DEPARTMENT OF FINANCE

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February 1, 2013

Mr. Kerry Breen, Assistant Finance Director
City of Brentwood
150 City Park Way
Brentwood, CA 94513-1164

Dear Mr. Breen:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated December 30, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Brentwood 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 December 4, 2012. Finance issued a LMIHF DDR determination letter on December 30, 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 January 23, 2013.

Based on a review of additional or clarifying information provided to Finance during the Housing Asset Transfer (HAT) Form 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 adjustment continues to be necessary for the following reason:

The Grove Sunset, L.P. loan agreement for the Meta Housing Project in the amount of $3,989,500 was originally denied by Finance in our letter dated September 18, 2012 as an inclusion to the HAT Form. On January 31, 2013, Finance issued a final HAT determination letter upholding the denial. The resolution and loan commitments provided did not include all of the necessary terms and conditions of loan documents, which would have been negotiated and prepared at a later date - after June 27, 2011, the last date the former redevelopment agency would have been allowed to enter into contracts or make commitments to any entity.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be $4,072,553 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	83,053
Finance Adjustments		
Add:		
Denied HAT items		3,989,500
Total LMIHF available to be distributed:	$	4,072,553

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 18, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Michelle Hamblin, Business Services Manager, City of Brentwood
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
California State Controller's Office