December 9, 2012

Ms. Tammi Weselsky, Deputy CEO
County of Mendocino
501 Low Gap Road
Ukiah, CA 95482

Dear Ms. Weselsky:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 6, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Mendocino 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 October 10, 2012. Finance issued a LMIHF DDR determination letter on November 6, 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 November 26, 2012.

Based on a review of additional or clarifying information provided to Finance during the 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:

- Redevelopment Property Tax Trust Fund (RPTTF) funding in the amount of $30,000 was requested and approved for Supplemental Educational Revenue Augmentation Fund (SERAF) obligations on ROPS 1. Therefore, it appears funding other than LMIHF was used to make the ROPS I SERAF payment, and your request to retain $30,000 in unencumbered LMIHF for the ROPS I period obligation is unnecessary.

  It is our understanding the Agency repaid the SERAF loan using RPTTF, and transferred unencumbered LMIHF funds to the housing successor entity (Mendocino County Community Development Commission). The transfer is considered an unencumbered LMIHF cash balance and should be returned to the successor agency and remitted to the County Auditor-Controller for distribution to the taxing entities pursuant to HSC section 34177 (d). Per a follow up discussion on December 7, 2012, the Agency concurred that $30,000 of unencumbered funds were inappropriately transferred from LMIHF to the Housing Successor Agency. Therefore, Finance deems it not necessary for Agency to retain the requested funds.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be $668,294 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	638,294
Finance Adjustment		
Add:		
Requested retained balance not supported:		30,000
Total LMIHF available to be distributed:	$	668,294

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 28, 2012 do not in any way eliminate the Controller's authority.

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

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Meredith J. Ford, Auditor-Controller, Mendocino County
Ms. Kristina Burns, Los Angeles County Auditor Controller's Office
California State Controller's Office