



May 3, 2013

Ms. Maria Bemis, Finance Director  
City of Porterville  
291 North Main Street  
Porterville, CA 93257

Dear Ms. Bemis:

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 28, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Porterville Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 15, 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 28, 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 April 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:

- The Agency's request to retain \$1,733,195 in current unencumbered OFA balances to cover future obligations is partially allowed. Our review indicated the following:
  - Request to retain \$647,233 is allowed. The Agency provided documentation that the amount represents restricted bond funds held in reserve with a trustee.
  - Request to retain \$33,289 is allowed. The Agency provided documentation that the amount represents reserve funds held in Certificates of Deposit for an enforceable obligation.
  - Request to retain \$320,830 is allowed. This represents the total Redevelopment Property Tax Trust Fund (RPTTF) distribution for the Recognized Obligation Payment Schedule (ROPS) for the July through December 2012 period (ROPS II). We note, the Agency did not spend all distributed funds; however, the County Auditor Controller will make the necessary adjustments to the RPTTF distribution pursuant to HSC section 34186 (a).
  - Request to retain \$18,821 is allowed. The Agency provided documentation that this amount was accrued for approved obligations during the January through

June 2012 ROPS period (ROPS I); however, payment was not made until after June 30, 2012. No adjustment to the OFA balance is warranted.

Finance notes that amounts requested and approved in a ROPS are effective only for the six-month period covered. To the extent the Agency does not expend funds approved and received on a ROPS until a subsequent period, the Agency should relist the unexpended amounts that need to be retained for those enforceable obligations on the subsequent ROPS with the funding source as "Reserves" or "Other" and an entry in the Notes section indicating the funds were received in a prior ROPS period.

- o Request to retain the remaining \$713,022 is not allowed. Documentation was not provided to support these funds should be retained for enforceable obligations and the Agency concurred.

Based on the foregoing, the OFA balance available for distribution will be increased by \$713,022.

The Agency's OFA balance available for distribution to the affected taxing entities is \$58,933 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (654,089)
Finance Adjustments	
Unallowed balances retained for future obligations	713,022
<b>Total OFA available to be distributed:</b>	<b>\$ 58,933</b>

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

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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: Ms. Jenni Byers, Project Manager, City of Porterville  
Ms. Rita A. Woodard, Auditor-Controller, Tulare County  
California State Controller's Office