



June 27, 2013

Ms. Betty Jo Garcia, Finance Director
City of Avalon
410 Avalon Canyon Road
Avalon, CA 90704

Dear Ms. Garcia:

Subject: Other Funds and Accounts Due Diligence Review

This letter supersedes the California Department of Finance's (Finance) original Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letter dated May 22, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Avalon Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on March 7, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Finance issued an OFA DDR determination letter on May 22, 2013. 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 June 17, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of those specific items being disputed. Specifically, the following adjustments were made:

- The Agency's request to retain \$451,891 in current unencumbered OFA balances to cover future obligations under Procedure 8 is partially denied. It was our understanding that this request was for obligations approved in the Recognized Obligation Payment Schedule (ROPS) for the January through June 2012 period (ROPS I), but not yet expended. During the Meet and Confer process, the Agency provided clarifying information that this amount consists of a \$266,002 adjustment made by the County Auditor Controller (CAC) on the January 2, 2013 Redevelopment Property Tax Trust Fund (RPTTF) distribution and \$185,889 for accrued administrative costs as of June 30, 2012. The Agency requested to retain \$201,891 for accrued administrative costs and CAC adjustment. In addition, the Agency agreed that \$250,000 should be remitted to the taxing entities as these funds were for a partial SERAF loan repayment, which cannot occur prior to fiscal year 2013-14. Therefore, Finance is reversing \$201,891 of its adjustment and continues to increase the OFA balance available by \$250,000.
- The Agency's request to retain \$1,938,880 for the July through December 2012 ROPS (ROPS II) expenditures approved for RPTTF funding under Procedure 9 is partially denied. The CAC distributed \$1,630,145 from the RPTTF for ROPS II on June 1, 2012. The Agency reported and the CAC verified actual expenditures of \$1,574,075 on the July through December 2013 (ROPS 13-14A) form. Since the Agency did not expend

more than the amount distributed, the Agency is limited to retaining the \$1,630,145 received for ROPS II obligations. However, because insufficient RPTTF funds were available to cover approved administrative costs for ROPS II and only \$168,350 was distributed in the January through June 2013 ROPS (ROPS III) period for administrative costs, the Agency may retain \$81,650 (\$250,000 - \$168,350) of OFA balances to cover administrative costs for the fiscal year. As such, the OFA balance available for distribution to the taxing entities will be increased by \$227,085 (\$1,938,880 - \$1,630,145 - \$81,650).

Finance notes that HSC section 34177 (a) (3) states that only those payments listed in the approved ROPS may be made from the funding source specified in the ROPS. However, HSC section 34177 (a) (4) goes on to state that with prior approval from the oversight board, the successor agency can make payments for enforceable obligations from sources other than those listed in the ROPS. In the future, the Agency should obtain prior oversight board approval when making payments for enforceable obligations from a funding source other than those approved by Finance.

The Agency's OFA balance available for distribution to the affected taxing entities is \$1,082,805 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 605,720
Finance Adjustments	
Add:	
Requested retained balances not supported	\$ 477,085
Total OFA available to be distributed:	\$ 1,082,805

This is Finance's final determination of the OFA 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. Upon submission of payment, it is requested you provide proof of payment to Finance within five business days.

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

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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 sections 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 do not in any way eliminate the Controller's authority.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Ken Lee, Consultant for City of Avalon, RSG, Inc.
Ms. Kristina Burns, Manager, Office of the Los Angeles County Auditor
Mr. Steven Mar, Bureau Chief, Local Government Audit Bureau, California State
Controller's Office