DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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November 9, 2012

Mr. David Spilman, Finance Director
City of Clearlake
14050 Olympic Drive
Clearlake, CA 95422

Dear Mr. Spilman:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Clearlake Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 9, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Pursuant to HSC section 34179.6 (d), Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of Low and Moderate Income Housing Fund (LMIHF) available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- Unallowable transfer of Land held for resale in the amount of $602,400. The Housing Asset Transfer List did not list any land to be transferred to the housing entity; therefore the Agency must be in receipt of the land. This item is not a cash equivalent, therefore will not affect the amount remitted to the county for disbursement to taxing entities, however this item will need to be included in the long range management plan. Two adjustments were made regarding this item; an adjustment was made to Procedure 2 to add the disallowed transfer and an adjustment to Procedure 7 to recognize it as an asset other than cash or cash equivalent.

- Based on our calculation of the June 30, 2012 asset balance, an adjustment of $249,819 was made. The City CAFR shows that as of June 30, 2011 the low-mod housing fund had a $1,198,449 cash balance. The Enforceable Obligation Payment Schedule covering the July to December 2011 period does not show any expenditures being paid out of the LMIHF. The Recognized Obligation Payment Schedule covering the January to June 2012 period shows that $10,853 was used from the LMIHF. Therefore, the cash balance as of June 30, 2012 should be $1,187,596 ($1,187,596 - $10,853). As a result, the June 30, 2012 LMIHF balance was adjusted by $249,819 to reflect the $1,187,596 LMIHF balance. Finance contacted the Agency for an explanation; however, the Agency was unable to provide an explanation within the time frame given.

If you disagree with Finance's adjusted amount of LMIHF balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's LMIHF balance available for distribution to the affected taxing entities is $1,186,625 (see table below). Pursuant to HSC 34179.6 (h) (1) (B), 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.

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	936,806
Add:		
Disallowed non-cash asset transfer:	$	602,400
Adjustment to the June 30, 2012 balance:		249,819
Adjustment for non-cash transaction:		(602,400)
Total LMIHF available to be distributed:	$	1,186,625

Absent a Meet and Confer request, 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, that taxing entity's failure to remit those funds may result in offsets to its sales and use tax allocation or to its property tax allocation.

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 30, 2012 do not in any way eliminate the Controller's authority.

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

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Maryna Smith, Account Clerk, City of Clearlake
Ms. Cathy Saderlund, Auditor-Controller, Lake County
Ms. Liz Martinez, Accountant II, Lake County
California State Controller's Office