



June 28, 2013

Mr. Tom Dibble, Finance Director  
City of Hanford  
315 North Douty Street  
Hanford, CA 93230

Dear Mr. Dibble:

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 May 21, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Hanford Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on March 26, 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 May 21, 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 12, 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 in the amount of \$713,093 continues to be denied. During the Meet and Confer, the Agency claims the \$713,093 transfer to the City of Hanford (City) was a reimbursement for advances out of the City's General Fund to pay for Agency enforceable obligations during fiscal year 2011. Based on documents presented by the Agency during the Meet and Confer, the amount transferred were made pursuant to a cooperative agreement executed by the former Redevelopment Agency (RDA) with the City on January 17, 1984, whereby the former RDA would reimburse the City for costs incurred in carrying out the functions of the former RDA. Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former RDA 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 RDA 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. The capital project contracts for the redevelopment projects were between the City and third party contractors, not the Agency. No

additional documentation was provided to support the amount transferred were for costs for goods or services or for enforceable obligations incurred by the City on behalf of the RDA. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted.

We also note that for the fiscal year 2011, the Agency reported a total of \$817,318 in RDA available funds with \$1,075,409 in expenditures. As such, the Agency was required to borrow \$258,091 ( $\$817,318 - \$1,075,409$ ) from the City's General Fund in order to pay the former RDA's obligations. Per the Agency, historically, the amount of tax increment received was inadequate to pay the City for all costs incurred so the City would fund the deficiency pursuant to the cooperative agreement; thereby creating a loan from the City. The amount of the insufficiency would be included in the previous years' outstanding loan amounts. For fiscal year 2011, the Agency provided information that \$633,519 out of the \$1,075,409 expenditures is associated with interest expense for past deficiency loans; the remaining \$441,890 was for operations costs and capital projects. Based on the information presented by the Agency, it appears that out of the \$713,093 transferred, \$633,519 was applied to the repayment of previous years' deficiency loans or related interest pursuant to the 1984 cooperation agreement. However, as previously stated, 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 Agency did not provide details for the remaining amounts transferred that the Agency claims are related to the operations and capital project costs.

Finance notes the repayment of these 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) and section 34176 (e) (6) (B) for additional guidance.

The Agency did not object to the following adjustment made by Finance during the Meet and Confer process. HSC section 34179.6 (d) authorizes Finance to make adjustments. We maintain that the following adjustment is appropriate:

- Balances retained for fiscal year 2012-13 obligations in the amount of \$43,509. The Agency requested to retain \$168,509 to satisfy fiscal year 2012-013 obligations. Our analysis indicates that the Agency wishes to retain \$125,000 for the approved administrative cost allowance for the July through December 2012 ROPS. Additionally, the Agency agreed to withdraw its request to retain \$2,189 for accounts payable. Therefore, the balance is adjusted by the difference of \$43,509 ( $\$168,509 - \$125,000$ ).

The Agency's OFA balance available for distribution to the affected taxing entities is \$1,639,123 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 882,521
Finance Adjustments	
Disallowed transfers	\$ 713,093
Retained balance not supported	43,509
<b>Total OFA available to be distributed:</b>	<b>\$ 1,639,123</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 city, county, or any other public agency. Determinations outlined in this letter do not in any way eliminate the Controller's authority.

Mr. Dibble  
June 28, 2013  
Page 4

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Derk Symons, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Ty Mizote, Assistant City Attorney, City of Hanford  
Ms. Cassandra Mann, Property Tax Manager, County of Kings  
California State Controller's Office