DEPARTMENT OF FINANCE
CALIFORNIA

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July 11, 2013

Ms. Maureen Toms, Redevelopment Program Manager
Contra Costa County
30 Muir Road
Martinez, CA 94553-0095

Dear Ms. Toms:

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 June 4, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the County of Contra Costa Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on March 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. Since the Agency did not meet the January 15, 2013 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). Finance issued an OFA DDR determination letter on June 4, 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 June 24, 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:

- Our initial review indicated the total amount of assets held as of June 30, 2012 should be increased by $957,947 to $23,875,479. Finance reviewed the ledgers provided by the Agency, as well as the reconciliation prepared by the Certified Public Accountant for DDR purposes. Based on further review of the documents during the Meet and Confer process, the total assets held should be $22,917,532, as reported in the DDR. Therefore, Finance is reversing its increase to the OFA balance of $957,947.
    - The request to restrict assets totaling $12,813 was not allowed because repayment on the Façade Loan Agreement was due in 2009. During the Meet and Confer process, the Agency provided additional information explaining that the borrowers on the loan have not made any payments since September 2006 and the loan is currently in default. The loan is currently uncollectable and the Agency is working with the borrowers to cure the default and ensure continued repayment of the loan. The current outstanding balance of the loan is $13,193, which includes $730 in accrued interest not reported in the DDR. The loan is currently a non-cash or cash equivalent asset; therefore, Finance is reversing its

increase to the OFA balance of $12,813. If and when the loans or grants are repaid, the Agency should use these funds in lieu of requesting Redevelopment Property Tax Trust Fund (RPTTF) for enforceable obligations approved on the Agency's Recognized Obligation Payment Schedule (ROPS).

- The retention of $4,087,793 out of $10,019,110 requested to satisfy enforceable obligations for the 2012-13 fiscal year was previously denied. However, based on further review during the Meet and Confer process, the Agency may retain $8,937,707 ($661,802 + $7,256,294 + $1,019,611) for fiscal year 2012-13 obligations and accordingly, the OFA balance available will be increased by $1,081,403 ($10,019,110 - $8,937,707), as further discussed below.

    - For the January through June 2012 (ROPS I) period, the Agency incurred $661,802 in approved expenditures that were not paid until the July through December 2012 ROPS (ROPS II) period. Therefore, the Agency may retain $661,802 for ROPS I expenditures paid after June 30, 2012.

    - For the ROPS II period, Finance approved and the Agency received $5,648,583 from the RPTTF. Additionally, the Agency actually expended $1,607,711 from Reserve balances on approved items during the ROPS II period. Therefore, the Agency may retain $7,256,294 ($5,648,583 + $1,607,711) for ROPS II obligations.

    - For the January through June 2013 ROPS (ROPS III) period, the Agency requested and Finance approved $2,542,344 in Reserves for Items 25 through 49. The Agency provided information indicating that actual expenditures from Reserves for the ROPS III period totals $1,448,214; however, only $1,019,611 was on approved items and within Finance approved amounts on the ROPS III form. To the extent the Agency incurs expenditures above the approved amount on the ROPS, the overages should be listed on a subsequent ROPS for RPTTF funding. Therefore, the Agency may retain $1,019,611 for ROPS III obligations.

  HSC section 34177 (a) (3) states that only those payments listed in the approved ROPS may be made from the funding source specified in the ROPS. The amounts requested and approved in a ROPS are effective only for the six-month period covered. To the extent the Agency does not expend funds approved and received on a ROPS until a subsequent period, the Agency should relist the unexpended amounts that need to be retained for those enforceable obligations on the subsequent ROPS with the funding source as "Reserves" or "Other" and an entry in the Notes section indicating the funds were received in a prior ROPS period.

- Finance also noted property transfers to Contra Costa County (County) in March 2011 totaling $209,421. These non-liquid assets transferred to the County are subject to the California State Controller's Office review of asset transfers. To the extent these properties do not meet criteria outlined in HSC section 34181 (a), they should be returned to the Agency and disposed of in a manner consistent with the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5.

The Agency's OFA balance available for distribution to the affected taxing entities is $900,569 (see table on following page).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	(180,834)
Finance Adjustments		
Add:		
Requested retained balance not supported	$	1,081,403
Total OFA available to be distributed:	$	900,569

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 Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,

for

STEVE SZALAY
Local Government Consultant

cc: Mr. Steven Goetz, Deputy Director, Conservation, Transportation and Redevelopment Programs, Contra Costa County Department of Conservation and Development
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
Mr. Steven Mar, Bureau Chief, Local Government Audit Bureau, California State Controller's Office