



August 9, 2013

Ms. Karen Johnston, Assistant Director of Finance
City of Palmdale
38300 Sierra Highway, Suite D
Palmdale, CA 93550

Dear Ms. Johnston:

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 July 2, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Palmdale Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on April 23, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the January 15, 2013 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). Finance issued an OFA DDR determination letter on July 2, 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 July 22, 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:

- Transfers of assets to the City of Palmdale (City) are disallowed. Specifically, Finance noted the following:
 - Cash transfers to the City in the amount of \$7,262,930 are disallowed. It is our understanding these transfers occurred from January 31, 2011 through June 30, 2011. These transfers were made pursuant to the Agreements Regarding Reimbursement of Sales and Use Taxes and Transfer of Appropriations Limit for the Redevelopment Project Areas 1 and 2 (Agreements) dated December 16, 1993 between the City and the former Redevelopment Agency (RDA). The Agreement references Palmdale Municipal Code section 3.20.180 and states under Section 1 that amounts not needed to pay, or pledged to secure obligations of the former RDA, are to be transferred to the City for reimbursement of sales and use tax.

The Agency contends the transfers were made pursuant to the Agreements entered into at the time of issuance of indebtedness obligations for the purpose

of securing or repaying those indebtedness obligations. The City was providing sales and use tax revenues under the Agreements to ensure sufficient funding would be available to the former RDA to make the principal and interest payments on the bonds issued by the Palmdale Civic Authority on behalf of the former RDA (the Palmdale Civic Authority is a joint powers authority consisting of the City and the former RDA). Under the Agreements, the former RDA was to reimburse the City any sales and use tax revenues that were not used to make payments on the bonds. While the December 1993 Agreements were entered into solely for the purpose of securing debt, they were not entered into at the time of issuance of the bonds – the bonds were issued in June 1994, May 1997, August 1998, and February 2004.

Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former RDA 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 RDA 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, unless issued within two years of the former RDA’s creation date or were entered into at the time of issuance of an indebtedness obligation and solely for the purpose of securing or repaying that debt. Therefore, the transfers were not made pursuant to an enforceable obligation and are not permitted. As such, the OFA balance available for distribution to the taxing entities will be increased by \$7,262,930.

Finance notes, however, that repayment of 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, they should be placed on future Recognized Obligation Payment Schedules (ROPS) for repayment. Refer to HSC section 34191.4 (b) for more guidance:

- o Asset transfers to the City in the amount of \$11,135,411 were disallowed. This amount consists of transfers of notes receivable totaling \$5,303,040 and transfers of permits held for resale totaling \$5,832,371.

During the Meet and Confer process, the Agency provided a copy of the permit issued for the Palmdale Hybrid Power Project that was issued to the City. The Agency stated that the amount listed on the DDR is the amount that the RDA had previously contributed toward the project in 2009. The permit was not being held for resale by the former RDA nor was it issued to the former RDA. Therefore, Finance no longer objects to the transfer of the permit totaling \$5,832,371.

The Agency did not object to Finance’s determination related to the transfer of the notes receivable totaling \$5,303,040. These are assets of the former RDA and should be transferred back to the Agency. As such, an adjustment was made to include this as part of the assets transferred as of June 30, 2012.

Since these are not cash or cash equivalents, an offsetting adjustment in a like amount will be made resulting in no effect on the available cash to be remitted to county for disbursement to the taxing entities.

Additionally, the Agency did not object to the following adjustments made by Finance during the Meet and Confer process. HSC section 34179.6 (d) authorizes Finance to make adjustments. We maintain that the following adjustments are appropriate:

- The Agency's request to retain \$5,018,610 in current unencumbered OFA balances to cover January through June 2012 (ROPS I) obligations is denied. It is our understanding payments for the ROPS I obligations were made from the July through December 2012 (ROPS II) distribution. As a result, the Agency obtained a loan to cover the ROPS II shortfall. It appears the ROPS I obligations have been fully funded and Finance deems it is not necessary for the Agency to retain \$5,018,610 in OFA unencumbered balances.
- The Agency's request to retain OFA balances for fiscal year 2012-13 in the amount of \$22,991,348 is partially denied. Of the amount requested to be retained, Finance approved obligations totaling \$25,745,215 to be funded from the Redevelopment Property Tax Trust Fund (RPTTF) for the ROPS II period. However, the County Auditor Controller distributed only \$10,624,088. As such the Agency is limited to retaining \$10,624,088 million for ROPS II enforceable obligations.

Further, included in the \$22,991,348 retention amount is \$12,367,260 of January through June 2013 (ROPS III) expenditures that were approved from RPTTF funding. Since the County Auditor Controller distributed RPTTF for approved ROPS III obligations on January 2, 2013, after the June 30, 2012 OFA balances delineated in the DDR, it is inappropriate for the Agency to retain current OFA balances for obligations that have already been funded through a separate process. As such the Agency's request to retain \$12,367,260 for ROPS III obligations is denied.

The Agency's OFA balance available for distribution to the affected taxing entities is \$7,263,434 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (17,385,366)
Finance Adjustments	
Add:	
Disallowed cash transfers:	\$ 7,262,930
Requested restricted balance not supported:	12,367,260
Requested retained balance not supported:	5,018,610
Total OFA available to be distributed:	\$ 7,263,434

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.

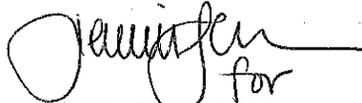
Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain 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, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



for
STEVE SZALAY
Local Government Consultant

cc: Mr. Hamed Jones, Budget Manager
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
Mr. Steven Mar, Bureau Chief, Local Government Audit Bureau, California State
Controller's Office