DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

March 18, 2012

Mr. Vilko Domic, Director of Finance
City of Commerce
2535 Commerce Way
Commerce, CA 90040

Dear Mr. Domic:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Commerce successor agency (Agency) submitted an oversight board approved Other Funds and Accounts (OFA) Due Diligence Review (DDR) to the California Department of Finance (Finance) on January 14, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Pursuant to HSC section 34179.6 (d), Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of OFA available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- Assets that are not cash or cash equivalent related to the Mix master project totaling $7,683,696 is disallowed. Under procedure 7, the CPA firm adjusted $5,464,167 for the net book value of this project. However, based on the documents provided these do not appear to be capital assets of the Agency. Further, the documents provided obligate the city and county for the project. As such, the Mix master project is not considered a non-cash asset of the Agency. Therefore, the OFA balance available for distribution to the taxing entities will be adjusted by the $7,683,696 cost value.

- The Agency's request to retain $9,784,857 in current unencumbered OFA balances to cover future obligations is partially denied. The cash flow analysis provided by the Agency does demonstrate an immediate need to retain these unencumbered OFA balances, and does suggest available funding will be insufficient to service the Agency's bond debt. Upon applying a conservative two percent annual increase to the ROPS II RPTTF distribution, the cash flow analysis indicates, the Agency will need to retain $3,836,255 to cover $7,082,371 of Recognized Obligation Payment Schedule (ROPS) 13-14 A bond debt service payments. Therefore, the OFA balance available for distribution to the taxing entities will be adjusted by $5,948,602.

- Included in the $5,948,602 adjustment above is funding needed to cover obligations for the July through December ROPS II period. Although Finance approved $8,151,644 for ROPS II, the County Auditor Controller distributed $5,775,849; therefore, the Agency is limited to retaining the amount distributed by the County Auditor Controller. As such, only $5,775,849 of the $5,948,602 is allowed to be retained for 2012-13 fiscal year. Therefore, Finance is adjusting the balance to reflect the $5,775,849 in approved ROPS II expenditures.

  Should a deficit occur in the future, HSC provides successor agencies with various methods to address short term cash flow issues. These may include requesting a loan from the city pursuant to HSC section 34173 (h), requesting the accumulation of reserves on the Recognized Obligation Payment Schedule (ROPS) when a future balloon or uneven payment is expected, or subordinating pass-through payments pursuant to HSC section 34183 (b). The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation if a deficiency were to occur.

- 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. As such ROPS III obligations were not allowed to be retained for the 2012-13 fiscal year.

If you disagree with Finance's adjusted amount of OFA balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's OFA balance available for distribution to the affected taxing entities is $7,468,073 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	(388,376)
Finance Adjustments		
Add:		
Disallowed Expenditures:	$	7,683,696
Requested retained balance not supported:		5,948,602
Approved ROPS II expenditures:		(5,775,849)
Total OFA available to be distributed:	$	7,468,073

Absent a Meet and Confer request, 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.

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 section 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 Kylie Le, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Kristina Burns, Manager, Los Angeles County Auditor-Controller's Office
California State Controller's Office