



April 20, 2013

Mr. Jeff Rein, Deputy CAO
Lake County
255 North Forbes Street
Lakeport, CA 95453

Dear Mr. Rein:

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 15, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the Lake County Successor (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 15, 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 3, 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:

- Balances requested to be retained in the amount of \$16,153 is approved. The Agency provided documentation it did not receive RPTTF distribution for the January 1 through June 30, 2013 Recognized Obligation Payment Schedule (ROPS III) period. Finance determined the Agency had available reserve funds to pay for Finance approved enforceable obligations for the ROPS III period; therefore, the Agency will be permitted to retain these funds to pay approved enforceable obligations.

Although no monetary adjustment is being made, Finance continues to note the following:

- Assets transferred to Lake County during the period of January and June 2011 in the amount of \$10,277,725. HSC section 34179.5 (c) (2) only allows asset transfers within this period that are required by enforceable obligation or meet the definition of governmental use. No documents received support the transfers were required by an enforceable obligation.

Finance has determined the following assets valued at \$2,408,477 meet the definition of governmental use as defined in the HSC 34181 (a):

- 3555, 3605, 3655 Lakeshore Blvd, Nice

- o 12565 E. Hwy. 20, Clearlake Oaks
- o 12497, 12501, and 12513 The Plaza, Clearlake Oaks
- o 6195, 6222, 6224 E. Hwy. 20, Lucerne
- o 12588 Acorn St, Clearlake Oaks

This amount has been reduced from the asset transfer total resulting in a \$7,869,248 adjustment to reflect the transfers made to Lake County. Since these properties are liquid, they are considered a non-cash asset of the Agency. Therefore, another adjustment is being made to increase the non-cash balance by an equal amount. In effect, these adjustments balance out and do not affect the ending OFA available balance. The assets in question include the following:

- o 3752, 3772, 3792, 3812 Country Club Dr, Lucerne
- o 3700 Country Club Dr, Lucerne
- o 6607 14th Ave, Lucerne (Lucerne Hotel)
- o 6532 Thirteenth Ave, Lucerne
- o 6545, 6535 Twelfth Ave, Lucerne
- o 6273 E. Hwy 20 Lucerne
- o 99 Paper Subdivision Lots in Nice and Lucerne

HSC section 34181 (a) requires that properties be used for a government purpose at the time of transfer. An intended government use of the property does not permit the transfer under this HSC section.

These non-liquid assets transferred to the City are subject to the California State Controller's Office review of asset transfers. To the extent these properties do not meet criteria outlined in HSC section 34181 (a), they should be returned to the Agency and disposed of in a manner consistent to the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5.

The Agency's OFA balance available for distribution to the affected taxing entities is \$0 (see table below).

| OFA Balances Available For Distribution To Taxing Entities | |
|---|----------------|
| Available Balance per DDR: | \$ - |
| Finance Adjustments | |
| Add: | |
| Transfers to Lake County: | \$ 7,869,248 |
| Reversal of non-cash transfers: | \$ (7,869,248) |
| Total OFA available to be distributed: | \$ - |

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. Matt Perry, Chief Administrative Officer, Lake County
Ms. Cathy Saderlund, Auditor-Controller, Lake County
Ms. Liz Martinez, Accountant II, Lake County