DEPARTMENT OF FINANCE

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May 4, 2013

Mr. Jack Castro, Finance Director
City of Huron
36311 S. Lassen Avenue
Huron, CA 93234

Dear Mr. Castro:

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 28, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Huron Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 14, 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 28, 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 18, 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 item was discussed:

- The DDR identified reserves for bonds issued on March 1, 2011. The Agency provided two agreements for which the bond proceeds were funded. The agreement with Tri City Engineering, Inc. (Tri City) appears to be an enforceable obligation since it was entered into by the former Redevelopment Agency (RDA) and executed on April 13, 2011 for an amount up to $121,700. Per the drawdown requests provided by the Agency, a total of $115,620 has been expended for Tri City; however, only $85,535 was during the Enforceable Obligation Payment Schedule period. The remaining $30,085 was made during the January through June 2012 and July through December 2012 Recognized Obligation Payment Schedule (ROPS I and ROPS II, respectively) periods; however, the Agency had no authority to spend the funds as they were not listed on the approved Recognized Obligation Payment Schedule (ROPS).

  All other bond proceeds expended from August 2011 through August 2012 were spent without authority on items that do not appear to be enforceable obligations. The agreement with R.J. Berry Jr. Inc. does not appear to be an enforceable obligation since it was entered into by the City of Huron, not the former RDA, and it was executed on August 18, 2011. HSC section 34177 (a) (3) states that only those payments listed in the ROPS may be made by the successor agency from the funds specified in the ROPS. 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. To the extent an enforceable obligation does exist, the Agency should list it on a ROPS for review by Finance. Therefore, only $85,535 in expenditures appears to be valid.

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.

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: Ms. Carolina Camacho, Accounting Supervisor, City of Huron
Mr. George Gomez, Accounting Financial Manager, Fresno County
California State Controller's Office