June 27, 2013

Mr. Jim Throop, Director of Administrative Services
City of Paso Robles
821 Pine Street, Suite A
Paso Robles, CA 93446

Dear Mr. Throop:

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 May 22, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Paso Robles Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on March 7, 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 May 22, 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 June 17, 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:

- Assets transferred to the City of Paso Robles (City) during the period of January 1, 2011 through June 30, 2012 totaling $1,228,839. Finance has determined an increase to the OFA balance for disallowed transfers is no longer necessary, as further discussed below:

  The former redevelopment agency (RDA) and the City entered into a Funding Agreement on February 1, 2011 in which the former RDA pledged bond proceeds to help fund the City's obligation to install certain improvements (Americans with Disabilities Act (ADA) Improvements) required by a settlement agreement between the City and two plaintiffs for violations of the ADA. However, the Agency is not a party to the lawsuit or the settlement agreement. During Finance's initial review, the Agency provided a schedule of major project spending that included a summary of bond and tax increment uses. The schedule indicates that the former RDA made numerous payments for ADA Improvements with tax increment revenues prior to June 30, 2012. Specifically:

  - Payments for the City Park Bathroom in the amount of $77,739.
  - Payments to assist the rebuilding of 21st Street in the amount of $167,381.
  - Payments for miscellaneous ADA projects totaling $983,719.

Our review indicates that Finance denied the use of bond proceeds for the ADA project on the Recognized Obligation Payment Schedules (ROPS) for the January through June 2012 period (ROPS I) and the July through December 2012 period (ROPS II) because there were no contracts for work in place prior to June 27, 2011. The Agency claims that although the Agency's Capital Improvements fund was credited for these denied expenditures, the City used General Fund money to pay for the work. The Agency also claims that because the bond proceeds were denied on the ROPS, the Agency did not have the funds available to pay for the work; therefore, because the Agency pools its money with the City and payments were made from the General Fund. We note, the schedule provided by the Agency during Finance's initial review indicates the Agency used bond proceeds to make some payments towards the work; however, for DDR purposes, this will not affect the amount available for distribution to the affected taxing entities because bond proceeds are restricted assets. To the extent bonds proceeds were used as payment for the work, the transactions should be reversed, and the Agency should recover the bond proceeds.

Pursuant to HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued. Successor Agencies are required to defease or repurchase on the open market for cancellation any bonds that cannot be used for the purpose they were issued or if they were issued after December 31, 2010.

- The Agency's non-cash asset balance as of June 30, 2012 totaling $1,758,062 was previously increased by $204,868. Finance no longer believes $104,354 of that adjustment is necessary. Specifically:

    - Accounts receivable balance in the amount of $100,514. The Agency claims that this accounts receivable balance pertains to Redevelopment Property Tax Trust Fund amounts owed from the San Luis Obispo County Auditor-Controller (CAC) for July through December 2012 Recognized Obligations Payment Schedule (ROPS II) obligations. However, the Agency requests to retain the total amount of funds needed to satisfy ROPS II obligations in procedure 9 of the DDR. Therefore, in order to not duplicate the restriction of funds necessary for ROPS II obligations, the OFA balances available for distribution to the taxing entities will be adjusted by $100,514. The Agency did not contest this in the Meet and Confer.

    - Finance previously determined the loans receivable balance in the amount of $40,282 was not supported by any contracts or agreements. The Agency claims this amount is a combination of small loans and grants made pursuant to the Agency's Façade Improvement Program. Our review indicates the Agency made several small loans and grants to various homeowners for specific approved work as provided in the supporting documentation. Based on review, the loans were made between May and August 1990 and do not require immediate payment. Terms of the loans or grants specify the receivables would be payable upon the sale of the property, if the property is used to generate rental income, or both. Therefore, Finance has determined these are not short term receivables due to be paid within the next year. As such, Finance is reversing the increase to the available OFA balances by $40,282. If and when the loans or grants are repaid, the Agency should use these funds in lieu of requesting Redevelopment

Property Tax Trust Fund (RPTTF) for enforceable obligations listed on the Agency's ROPS.

- Due from the Successor Agency Housing Fund in the amount of $64,072 that was not supported by any contracts or agreements. Finance no longer believes an adjustment for this amount is needed. The Agency claims this amount was an accounting entry to reconcile an account with a negative balance. The Agency provided documentation of the closing entry; therefore, Finance has determined this is not a cash balance available for distribution to the affected taxing entities.

- Finance previously determined the balances requested to be retained for fiscal year 2012-13 obligations totaling $1,545,107 was previously decreased by $933,810. Our review during the Meet and Confer indicates the decrease should be $809,214 as noted below:

    - The Agency requests to retain a total of $780,038 for the July 1, 2012 debt service payments on the series 2000 and 2009 Tax Allocation Bonds (TAB). Included in this amount is a total of $762,401 that was already restricted in procedure 6 of the DDR under the 2000 TAB Debt Service Fund and the 2009 TAB Interest Account. The Agency was required to make deposits in the accounts prior to June 30, 2012 under specific debt covenants – 2000 and 2009 Bond Indentures. Therefore, no adjustment was made to the restricted balances listed in procedure 6. As such, the Agency cannot restrict additional unencumbered OFA balances in the amount of $762,401 that were already restricted in the DDR under procedure 6. Therefore, the OFA balances available for distribution to the taxing entities will be increased by $762,401. The Agency did not contest this increase during the Meet and Confer.

    - The Agency's request to retain $619,402 for ROPS II bond debt service payments is approved. The bond indentures require the Agency to deposit the debt service payments due July 1 of each year into a bond interest account at least two days before the payment is made. The Agency provided documentation during the original review indicating the bond debt service payment was not deposited in to the interest account prior to June 30, 2012; therefore, the Agency was permitted to retain $619,402 for the July 1, 2012 bond debt service payments.

    - The Agency's request to retain the remaining $163,304 is partially approved as follows:

        - The Agency paid $64,731 for approved enforceable obligations (excluding bond debt service payments) during ROPS II. Because these funds were included in the June 30, 2012 available balance, the Agency will be permitted to retain these funds for the payments made. No adjustment to the OFA balance is needed.

        - The CAC made a prior period adjustment of $51,761 per HSC section 34186 (a) for the January through June 2013 ROPS period (ROPS III). Because this adjustment assumes these funds are available for use on approved obligations, the Agency will be permitted to retain these funds.

- The Agency's request to retain the remaining $46,812 is not allowed. Per HSC section 34179.5 (c) (5) (E), the documentation provided by the Agency did not support these funds are needed during fiscal year 2012-13. Therefore, the OFA balance available for distribution will be increased by $46,812.

- The Agency requested to retain OFA balances in the amount of $189,016 for the True-Up payment. Per Finance's Low and Moderate Income Housing Fund (LMIHF) DDR determination letter dated January 25, 2013, the LMIHF balance available for distribution to the taxing entities totaled negative $58,138. Therefore, Finance increased the OFA balances available for distribution to the taxing entities by $130,878, the amount accounted for in the LMIHF DDR.

  Our review indicates and the CAC confirmed that the Agency erroneously transferred a portion of its January 2012 property tax distribution to the LMIHF. After working with the CAC to resolve the issue, the Agency transferred the funds from the LMIHF back to the Agency's General Fund. Therefore, Finance no longer believes the $130,878 was accounted for in the LMIHF DDR and Finance will allow the full amount of the July True-Up of $189,016 to be claimed through the OFA DDR.

The Agency's OFA balance available for distribution to the affected taxing entities is $1,202,730 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	293,002
Finance Adjustments:		
Reversal of non-cash transfers to the City:		100,514
Requested retained balance not supported:		809,214
Total OFA available to be distributed:	$	1,202,730

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. Ed Gallagher, Director of Community Development, City of Paso Robles
Ms. Barbara Godwin, Property Tax Manager, County of San Luis Obispo
California State Controller's Office