DEPARTMENT OF FINANCE
EDMUND G. BROWN JR. ▪ GOVERNOR
915 L STREET ▪ SACRAMENTO CA ▪ 95814-3706 ▪ WWW.DOF.CA.GOV

December 11, 2012

Ms. Christine Londo, Finance Director/City Treasurer
City of Walnut
P.O. Box 682
Walnut, CA 91788-0682

Dear Ms. Londo:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the Successor Agency of the Walnut Improvement 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 9, 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 4, 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:

- The Agency contends the retention of $199,356 for a required Supplemental Educational Revenue Augmentation Fund (SERAF) repayment in 2015-16 is necessary. Finance originally denied the Agency's request to retain $199,356 because the ROPS periods of July through December 2012 and January through June 2013 did not identify any enforceable obligations to be funded by the LMIHF. Further, it was not evident there will be insufficient tax increment to make these obligations.

  During the Meet and Confer process, the Agency provided a projection of annual revenue and spending requirements suggesting there will be insufficient tax increment to cover this expense when it comes due in 2015-16. The Agency contends they must retain the funds to repay the SERAF loan.

  The Agency's cash flow analysis indicates a positive cash flow annually with the exception of a shortfall occurring in fiscal year 2015-16. Further, the cash flow analysis inappropriately includes annual housing related monitoring cost of $6,000. HSC section 34176 (a) (1) states if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets shall be transferred to the city, county, or city and county. Therefore, the administrative costs associated with these functions are the responsibility of the housing successor.

The cash flow analysis does not indicate the Agency has an immediate need to retain the LMIHF since the SERAF repayment is not due until 2015-16. However, should the Agency experience a cash flow shortage when the obligation is due, 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), or requesting the accumulation of reserves on the ROPS when a future balloon or uneven payment is expected. The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation. Since the Agency has alternatives to address short term cash flow shortages, Finance deems it is 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 $199,356 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:		0
Finance Adjustments		
Add:		
Requested retained balance not supported:		199,356
Total LMIHF available to be distributed:	$	199,356

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

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office