DEPARTMENT OF FINANCE

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April 18, 2013

Mr. Bryan Briggs, Manager
City of Ceres
2720 Second Street
Ceres, CA 95307-3292

Dear Mr. Briggs:

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 22, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Ceres (Agency) submitted an oversight board approved OFA DDR to Finance on December 17, 2012. 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 22, 2013. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance.

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:

- During the meet and confer process, the Agency requested it be permitted to retain the balance available for distribution of $503,212. The Agency claims that based on the Redevelopment Property Tax Trust Funds (RPTTF) distribution estimates provided by the County Auditor Controller, the Agency will not receive sufficient RPTTF to pay bond debt service obligations. The Agency demonstrated the funding shortage; therefore, the Agency will be permitted to retain $503,212 for bond debt service payment on the July through December 2013 Recognized Obligation Payment Schedule (ROPS 13-14A). Consequently, on its ROPS 13-14A, Finance is adjusting the funding source for the bond debt service payment from RPTTF to Reserve Funds for the amount. Therefore, the balance available for distribution will be decreased by $503,212.

The Agency did not object to the following adjustment made by Finance during the Meet and Confer process. HSC section 34179.6 (d) authorizes Finance to make adjustments. We maintain that the following adjustment is appropriate:

- Balances requested to be retained in the amount of $3,188,835 for the July through December 2012 Recognized Obligation Payment Schedule (ROPS II) enforceable obligations are partially denied. Although the Agency wishes to retain $3,188,835, the County Auditor Controller only distributed $1,626,856 on June 1, 2012. The Agency is

only allowed to retain up to the amount of RPTTF distribution received. In addition, the Agency requested $125,000 using other funding sources in ROPS II and $97,477 for enforceable obligations in the January through June 2012 Recognized Obligation Payment Schedule, but paid in the ROPS II time period due to timing differences. These amounts are allowed to be retained. As such, the OFA balance available for distribution to the taxing entities will be adjusted by $1,338,835.

To the extent these constitute enforceable obligations, the Agency should request funding for these in a future ROPS.

- Our reviews indicated that the true-up payment in the amount of $310,235 was miscalculated. The amount of $310,235 reported on the DDR included payments for both the Agency and City of Stanislaus-Ceres Successor Agency in the amount of $300,034 and $10,201, respectively. Finance previously determined the Agency could only include the true-up payment it made, $300,034. In addition, the amount paid by the City of Stanislaus-Ceres Successor Agency was included in their OFA DDR. The Agency claims the amount listed in the OFA DDR by the DDR auditor was in error and should only include the payment made by the Agency, $300,034. As such, the beginning balance available for distribution will be increased by $10,201; however, we note, because the beginning balance was increased, the amount available for distribution is not changed from our original determination.

The Agency's OFA balance available for distribution to the affected taxing entities remains $0 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	(845,824)
Finance Adjustments		
Add:		
Request to retain balance not supported	$	835,623
Adjustment to beginning available balance	$	10,201
Total OFA available to be distributed:	$	-

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: Ms. Lauren Klein, County of Stanislaus, Auditor-Controller
California State Controller's Office