

Successor Housing Entity – Montclair Housing Authority

Health and Safety Code Section 34176.1 (f) and Section 33080.1 as well as Section 12463.3 of the Government Code shall not apply. Instead, the housing successor shall conduct, and shall provide to its governing body, an independent financial audit of the Low and Moderate Income Housing Asset Fund within six months after the end of each fiscal year, which may be included in the independent financial audit of the host jurisdiction. If the housing successor is a city or county, it shall also include in its report pursuant to Section 65400 of the Government Code and post on its Internet Web site all of the following information for the previous fiscal year. If the housing successor is not a city or county, it shall also provide to its governing body and post on its Internet Web site all of the following information for the previous fiscal year:

Response:

The Montclair Housing Authority's and Montclair Housing Corporation's financial information is part of the annual financial audit report prepared for the City of Montclair and therefore it meets the requirement by being included "in the independent financial audit of the host jurisdiction".

- (1) The amount deposited to the Low and Moderate Income Housing Asset Fund, distinguishing any amounts deposited for items listed on the Recognized Obligation Payment Schedule from other amounts deposited.

Response:

The operations of Low and Moderate Income Housing are separated and reported by two entities. The Montclair Housing Authority (Housing Authority) is the Successor Housing Entity, which under the redevelopment dissolution law took over housing assets from the City of Montclair Redevelopment Agency Low and Moderate Income Housing Funds upon its dissolution. Those housing assets included single and multifamily residential housing units which are operated and maintained by the Montclair Housing Corporation (Housing Corporation) which is a separate 501(c)(3) non-profit California Corporation. The rents and other income from the housing operations belong to the Housing Authority; however, they are granted to the Housing Corporation for use in covering expenses of operating the various housing units. Below is a summary of the deposits of both of these entities for fiscal year 2019-20:

	Housing Authority	Housing Corporation	Total
Deposits for fiscal year 2019-20	\$ 441,973.49	\$ 999,588.80	\$ 1,441,562.29
Deposit detail:			
Grant from Housing Authority - Rental income	\$ -	\$ 965,462.55	\$ 965,462.55
Interest earnings	-	34,126.25	34,126.25
Contribution from other governments	441,973.49	-	441,973.49
	\$ 441,973.49	\$ 999,588.80	\$ 1,441,562.29

None of the deposits above relate to any obligations listed on a Recognized Obligation Payment Schedules.

- (2) A statement of the balance in the fund as of the close of the fiscal year, distinguishing any amounts held for items listed on the Recognized Obligation Payment Schedule from other amounts.

Response:

Since this section does not define what "balance" is required, the fund balances present in the Low and Moderate Income Housing Asset Fund of the Montclair Housing Authority and the fund balance of the Montclair Housing Corporation are presented and detailed into their component amounts. Those balance and amounts are as follows as of June 30, 2020:

	<u>Housing Authority</u>	<u>Housing Corporation</u>	<u>Total</u>
Fund Balance	\$ 9,762,215.91	\$ 2,159,768.74	\$ 11,921,984.65
Components of Fund Balance:			
Nonspendable - Land and Real Estate	\$ 7,158,283.44	\$ -	\$ 7,158,283.44
Nonspendable - Loans Receivable	2,599,461.47	-	2,599,461.47
Restricted for Housing	4,471.00	2,159,768.74	2,164,239.74
	<u>\$ 9,762,215.91</u>	<u>\$ 2,159,768.74</u>	<u>\$ 11,921,984.65</u>

- (3) A description of expenditures from the fund by category, including, but not limited to, expenditures (A) for monitoring and preserving the long-term affordability of units subject to affordability restrictions or covenants entered into by the redevelopment agency or the housing successor and administering the activities described in paragraphs (2) and (3) of subdivision (a), (B) for homeless prevention and rapid rehousing services for the development of housing described in paragraph (2) of subdivision (a), and (C) for the development of housing pursuant to paragraph (3) of subdivision (a).

Response:

Total expenditures for fiscal year 2019-20 by category were as follows:

	<u>Housing Authority</u>	<u>Housing Corporation</u>	<u>Total</u>
Expenditures:			
Administrative costs	\$ -	\$ 301,966.16	\$ 301,966.16
Professional services	-	92.00	92.00
Property acquisition	441,973.49	-	441,973.49
Management service company costs	-	528,452.77	528,452.77
Repairs and maintenance	-	209,017.42	209,017.42
Permits	-	932.00	932.00
Total	<u>\$ 441,973.49</u>	<u>\$ 1,040,460.35</u>	<u>\$ 1,482,433.84</u>

Operations of the multifamily residential units owned by the Montclair Housing Authority (Successor Housing Entity) are done through the Montclair Housing Corporation a separate 501(c)(3) nonprofit corporation. As such, the Montclair Housing Authority has not directly incurred any expenditures for monitoring or administering affordability restrictions or covenants as these are done by the Montclair Housing Corporation as part of administering and preserving those properties. All properties owned by the Housing Authority have 55 year deed restrictions present for low and moderate income housing purposes.

- (4) As described in paragraph (1) of subdivision (a), the statutory value of real property owned by the housing successor, the value of loans and grants receivable, and the sum of these two amounts.

Response:

The statutory values of real property, loans and grants receivable at June 30, 2020 were as follows:

Real property	<u>\$ 7,158,283.00</u>
Loans receivable (net of allowance for uncollectible)	<u>2,599,461.47</u>
Total Real Property and Receivables	<u>\$ 9,757,744.47</u>

- (5) A description of any transfers made pursuant to paragraph (2) of subdivision (c) in the previous fiscal year and, if still unencumbered, in earlier fiscal years and a description of and status update on any project for which transferred funds have been or will be expended if that project has not yet been placed in service.

Response:

During Fiscal Year 2019-20 transfers of operating monies in the amount of \$160,000 occurred from the Housing Authority to the Housing Corporation. These monies were to provide resources to further maintain the housing units administered by the Housing Corporation and to assist in providing housing for extremely low-income households.

- (6) A description of any project for which the housing successor receives or holds property tax revenue pursuant to the Recognized Obligation Payment Schedule and the status of that project.

Response:

The Montclair Housing Authority and the Montclair Housing Corporation receive no property tax revenues. Neither of these entities has received nor currently holds any tax revenues pursuant to a Recognized Obligation Payment Schedule.

- (7) For interests in real property acquired by the former redevelopment agency prior to February 1, 2012, a status update on compliance with Section 33334.16. For interests in real property acquired on or after February 1, 2012, a status update on the project.

Response:

Section 33334.16 of the Health and Safety Code generally requires that for each interest in real property acquired by a redevelopment agency with Low to Moderate Income Housing Fund monies, a redevelopment agency must begin the development or rehabilitation of the property within five years from the date of acquisition. In the case of the former City of Montclair Redevelopment Agency, all properties acquired by the former Redevelopment Agency have been (or are in process of being) rehabilitated or sold for new housing development. The narrative below provides an update on the status of the units and/or property owned by the former City of Montclair Redevelopment Agency upon redevelopment agency dissolution in February 2012.

The former City of Montclair Redevelopment Agency was the owner of 98 units of affordable housing. The housing units were purchased and rehabilitated by the former Redevelopment Agency with Low-and Moderate-Income Housing Funds. The 98 units contain 55 year deed restrictions for affordability; approximately 80 percent of the units are deed restricted for very low income families; and over 300 people currently reside in these units.

On April 4, 2011, the Redevelopment Agency Board of Directors and the Montclair Housing Corporation Board of Directors approved the sale of 98 housing units to the Montclair Housing Corporation with the approval of Redevelopment Agency Special Counsel. The properties were sold by the Redevelopment Agency to the Montclair Housing Corporation for approximately \$12 million with the provision that all loan payments would be forgiven as long as the properties remained affordable housing subject to 55-year affordability covenants. The Montclair Housing Corporation was established in June 1994 to maintain and manage certain rental properties that the former Redevelopment Agency purchased and rehabilitated for the purpose of providing affordable housing with Low- and Moderate-Income Housing Funds to meet Health and Safety Code Inclusionary requirements. The City Council acts as the Board of Directors for the Montclair Housing Corporation.

While auditing the former City of Montclair Redevelopment Agency, the State Controller never questioned the validity of the asset transfer to the Montclair Housing Corporation. However, upon issuance of its draft Report in November 2012, the Controller's Office indicated that the housing units transferred to the Montclair Corporation should be returned to the Successor Agency. Successor Agency staff responded to the State Controller's conclusion indicating that the 98 units were existing units of affordable housing containing over 300 tenants. In addition, all the units contain 55 year affordability covenants. The State Controller's staff

verbally communicated to Successor Agency staff saying that the units could be retained by the Montclair Housing Corporation upon adoption of a Resolution affirming such action by the Oversight Board. The Oversight Board approved Resolution No. 13-02 approving the transfer of the housing units to the Montclair Housing Corporation on January 23, 2013. The Final Report issued by the State Controller's Office dated March 6, 2013 indicated the Oversight Board had authorized the property transfer and no further action was necessary.

After receipt and review of Resolution No. 13-02 by the Department of Finance (DOF) a letter was received from DOF on May 15, 2013 disallowing the transfer of the 98 housing units to the Montclair Housing Corporation. The action by DOF indicated no "Meet and Confer" on this action was authorized. The letter from DOF did remand the action back to the Oversight Board for consideration. Successor Agency staff verbally communicated with DOF where it was indicated that the housing assets in question should be placed on the Long Range Property Management Plan. It should be noted that DOF did not question the placement of these 98 housing units as assets on the Housing Asset Transfer list submitted by the Successor Agency and Oversight Board in July 2012. As directed by DOF, staff included the housing units in the first draft of the Long Range Property Management Plan.

After conference with legal counsel, Successor Agency staff submitted Resolution No. 13-10 to the Oversight Board for consideration. This resolution directed the Successor Agency to transfer the 98 units of rental housing to the Montclair Housing Authority (Successor Housing Agency) as housing assets. On September 11, 2013, the Oversight Board adopted Resolution No. 13-10 directing the Successor Agency to transfer the 98 low--and moderate-income housing units to the Montclair Housing Authority. On September 18, 2013, DOF Analyst Hanzhao Meng pulled Resolution No. 13-10 for review.

The Successor Agency to the City of Montclair Redevelopment Agency was finally allowed to delete the 98 units of low-to moderate-income housing (**Housing Assets**) in the Long- Range Property Management Plan that were held by the Montclair Housing Corporation. Per direction from DOF, pursuant to DOF Determination on OB Resolution No. 13-10 dated December 13, 2013, the transfer of the 98 units to the Montclair Housing Authority was approved.

Of the 98 units, the only unit requiring rehabilitation at the time of dissolution was the property at 5444 Palo Verde Street purchased prior to dissolution in 2011. Since its acquisition, this property has undergone extensive rehabilitation to clear trees and overgrown vegetation and to correct a variety of building code violations. The remaining items to be performed on the unit included replacement of broken windows and painting the exterior of the house. The house is currently rented to an income qualifying family.

The Montclair Housing Corporation continues rent these 98 units along with the newly purchased property to income qualifying families. The majority of units are deed restricted for rental to very low income families.

The other property owned by the former Redevelopment Agency upon dissolution was located at 4113 Kingsley Street. The .47-acre property was acquired by the former Redevelopment Agency on January 20, 2009. The purchase price for the property was \$330,000. The property was acquired with Low to Moderate Income Housing Funds. At the time the property was acquired, staff held preliminary discussions with National CORE to determine its interest in considering the site for special needs housing. Development of a Special Needs Housing project was of interest to National CORE. National CORE developed similar projects in the past and has partnered with nonprofit social service providers regarding tenancy and social service needs. The proposed location for the National CORE Special Needs project lies directly east of Vista Del Cielo on the southwest corner of Kingsley Street and Pradera Avenue. This site also serves as an entry corner for the Montclair Meadows Foundation Area and the San Antonio Vista Apartments. On September 8, 2009, the Redevelopment Agency Board of Directors approved an Exclusive Right to Negotiate Agreement between the City of Montclair Redevelopment Agency and National CORE regarding the 4113 Kingsley Street site. Through the Exclusive Right to Negotiate Agreement, the Redevelopment Agency Low and Moderate Income Housing Fund provided National CORE with a predevelopment loan of approximately \$252,000. These funds were used to develop building plans for the property and to gain City entitlements. The project was entitled by the Planning Commission on March 14, 2011.

An Option Agreement regarding purchase of 4113 Kingsley Street was approved by the Redevelopment Agency Board of Directors and National CORE on October 19, 2009. The Option Agreement provided National CORE with the ability to apply for United States Department of Housing and Urban Development (HUD) Section 811 funding to finance the development of affordable housing for developmentally disabled persons. The Option Agreement also committed that the Redevelopment Agency Board of Directors would consider providing National CORE with a residual receipts loan of at least \$1.6 million. National CORE received a commitment for funding from the Section 811 program in 2010. However, National CORE still found itself in need of additional funding for the project and sought to apply for the California 9 Percent Low-Income Housing Tax Credit (LIHTC) program. Therefore, on December 30, 2010, the Option Agreement with National CORE was extended until December 30, 2012.

National CORE was successful at receiving 9 Percent LIHTC and with the HUD Section 811 funding, National CORE was ready to finance the 18-unit Special Needs Housing Project for persons with developmental disabilities for several months. National CORE wrote a letter to the Successor Agency seeking to exercise the option for acquisition of the property. In addition, without an open escrow for the site, National CORE would be in danger of losing its commitment for HUD financing.

A public hearing to consider the Disposition and Development Agreement (DDA) with National CORE regarding the Special Needs Housing Project at 4113 Kingsley Street was set to be considered by the Redevelopment Agency Board of Directors and City Council on July 5, 2011. Unfortunately, Governor Brown signed the redevelopment dissolution legislation, AB 1X 26, on June 27, 2011. Therefore, the Redevelopment Agency Board of Directors and City Council were not able to approve the DDA with National CORE and the 4113 Kingsley Street property returned to its state as an unimproved asset of the redevelopment agency.

With the official dissolution of redevelopment agencies on February 1, 2012, the City of Montclair formed the Montclair Housing Authority to assume responsibility for former redevelopment agency housing assets. The City became the successor agency for former redevelopment agency's nonhousing assets. Successor Agency Special Counsel opined that housing assets should be transferred to the housing successor agency by matter of law so a grant deed was not recorded to commemorate the transfer.

With the adoption of AB 1484 on June 27, 2012, the housing assets of each former redevelopment agency were to be listed on a Housing Asset Transfer form and submitted to the Department of Finance (DOF) for approval. The submittal of the Housing Asset Transfer form to DOF had to be completed by August 1, 2012. The Housing Asset Transfer form for the former City of Montclair Redevelopment Agency included the property located at 4113 Kingsley Street. The Housing Asset Transfer form listed this property as a site to be used for an affordable Special Needs Housing project having a valid Option to Purchase Agreement by National CORE. In addition, the Oversight Board approved the Housing Asset Transfer form on July 25, 2012 and adopted Resolution No. 12-11 approving the transfer of housing assets to the Montclair Housing Authority.

On August 25, 2012, the DOF made the determination that the 4113 Kingsley Street property was not a housing asset. Successor Agency staff submitted a Request to "Meet and Confer" regarding this matter on September 13, 2012. The "Meet and Confer" with DOF was conducted on November 21, 2012. Representatives from National CORE and the Successor Agency staff presented the background regarding the property and discussed the lawsuit that would ensue if DOF maintained its position that 4113 Kingsley Street was not a housing asset. Finally, on December 21, 2012 DOF issued a letter reversing the determination that 4113 Kingsley Street was a nonhousing asset.

The Successor Agency Board of Directors approved the transfer of the 4113 Kingsley Street property to the Montclair Housing Authority with a grant deed on January 22, 2013. The Montclair Housing Authority also approved a Purchase and Sale Agreement to National CORE on January 22, 2013 so that National CORE's grant of HUD 811 financing could be preserved. The Montclair Housing Authority approved a Disposition and Development Agreement with National CORE on February 2, 2013, more fully detailing the terms of the purchase agreement between the Montclair Housing Authority and National CORE. The Montclair Housing Authority was not able to provide the \$1.6 million in assistance previously committed by the Redevelopment

Agency. National CORE took possession of the property in early 2013. The 18-unit project was completed and occupied by spring of 2014. National CORE named the Montclair Special Needs Housing Project "San Emi." Subsequent to financing the San Emi Special Needs Housing Project, HUD discontinued the HUD 811 program. San Emi may be the last HUD project constructed with this funding source.

Adults residing in the San Emi Special Needs Housing project need to have the capacity and ability for independent living. However, these residents have the need for special services. Therefore, the Special Needs Housing project is operated slightly differently than the other National CORE Housing Projects (the San Marino Senior Apartments, the San Antonio Vista Apartment Project, or the Vista Del Cielo Apartment Project). The difference in operation is reflected in social service delivery. While all the other National CORE projects have community, recreational, or educational programs, the San Emi Special Needs Housing project has a social service provider that monitors and follows up on the needs of the resident population.

The nonprofit social service provider for the San Emi Project is United Cerebral Palsy of Los Angeles. United Cerebral Palsy of Los Angeles is experienced in operating special needs housing for the developmentally disabled. This organization currently services 11 independent living apartments and 25 community based homes to help address affordable and accessible housing in Los Angeles, Orange, and Santa Barbara counties. The Montclair Special Needs Housing project is the first project served by United Cerebral Palsy of Los Angeles in San Bernardino County.

- (8) A description of any outstanding obligations pursuant to Section 33413 that remained to transfer to the housing successor on February 1, 2012, of the housing successor's progress in meeting those obligations, and of the housing successor's plans to meet unmet obligations. In addition, the housing successor shall include in the report posted on its Internet Web site the implementation plans of the former redevelopment agency.

Response:

The only obligations which remained to be transferred to the housing successor as of February 1, 2012 pursuant to Section 33413 were those units and property detailed in Question 7 above. As stated, all units and property have been transferred and land at 4113 Kingsley Street has been developed for affordable housing. All units transferred or developed are used to satisfy Section 33413 requirements.

As of February 1, 2012 all of the Redevelopment Agency's 33413 objectives were satisfied and an excess of 56 affordable units were produced.

With the completion of the San Emi Special Needs Housing Project in 2014, the Housing Successor Entity (Housing Authority) currently has 73 units of deed restricted affordable housing in excess of current Section 33413 production requirements. At June 30, 2019, the Housing Authority had \$164,025 in cash.

Implementation Plans shall be posted on the Internet Web site.

- (9) The information required by subparagraph (B) of paragraph (3) of subdivision (a).

Response:

The Housing Authority interprets this requirement as follows:

(B) If the housing successor fails to comply with the extremely low income requirement in any five-year report, then the housing successor shall ensure that at least 50 percent of these remaining funds expended in each fiscal year following the latest fiscal year following the report are expended for the development of rental housing affordable to, and occupied by, households earning 30 percent or less of the area median income until the housing successor demonstrates compliance with the extremely low income requirement in an annual report described in subdivision (f).

Section 34176.1 of the Health and Safety Code became effective January 1, 2014. The Successor Housing Authority, at June 30, 2019, has \$164,025 in cash. This source of income is non-reoccurring. The only additional source of funding for the Montclair Housing Authority is made available through the repayment of

residual receipts loans. Residual receipts loans were made to National CORE and Augusta Homes. Residual receipts income is only derived when income exceeds expenses from maintenance, operations, and payment to creditors in a first position. However, residual receipts loans do not constitute a steady income stream and in the past several years, the recipients of the residual receipts loans have been unable to make payments on the loans because operating expenses have just met or exceeded revenue. Therefore, as indicated in Question 8 above, future project revenue to advance new affordable housing projects will not be forthcoming

To comply with requirements to provide housing for extremely low income, staff will recommend that the Housing Authority Board of Directors transfer the most of the cash balance of in the Housing Authority fund to the Housing Corporation to secure deed restrictions for extremely low income persons for one-or two-units for this income category.

The San Emi Special Needs Housing Project was completed in the 2013-14 fiscal year, 17 units of affordable deed restricted housing were created. Eight of the 17 units (47 percent) are provided to persons or families earning 30 percent or less of the area median income. Presuming the provisions of Section 34176.1 (a)(3)(A) begin on January 1, 2014, the Montclair Housing Authority complies with this Section.

- (10) The percentage of units of deed-restricted rental housing restricted to seniors and assisted individually or jointly by the housing successor, its former redevelopment agency, and its host jurisdiction within the previous 10 years in relation to the aggregate number of units of deed-restricted rental housing assisted individually or jointly by the housing successor, its former redevelopment agency, and its host jurisdiction within the same time period.

Response:

The following affordable deed restricted rental housing units have been assisted by the City of Montclair Redevelopment Agency or Montclair Housing Authority within the last 10 years:

San Antonio Vista Family Apartments-74 units
San Marino Senior Apartments-84 units
Vista del Cielo Family Apartments-49 units
Montclair Housing Corporation-2 units
San Emi Special Needs Apartments-17 units

The City of Montclair Redevelopment Agency or the Montclair Housing Authority assisted 228 affordable deed restricted rental housing projects in the last 10 years. Eighty four of the 228 rental units or approximately 38 percent of the units were, therefore, deed restricted for use by qualifying senior renters. The percentage of restricted senior units falls below 50 percent of the deed restricted units.

- (11) The amount of any excess surplus, the amount of time that the successor agency has had excess surplus, and the housing successor's plan for eliminating the excess surplus.

Response:

When the City of Montclair Redevelopment Agency was eliminated there was no excess surplus. Because all available amounts, since that point in time, have been distributed to the taxing entities through the Low and Moderate Housing Due Diligence Review and subsequent payment by the Successor Agency, there presently exists no carryover of excess surplus. Because the Montclair Housing Authority (Successor Housing Entity) receives no property taxes, excess surplus provisions do not apply.