DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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November 30, 2012

Mr. Jim Taubert, Executive Director
City of Madera
428 East Yosemite Avenue
Madera, CA 93638

Dear Mr. Taubert:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

The City of Madera 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 November 5, 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 adjustments were made:

- Legally restricted assets in the amount of $300,000. During the review of the Recognized Obligation Payment Schedule for January through June 2013 (ROPS III), $500,000 of the $1.2 million associated with the Housing Replacement Obligation was deemed an Enforceable Obligation. However, only $200,000 in LMIHF was requested on ROPS III to fund this Enforceable Obligation. Therefore, the remaining $300,000 may not be funded from LMIHF as is proposed in the DDR. Instead, the $300,000 must be remitted to the county auditor-controller as an unencumbered LMIHF balance. However, the Agency may request Redevelopment Property Tax Trust Fund on future ROPS' to fund the remaining balance for this item.

- Balances retained for future obligations in the amount of $143,387. Our review of your DDR indicates the Agency has not adequately proven there will be insufficient property tax revenues to pay the Project Operations, Employee Costs, and 428 Yosemite Office Maintenance obligations. The Agency is allowed to retain balances to satisfy enforceable obligations on the ROPS for the 2012-13 fiscal year; therefore, a total of $18,200 identified to be funded from LMIHF on ROPS III as lines 84 through 87, 92 and 95, is allowed. The remaining difference of $143,587 ($161,587-$18,200) is not allowed for to be retained. HSC section 34179.5 (c) (5) (D) states that a successor agency shall

provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements.

If a DDR review finds that future revenues together with dedicated or restricted balances are insufficient to fund future obligations and thus retention of current balances is required, it shall identify the amount of current balances necessary for retention. The review shall also detail the projected property tax revenues and other general purpose revenues to be received by the successor agency, together with both the amount and timing of the bond debt service payments of the successor agency, for the period in which the oversight board anticipates the successor agency will have insufficient property tax revenue to pay the specified obligations. It is not evident the thorough analysis required by HSC section 34179.5 (c) (5) (D) was conducted. Further, it is not evident that future property tax revenues will be insufficient. Therefore, the request to retain current LMIHF balances for future obligations is denied and the LMIHF available for distribution to the affected taxing entities will be adjusted by $143,587.

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 $430,488 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	(12,899)
Finance Adjustments		
Add:		
Requested retained balance not supported		443,387
Total LMIHF available to be distributed:	$	430,488

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.

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.

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 Agency's failure to recover and 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 Beliz Chappuie, Supervisor or Cindie Lor, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Bob Wilson, Redevelopment Manager, City of Madera
Mr. Brent Richardson, Deputy City Attorney, City of Madera
Ms. Sandi Brown, Agency Secretary, City of Madera
Mr. Jim Boyajian, Auditor Controller, Madera County
California State Controller's Office