DEPARTMENT OF FINANCE
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December 3, 2013 REVISED

Mr. Nick Kimball, Financial Services Manager
City of Culver City
9770 Culver Blvd
Culver City, CA 90232

Dear Mr. Kimball:

Subject: Other Funds and Accounts Due Diligence Review

This letter supersedes the California Department of Finance's (Finance) Meet and Confer Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letter dated May 8, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Culver City Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 10, 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 April 1, 2013. Subsequently, the Agency requested to Meet and Confer on several of the items adjusted by Finance. Finance issued an OFA DDR Meet and Confer determination letter on May 8, 2013.

Based on a review of additional information and documentation provided after the Meet and Confer process, Finance is revising the amounts owed through the OFA DDR process. The 2011 Comprehensive Annual Financial Report (CAFR) identified $119,586,426 of asset transfers to the City of Culver City (City). Included in this amount was $94,230,533 pertaining to the OFA DDR process which is partially allowed. In addition, $25,355,893 was pertaining to the Low and Moderate Income Housing Fund (LMIHF) and is also partially allowed. Specifically, since Finance's May 8, 2013 OFA DDR Meet and Confer determination letter, the following additional adjustments are necessary:

- OFA Cash

  Project Implementation and Management Costs
  The Agency claims $1,078,120 was transferred to the City, who used the funds to pay for the Agency's project implementation and management costs. Finance verified these expenditures were authorized through the Draft Recognized Obligation Payment Schedule (DROPS) and Enforceable Obligation Payment Schedule (EOPS) process. The Agency provided additional documentation in the form of accounting ledgers during our review to validate $1,005,079 of the claimed expenditures. Therefore, although the funds should not have transferred to the City, the funds were ultimately used to pay authorized Agency expenditures. As such, the OFA balance available for distribution will be decreased by $1,005,079.

- LMIHF Cash

The Agency staff stated of the $25,355,893 in LMIHF asset transfers; $21,100,000 of cash was transferred to the City. It is our understanding the cash transfer in the amount of $21,100,000 was not captured during Finance's LMIHF DDR review. As such, the OFA balance available for distribution to the taxing entities was adjusted by $21,100,000. Finance notes the following with regards to the $21,100,000 transferred to the City.

Tilden Terrace
The Agency claims $11,805,000 was transferred to the City pursuant to a DDA related to the Tilden Terrace project. However, per the DDA, the Agency is to provide a Residential Loan of $11,805,000 from the Low and Moderate Income Housing Fund (LMIHF) to pay for costs associated with the development of Tilden Terrace. While this item may be an enforceable obligation, the DDA does not require the Agency to transfer the funds to the City; therefore the transfer to the City was not necessary. Although Finance does not agree the funds should have transferred to the City, the Agency provided documentation establishing these funds were ultimately expended for the Tilden Terrace project, an Agency obligation. Therefore, Finance has determined the City used the transferred funds to make payments on an Agency enforceable obligation. As such, Finance is reversing its adjustment of $11,805,000.

Irving Place
The Agency claims $5,992,000 was transferred to the City from the LMIHF pursuant to an Affordable Housing Agreement (Irving Place loan/grant) dated July 26, 2010. Although Finance does not agree the funds should have been transferred to the City, the Agency provided documentation establishing these funds were ultimately expended for the Irving housing project, an Agency obligation. Therefore, Finance has determined the City used the transferred funds to make payments on an Agency enforceable obligation. As such, Finance is reversing the adjustment of $5,992,000.

Supplemental Educational Revenue Augmentation Fund
The Agency claims $1,389,007 was transferred to the City for the Supplemental Educational Revenue Augmentation Fund (SERAF). SERAF loan repayment in the amount of $1,389,077 continues be denied as an enforceable obligation and therefore, the transferred funds for this purpose should be available for distribution to the taxing entities.

HSC section 34176 (e) (6) (B) specifies loan or deferral repayments to the LMIHF shall not be made prior to the 2013-14 fiscal year. In addition, the repayment is subject to the formula outlined in HSC section 34176 (e) (6) (B). HSC section 34176 (e) (6) (B) allows this repayment to be equal to one-half of the increase between the ROPS residual pass-through distributed to the taxing entities in that fiscal year and the ROPS residual pass-through distributed to the taxing entities in the 2012-13 base year. Since the formula does not allow for estimates, the Agency must wait until the ROPS residual pass-through distributions are known for fiscal year 2013-14 before requesting funding for this obligation. Therefore, the Agency may be able to request

funding for the repayment of LMIHF loans beginning with ROPS 14-15A. As such, the OFA balance available for distribution continues to include the $1,389,077.

Project Implementation and Management Costs
The Agency claims $651,423 was transferred to the City to pay for Agency project implementation and management costs. Finance verified these expenditures were authorized through the Draft Recognized Obligation Payment Schedule (DROPS) and Enforceable Obligation Payment Schedule (EOPS) process. The Agency provided additional documentation in the form of accounting ledgers during our review to validate the $651,423 in expenditures. Therefore, although the funds should not have transferred to the City, the funds were ultimately used to pay authorized Agency expenditures. As such, the OFA balance available for distribution will be decreased by $651,423.

Finance's May 8, 2013 OFA DDR determination letter remains unchanged for the following:

- OFA Cash

  Of the $94,230,533 in transfers, cash totaling $54,298,967 was transferred to the City pursuant to cooperation agreements dated March 7, 2011 and March 15, 2011. Although the DDR identifies, $7,319,673 of unrestricted cash transfer to the City, it was brought to our attention, upon clarification with Agency staff that the actual unrestricted cash transfer is $7,547,131.

  The Agency claims $3,421,880 is pursuant to a Development and Disposition Agreement (DDA) between the City, the Agency, and a third party. Our review indicates that on March 21, 2011 the Agency did, in fact, enter into a DDA with the City and a third party to promote affordable housing. Per the DDA, the Agency was required to provide a loan of $3,395,000 from non-housing funds to the developer to purchase land for the development. The remaining $26,880 was for closing costs on the property paid into escrow. Although Finance does not agree the funds should have been transferred to the City, the Agency provided documentation establishing these funds were transferred to the City and have been expended for their intended purposes. Therefore, Finance has determined this transfer was made pursuant to an enforceable obligation and has been paid in full with respect to the non-housing funding of the $3,421,880. No adjustment to the OFA balances available for distribution is needed.

  The Agency claims $3,000,000 was transferred to the City to pay approved debt service obligations for the Recognized Obligation Payment Schedule (ROPS) period of January through June 2012 ROPS (ROPS I). Our review indicates these bond debt service payments were included on the ROPS I and approved for payment; therefore, this amount was transferred pursuant to an approved enforceable obligation and is permitted. No adjustment to the OFA balance available for distribution is necessary.

  Also, included in the $54,298,967 transfer is $46,751,836 of bonds transferred to the City. Since bonds are legally restricted assets, the OFA balance available for distribution to the taxing entities will not be adjusted. However, for DDR purposes, these disallowed transactions will not affect the amount available for distribution to the affected taxing entities because bond proceeds are restricted assets. These

improper transfers should be reversed, and the Agency should recover the bond proceeds.

We note that pursuant to HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued. Successor Agencies are required to defease or repurchase on the open market for cancellation any bonds that cannot be used for the purpose they were issued or if they were issued after December 31, 2010. The bond proceeds requested for use were issued in February 2011.

- LMIHF Cash

  The Agency claims $1,262,500 was transferred to the City for an agreement with a third party. Our review indicates the agreement was between the Culver City Housing Authority and a third party dated January 30, 2012. The Agency is not a party to the agreement. In addition, the contract was entered into after June 27, 2011. Therefore, even if the Agency was a party to the agreement, this item would not be an enforceable obligation and is not permitted. The OFA balance available for distribution will be increased by $1,262,500.

- Property Transfers

  Property transfers to the City on March 31, 2011 totaling $37,754,880 per the Cooperation Agreement between the City and the former RDA is not allowed. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders.

  The non-liquid assets transferred to the City are subject to the California State Controller's Office review of asset transfers. To the extent these assets that transferred are not for a government purpose or pursuant to an enforceable obligation, these assets should be returned to the Agency and disposed of in a manner consistent to the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5. As these are non-liquid assets, the OFA balance available for distribution to the taxing entities will not be adjusted.

- Loan Receivables

  A portion of the transfers represent Agency loan receivables in the amount of $2,176,686. As these are non-liquid assets, the OFA balance available for distribution to the taxing entities will not be adjusted.

Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former redevelopment agency or successor agency to the city, county, or city and county that formed the former RDA 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 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 transfers not made pursuant to an enforceable obligation are not permitted.

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

The Agency's OFA balance available for distribution to the affected taxing entities is $2,724,618 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:		0
Finance May 8, 2013 Adjustments		
Add:		
Disallowed cash transfers:	$	22,178,120
Total OFA available to be distributed per Finance's May 8, 2013 letter:	$	22,178,120
Less:		
Project Implementation and Management Costs (OFA)		1,005,079
Project Implementation and Management Costs (LMIHF)		651,423
Tilden Terrace Obligation		11,805,000
Irving Place Obligation		5,992,000
Subtotal - OFA adjustments made subsequent to Finance's May 8, 2013 letter		19,453,502
Total OFA available to be distributed:	**$**	**2,724,618**

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 Kylie Oltmann, Supervisor or Hugo Lopez, Analyst at (916) 445-1546.

Sincerely,

JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Jeff Muir, Chief Financial Officer, City of Culver City
Mr. Martin Cole, Assistant City Manager, City of Culver City
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office