DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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December 15, 2012

Mr. Dave White, Deputy City Manager
City of Fairfield
1000 Webster Street
Fairfield, CA 94530

Dear Mr. White:

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 November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Fairfield successor agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on October 15, 2012. Finance issued a LMIHF DDR determination letter on November 9, 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 7, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance is revising some of the adjustments made in our previous DDR determination letter. Specifically, we are revising the following adjustments:

- Unrealized gain in the amount of $89,588 was denied due to insufficient documentation to support the market value adjustment restriction. During the Meet and Confer process, the Agency was able to provide additional documentation. Therefore, Finance is no longer objecting to this item.

- The Agency contends that the retention of $416,806 is necessary to satisfy three low-moderate housing obligations: Bridge to Life, South PACE, and Roseburg Townhome. Finance originally denied these items because they were not listed on Recognized Obligation Payment Schedule (ROPS) II and III as obligations payable out of the LMIHF. During the Meet and Confer process, the Agency provided documentation showing that the South PACE and Roseburg obligations in the total amount of $75,362 were approved on ROPS I but were actually paid after June 30, 2012. Therefore, due to the timing differences, these items are no longer contested by Finance.

  However, Finance continues to deny the remaining requested balances for the Bridge to Life Demolition Costs in the amount of $298,790 and the Bridge to Life Lease Payments in the amount of $41,490 for a total amount of $340,280. Based on discussion with the Agency, it was identified that these amounts are estimates of costs the Agency would be obligated to pay should the current lease be terminated. Specific amounts have not yet

been contractually identified or spent. As a result, a reserve of funds is not warranted at this time. Therefore the $340,280 continues to be denied as a restricted balance.

However, Finance continues to believe some of 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 reasons:

- The two promissory notes between the City of Fairfield and the former Redevelopment Agency (RDA) in the amount of $269,685 were denied because they are not enforceable obligations. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders. Therefore, Finance continues to deny these items as enforceable obligations at this time. Upon receiving a Finding of Completion from Finance, HSC section 34191.4 (b) may cause these items to be enforceable in future ROPS periods.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to $9,841,928 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	9,230,799
Finance Adjustments		
Add:		
Denied ROPS items:		269,685
Requested retained balance not supported:		341,444
Total LMIHF available to be distributed:	$	9,841,928

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 31, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Zach Stacy, Manager or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Sean P. Quinn, City Manager, City of Fairfield
Mr. Jun Adeva, Deputy Auditor Controller, County of Solano
California State Controller's Office