



April 2, 2013

Mr. Douglas Dumhart, Community Development Director
City of La Palma
7822 Walker Street
La Palma, CA 90623

Dear Mr. Dumhart:

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 6, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of La Palma Successor Agency (Agency) submitted an oversight board approved OFA DDR to 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 March 6, 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 March 14, 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:

- Transfers in the amount of \$438,468. Our initial review indicated the Agency made payments totaling \$233,336 to the City of La Palma (City) between July 1, 2011 and December 31, 2011 in accordance with loan agreements between the former redevelopment agency (RDA) and the City. The payments referenced were denied on the Recognized Obligation Payment Schedules (ROPS) for January 1 through June 30, 2012 and July 1 through December 31, 2012 per HSC section 34171 (d) (2) which states agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable. However, based on further review, Finance is increasing the amount of the adjustment by \$205,132 for additional payments related to the aforementioned City loans, for a total adjustment of \$438,468 (\$233,336 + \$205,132).

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

- The request to retain \$491,513 for the Recognized Obligation Payment Schedule for the July through December ROPS period has been adjusted; however, we are reducing the amount of Finance's original adjustment from \$100,932 to \$51,856. The Agency provided adequate documentation supporting \$439,657 is needed to meet the July through December 2012 and January through June 2013 obligations.

Finance notes that per Exhibit B-5 of the OFA DDR, Finance approved \$509,913 in RPTTF funds for the July through December 2012 ROPS period; however, according to the July through December 2012 ROPS provided by the Agency and Finance's corresponding determination letter, the Agency was approved for \$515,193 in RPTTF funds. Regardless, per the Prior Period Payment worksheet (on the January through June 2013 ROPS), the Agency expended \$439,657 for the July through December 2012 ROPS period; therefore, the Agency will be permitted to retain these funds. All Finance approved items on the January through June 2013 ROPS were funded; therefore, no additional funds are needed to be retained for the period.

The Agency's OFA balance available for distribution to the affected taxing entities is \$3,862,570 (see table below).

| OFA Balances Available For Distribution To Taxing Entities | |
|---|---------------------|
| Available Balance per DDR: | \$ 3,372,246 |
| Finance Adjustments | |
| Add: | |
| Adjustment to the June 30, 2012 balance | 438,468 |
| Requested retained balance not supported | 51,856 |
| Total OFA available to be distributed: | \$ 3,862,570 |

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 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 Evelyn Suess, Supervisor or Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Michael Solorza, Finance Director, City of La Palma
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office