



May 31, 2013

Mr. Cass Cook, Finance Manager  
City of Dinuba  
405 E. El Monte Way  
Dinuba, CA 93618

Dear Mr. Cook:

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 April 29, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Dinuba Successor Agency (Agency) submitted an oversight board approved OFA DDR Finance on January 15, 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 29, 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 May 21, 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:

- Assets that are not cash or cash equivalents in the amount of \$1,165,634. Based on our review, the amount represents loan receivable between the former Redevelopment (RDA) and the City of Dinuba (City). The former RDA advanced the amount to the City in two installments on September 9, 2009 and September 13, 2010. The Agency claims the amounts were for capital project expenditures to be repaid once property surrounding the project area is sold. However, there are no contracts in place outlining these terms. Without a valid contract or repayment schedule, this loan is considered payable on demand and should be included as part of the June 30, 2012 balance. Per HSC section 34179.5 (b) (1), "cash" and "cash equivalents" include payables on demand. As such, the OFA available for distribution to the taxing entities will be increased by \$1,165,634. If full payment and recovery of the loan is not currently feasible, the Agency may submit an installment plan for Finance's review and approval pursuant to HSC section 34179.6 (h) (1) (D) (3).
- The Agency's request to retain \$1,641,110 is approved. Finance previously increased the OFA balance available for distribution by \$116,250 because only \$1,524,860 was approved by Finance for the Recognized Obligation Payment Schedule (ROPS) period of July 1, 2012 to December 31, 2012 (ROPS II). Our review indicates the Agency received funds during the January through June 2012 ROPS period (ROPS I) for bond

debt service payments; however, the debt service payments listed on the ROPS I were to create a reserve for the ROPS II debt service payment. The Agency provided documentation supporting the requested funds were used to satisfy the debt service payments during the ROPS II period. Therefore, the Agency will be permitted to retain the \$1,641,110 and no adjustment to the OFA balance available for distribution is needed.

The Agency's OFA balance available for distribution to the affected taxing entities is \$1,031,663 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (133,971)
Finance Adjustments	
Retained non-cash balance not supported:	\$ 1,165,634
<b>Total OFA available to be distributed:</b>	<b>\$ 1,031,663</b>

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

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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, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Steve Szalay', with a long horizontal stroke extending to the left.

STEVE SZALAY  
Local Government Consultant

cc: Ms. Beth Nunes, Finance and Community Services Director, City of Dinuba  
Ms. Rita A. Woodard, Auditor-Controller, Tulare County  
California State Controller's Office