DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

May 1, 2013

Ms. Robbeyn Bird, Finance Director
City of La Quinta
P.O. Box 1504
La Quinta, CA 92247-1504

Dear Ms. Bird:

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 La Quinta Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on December 6, 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 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:

- Our review indicates that $41,378,966 was transferred to the City of La Quinta (City) between February and March 2011. The Agency contends the transfer was made to the City pursuant to repayment of the 1983 Cooperation Agreement between the City and the former Redevelopment Agency (RDA) for project and administrative costs, and for payments made to the Supplemental Education Revenue Augmentation Fund. During the Meet and Confer, the Agency also provided that subsequent to the 1983 agreement the former RDA and the City entered into multiple Financing Agreements over the years to restructure outstanding principal and interests on the agreements.

  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 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, and indebtedness obligations as defined in subdivision (e) of Section 34171.

Further, HSC section 34171 (d) states agreements, contracts, or arrangements between the City and the Agency are not enforceable obligations. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted.

Finance notes that 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) for more guidance.

The Agency's OFA balance available for distribution to the affected taxing entities is $41,378,966 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	-
Finance Adjustments		
Disallowed transfers:		41,378,966
Total OFA available to be distributed:	$	41,378,966

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 Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Frank Spevacek, Executive Director, City of La Quinta
Ms. Pam Elias, Chief Accountant, Property Tax Division, County of Riverside Auditor-Controller
California State Controller's Office