December 20, 2012

Mr. Thomas E. Lynch, Assistant City Manager
City of Norwalk
12700 Norwalk Boulevard
Norwalk, CA 90650

Dear Mr. Lynch:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 15, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Norwalk 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 11, 2012. Finance issued a LMIHF DDR determination letter on November 15, 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 3, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance believes a revision to Finance's initial adjustment is necessary. HSC section 34179.6 (d) authorizes Finance to make these adjustments. We are revising our initial adjustment by the following:

- The Agency contends the retention of current balances is necessary for the purpose of meeting future debt service obligations and administrative expenses. Finance originally denied the Agency's request to retain $4.5 million due to a lack of evidence there would be insufficient property taxes to pay future obligations. During the Meet and Confer process, the Agency provided additional information including a projection of annual revenue and spending requirements.

  The cash flow analysis indicates the Agency may experience a negative cash flow in meeting debt service obligations and administrative expenses. The cash flow analysis suggests the available tax increment will experience no increase until fiscal year 2018, and only one percent annually after that. A more likely scenario is that the available tax increment will increase by more than one percent and sooner than fiscal year 2018. Further, the cash flow analysis suggests the Agency will need even more than the maximum administrative cost allowance allowed by statute for the next 24 years. Based on the number of items listed on the Recognized Obligation Payment Schedule (ROPS) and the relative simplicity to process the approved ROPS expenditures, it is unlikely that more than $250,000 annually or more than $6 million total for administrative costs will be necessary.

As mentioned, the cash flow analysis fails to recognize the probable increase in property tax revenues. Upon applying a conservative two percent annual increase, the Agency's contention of a funding deficiency is significantly reduced. However, there will still not be enough funding to make the required bond debt service payments. In applying the conservative two percent tax increase and excluding the administrative costs, the Agency will be short in meeting bond debt service payments in the amount of $293,417 during fiscal year 2013 and $125,000 during fiscal year 2014. As such, due to the immediate need, Finance is allowing the Agency to retain $418,417 to avoid default on bond debt service payments. Commencing with fiscal year 2015, the Agency should have sufficient funding to make bond debt service payments, therefore Finance deems it not necessary for the Agency to retain the remaining requested funds.

HSC provides successor agencies with various methods to address short term cash flow issues. These may include requesting a loan from the city pursuant to HSC section 34173 (h) to pay for enforceable obligations or administrative expenses. The repayment of these types of loans can be put on a future ROPS. The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation. Further, pursuant to HSC section 34183 (b) the Agency may be able to subordinate pass through payments in the event bond debt obligations are jeopardized.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be $4,095,417 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	-
Finance Adjustments		
Add:		
Requested retained balance not supported:		4,513,816
LMIHF balances allowed to be retained for enforceable obligations:		(418,417)
Total LMIHF available to be distributed:	$	4,095,399

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 25, 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. Jana Stuard, Finance Officer, City of Norwalk
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office