DEPARTMENT OF FINANCE

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March 6, 2013

Ms. Melissa Westerdoll, Staff Services Analyst
Department of Commerce, Aviation and Economic Development
Merced County
2507 Heritage Drive
Atwater, CA 95301

Dear Ms. Westerdoll:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the County of Merced Successor Agency (Agency) submitted an oversight board approved Other Funds and Accounts (OFA) Due Diligence Review (DDR) to the California Department of Finance (Finance) on January 11, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Pursuant to HSC section 34179.6 (d), Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of OFA available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- Disallowed transfers in the amount of $20,283. Although the DDR did not identify any asset transferred to the city, county, or city and county, our review of the Agency's accounting records noted two transfers for $5,134 on April 11, 2012 and $15,149 on June 8, 2012. The Agency could not provide documentation to support the transactions. Furthermore, these two obligations were not listed on the Recognized Obligation Payment Schedule for the period January through June 2012 (ROPS I). Therefore, the transfers are not allowed.

- Balances retained to satisfy fiscal year 2012-13 obligations in the amount of $10,246. The amount includes $1,435 for successor agency administration costs and $8,811 for cost plan charges that were approved as enforceable obligations on the Recognized Obligation Payment Schedule (ROPS III) for the period of January through June 2013. Since the Agency received the Redevelopment Property Tax Trust Fund distribution from Merced County Auditor-Controller's office in January 2013 for the amount requested, the retention of $10,246 is not allowed.

If you disagree with Finance's adjusted amount of OFA balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's OFA balance available for distribution to the affected taxing entities is $79,047 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	48,518
Finance Adjustments		
Disallowed Transfers		20,283
Retained balances to satisfy ROPS 2012-13		10,246
Total OFA available to be distributed:	$	79,047

Absent a Meet and Confer request, 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.

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 Beliz Chappuie, Supervisor or Todd Vermillion, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Mark Hendrickson, Director, County of Merced
Ms. Sylvia Sanchez, Supervising Accountant, County of Merced
California State Controller's Office