DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 28, 2012

Mr. Scott McBride, Acting Community Development Director
City of Atwater
750 Bellevue Road
Atwater, CA 95301

Dear Mr. McBride:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 27, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Atwater 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 November 1, 2012. Finance issued a LMIHF DDR determination letter on November 27, 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 13, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance continues to believe the adjustment 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 the adjustment. We maintain the adjustment continue to be necessary for the following reason:

Balances retained to satisfy fiscal year 2012-13 obligations in the amount of $292,444. The amount represented the estimated shortfall on the Recognized Obligation Payment Schedule for January to June 2013 (ROPS III) based estimated Redevelopment Property Tax Trust Fund (RPTTF) distribution for the same period. Initially, the amount was not allowed because the ROPS III obligations were funded with RPTTF, not the LMIHF. During the meet and confer, the Agency explained the estimated shortfall had increased to $325,822 based on the County's updated RPTTF estimate. However, the total payment requested for bond payments on ROPS III was total due for the calendar year. The Agency provided an updated cash flow schedule to reflect the correct bond payments due June 2013, which decreased the shortfall to $93,828. In addition, the cash flow included $142,572 for administrative allowance. Total RPTTF received for the ROPS III period should be applied towards satisfying payments for ROPS III enforceable obligations prior to being used for administrative allowance. Therefore, it appears the Agency's will receive sufficient RPTTF to satisfy its anticipated ROPS III enforceable obligation payments and to satisfy a portion of its administrative allowance. Therefore, $292,444 is not allowed to be retained.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be $422,256 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	129,812
Finance Adjustments		
Add:		
Balance retained for fiscal year 2013-12	$	292,444
Total LMIHF available to be distributed:	$	422,256

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 September 5, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Beliz Chappuie, Supervisor or Cindie Lor, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Lori Waterman, Grants Manager, City of Atwater
Ms. Sylvia Sanchez, Supervising Accountant, County of Merced
California State Controller's Office