DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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December 15, 2012

Ms. Sally Traylor, Secretary
City of Westmorland
P.O. Box 699
355 S. Center Street
Westmorland, CA 92281

Dear Ms. Traylor:

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 City of Westmorland 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 November 28, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance continues to believe the adjustment 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 the adjustment. We maintain the adjustment continue to be necessary for the following reason:

Balances needed to satisfy fiscal year 2012-13 obligations in the amount of $7,500. The amount was approved as an enforceable obligation, funded with the Agency's administrative allowance. No LMIHF funded obligations were listed on the Recognized Obligation Payment Schedule (ROPS) for 2012-13. Therefore, $7,500 is not allowed to be retained.

The adjustment and the $138,051 total balance due are not being appealed. However, the Agency has requested for additional time to pay the amount due because the Agency currently has $101,152 in LMIHF available with a shortage of $36,899. According to the Agency's Payment Plan letter dated November 20, 2012, the Agency proposes to use a portion of its anticipated Redevelopment Property Tax Trust Fund (RPTTF) distribution in January 2013 to fund the shortage needed to make the full DDR payment. Use of the January 2013 RPTTF distribution will affect the amount of RPTTF available to fund its enforceable obligations approved on the ROPS for the period January through June 2013. Therefore, the Agency's request to use future RPTTF to fund the $36,899 shortage is not allowed. The Agency should remit the $101,152 LMIHF available and consider other financing options to fund the remaining $36,899 due.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be $138,051 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	130,551
Finance Adjustment		
Add:		
Retained balance for 2012-13 not supported		7,500
Total LMIHF available to be distributed:	$	138,051

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 Beliz Chappuie, Supervisor or Cindie Lor, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Henry Graham, Oversight Board Chair, City of Westmorland Successor Agency
Mr. Douglas R. Newland, Auditor-Controller, County of Imperial
California State Controller's Office