DEPARTMENT OF FINANCE
CALIFORNIA

EDMUND G. BROWN JR. ▪ GOVERNOR
915 L STREET ▪ SACRAMENTO CA ▪ 95814-3706 ▪ WWW.DOF.CA.GOV

March 8, 2013

Mr. Bill Aylward, Assistant City Manager
City of Beaumont
550 E. 6th Street
Beaumont, CA 92223

Dear Mr. Aylward:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated February 6, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Beaumont Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on January 11, 2013. Finance issued a LMIHF DDR determination letter on February 6, 2013. 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 February 27, 2013.

Based on a review of additional information provided to Finance during the Meet and Confer process, Finance continues to believe 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 reason:

> Our initial review indicated that the total amount of $2,281,846 transferred on January 31, 2012 from the LMIHF to the City's Mitigation Fund to cover development fees for the Oak Creek Senior Apartments was not allowed because the obligation has not been reported on a Recognized Payment Schedule and the project is contingent on the developer receiving tax credits which has not been secured as of the review date. The Agency contends that the City Council, sitting as the redevelopment agency, approved the use of these funds for low-moderate income housing projects to offset the waiver of development impact fees. Therefore, the funds were earmarked for infrastructure improvements associated with these projects. However, Finance continues to maintain its position since there is no contract in place for this obligation and financing has not been secured. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be $2,281,846 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	-
Finance Adjustments		
Disallowed transfers	$	2,281,846
Total LMIHF available to be distributed:	$	2,281,846

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 26, 2012 do not in any way eliminate the Controller's authority.

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

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Kyle Warsinski, Community Development Analyst, City of Beaumont
Ms. Pam Elias, Chief Accountant, Property tax Division, County of Riverside Auditor-Controller
California State Controller's Office