DEPARTMENT OF FINANCE

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December 8, 2012

Mr. Aaron Busch, Community Development Director
City of Yuba City
1201 Civic Center Boulevard
Yuba City, CA 95993

Dear Mr. Busch:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 7, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Yuba City 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 7, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more disputed items. The LMIHF DDR Meet and Confer Session was held on November 26, 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 adjustments continue to be necessary for the following reasons:

- The Agency contends the retention of $787,815 is necessary due to a Reimbursement Agreement between the City and the former Redevelopment Agency to pay debt service on bonds issued by the City to construct Gauche Park project.

  Finance originally denied the Agency's request to retain $787,815 due to a lack of evidence there would be insufficient property taxes to pay the Supplemental Education Revenue Augmentation Fund (SERAF) and City loans. During the Meet and Confer process, the Agency provided additional information including a projection of annual revenue and spending requirements. Upon review of the additional information, Finance has concluded that although the Agency contends they will experience a deficit every year through fiscal year 2017-18; there are sufficient funds in nearby periods to offset any shortfalls.

  Additionally, repayments for SERAF loans are not allowed until fiscal year 2013-14, and the City loan continues to be denied, as a result of the Meet and Confer process for the January through June 2013 Recognized Obligation Payment Schedule.

- Finance recognized that it did not consider the oversight board's adjustment to the amounts available for disbursement during Finance's initial review of the DDR in the amount of $1.7 million. The oversight board intended to retain this amount to fund contingent liabilities related to projects for cleaning up two contaminated properties. However, no sufficient documents were provided to prove contracts have been executed for these projects. HSC section 34163(b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. It is our understanding that contracts for these line items have not yet been awarded.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be $2,439,796 (see table below).

| LMIHF Balances Available For Distribution To Taxing Entities | | |
|---|---|---|
| Available Balance per DDR: | $ | 1,651,945 |
| Finance Adjustments | | |
| Add: | | |
| Requested retained balance not supported | | 787,851 |
| **Total LMIHF available to be distributed:** | $ | 2,439,796 |

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 1, 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: Ms. Robin Bertagna, Finance Director, City of Yuba City
Mr. John Beaver, Tax Manager, Sutter County
California State Controller's Office