



May 10, 2013

Ms. Tracy Robinson, Administrative Services Director  
City of Lafayette  
3675 Mt. Diablo Boulevard  
Lafayette, CA 94549

Dear Ms. Robinson:

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 April 9, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Lafayette Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 24, 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 April 9, 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 May 06, 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:

- The Agency requested to retain \$6,101,126 to cover enforceable obligations for Fiscal Year 2012-13. Based upon further review during the Meet and Confer process, the Agency may retain \$4,072,102 (\$875,307 + \$3,196,795), as further discussed below. Accordingly, the OFA balance available will be increased by \$2,029,024 (\$6,101,126 - \$4,072,102).
  - The Agency requested to retain \$1,475,989 for the Recognized Obligation Payment Schedule (ROPS) for the July through December 2012 (ROPS II) period. The County Auditor Controller (CAC) distributed \$628,753 from the Redevelopment Property Tax Trust Fund (RPTTF). On the July through December 2013 ROPS form (ROPS 13-14A), the Agency reported expenditures totaling \$1,504,060 funded by the RPTTF for the ROPS II period. Therefore, insufficient RPTTF was received to cover the expenditures during the ROPS II period and the Agency may retain \$875,307 (\$1,504,060 - 628,753) for the ROPS II period.
  - For the January through June 2013 ROPS period (ROPS III), Finance approved \$4,625,135 and the CAC distributed \$1,428,340 from the RPTTF. The CAC made a \$0 adjustment for the ROPS I period on the January 2, 2013 ROPS III

distribution pursuant to HSC section 34186 (a). As such, the Agency may retain \$3,196,795 (\$4,625,135 - \$1,428,340) to cover approved enforceable obligations during the ROPS III period.

Should deficits occur in the future, HSC provides successor agencies with various methods to address short term cash flow issues. These may include requesting a loan from the city pursuant to HSC section 34173 (h), requesting the accumulation of reserves on the ROPS when a future balloon or uneven payment is expected pursuant to HSC section 34177 (d) (1) (A), or subordinating pass-through payments pursuant to HSC section 34183 (b). The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation if a deficiency were to occur.

- An increase to the OFA balance available in the amount of \$5,390,336 was made for transfers that occurred between January 1, 2011 to June 30, 2012. During the Meet and Confer process, the Agency provided additional documentation showing the questioned transfers were interfund transfers between the Agency's General Fund and the Agency's Library and Debt Service Funds. Therefore, Finance is reversing its adjustment of \$5,390,336.

The Agency's OFA balance available for distribution to the affected taxing entities has been revised to \$0, as reported on the DDR (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (4,569,688)
Finance Adjustments	
Add:	
Request to retain balances not supported:	2,029,024
<b>Total OFA available to be distributed:</b>	<b>\$ -</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.

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

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Silva Gonzalo, Finance Manager, City of Lafayette  
Mr. Bob Campbell, Auditor-Controller, Contra Costa County  
California State Controller's Office