DEPARTMENT OF FINANCE

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REVISED

May 17, 2013

Ms. Tiffany Bohee, Executive Director
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

Dear Ms. Bohee:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City and County San Francisco Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund Due Diligence Review (LMIHF DDR) to the California Department of Finance (Finance) on October 12, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Pursuant to HSC section 34179.6 (d), Finance issued its determination letter on November 9, 2012, with a revised determination letter on December 14, 2012 as a result of the Agency's request for a Meet and Confer on November 26, 2012.

In a concurrent letter dated December 14, 2012, Finance indicated its willingness to work with the Agency to alleviate concerns related to the LMIHF balances. On March 29, 2013, the Agency submitted to Finance an audit report from Macias Gini & O'Connell LLP substantiating the LMIHF restricted balances, with a revised Due Diligence Review of the same date that relies upon those audited restricted balances. Finance has completed its review of this DDR, which may have included obtaining clarification for various items. This determination letter supersedes those previously issued by Finance as referenced above.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of LMIHF available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- Balances requested to be retained totaling $10,124,896 for fiscal year 2012-13 obligations should be adjusted by $2,720,307. Specifically:
    - The Agency's request to retain $2,369,381 for July through December 2012 Recognized Obligation Payment Schedule (ROPS II) obligations is partially denied. As reflected on your ROPS II submitted to Finance on May 7, 2012, all obligations noted on the DDR other than Bayview Hunters Point-3.04 for $643,938 were approved for funding from "Other" funding sources. The Agency indicated they were advised by Finance to treat all housing program income as "Other" than LMIHF, and they subsequently reported it in that manner. However, pursuant to the Agency this was in November of 2012, after the submission and approval of its ROPS II.

Therefore, the "Other" funding source is considered to be exclusive of housing funds at the time of the ROPS II approval. HSC section 34177 (a) (3) limits the payments made by the successor agencies to only those funds specified in the ROPS. As such, the OFA balance available for distribution to the taxing entities will be adjusted by $1,725,443.

- The Agency requested to retain $7,755,515 of January through June 2013 ROPS III expenditures that were approved with Redevelopment Property Tax Trust Fund (RPTTF) funding. Item No. 130 was approved for $300,000 versus $626,638 as reflected in the DDR. Also, Items No. 133-136, 160, 162, 178-180, 184-186, 197, 198, and 201 received approval for $265,202, and the Agency is requesting to restrict $286,402. Therefore, an adjustment will be made for the difference of $21,200. In addition, Items No. 167, 168, and 169, totaling $647,026, received approval for RPTTF. Therefore, Finance is denying the restriction of LMIHF for these obligations. As noted in the prior bullet point, HSC section 34177 (a) (3) limits the payments made by the successor agencies to only those funds specified in the ROPS. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by $994,864.

If you disagree with Finance's adjusted amount of LMIHF balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's LMIHF balance available for distribution to the affected taxing entities is $10,577,932 (see table below). Pursuant to HSC 34179.6 (h) (1) (B), 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.

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	7,857,625
Finance Adjustments		
Add:		
Request to retain balance not supported:		2,720,307
Total LMIHF available to be distributed:	$	10,577,932

Absent a Meet and Confer request, 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, that taxing entity's failure to remit those funds may result in offsets to its sales and use tax allocation or to its property tax allocation.

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 September 7, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Wendy Griffe, Supervisor or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Sally Oerth, Deputy Director, City and County of San Francisco
Mr. James Whitaker, Property Manager, San Francisco County
Mr. Benjamin Rosenfield, Controller, San Francisco County
California State Controller's Office