



April 1, 2013

Ms. Roberta Raper, Director of Finance
City of Grass Valley,
125 East Main Street
Grass Valley, CA 95945

Dear Ms. Raper:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Grass Valley 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 16, 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). However, 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 adjustment was made:

- Asset transfers in the amount of \$7,321,879. Our review noted several disallowed transfers of assets to the City of Grass Valley (City) listed in the Appendices 2A, 2B, 3A, and 3B of the DDR. These transfers took place during the period of January 1, 2011 through January 31, 2012 pursuant to the Cooperative Agreement dated January 17, 2011 (Cooperative Agreement) between the City and the Agency. Finance has noted the following disallowed transfers:
 - Cash transferred to the City in the amount of \$498,681. Items 6 through 9, 11 and 12 listed in Appendix 2A are for various capital improvement projects which were incurred as a result of a contract or invoice between the City and a third party, not the RDA. In addition, these documents are either dated prior to the Cooperative Agreement or after the dissolution date of June 27, 2011. Therefore, balance has been adjustment for \$498,681.
 - Transfers to the City in the amount of \$5,235,000. Items 1 and 2 listed in Appendix 3A are cash transfers for the amount from the Agency to the City to fund the Dorsey Drive Project. The Agency provided a Funding Agreement dated in March 9, 2011 between the City and NCTC which included a termination

clause that stated *"In the event that the City is required to return the Funding Amount to the City of Grass Valley Redevelopment Agency, the City may terminate this Agreement and NCTC shall return any unexpended portion of the Funding Amount to the City."* The City later entered into a three party Cooperative Agreement dated September 27, 2011 with Caltrans and NCTC to use the amounts described in the Funding Agreement. With the dissolution of the RDA on June 27, 2011, and the absence of contractual obligations entered with a third party prior to this date, the City is required to return the funding amount transferred to NCTC back to the Agency. Of the \$5,235,000 transferred, item number 1 was funded by \$4,540,000 of Bond Proceeds, which is considered restricted cash and not available for disbursement to the taxing entities, therefore, Finance is only adjusting for the difference of \$695,000 back to the available OFA balance.

- Property transfers in the amount of \$1,588,198. Items 1-4 listed in Appendix 2A of the DDR were transferred to the City. HSC section 34191.3 suspend an Agency's ability to dispose of any property, unless it is for governmental use, until Finance has issued a finding of completion and approved a long range property management plan (LRPMP). Since these are non-liquid assets, Finance made no adjustments to the available balance to the affected taxing entities. However, the Agency is required to reverse the improper transfers, recover the assets, and describe the planned disposition of the property in its long-range property management plan as required by HSC section 34191.5.
- Accounts payable in the amount of \$9,308. Agency is requesting to retain balances for payment of salaries and benefits. Pursuant to HSC section 34177 (a) (1) the Agency can make payments only pursuant to a Recognized Obligation Payment Schedule (ROPS) approved by Finance. The accounts payable does not reference enforceable obligations on the ROPS; therefore, the amount is not allowed for retention.

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 \$1,202,989 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Disallowed transfers (net of non-cash assets)	\$ 1,193,681
Disallowed balance retained for accounts payable	9,308
Total OFA available to be distributed:	\$ 1,202,989

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. Upon submission of payment, please 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 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 Beliz Chappuie, Supervisor or Todd Vermillion, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Dan Holler, City Administrator, City of Grass Valley
Ms. Marcia L. Salter, Auditor-Controller, County of Nevada
California State Controller's Office