



March 14, 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

This letter supersedes Finance's original LMIHF DDR determination letter dated February 6, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of San Jose 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 January 11, 2013. Finance issued a LMIHF DDR determination letter on February 6, 2013. 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 February 25, 2013.

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

- Balances transferred in the amount of \$1,345,355. Additional information provided by the Agency supported this item is not a cash transfer. The accrued interest transferred is a receivable in connection with the housing loans that were appropriately transferred to the housing entity. Therefore, Finance will no longer adjust the LMIHF DDR balance in the amount of \$1,345,355.
- Balances restricted for loan agreements in the amount of \$640,000. These loan agreements are between the City and third parties. The Agency is not involved in these contracts. Finance has determined these loan receivables were not included in the original DDR submitted; therefore, there should be no amount to offset within the DDR. Therefore, Finance will no longer adjust the LMIHF DDR balance in the amount of \$640,000.

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:

- 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. 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.

Finance maintains these items are not enforceable obligations. No additional documentation was received from the Agency to support these were obligations of the Agency. Please refer to Finance's February 15, 2013 HAT Meet and Confer Determination letter for more detail. Adjustments to the LMIHF DDR will remain as described above for each item.

In addition, per Finance's LMIHF DDR determination letter dated January 11, 2013, the following items were denied and not contested by the Agency:

- 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.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be zero (see table on next page).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$0
Finance Adjustments	
Add:	
Denied HAT Transfers:	\$ 54,529,561
Transfer to Housing Entity not supported:	\$ 726,214
Reversal of non-cash HAT transfers:	\$ (54,439,060)
Retained for ROPS III due to insufficiency:	(816,715)
Total LMIHF available to be distributed:	\$0

This is Finance's final determination of the LMIHF balances available for distribution to the taxing entities.

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