DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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

December 14, 2012

Mr. Martin Tuttle, City Manager
City of West Sacramento
1110 West Capitol Avenue
West Sacramento, CA 95691

Dear Mr. Tuttle:

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 West Sacramento 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 15, 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 are appropriate. HSC section 34179.6 (d) authorizes Finance to make these adjustments. We maintain the adjustments continue to be necessary for the following reasons:

- On Recognized Obligation Payment Schedule I (ROPS I), Item #7, the Agency requested and received approval to expend $2 million in Redevelopment Property Tax Trust Fund (RPTTF) for the repayment of the Delta Lane Housing Loan (Loan). The Agency then confirmed on ROPS III, Prior Period Estimated Obligations vs. Actual Payments Schedule for the period January 1, 2012 through June 30, 2012, that they had expended the approved $2 million for the Delta Lane Housing Loan from RPTTF. As such, Finance denied the Agency's request on their LMIHF DDR to restrict an additional $2 million in LMIHF for the same Loan repayment.

  Through the Meet and Confer process, the Agency provided documentation showing that LMIHF funds were actually used instead of RPTTF funds to repay the Loan. Pursuant to HSC 34177 (a) (3), payments listed on the ROPS may only be disbursed by the Agency from the specified funding source. However, HSC 34177 (a) (4) allows Agencies, with prior approval of the oversight board, to pay enforceable obligations from sources other than those identified on the ROPS. The Agency was unable to provide sufficient documentation showing that they received prior oversight board approval to pay for the Loan with funding sources other than RPTTF.

Therefore, Finance continues to deny the restriction of this amount because the Agency already received a $2 million RPTTF allocation for this obligation.

- The City of West Sacramento (City) match of $15,000. The related grant agreement is between the Department of Housing and Community Development and the City. The Agency concurs that this is not an enforceable obligation and should not be restricted from distribution.

- The Agency agrees that the $95,718 retained to satisfy ROPS balances for the 2012-13 fiscal year is inaccurate, and should not be retained from distribution.

In addition, Finance elects to include the following new adjustment:

- Based upon information provided by the Agency, Finance is adjusting the beginning balance downward by $687,748.79 to make adjustment for an incorrect posting of set aside revenue into the LMIHF that was deposited after the requirement to set aside 20 percent of tax increment ended.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to $1,422,969 (see table below):

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	0
Finance Adjustments		
Less: Incorrect revenue classification	$	(687,749)
Add:		
Disallowed transfers:	$	2,015,000
Denied ROPS items:		95,718
Total LMIHF available to be distributed:	$	1,422,969

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 Zach Stacy, Manager or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Philip Wright, Director of Administrative Services, City of West Sacramento
Mr. Paul Blumberg, Public Finance Manager, City of West Sacramento
Mr. Howard Newens, Auditor-Controller, County of Yolo
California State Controller's Office