



April 20, 2013

Ms. June Overholt, Administrative Services Director  
City of Banning  
99 East Ramsey Street  
Banning, CA 92220-0998

Dear Ms. Overholt:

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 March 15, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Banning (Agency) submitted an oversight board approved OFA DDR to Finance on January 10, 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 March 15, 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 April 4, 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 retained for the funding of enforceable obligations in the amount of \$22,190. Our review indicates that Fiscal Consulting Services fees were not supported by the proof of payment. The Agency rescinded its objection to this item in an email dated April 11, 2013. Therefore, the OFA balance will be increased by \$22,190.
- Balances retained for fiscal year 2012-13 obligations in the amount of \$330,931.
  - The Agency requested to retain \$180,053 for the Recognized Obligation Payment Schedule (ROPS) for the period July through December 2012 (ROPS II). However, the two obligation amounts, \$134,797 for Single Family Mortgage Bonds and \$45,256 for RBEG Grant Program, have never been listed on a ROPS for Finance's approval. The Agency claims these items were not included in previous ROPS as an oversight and claims the items are on the ROPS for the July through December 2013 period (ROPS 13-14A). In addition, the Agency asserts the ROPS 13-14A Redevelopment Property Tax Trust Fund (RPTTF) distribution will not be sufficient to meet all ROPS 13-14A approved obligations.

Finance confirmed the amounts were listed on the ROPS 13-14A with a combined total outstanding obligation amount of \$166,983 and were part of the

total approved amount of \$1,707,620 per Finance's letter dated April 13, 2013. Additionally, the County Auditor-Controller estimates the Agency will receive sufficient funds to meet all ROPS 13-14A approved obligations. Therefore, it is inappropriate for the Agency to retain funds for obligations that will be funded through a separate process. As such, the Agency is not permitted to retain OFA amount of \$180,053 and the balance available for distribution will be increased by this amount.

- o The Agency requested to retain \$150,878 for the ROPS for the period January through June 2013 (ROPS III). The two obligation amounts, \$25,878 for bond reserve funds and \$125,000 for administrative costs. Our review indicates these two items were included on the ROPS III and were approved. The RPTTF distribution for the ROPS III period was enough to meet all ROPS II approved items; therefore, the Agency does not need to retain any June 30, 2012 OFA balances to meet these obligations. We note, the Agency rescinded its objection to this item in an email dated April 11, 2013. Therefore, the OFA balance available for distribution will be increased by \$150,878.
- Per the Agency's ROPS 13-14A ROPS, the Agency requested and Finance approved \$54,184 in reserve funds to meet bond debt service obligations. This was approved in Finance's letter dated April 13, 2013. Therefore, the Agency will be permitted to retain the amount needed to meet the ROPS 13-14A obligation funded by reserve funds. The OFA balance available for distribution will be decreased by \$54,184.

The Agency's OFA balance available for distribution to the affected taxing entities is \$933,931 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 634,994
Finance Adjustments:	
Fiscal Consulting Services fees	22,190
Unallowed ROPS II Items	180,053
Unallowed ROPS III Items	150,878
Retention allowed for ROPS 13-14A Item	(54,184)
<b>Total OFA available to be distributed:</b>	<b>\$ 933,931</b>

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.

Please direct inquiries to Evelyn Suess, Supervisor or Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Bill Manis, Economic Development Director, City of Banning  
Ms. Pam Elias, Chief Accountant, Property Tax Division, Riverside County  
Auditor Controller  
California State Controller's Office