DEPARTMENT OF FINANCE
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REVISED

December 21, 2012

Ms. Jenny Ficacci, Successor Agency and Housing Manager
City of El Cajon
200 Civic Center Way
El Cajon, CA 92020

Dear Ms. Ficacci:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the El Cajon 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 12, 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 December 6, 2012.

Finance issued a modified LMIHF DDR determination on December 15, 2012. This letter supersedes Finance's original LMIHF DDR determination letter dated December 15, 2012. It has come to our attention that although the adjusted LMIHF stated balance in Finance's December 15, 2012 letter was correct, there were calculation errors in the table. This letter will serve to provide clarification of those errors.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance revised some of the adjustments made in our previous DDR determination letter. Specifically, we revised the following adjustments:

- Funding for certain Recognized Obligation Payment (ROPS) III items totaling $37,358 was denied in Finance's letter in October 9, 2012. Subsequently, the Agency requested a Meet and Confer session regarding the disputed obligations. Upon review, Finance determined that these items were enforceable obligations. Specifically, Finance determined these items are specific project related costs for projects currently under construction. Specific project costs are not part of the administrative cost allowance and may be listed separately as an enforceable obligation. Therefore, the Agency will be allowed to retain the $37,358 and the amount of LMIHF to be distributed to the taxing entities will be reduced by the same amount.

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 adjustments continue to be necessary for the following reasons:

- The Agency contends the retention of $689,023 is necessary to fund the construction for the Chambers Senior Residence project, which is ahead of schedule and will now be expended by December 31, 2012. During the Meet and Confer process, the Agency included a revised ROPS and Oversight Board Resolution approving the expenditure. However, Finance is not accepting revised ROPS pursuant to HSC section 34177 (m) which states that ROPS for this period were due no later than September 1, 2012. Therefore, the Agency must abide by the ROPS III submitted to Finance on August 15, 2012.

  HSC provides successor agencies with various methods to address short term cash flow issues. These may include requesting a loan from the city to cover enforceable obligations pursuant to HSC section 34173 (h). Repayment of these loans can be put on subsequent ROPS. The Agency should seek counsel from its oversight board to determine the solution most appropriate for its situation. Since the Agency has alternatives to address short term cash flow shortages, Finance deems it is not necessary for Agency to retain the requested funds.

- Funds retained for the Weiland Development Company in the amount of $12,814 was denied because on ROPS II Finance only approved payments in the amount of $200,000. The additional $12,814 was not approved; therefore, Finance continues to deny the retention of this amount. Again, the Agency can seek a loan pursuant to HSC 34171 (h) to cover any shortfalls in cash.

The Agency's LMIHF balance available for distribution to the affected taxing entities was revised to be $2,038,628 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	1,336,712
Finance Adjustments		
Add:		
Expenditure not supported by ROPS:		12,893
Requested retained balance not supported:		689,023
Total LMIHF available to be distributed:	$	2,038,628

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 23, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Zach Stacy, Manager or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,

For

STEVE SZALAY
Local Government Consultant

cc: Ms. Victoria Danganan, Senior Accountant, City of El Cajon
Mr. Juan Perez, Senior Auditor and Controller Manager, San Diego County
Ms. Tracy Sandoval, Assistant Chief Financial Officer, San Diego County
California State Controller's Office