



June 20, 2013

Mr. Allen Jones, Deputy Chief of Staff
City of San Diego
202 C Street 11th Floor
San Diego, CA 92010

Dear Mr. Jones:

Subject: Request for Final and Conclusive Determination

On January 31, 2013, the California Department of Finance (Finance) received the City of San Diego Successor Agency's request for a final and conclusive determination for Item No. 174 – COMM22 Owner Participation Agreement (OPA) as listed on the January through June 2013 Recognized Obligation Payment Schedule (ROPS).

Finance has completed its review of your request, which may have included obtaining clarification on items provided or additional supporting documentation. Pursuant to Health and Safety Code section 34177.5 (i), we are pleased to inform you:

- (i) Finance's approval of the item listed above as an enforceable obligation is final and conclusive; and
- (ii) Finance's review of the item listed above in future ROPS will be limited to confirming the scheduled payments are required by the obligation.

The Agency contends that pursuant to the OPA, the Disbursement Agreement (Attachment 15), Section 1a requires the Agency to maintain the entire amount of the Agency Loan in a segregated disbursement account. While Section 1a does require the Agency to maintain a separate disbursement account, it does not specify the full amount is needed prior to closing. In addition, Section 1c states that the Agency funds shall not constitute security for the construction loan. Therefore, through the Low and Moderate Income Housing (LMIHF) Due Diligence Review (DDR) process, Finance did not approve the Agency to reserve the full agency loan outside of what has previously been submitted and approved on a ROPS. The remaining funding for the project will need to be requested on a future ROPS.

Based upon Finance reviews through ROPS 13-14A, the Agency has received approval for bond funding in the total amount of \$5,561,939. Although not fully expended, the total amount approved from this funding source is maintained. In addition to the bond funding, through ROPS II the Agency has self reported actual Low and Moderate Income Housing Fund (LMIHF) expenditures of \$1,031,731, and has received approval for an additional \$1,233,061 of LMIHF in ROPS III, and \$1,152,281 from the Redevelopment Property Tax Trust Fund (RPTTF) in ROPS 13-14A. These total \$8,979,012, for a remaining balance of \$275,988 (total obligation amount of \$9,255,000 subtracted by the total amount approved/expended of \$8,979,012).

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This obligation is in connection with construction of affordable housing, and we note the Agency has unexpended housing bond proceeds applicable to the relevant project areas for this obligation. HSC Section 34177 (l) (1) (E) requires that RPTTF be available as a funding source only to the extent that no other funding source is available. Therefore, to the extent the housing bond indentures allow the proceeds to be used for the COMM22 OPA obligation, the unexpended housing bond proceeds should be used to fund the \$276,988 balance of the Agency loan. In addition, if there is sufficient housing bond proceeds available for this purpose and as authorized by HSC section 34177 (a) (4), the Agency should seek its OB approval to use bond proceeds instead of the RPTTF that was approved on ROPS 13-14A.

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

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Jeff Graham, President of Civic San Diego, City of San Diego
Mr. Andrew Phillips, Chief Financial Officer of Civic San Diego, City of San Diego
Mr. Jon Baker, Sr., Senior Auditor and Controller Manager, San Diego County
Ms. Nenita DeJesus, Senior Auditor and Controller Accountant, San Diego County
California State Controller's Office