DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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July 18, 2013

Mr. Richard Loomis, Finance Director
City of Pinole
2131 Pear Street
Pinole, CA 94564

Dear Mr. Loomis:

Subject: Other Funds and Accounts Due Diligence Review

The City of Pinole 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 May 3, 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). However, 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:

- Transfers totaling $24,514,621, to the City of Pinole (City), are not allowed. On December 12, 2012, the California State Controller's Office (Controller) disallowed the transfer of these assets to the City and has ordered their immediate reversal. Cash transfers totaling $2,078,364, plus interest earned, must be returned to the Agency pursuant to HSC 34178.8 and 34167.5. For DDR purposes, the remaining property transfers, totaling $22,436,257, will not affect the balance available for distribution to the affected taxing entities.

- Assets legally restricted for uses specified by debt covenants, grant restrictions, or restrictions imposed by other governments in the amount of $5,084,417 have been adjusted by $765,614. During our review, bond documents for the 1999, 2003A, Second Subordinate 2004A, and Third Subordinate 2004A Tax Allocation Bonds indicate a reserve requirement amount totaling $4,318,803. However, reserved funds, as documented by US Bank statements, total $5,084,417. Therefore, the approved restricted amount has been adjusted by $765,614 ($5,084,417 - $4,318,803).

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 $2,224,506 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	(619,472)
Finance Adjustments		
Add:		
Disallowed transfers	$	2,078,364
Request to restrict balances not supported		765,614
Total OFA available to be distributed:	$	2,224,506

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. 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 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 Nichelle Thomas, Supervisor or Alex Watt, Lead Analyst at (916) 445-1546.

Sincerely,

for

STEVE SZALAY
Local Government Consultant

cc: Ms. Belinda Espinosa, City Manager, City of Pinole
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
Mr. Steven Mar, Bureau Chief, Local Government Audit Bureau, California State Controller's Office
California State Controller's Office