DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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November 13, 2012

Mr. Ken Lee, Redevelopment Consultant
City of Irwindale
5050 North Irwindale Ave.
Irwindale, CA 91706

Dear Mr. Lee:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

The City of Irwindale 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 16, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the October 15, 2012 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the November 9, 2012 deadline pursuant to HSC section 34179.6 (d). However, 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 adjustment was made:

- The total amount of assets held as of June 30, 2012 should be increased by $4.8 million. This includes a March 2011 cash transfer in the amount of $3,639,235 to the City of Irwindale per a 1985 cooperative agreement between the City and the former redevelopment agency (RDA). 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, this transfer does not meet the definition of an enforceable obligation and is not authorized.

  Similarly, the cash transfer to the Housing Authority in the amount of $1,155,000 is not authorized. Encumbrances transferred to the housing entity; however, the payment of these encumbrances is the responsibility of the Agency. In order to retain current LMIHF unencumbered balances, the Agency is required to prove there will be insufficient future tax increment to cover these expenses. Not only should the cash transfers not occurred, it is not evident that retention of these balances is necessary. Therefore, the $1,155,000 should be considered part of the unencumbered cash balance held as of June 30, 2012.

The Agency's LMIHF balance available for distribution to the affected taxing entities will be adjusted $4.8 million.

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 $7,566,213 (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:	$	2,771,978
Finance Adjustments		
Add:		
Adjustment to the June 30, 2012 balance:		4,794,235
Total LMIHF available to be distributed:	$	7,566,213

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.

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

Please direct inquiries to Kylie Le, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Eva Contreras, Finance Manager, City of Irwindale
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office