



February 6, 2013

Mr. Richard Keit, Managing Director
City of San Jose
200 East Santa Clara St., 14th Floor Tower
San Jose, CA 95113

Dear Mr. Keit:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

The San Jose Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund Due Diligence Review (DDR) to the California Department of Finance (Finance) on January 11, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the October 15, 2012 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the November 9, 2012 deadline pursuant to HSC section 34179.6 (d). However, Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

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

- Transfers not allowed in the amount of \$55.2 million. These transfers were disallowed according to the Housing Asset Transfer (HAT) determination letter submitted by Finance on August 31, 2012. Subsequently, the Agency requested a Meet and Confer session regarding the disputed items. Through the HAT Meet and Confer process, Finance maintains the adjustments made to the HAT list are appropriate. Therefore, the following disallowed HAT items will be added to the LMIHF asset balance:
 - HAT Exhibit G, Item 1 - Deferred receivable related to a Supplemental Educational Revenue Augmentation Fund loan in the amount of \$54.4 million. This item is no longer a receivable to the LMIHF, therefore should not have been transferred. Finance has adjusted the LMIHF asset balance by this amount, however since there is no actual cash involved, Finance will make an offsetting adjustment by the same amount.
 - HAT Exhibit C, Item 4 and HAT Exhibit D, Item 8 - Eden housing loan agreement in the amount of \$90,501. This agreement was executed after June 27, 2011. Therefore, the loan agreement is not valid and the LMIHF balance will be adjusted accordingly.

- HAT Exhibit D, Items 1176 through 1195 – rehabilitation loans in the amount of \$640,000. These loans were entered into after June 27, 2011. Therefore, these loan agreements are not valid and the LMIHF balance will be adjusted accordingly.

Finance will provide more detail regarding these denied HAT items in a subsequent HAT determination letter.

- Prepaid housing administrative expenses in the amount of \$726,214. Pursuant to HSC section 34176 (a) (1), housing administrative expenses are the responsibility of the housing successor entity. Therefore, the successor housing entity returned the prepaid housing administrative expenses on October 31, 2012. As a result, these balances were not included in the DDR's LMIHF asset balance as of June 30, 2012. Therefore, Finance will make a \$726,214 adjustment.

Finance will offset this adjustment by a like amount because it was factored into the notice of insufficient funds for the January through June 2013 period. See the last bullet below for more detail.

- The DDR identified accrued interest in the amount of \$1,345,355 as being transferred to the successor housing entity. Accrued interest is not eligible for transfer and therefore, Finance will make a \$1,345,355 adjustment.
- The California State Controller's Office and Santa Clara County Auditor-Controller's Office approved the notice of insufficient funds for the January through June 2013 period. The County Auditor-Controller estimated a shortfall of \$5.4 million inclusive of administrative costs. This amount takes into consideration the \$726,214 adjustment required by bullet three above. As a result of the verified insufficiency and to reduce the risk of bond default, Finance is making a \$2.1 million adjustment to the LMIHF unencumbered balance. The \$2.1 million represents the balance that would have been available after Finance adjustments, absent the verified notice of deficiency.

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 \$0 (see table on the following page).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Denied HAT items:	\$ 55,169,561
Disallowed transfer of prepaid expenses:	\$ 726,214
Disallowed transfer of accrued interest:	\$ 1,345,355
Reversal of non-cash denied HAT items:	\$ (54,439,060)
Retained for ROPS III obligations due to insufficiency:	\$ (726,214)
Retained for ROPS III obligations due to insufficiency:	\$ (2,075,856)
Total LMIHF available to be distributed:	\$ -

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

Sincerely,



STEVE SZALAY
Local Government Consultant

- cc: Ms. Rachel VanderVeen, Administrative Officer, City of San Jose
Ms. Irene Lui, Controller Treasurer, Santa Clara County
Mr. Vinod Sharma, Director of Finance Agency, Santa Clara County
Ms. Manju Beher, Internal Auditor Supervisor, Santa Clara County
California State Controller's Office