DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 15, 2012

Mr. Tom Bachman, Assistant City Manager
City of West Covina
1444 W. Garvey Avenue
West Covina, CA 91790

Dear Mr. Bachman:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of West Covina Successor Agency (Agency) submitted an oversight board approved LMIHF 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 November 29, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance is revising the adjustment made in our previous LMIHF DDR determination letter. Specifically, we are revising the adjustment in the amount of $998,545 because it was previously unclear that these obligations were housing related. It is now our understanding that LMIHF funds spent between July 2011 and January 2012 are housing related. Therefore, the LMIHF balances available for distribution to the taxing entities will be revised by $998,545.

The oversight board resolution No. 0016 approving the DDR objected to the $1,891,166 the licensed accountant stated was available for distribution to the affected taxing entities. During the Meet and Confer session, the Agency disputed the amount Finance determined to be available for distribution to affected taxing entities and asserts that the amount should be $689,409. The oversight board adjustment is a result of a county auditor controller true up adjustment the Agency claims will cause a January through June 2013 Recognized Obligation Payment Schedule (ROPS) funding short fall. However, HSC section 34186 is intended to adjust for differences between estimated and actual expenditures from prior periods and should not contribute to current cash deficiencies. In addition, adjustments for pass through payments that are owed should not contribute to current cash deficiencies as prior property tax distributions were provided for these purposes.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to $1,891,166 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	1,891,166
Finance Adjustments		
Add:		
Adjustment to the June 30, 2012 balance:		0
Total LMIHF available to be distributed:	$	1,891,166

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 September 18, 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. Denise Bates, Accounting Manager, City of West Covina
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor - Controller
California State Controller's Office