DEPARTMENT OF FINANCE

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June 13, 2013

Mr. Bradley Ward, Finance Director
San Pablo Local Successor Agency
13831 San Pablo Avenue
San Pablo, CA 94806

Dear Mr. Ward:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

The City of San Pablo 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 May 20, 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.

The DDR indicates the Low and Moderate Income Housing Fund (LMIHF) amount to be remitted to the County for distribution to the affected taxing entities is $137,054. However, the oversight board resolution indicates there are no funds available for distribution to the affected taxing entities when the LMIHF and Other Funds and Accounts (OFA) DDR are combined. This is due to the fact that OFA DDR available balance is negative per the OFA DDR. However, HSC section 34179.5 requires two separate accountings, one for the LMIHF and one for OFA. Therefore, Finance concludes that the DDR's stated balance of LMIHF DDR available for distribution should be $137,054 as reported, independent from the OFA DDR.

Additionally, 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 LMIHF DDR, the following adjustment was made:

The total amount of assets held as of June 30, 2012 should be $363,241; as such, the amount has been adjusted by $19,741 to properly include cash and cash equivalents. The Agency should have included balances from Funds 250 and 280 as of June 30, 2012, not the balances as of February 1, 2012.

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 $156,795 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	137,054
Finance Adjustments		
Add:		
Adjustment to the June 30, 2012 balance		19,741
Total LMIHF available to be distributed:	$	156,795

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. Upon submission of payment, please provide proof of payment to Finance within five business days.

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 September 17, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Nichelle Thomas, Supervisor or Alex Watt, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Kelsey Worthy, Assistant City Manager
Mr. Bob Campbell, Auditor-Controller, County of Contra Costa
California State Controller's Office