



May 8, 2013

Ms. Lorry Hempe, Public Works Special Projects Manager
City of Lynwood
11330 Bullis Road
Lynwood, CA 90262

Dear Ms. Hempe:

Subject: Other Fund 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 1, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Lynwood Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 8, 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 1, 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 25, 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:

- Cash transfers in the amount of \$2,082,845 are disallowed, as further discussed below:
 - Cash transfer of \$1,982,745 is disallowed. The Agency claims the amount transferred represents principal and interest payments to the City of Lynwood's (City) Water/Sewer Fund pursuant to a loan agreement executed by the City and the former Redevelopment Agency (RDA) per a joint resolution dated May 4, 2010. As stated in the resolution, the loan was made by the City to the former redevelopment agency from the Water Fund for "pursuing development opportunities".

Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former redevelopment agency or successor agency to the city, county, or city and county that formed the former RDA 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. HSC section 34171

(d) (2) states "enforceable obligation" does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA. Therefore, this transfer was not made pursuant to an enforceable obligation and is not permitted. The OFA balance available for distribution will be increased by \$1,982,745.

- o Two transfers totaling \$100,100 are disallowed. The Agency claims these transfers, made on September 20, 2011, were principal and interest payments on a loan made by the City to the former redevelopment agency pursuant to a September 7, 1999 Cooperative Agreement. Our review indicates these transfers were made pursuant to a 1999 cooperation agreement between the City and the Agency. As stated above, HSC section 34171 (d) (2) states "enforceable obligation" does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA. Therefore, the transfers were not made pursuant to an enforceable obligation. The OFA balance available for distribution will be increased by \$100,100.

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.

- Non cash or cash equivalents in the amount of \$957,380. The Agency claims this amount refers to a real estate transaction between the former RDA and the City for an exchange of land. Because the asset listed in the DDR is illiquid, no adjustment to the OFA balance will be made.

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 with the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5.

- The request to retain \$6,561,407 is allowed. Our review indicates these funds are needed to satisfy approved Recognized Obligation Payment Schedule (ROPS) items approved for funding with reserve funds for the January through June 2013 (ROPS III) and July through December 2013 (ROPS 13-14A) periods. Therefore, no adjustment to the OFA balance available for distribution is needed.

The Agency's OFA balance available for distribution to the affected taxing entities is \$2,082,845 million (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Disallowed transfers:	2,082,845
Total OFA available to be distributed:	\$ 2,082,845

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: Ms. Sarah Withers, Director of Community Development, City of Lynwood
Ms. Kristina Burns, Manager, Los Angeles County Auditor-Controller's Office
California State Controller's Office