December 15, 2012

Ms. Lisa Grote, Community Development Director
City of San Mateo
330 West 20th Avenue
San Mateo, CA 94403-1388

Dear Ms. Grote:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of San Mateo 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 11, 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 3, 2012.

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 adjustment.

- We originally adjusted a balance that was said to be restricted for payment of bonds due August 1, 2012 in the amount of $612,700. The Agency received Redevelopment Property Tax Trust Fund (RPTTF) as requested on Recognized Obligation Payment Schedule (ROPS) I; therefore, it appeared the Agency did not need to reserve LMIHF for the bond payments. The Agency provided sufficient evidence to support that the amount reserved and approved for the payment of the 2005 Housing Tax Allocation Bonds were reflective of the October 31, 2011 and December 15, 2011 tax apportionment reports as RPTTF. However, the amount was deposited and has remained in the Agency's LMIHF, otherwise known as the Housing Special Revenue Fund (HSRF). The remaining RPTTF money on the HSRF as of June 30, 2012 was used to make the required payments of the bond debt service on July 2012 and bond trustee fees on August 2012. Therefore, Finance no longer objects to this item.

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:

- Through the ROPS Meet and Confer process, the Vendome Hotel in the amount of $1,325,000 continues not to qualify as an enforceable obligation. Of the $1.3 million, the $555,274 relating to the Vendome Hotel that was reported by the Agency on the LMIHF DDR continues to be denied by Finance. Finance denied the loaned amount of $500,000 to the Redevelopment Agency in 2008 to construct affordable housing. The agreement states that the loan balance is due upon sale of the property. The Agency contends the item is an enforceable obligation because they are expecting to sell the property and they are not expecting the proceeds to cover the loan. However, the Agency cannot use or dispose of properties until a Long-Range Property Management Plan is prepared pursuant to HSC Section 34191.5. Therefore, the item is not an enforceable obligation and must be remitted to the county for disbursement to the taxing entities.

- Finance continues to deny the following items that did not qualify as enforceable obligations that were denied by Finance in the ROPS letter dated October 8, 2012. These were not disputed by the Agency and the total amount of $106,710 must be remitted to the county for disbursement to the taxing entities.

    - The Community Funding-Affordable Housing Services Agreement for $75,000.
    - The Administration-Project Management Salaries totaling $25,610.
    - The Professional Consultant Services in the amount of $6,100.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to $1,942,259 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	1,280,275
Finance Adjustment		
Add:		
Denied ROPS item:		661,984
Total LMIHF available to be distributed:	$	1,942,259

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 29, 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,

STEVE SZALAY
Local Government Consultant

cc: Mr. David Culver, Finance Director, City of San Mateo
Mr. Robert Adler, Auditor Controller, San Mateo County
California State Controller's Office