



May 29, 2013

Mr. Kurt Christiansen, Economic and Community Development Director
City of Azusa
213 East Foothill Boulevard
Azusa, CA 91702

Dear Mr. Christiansen:

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 April 22, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Azusa Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on February 20, 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 April 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 May 23, 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:

- Balances identified as not cash or cash in the amount of \$480,323 (\$179,000 + \$260,293). The Agency provided additional documentation during the Meet and Confer process showing that two loans were not collectible as of June 30, 2012. Therefore, Finance is reversing its adjustment of \$480,323 for the following reasons:
 - The loan agreement between the former Redevelopment Agency (RDA) and Max's Cuisine (Max's) in the amount of \$179,000 contained the provision that if Max's maintains and operates the business within reasonable satisfaction of the Agency, the loan and accrued interest would be cancelled and discharged on the loan's maturity date of September 25, 2012. The Agency provided additional documentation to recognize that all conditions of the loan had been met and the loan amount and accrued interest had been forgiven. Therefore, Finance is reversing its previous adjustment in the amount of \$179,000.
 - The loan agreement between the former RDA and a third party in the amount of \$260,293 with a maturity date of July 8, 2012. The Agency states this is beyond the June 30, 2012 OFA DDR review date. Based on our review, the amount is due within the current fiscal year and is considered a current liquid asset. Therefore, funds should be available for remittance. However, the Agency

provided additional documentation supporting the retention of the repayment received is needed to fund a shortfall on the Recognized Obligation Payment Schedule (ROPS) for the July through December 2013 (ROPS 13-14A) period. As such, Finance is reversing its original adjustment in the amount of \$260,293.

- Balances requested to be retained for fiscal year 2012-13 obligations in the amount of \$3,588,315 are approved. The Agency provided additional documentation to support the Agency's need to retain \$3,588,315 to satisfy approved ROPS obligations for fiscal year 2012-13. Therefore, Finance reverses its adjustment and the Agency is permitted to retain the total amount requested.

The Agency's OFA balance available for distribution to the affected taxing entities has been revised to \$0, as reported on the DDR.

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 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.

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

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Susan Paragas, Finance Director, City of Azusa
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller,
California State Controller's Office