DEPARTMENT OF FINANCE

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April 8, 2013

Ms. Annette Munoz, Finance Director
City of Buellton
PO Box 1819
Buellton, CA 93427

Dear Ms. Munoz:

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 11, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Buellton Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 15, 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 11, 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 March 26, 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:

- Transfers in the amount of $6,054,598. Our review indicates that $6,054,598 was transferred to the City of Buellton (City) on June 30, 2011. The Agency contends this is not a transfer but rather a payment to the City in accordance with a cooperative agreement entered into between the City and the former redevelopment agency (RDA) in 1993, the year of its creation, for $1,000 and revised in March 2011. Although the Agency claims the agreement was entered into within the first two years of the former RDAs creation, the amounts in question are cumulative of all funds provided since creation. Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred to the city, county, or city and county that formed the former RDA by the former redevelopment agency or successor agency between January 1, 2011 through June 30, 2012 must be evidenced by documentation of the enforceable obligation that required the transfer. HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171, contracts detailing specific work that were entered into prior to by the former redevelopment agency prior to June 28, 2011 with a third party other than the city, county, or city and county that created the former RDA. HSC section 34171 (d) (2) states "enforceable obligation" does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA. Therefore, the transfer was not made pursuant to an enforceable

obligation and is not permitted. As such, the amount available for distribution to the affected taxing entities should be increased by $6,054,598.

In addition, Finance continues to make the following adjustments not disputed by the Agency during the Meet and Confer process:

- Balances requested to be retained in the amount of $196,133 for fiscal year 2012-13 obligations are partially denied. Included in this amount is $101,003 of January through June 2013 Recognized Obligation Payment Schedule (ROPS III) expenditures that were approved with Redevelopment Property Tax Trust Fund (RPTTF) funding. Since the County Auditor Controller distributed RPTTF for approved ROPS III obligations on January 2, 2013, after the June 30, 2012 OFA balances delineated in the DDR, it is inappropriate for the Agency to retain current OFA balances for obligations that have already been funded through a separate process. Therefore, the OFA balances available for distribution to the taxing entities is increased by $101,003.

- Finance notes that the county auditor controller adjusted the ROPS III January 2, 2013 distribution by $37,299 pursuant to HSC section 34186 (a). Therefore, Finance is allowing the retention of these funds in order to adequately fund approved ROPS III expenditures.

The Agency's OFA balance available for distribution to the affected taxing entities is $5,943,790 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	(174,512)
Finance Adjustments		
Add:		
Disallowed transfers:	$	6,054,598
Requested retained balance not supported:		101,003
HSC section 34186 (a) adjustment:		(37,299)
Total OFA available to be distributed:	$	5,943,790

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. John Kunkel, City Manager, City of Buellton
Mr. Ed Price, Division Chief Property Tax Division, County of Santa Barbara
California State Controller's Office