



December 19, 2012

Mr. Brian Ponty, Finance Director  
City of Redwood City  
1017 Middlefield Road  
Redwood City, CA 94063

Dear Mr. Ponty:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated November 7, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Redwood City Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on October 15, 2012. Finance issued a LMIHF DDR determination letter on November 7, 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 7, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance continues to believe the adjustment 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 this adjustment. We maintain the adjustments continue to be necessary for the following reason:

- The Agency contends the retention of \$10,272,916 in encumbered funds for affordable housing is necessary. The Agency also contends that the Legal Aid Society (LAS) agreement is an enforceable obligation and is legally binding. Finance originally denied this item as an inclusion to the Housing Asset Transfer Form on August 31, 2012. Finance concluded that the scope of the agreement failed to meet the requirements of HSC section 34176 (e) (2). This conclusion was supported in a subsequent review of the agreement and Finance has concluded that \$10,272,916 should be remitted to the County for distribution to the taxing entities.

HSC section 34176 (e) (2) allows the housing successor entity to recognize encumbrances for housing related enforceable obligations so they can be placed on future ROPS. The purpose of the LAS agreement was to ensure the designated housing fund be used for development, acquisition, or preservation of affordable housing. However, the LAS agreement does not require specific contracts be executed. Without a binding contract for a specific purpose, an enforceable obligation does not exist. Furthermore, HSC section 34179.5 (c) (5) (B) and (D) requires the DDR identifies funds that are legally restricted or contractually obligated. Finance does not believe the LAS

agreement contractually obligates these funds as an enforceable obligation pursuant to HSC section 34171 (d).

In addition, the \$10,272,916 was not reported or approved on any prior Recognized Obligation Payment Schedules (ROPS). Pursuant to HSC Section 34177 (a) (3), only those payments listed on the ROPS may be made by the Agency from the funds specified on the ROPS.

Therefore, Finance continues to deny the Agency's request to retain the funds totaling \$10,272,916 as an enforceable obligation and these funds must be remitted to the county auditor controller for disbursement to taxing entities.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be \$12,170,466 (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 1,897,550
Finance Adjustments	
Add: Denied HAT Item	\$ 10,272,916
<b>Total LMIHF available to be distributed:</b>	<b>\$ 12,170,466</b>

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 31, 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 blue ink, appearing to read "Steve Szalay", with a stylized flourish at the end.

STEVE SZALAY  
Local Government Consultant

cc: Ms. Kristen Mees, Economic Development Secretary, City of Redwood City  
Mr. Robert Adler, Auditor Controller, San Mateo County  
Ms. Shirley Tourel, Manager, Auditor Controller's Office, San Mateo County  
California State Controller's Office