DEPARTMENT OF FINANCE

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April 12, 2012

Mr. Richard Warne, City Manager
Twentynine Palms Successor Agency
6136 Adobe Road
Twentynine Palms, CA 92277

Dear Mr. Warne:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated March 6, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Twentynine Palms 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 February 8, 2013. Finance issued a LMIHF DDR determination letter on March 6, 2013. 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 March 25, 2013.

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 adjustments continue to be necessary for the following reasons:

- The request to retain funds in the amount of $2 million for the Cooperation and Funding Agreement between the former Redevelopment Agency (RDA) and the City of Twentynine Palms (City) continues to be denied. No new information was provided during the Meet and Confer session. Per HSC section 34171 (d) (2), agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not considered enforceable obligations.

- The request to retain funds in the amount of $249,784 continues to be denied. The Agency requested Redevelopment Property Tax Trust Funds for payment of these obligations on the Recognized Obligation Payment Schedule, not LMIHF. Therefore, LMIHF may not be retained for this purpose at this time.

- Finance continues to object to the transfer of bond proceeds to the City in the amount of $2,572,650. The transfer of bond proceeds to the City is void pursuant to HSC section 34177.3 (c) which prohibits the successor agency from transferring revenues or powers to any other public entity except pursuant to an enforceable obligation on an approved Recognized Obligation Payment Schedule. For DDR purposes, however, this

disallowed transfer will not be considered in the determination of the amount available for distribution to the affected taxing entities.

To the extent proceeds from bonds issued after December 31, 2010 exist and are not encumbered by an enforceable obligation pursuant to 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be $1,959,063 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	(290,721)
Finance Adjustments		
Add:		
Requested retained balance not supported		2,249,784
Total LMIHF available to be distributed:	$	1,959,063

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 29, 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. Ron Peck, Finance Director, City of Twentynine Palms
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County
California State Controller's Office