DEPARTMENT OF FINANCE

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REVISED

December 17, 2013

Mr. Gary Ameling, Director of Finance
Santa Clara Successor Agency
1500 Warburton Avenue
Santa Clara, CA 95050

Dear Mr. Ameling:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated March 15, 2013 and Finance's Meet and Confer letters dated April 19, 2013, and November 14, 2013. This revision was necessary to account for approvals made in Finance's December 17, 2013 Recognized Obligation Payment Schedule (ROPS) 13-14B Meet and Confer determination letter. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Santa Clara 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 February 19, 2013. Finance issued a LMIHF DDR determination letter on March 15, 2013 and a Meet and Confer determination letter on April 19, 2013. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process and a review of items placed on ROPS 13-14B, Finance is revising the adjustments made in our previous LMIHF DDR determination letter by and additional $259,556 to $17,689,900. Therefore, the Agency's LMIHF balance available for distribution to the affected taxing entities is being reduced to $45,490,068.

The specific contentions in the Agency's Meet and Confer request and the subsequent placement of items on ROPS 13-14B are addressed below:

- The Agency claims $6,907,667 should not be available for distribution to the taxing entities because the funds have been disbursed pursuant to a Cooperation Agreement dated February 8, 2011 by and between the former redevelopment agency and the City of Santa Clara. They claim the retention is also authorized by the Agreement of Assignment dated March 9, 2011 by and between the former redevelopment agency and the recently established Housing Authority, which is a component of the City. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders. These agreements were issued after the first two years of the former RDA's creation and are not associated with the issuance of debt. Therefore, these items are not enforceable obligations.

  In addition, the Agency claims the funds are committed to the ROEM Senior Housing Project pursuant to the Acquisition Loan Agreement with ROEM Apartment Communities for 2525-2527 El Camino Real dated July 12, 2011. HSC section 34163 (b) prohibits a

redevelopment agency from entering into a contract with any entity after June 27, 2011. Therefore, the contract is not an enforceable obligation.

For the reasons stated above, the retention of $6,907,667 is not allowed and the LMIHF balances available for distribution to the taxing entitles should include these balances.

- The loan from the Housing Authority to the City of Santa Clara in the amount of $5,900,000 is not allowed to be retained through the LMIHF DDR process. The City in turn loaned these funds to the Agency for obligations on the Recognized Obligation Payment Schedule (ROPS) II. The funding for this item was denied in our May 30, 2012 and October 15, 2012 Recognized Obligation Payment Schedule (ROPS) determination letters. The Agency contends the loan was necessary to pay enforceable obligations as well as the July True-Up Payment. However, the denial of this funding was upheld in our December 18, 2012 ROPS III Meet and Confer determination letter. Therefore, the retention of $5,900,000 is not permitted.

- The retention of LMIHF totaling $17,689,900 is permitted for items approved on ROPS 13-14B. In Finance's Meet and Confer letter dated April 19, 2013, Finance disallowed the retention of LMIHF for expenditures totaling $17,716,867; as the items were never placed on an Enforceable Obligation Payment Schedule or ROPS. Subsequently, the Agency placed the items funded with LMIHF totaling $17,710,542 on ROPS 13-14B. Per Finance's ROPS 13-14B review, items funded with LMIHF totaling $17,689,900 are allowed. Therefore, the retention of LMIHF totaling $17,689,900 is permitted in order to fund items approved on ROPS 13-14B.

HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified above within five working days, plus any interest those sums accumulated while in the possession of the recipient. However, HSC section 34179.6 (h) (3) authorizes Finance to consider an installment payment plan. We note that the Agency and Finance have agreed to and executed such a plan. As such, Finance expects payments to be made pursuant to the agreed upon plan.

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 Meet and Confer letter dated July 16, 2013 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,

JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Tamera Haas, Assistant Director of Finance, City of Santa Clara
Ms. Irene Lui, Controller Treasurer, County of Santa Clara
California State Controller's Office