to demonstrate the property was purchased for low and moderate income housing purposes.

  Items 3, 5, 7 through 11, 15, 22, 24 through 33, 37, 45, 47, 48, and 52 through 67 were purchased using funds from the Low and Moderate Income Housing Fund (LMIHF) and were listed as assets in the former RDA's balance sheet. Therefore, these items are housing assets pursuant to HSC section 34176 (e) (1) and are eligible for transfer from the former RDA to the Agency.

Additionally, the Agency identified corrections to be made to the acquisition cost reported on Exhibit A and Finance agrees with the corrections for the following items:

- Item 11 should be $77,075
- Item 30 should be $1,147,887
- Item 32 should be $143,000

The Agency did not provide documents showing the funding source used for Items 34 through 36, 46, and 49. Additionally, no other documents were provided for these items showing they were restricted solely for low and moderate income housing purposes. Therefore, these items are not housing assets pursuant to HSC section 34176 (e) (1) and shall be returned to the successor agency.

Items 12 through 14, 16 through 21, and 23 were all purchased after June 27, 2011. Per HSC section 34163 (e), the former RDA shall not have the authority to, and shall not, acquire real property by any means for any purpose. Additionally, there was no indication the purchases made by the former RDA or successor agency after June 27, 2011 were pursuant to an enforceable obligation. Therefore, these items are not housing assets pursuant to HSC section 34176 (e) (1) and shall be returned to the successor agency.

However, Finance notes that to the extent the Agency would like to continue with the development of Items 12 through 14, 16 through 21, 23, 34 through 36, 46, and 49 for affordable housing purposes, HSC section 34191.5 (c) (2) states that one of the property disposition options available to the successor agency of the former RDA is the retention of property for future development purposes pursuant to an approved Long Range Property Management Plan. If this option is selected, HSC section 34180 (f) (1) states that the city, county, or city and county must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to HSC section 34188, for the value of the property retained.

Furthermore, the Agency contends that Items 25, 26, 27, 36, 37, 45, and 49 were properties purchased by Affordable Housing Solutions (AHS) with their own funds and should be removed from the Form. However, the documents provided indicate Items 25, 26, 27, 37, and 45 were purchased using funds from the former RDA and were assets listed in the RDA's balance sheet. For Items 36 and 49, no documents were provided showing the funding source used to purchase the properties. Therefore, Finance determined that no adjustments to the Form are necessary.

- Exhibit D, Items 5, 6, 30 through 36, 39, 52, 58, 64, and 66. Finance continues to object to the transfers. Finance originally objected to the transfers because HSC section 34163 (b) prohibits a RDA from entering into contracts with any entity for any purpose after June 27, 2011.

  - For Items 5 and 6, the agreements were executed on October 11, 2011, and December 15, 2011, respectively. The agreements were executed in accordance with the July 20, 2009 Master Agreement between the Developer and the former RDA. The Master Agreement terminated one year after the effective date, but gave the former RDA an option for 3 one-year extensions. However, the second and third extensions were executed after June 27, 2011

when the former RDA no longer had the authority to amend the agreement. HSC section 34163 (c) (1) states that the former RDA shall not have the authority to, and shall not, amend or modify existing agreements, including renewing or extending term of agreements.

- For Items 30 through 36, the Deeds of Trust With Assignments of Rent were all entered into after June 27, 2011. HSC section 34163 (a) states that the former RDA shall not have the authority to, and shall not, make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose.

- For Item 39, the Deed was executed on October 13, 2011 between AHS and the Mary's Mercy Center, Inc. using funds from the former RDA's LMIHF. However, HSC section 34163 (a) states that the former RDA shall not have the authority to, and shall not, make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose. Therefore, AHS did not have the authority to act on behalf of the former RDA to commit the LMIHF funds.

- For Items 52, 58, 64, and 66, the Subordinate Deeds of Trust and Assignment of Rents were all entered into after June 27, 2011. HSC section 34163 (a) states that the former RDA shall not have the authority to, and shall not, make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose.

Therefore, Items 5, 6, 30 through 36, 39, 52, 58, 64, and 66 are not housing assets and shall be returned to the successor agency.

This is Finance's final determination related to the assets reported on your Form. Except for items disallowed as noted above, Finance is not objecting to the remaining items listed on your Form. Assets transferred deemed not to be a housing asset shall be returned to the successor agency.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,

JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Lisa Connor, Project Manager, City of San Bernardino
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
California State Controller's Office