



April 27, 2013

Ms. Joyce Venegas, Finance Director
City of Corcoran
832 Whitley Avenue
Corcoran, CA 93212

Dear Ms. Venegas:

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 25, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Corcoran Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 11, 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 25, 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 11, 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:

- Transfer of property valued at \$1,919,920. The City of Corcoran (City) loaned funds to the former Redevelopment Agency (RDA) to purchase the property for development. When the former RDA did not enter into an agreement with a third party to develop the property, the former RDA transferred the property to the City since it had been purchased with City funds. However, HSC section 34167.5 states asset transfers after January 1, 2011, between the city or county, or city and county that created a RDA for which an enforceable obligation does not exist is not permitted. HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171. Further, 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. The loan was issued after the first two years of the RDA's creation; therefore, the transfer of property to repay the loan was not permitted.

The repayment of the loan may become an enforceable obligation after the Agency receives a Finding of Completion from Finance. If the oversight board makes a finding that the loan was for legitimate redevelopment purposes, the loan should be placed on future Recognized Obligation Payment Schedules for repayment. Refer to HSC section 34191.4 (b) for more guidance.

- Transfer of a building valued at \$1,284,619 to the City. During the Meet and Confer process, the Agency provided additional documents showing that the building located at 1020 Chittenden Avenue (APN 030-213-006) has been owned by the City since 1991. Therefore, this item should not have been reported in the DDR.

However, the parking lot adjacent to the building (APN 030-213-009) was transferred from the former RDA to the City in June 2011. As stated above, HSC section 34167.5 states asset transfers after January 1, 2011, between the city or county, or city and county that created a RDA for which an enforceable obligation does not exist is not permitted. To the extent the property does not meet criteria outlined in HSC section 34181 (a), it should be returned to the Agency and disposed of in a manner consistent with the Agency's Long Range Property Management Plan (LRPMP) pursuant to HSC section 34191.5.

The non-liquid assets transferred to the City are subject to the California State Controller's Office review of asset transfers. Finance notes, however, that to the extent the City would like to retain these parcels, HSC section 34191.5 (c) (2) states that one of the property disposition options available to the successor agency of the former RDA is the retention of property for future development purposes pursuant to an approved LRPMP. If this option is selected, HSC section 34180 (f) (1) states that the city, county, or city and county must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to HSC section 34188, for the value of the property retained.

Based on our review, Finance made no adjustments to the OFA balance available for allocation to the affected taxing entities. As a result, there are no unencumbered OFA balances available for distribution.

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,



STEVE SZALAY
Local Government Consultant

cc: Mr. Kindon Meik, City Manager, City of Corcoran
Ms. Cassandra Mann, Property Tax Manager, Kings County Auditor Controller
California State Controller's Office