DEPARTMENT OF FINANCE

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

April 2, 2013

Ms. Londa Helms, Accounting Manager 1
City of Murrieta
1 Town Square
Murrieta, CA 92652

Dear Ms. Helms:

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 8, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Murrieta Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 10, 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 8, 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 March 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:

- Asset Transfers in the amount of $1,658,475. Our review indicates two transfers were made to the City of Murrieta (City) for loan repayments: $288,913 on June 30, 2011 and $1,369,562 on December 30, 2011. HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171. HSC section 34171 (d) (2) states "enforceable obligation" does not include any agreements, contracts, or arrangements between the city that created the redevelopment agency (RDA) and the former RDA. The loan was issued in 2005, which was after the first two years of the RDA's creation. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted.

  The repayment of these loans may become enforceable obligations after the Agency receives a Finding of Completion from Finance. Pursuant to HSC section 34191.4 (b), 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 for additional information and statutory requirements.

- Balances retained to satisfy fiscal year 2012-13 obligations in the amount of $159,950. The Agency had requested OFA balances on ROPS II and ROPS III in the amounts of

$26,605 and $133,345, respectively, for Capital Improvement Project No. 8357 and Finance did not deny the items. Therefore, Finance is reversing its adjustment of $159,950.

The Agency's OFA balance available for distribution to the affected taxing entities is $8,840,054 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	7,181,579
Finance Adjustments		
Disallowed transfers	$	1,658,475
Total OFA available to be distributed:	$	8,840,054

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 Mary Halterman, Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Joy Canfield, Finance Director, City of Murrieta
Ms. Pam Elias, Chief Accountant Property Tax Division, Riverside County Auditor Controller
California State Controller's Office