MISSION VIEJO HOUSING AUTHORITY ANNUAL REPORT AS HOUSING AUTHORITY AND AS HOUSING SUCCESSOR FOR FISCAL YEAR 2020-2021 UNDER CALIFORNIA HEALTH & SAFETY CODE SECTIONS 34176.1 AND 34328

This Annual Report of the Mission Viejo Housing Authority (Housing Authority) is prepared under California Health and Safety Code[1] Section 34176.1 as the housing successor, and Section 34328 as a housing authority (Report). In particular, Division 24 of the HSC sets forth the Dissolution Law in Parts 1.8 and 1.85 and the Housing Authorities Law in Part 2, which respectively require preparation of an annual report on the housing successor and the housing authority's activities for the prior fiscal year (FY). This Report details the Housing Authority's activities during FY 2020-21 and is intended to satisfy the requirements under both Sections 34176.1 and 34328, including the information required about the Low and Moderate Income Housing Asset Fund (LMIHAF) and other information required under Section 34176.1(f). The complete, final ACFR (term defined below) and this Report will be provided to the City Council and Housing Authority Board, the same governing bodies, at a public meeting on December 14, 2021 in compliance with Section 34176.1(f).

This Report includes information prepared by City staff on behalf of the Housing Authority and data from the independent financial audit of the LMIHAF Financial Report for FY 2020-21 that is a part of the City of Mission Viejo's (City) Annual Comprehensive Financial Report (ACFR) audited by Davis Farr LLP, which is separate from this Report and attached as Exhibit B hereto; further, this Report conforms with and is organized into sections I. through XIV., inclusive, under Section 34176.1(f) of the Dissolution Law and Section 34328 of the HAL.

I. **Amounts Received and Deposited Pursuant to 34191.4(b)(3)(A)**. This section provides the total amount of funds paid to the City and the amount deposited into the LMIHAF allocable to 20% of the repayments on the reinstated City/Agency loan per Section 34191.4.

II. **Amount Deposited into LMIHAF**. This section provides the total amount of funds deposited into the LMIHAF in FY 2020-21 and itemized by amounts deposited in FY 2020-21 for items listed on Recognized Obligation Payment Schedule (ROPS), amounts allocable to Section 34191.4 deposits, and other amounts deposited into the LMIHAF.

III. **Ending Balance of LMIHAF**. This section provides a statement of the balance in the LMIHAF as of the close of FY 2020-21. Any amounts deposited for items listed on the ROPS, and amounts allocable to Section 34191.4 deposits, must be distinguished from the other amounts deposited.

IV. **Description of Expenditures from LMIHAF**. This section provides a description of expenditures made from the LMIHAF during FY 2020-21. The expenditures are to be categorized, as and if applicable, among (A) administration for

[1] All statutory references in this Report are to the California Health and Safety Code (HSC), unless otherwise stated.

monitoring, preserving covenanted housing units, (B) homeless prevention and rapid rehousing services and (C) development of housing.

V. **Statutory Value of Assets Owned by Housing Successor**. This section provides the statutory value of real property owned by the Housing Authority, as housing successor, the value of loans and grants receivables, and the sum of these two amounts.

VI. **Description of Transfers**. This section describes transfers, if any, to another housing successor made in previous fiscal year(s), including whether the funds are unencumbered and the status of projects, if any, for which the transferred LMIHAF will be used. The sole purpose of the transfers must be for development of transit priority projects, permanent supportive housing, regional homeless shelter, housing for agricultural employees or special needs housing.

VII. **Project Descriptions**. This section describes any project for which the Housing Authority, as housing successor, receives or holds property tax revenue under the ROPS and the status of that project.

VIII. **Status of Compliance with Section 33334.16**. As and if applicable, this section provides a status update on compliance with Section 33334.16 for interests in real property acquired by the former redevelopment agency prior to February 1, 2012. For interests in real property acquired on or after February 1, 2012, provide a status update on the project.

IX. **Description of Outstanding Obligations under Section 33413**. This section describes outstanding inclusionary and replacement housing obligations, if any, under Section 33413 that remained outstanding prior to dissolution of the former redevelopment agency as of February 1, 2012, along with the housing successor's progress in meeting those prior obligations, if any, of the former redevelopment agency and how the housing successor's plans to meet unmet obligations, if any.

X. **Income Test**. This section presents the information required by subparagraph (B) of paragraph (3) of subdivision (a) of Section 34176.1. In clarification, Section 34176.1(a)(3)(A)(B) and (D) describe and define certain thresholds by income category as to expenditures for development sourced from the LMIHAF. This Report describes expenditures by the Housing Authority, as housing successor, for development that were sourced from the LMIHAF during FY 2020-2021 and in the context of the second five-year reporting period.

XI. **Senior Housing Test**. This section provides the percentage of deed-restricted rental housing units 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 10-year time period.

XII. **Excess Surplus Test:** This section provides the amount of excess surplus in the LMIHAF, if any, and the length of time that the Housing Successor has had excess surplus, and the housing successor's plan for eliminating the excess surplus.

XIII. **Inventory of Homeownership Units:** This section provides a summary of covenanted homeownership units assisted by the former redevelopment agency or the housing successor that include equity sharing and repayment provisions, including: (A) number of units; (B) number of units lost to the portfolio in the last fiscal year and the reason for those losses, (C) any funds returned to the housing successor pursuant to losses or repayments, and (D) identify contracts for the management of housing units.

XIV. **Information about the housing activities of the Housing Authority under the Section 34328 of the HAL is discussed in section XIV of this Report.**

This Report is to be provided to Housing Authority and its governing body, the City Council, in accordance with the Dissolution Law and the HAL. In addition, this Report will be posted and made available to the public on the City's website at: https://cityofmissionviejo.org/departments/finance/financial-reports, and thereafter appended to the City's annual update report prepared under Section 65400 of the Government Code.

I. LOAN REPAYMENT PER SECTION 34191.4(B)(3)(A)

There is no loan balance on the SERAF loan. The SERAF loan was paid in full in FY 2016-17.

II. AMOUNT DEPOSITED INTO LMIHAF

A total of $276,835 was deposited into the LMIHAF during FY 2020-21 *not* related to Section 34191.4(B)(3)(A) or items, if any, listed on the ROPS.

III. ENDING BALANCE OF LMIHAF

At the close of FY 2020-21, the ending balance of housing assets in the LMIHAF was $5,646,255.

IV. DESCRIPTION OF EXPENDITURES FROM LMIHAF

The following is a description of expenditures from the LMIHAF by category:

	Fiscal Year
Monitoring & Administration Expenditures	$83,033
Homeless Prevention and Rapid Rehousing Services Expenditures	$0
Housing Successor Expenditures for Development	
➢ **Expenditures on Low Income Units**	$0
➢ **Expenditures on Very-Low Income Units**	$0
➢ **Expenditures on Extremely-Low Income Units**	$0
➢ **Total Housing Successor Expenditures on Development**	$0
Total LMIHAF Expenditures in Fiscal Year	**$83,033**

V. STATUTORY VALUE OF HOUSING ASSETS OWNED BY HOUSING SUCCESSOR IN LMIHAF

Under the Dissolution Law and for purposes of this Report, the "statutory value of real property" means the value of properties formerly held by the former redevelopment agency as listed on the housing asset transfer schedule (HATS) approved by the Department of Finance as listed in such schedule under Section 34176(a)(2), the value of the properties transferred to the Housing Authority, as housing successor, pursuant to Section 34181(f), and the purchase price of property(ies) purchased by the Housing Authority, as housing successor. Further, the value of loans and grants receivable is included in these reported assets held in the LMIHAF.

The following provides the statutory value of assets owned by the Housing Authority, as housing successor.

	As of End of Fiscal Year
Statutory Value of Real Property Owned by Housing Authority as Housing Successor	$6,900,000
Value of Loans and Grants Receivable Held by Housing Successor	$2,905,154
Total Value of Housing Successor-Owned Housing Assets	$9,805,154

VI. DESCRIPTION OF TRANSFERS

The Housing Authority, as housing successor, did not make any LMIHAF transfers to other housing successor(s) under Section 34176.1(c)(2) during the fiscal year.

VII. PROJECT DESCRIPTIONS

The following is a description of project(s) for which the Housing Authority, as housing successor, receives or holds property tax revenue pursuant to the ROPS as well as the status of the project(s):

The Housing Authority, as housing successor, is not owed, nor holds, property tax revenue pursuant to the ROPS for any project during the fiscal year or at June 30, 2021.

VIII. STATUS OF COMPLIANCE WITH SECTION 33334.16

Section 34176.1(e) provides: "Section 33334.16 shall not apply to interests in real property acquired on or after February 1, 2012." At the time of dissolution, February 1, 2012, the former Community Development Agency of the City of Mission Viejo (Former Agency) did not own any real property. However, for disclosure and transparency, this Report presents a status update on the real property acquired by the Housing Authority *after* February 1, 2012, which property is not subject to the time periods in Section 34176.1(e) "[w]ith respect to interests in real property acquired by the former redevelopment agency *before* February 1, 2012."

In FY 2014-15, the Housing Authority acquired an unimproved parcel of land, approximately eight (8) acres in size (commonly referred to as Site C), for which the purchase price was $6,900,000 (valuation by an independent appraisal). A down payment of $2,600,000 was paid from the LMIHAF toward the total purchase price and a promissory note was executed by the Housing Authority for the balance of the purchase price for Site C. One payment on the note of $200,000 was made during FY 2020-21 reducing the outstanding balance to $1,925,000. The land use zoning for Site C is RPD-30A (30 DUA) that must include certain percentages of very low income and low income covenanted units; this property also is listed in the housing site inventory in the City's Housing Element of the General Plan so its intended land use is for affordable housing development and operation.

As discussed in the FY 2019-20 annual report prepared pursuant to HSC 34176.1(f), during FY 2019-20, the Housing Authority and Brinshore Development LLC (Brinshore) were parties to and implementing a Negotiation Agreement toward development of an affordable housing project on Site C. The parties' objective was to reach agreement on the terms for sale or ground lease of Site C and Brinshore's new construction and long-term operation of about 75 (minimum) up to 109 (maximum) multifamily rental units for occupancy by extremely low, very low, and low income tenants at an affordable rent in compliance with the income targeting requirements of Section 34176.1(a)(3)(B). The parties focused on including two or more target populations in the project of: (1) single parents who are enrolled students at nearby Saddleback Community College or other college that serves the community *and* who are participants in one or more social and supportive services program(s) such as Project Self-Sufficiency, (2) senior citizens as to certain units, (3) military veterans, (4) teachers and other employees of local schools, (5) employees of local hospital(s) or other essential health care workers, and/or (6) permanent supportive housing for persons and families who are at risk of homelessness or homeless.

Negotiations with Brinshore continued during FY 2019-20; however, significant issues of financial feasibility slowed progress. Despite the Housing Authority's willingness to subsidize the land cost through a subordinate residual receipts loan ($6.9M valuation), the multiple proformas that Brinshore prepared for alternative development options continued to show large funding gaps, and necessary additional funding sources, to make development and operation of an affordable housing project financially feasible. Issues impacting effective development of Site C center on practical and cost-effective methods to expand the usable pad area, i.e., create optimal pad configuration and pad elevation, for development and operation of multifamily housing. Evaluation of the land by professional civil, structural and geotechnical engineers and architects, and consultation with financial advisors show multiple and various issues, especially relating to the soils, compaction, topography and environmentally sensitive areas, that impact the costs of planning, design and operation of residential development with adequate amenities and parking that, in turn, result in significant increases in hard and soft costs to complete development on Site C. The issues include without limitation: (a) the lower levels of the eight-acre parcel (approx.) present riparian habitat and environmental issues; (b) there is some sensitive habitat, including coastal sage and mixed scrub, that requires environmental management; (c) design and build feasible ingress and egress points; (d) design for adequate utilities connections, and functions, esp. as to sewer, water, drainage to service residential land use, and (e) site preparation and stabilization will require (i) mechanically stabilized earth (MSE) retaining walls, which are composite structures consisting of alternating layers of compacted backfill and soil reinforcement elements, fixed to a wall facing that create coherent gravity structures that are capable of carrying a variety of heavy loads, (ii) slope correction, (iii) cut/fill of soil and thereby import and export of soil; (ii) certification of soil compaction; (iii) geofabric installation to establish the MSEs, all of which will require geotechnical, engineering, design and habitat management services and site work at significant cost.

While during the worldwide pandemic progress stalled and ultimately ended with Brinshore, the City at its cost (not expending Housing Authority funds) continued work on how to make Site C a more development-ready building site, including how to cause natural grading (2:1 slopes) within the constraints of the property boundary on the west and the riparian boundary on the east, which showed the net soils import to be about 200,000 cubic yards of good, compactable soil. The MSEs would not only expand the buildable pad area, but would allow for more import of clean soils to allow for greater pad expansion, if needed. The MSE retaining walls could be used on the cut-slope side of the pad that could be constructed as part of the future housing development.

The Housing Authority will continue work toward development of Site C for an affordable housing development that is financially feasible and achieves multiple goals of the housing successor and the City. While no covenanted housing units were established during the reporting period, the foregoing explains Mission Viejo's significant, ongoing efforts to achieve affordable housing development on Site C.

IX. DESCRIPTION OF OUTSTANDING OBLIGATIONS PURSUANT TO SECTION 33413

Replacement Housing: Under the Former Agency's last Implementation Plan in effect prior to dissolution (the 2010-2014 plan), the replacement housing obligations, if any, under Section 33413(a) were transferred to the Housing Authority as housing successor; however, the Former Agency had *no* replacement housing obligations, outstanding or otherwise, as of dissolution on February 1, 2012.

Inclusionary/Production Housing. Under the Former Agency's last Implementation Plan in effect prior to dissolution (the 2010-2014 plan), the Former Agency's inclusionary/production housing obligations, if any, under Section 33413(b) were transferred to the Housing Authority as housing successor; however, the Former Agency had no outstanding inclusionary/production housing obligations as of dissolution on February 1, 2012.

Therefore, the Housing Authority, as housing successor has no replacement or inclusionary/production housing obligations, outstanding or otherwise, and thus no inclusionary/production obligation under Section 33413(b). The Former Agency's 2010-2014 Implementation Plan is posted on the City's website at https://cityofmissionviejo.org/departments/community-development/planning/housing.

X. INCOME TEST

Section 34176.1(a)(3)(A) provides: "The housing successor shall expend all funds remaining in the Low and Moderate Income Housing Asset Fund after the expenditures allowed pursuant to paragraphs (1) and (2) for the development of housing affordable to and occupied by households earning 80 percent or less of the area median income, with at least 30 percent of these remaining funds expended for the development of rental housing affordable to and occupied by households earning 30 percent or less of the area median income and no more than 20 percent of these remaining funds expended for the development of housing affordable to and occupied by households earning between 60 percent and 80 percent of the area median income." Section 34176.1(a)(3)(B) provides: "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)." The Housing Authority, as housing successor, reported previously on its expenditures for development sourced from the LMIHAF for the initial five-year reporting period of January 1, 2014 "to in the annual report … for 2019." For that initial reporting period, $0 of the housing successor's expenditures for development were sourced from the LMIHAF. The term "development" is defined in Section 34176.1(a)(3)(D): "For purposes of this subdivision, 'development' means new construction, acquisition and rehabilitation, substantial rehabilitation as defined in Section 33413, the acquisition of long term affordability covenants on multifamily units as described in Section 33413, or the preservation of an assisted housing development that is eligible for prepayment or termination or for which within the expiration of rental restrictions is scheduled to occur within five years as those terms are defined in Section 65863.10 of the Government Code."

The second five-year reporting period is in effect, and this section of the Report presents information for FY 2020-21. In this regard, the Housing Authority's expenditures, as housing successor, sourced from the LMIHAF for development must meet the income categories and thresholds described above during the second five-year period. During FY 2020-21, the Housing Authority had $0 of expenditures for development sourced from the LMIHAF.

As discussed in detail in Section VIII above relating to development of Site C for an affordable housing project, the Housing Authority (in cooperation with the City) continues work toward a financially feasible affordable housing project that will include extremely low, very low, and low income units.

XI. SENIOR HOUSING TEST

The Housing Authority, as housing successor, is to calculate the percentage of units of deed-restricted rental housing restricted to seniors and assisted by the housing successor, the former redevelopment agency and/or the City within the previous 10 years in relation to the aggregate number of units of deed-restricted rental housing assisted by the housing successor, the former redevelopment agency and/or City within the same time period. If this percentage were to exceed 50%, then as the housing successor it cannot expend future funds in the LMIHAF to assist additional senior housing units until the Housing Authority, as housing successor, or the City assists and construction has commenced on a number of restricted rental units that is equal to 50% of the total amount of deed-restricted rental units.

No activity to report; neither the Former Agency nor the Housing Authority, as housing successor, provided financial assistance for development of senior housing within the ten-year period of January 1, 2004 to January 1, 2014. Further, as to the next succeeding ten-year period of January 1, 2014 to January 2024 no such activity has occurred through FY 2020-21.

XII. EXCESS SURPLUS TEST

Excess Surplus is defined in Section 34176.1(d) as an unencumbered amount in the account that exceeds the greater of one million dollars ($1,000,000) or the aggregate amount deposited into the account during the housing successor's preceding four fiscal years, whichever is greater.

Calculation of Unencumbered Amounts:

Total Liabilities and Fund Balance June 30, 2021: $10,143,876

Less *Unavailable* Amounts:

Loans receivable	$ 180,654
Interest receivable	3,676
Developer loans	2,724,500
Land held for resale	6,900,000
	$ 9,808,830

Unencumbered Low to Moderate Income Housing Asset Funds: $335,046.

Greater of:

Base Amount	$1,000,000
Calculation of Aggregate Deposits	
FY 2020-21	$ 276,835
FY 2019-20	303,089
FY 2018-19	77,044
FY 2017-18	211,954
	$ 868,922

While a total of $868,922 has been deposited into the account during the previous four fiscal years, the *unencumbered* balance is $335,046 for FY 2020-21. Based on these numbers, the Housing Authority, as housing successor, does not have an excess surplus because the *unencumbered* Low to Moderate Income Housing Asset Fund balance is: $335,046.

XIII. INVENTORY OF HOMEOWNERSHIP UNITS

This section provides an inventory of homeownership units assisted by the Former Agency and that are administered by the Housing Authority, as housing successor, which units are subject to covenants or restrictions or to an adopted program that protects the Former Agency's investment of moneys from the Low and Moderate Income Housing Fund (LMIHF) per Section 33334.3(f).

The total homeownership inventory as of dissolution on February 1. 2012 (subparagraph (A) below) and the inventory, and losses and repayments for the period February 1, 2012 through June 30, 2020 (subparagraph (B) below) include:

(A) As of dissolution on February 1, 2012, the total number of homeownership units assisted by the Former Agency and that have covenants and restrictions of record is 34 units, which includes loans and restricted single-family homes assisted by the Former Agency through its (1) Single-Family Rehabilitation Program, and (2) Lennar's The Ridge Affordable Units for Very Low and Low Income homebuyers.

(B) The total number of homeownership units lost to the Housing Authority's (including as housing successor) portfolio between February 1, 2012 up to June 30, 2020, along with the reason or reasons for those losses: The Lennar Owner Participation Agreement, a DOF-approved enforceable obligation and housing asset included 22 units, 17 Very Low and 5 Low Income ownership units. Between FY 14-15 to FY 19-20, three (3) of the 22 Lennar units have been lost due to the re-sale by the original homebuyer/owner pursuant to the recorded covenants and loan documents, with the proceeds from repayment of Housing Authority subordinate loans, including equity shares, deposited into the LMIHAF. Twenty-one (21) units have been lost due to repayment of loans under the single-family rehabilitation program. The net funds returned to the Housing Authority as housing successor as part of an adopted program that protects the Former Agency's investment of moneys from the LMIHF, which repayment funds were sourced directly from the Former Agency's LMIHF were deposited into the LMIHAF: $1,055,682.

(C) The number of homeownership unit additions and decreases to the Housing Authority's (as housing successor) portfolio in FY 2020-21 was a two (2) unit decrease; this was due to the resale of another Lennar ownership unit by the original homebuyer/owner and one repayment of a loan under the single-family rehabilitation program. The proceeds of the Housing Authority loans including principal plus an equity share ($187,252), was deposited into the LMIHAF.

- The net funds returned to the Housing Authority, as housing successor, as part of an adopted program that protects the Former Agency's investment of moneys that were sourced directly from the LMIHF were deposited into the LMIHAF: $187,252.

(D) The Housing Authority, as housing successor, does have existing consulting agreements with Keyser Marston Associates relating to certain, but not all, aspects of administration of the Lennar Owner Participation Agreement for affordable ownership units, including implementation of the homebuyer/owner loan documents for each homebuyer/owner of an Affordable Unit. These consulting services include assistance with oversight and administration of amortized loan payments, if any, due, with tracking and calculation of loan balances in the event of payoff; and other administrative activities. In addition, Housing Authority legal counsel, Celeste Brady of Stradling Yocca Carlson & Rauth, assists staff in review of legal issues related to these affordable housing programs.

XIV. ADDITIONAL INFORMATION ABOUT THE HOUSING AUTHORITY'S ACTIVITIES FOR THE PRECEDING YEAR FY 20-21 PER HSC SECTION 34328 AND DISSOLUTION LAW

Without repeating the information presented above in this Report, during the FY 2020-21 reporting period the Housing Authority:

(1) Continued to monitor and enforce the housing assets transferred from the Former Agency to the Housing Authority, as housing successor, as well as housing assets established post-dissolution;

(2) Continued work toward the objective to cause development of Site C with an affordable housing project with units covenanted for occupancy by extremely low, very low, and low income households at an affordable housing cost;

(3) Completed negotiations with Families Forward, a nonprofit public benefit corporation, for the third and fourth affordable housing units to be owned and operated by Families Forward through a loan sourced from federal Community Development Block Grant Funds (CDBG) transferred by the City to the Housing Authority. This CDBG Loan fully funded one and partially funded a second Families Forward's acquisition of two sperate condominium units in the community that is managed, maintained and operated as permanent, affordable rental housing for qualified Very Low income households with a preference to families who are homeless or at risk of becoming homeless, which is part of and a primary objective in Families Forward's mission statement. These are the third and fourth affordable housing condominiums that the Housing Authority and Families Forward have undertaken with funding sourced from a series of CDBG Loans by the Housing Authority to Families Forward to facilitate ownership and operation, long-term, as affordable housing at an Affordable Rent for Very Low Income tenants who were previously homeless or at risk of becoming homeless.

In FY 2016-17, the Housing Authority entered into a *CDBG Subrecipient Loan and Affordable Housing Agreement* dated February 28, 2017 to provide a CDBG Loan, in a principal amount of $820,000, by the Housing Authority to Families Forward. This first contract and the implementing loan documents funded acquisition of the first two affordable housing units by Families Forward, which are owned and operated successfully as homes for qualified Very Low Income families who were previously homeless or at risk of becoming homeless.

In FY 2020-21, the Housing Authority entered into a second contract, *Affordable Housing and CDBG Loan Agreement* dated July 14, 2020 to provide another CDBG Loan, in an original principal amount of $524,690, to fund the acquisition of the third and fourth condominium by Families Forward. All four units are owned and operated by Families Forward successfully as homes for occupancy by qualified Very Low Income families who were previously homeless or at risk of becoming homeless. The four properties are subject to regulatory agreements recorded in the Official Records for long-term ownership and operation as affordable rental housing for qualified Very Low income families. Subject to state and federal Fair Housing laws, both CDBG Loan Agreements establish reasonable preferences to for tenancy by persons and families who at the time of application live or work in Mission Viejo. Each tenant family pays an Affordable Rent and receives social and supportive services through Families Forward. In subsequent years' annual reports, the Housing Authority will provide updates about operation of these affordable housing units.