DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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December 11, 2012

Mr. Don Rhoads, Finance Director
City of Monterey
735 Pacific Street
Monterey, CA 93940

Dear Mr. Rhoads:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 7, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Monterey 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 12, 2012. Finance issued a LMIHF DDR determination letter on November 7, 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 27, 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 adjustment:

- Transfer of an Advance to Other Funds in the amount of $1.5 million was denied by Finance in our letter dated May 21, 2012 as an inclusion to the January 1, 2012 through June 30, 2012 and July 1, 2012 through December 31, 2012 Recognized Obligation Payment Schedule (ROPS) reviews. During the Meet and Confer process, the Agency provided additional information including journal entry listing reports and a narrative for the background of the transfer.

  Upon review of the additional information, Finance has concluded that this amount refers to the deferred set-aside payments that ended with the passing of redevelopment dissolution legislation. As such, this amount does not represent an amount available for distribution to the affected taxing entities.

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 reason:

- Balances obligated to satisfy ROPS for the 2012-13 fiscal year in the amount of $2.0 million. This item was denied by Finance in our letter dated October 8, 2012 as an inclusion to the January1, 2013 through June 30, 2013 ROPS. Subsequently, the

Agency requested a Meet and Confer session regarding the disputed funds. As a result of the Meet and Confer process, Finance continues to object to this item.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to $2,137,815 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	100,209
Finance Adjustments		
Add:		
Denied ROPS items	$	2,037,606
Total LMIHF available to be distributed:	$	2,137,815

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.

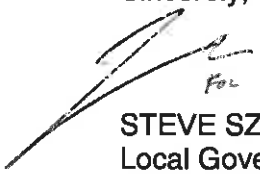
Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain 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 30, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Rick Marvin, Housing & Property Manager, City of Monterey
Ms. Julie Aguero, Auditor Controller Analyst II, Monterey County
California State Controller's Office