DEPARTMENT OF FINANCE

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April 6, 2013

Ms. Michelle Mingay, Sr. Financial Analyst
City of Rancho Cordova
2729 Prospect Park Drive
Rancho Cordova, CA 95670

Dear Ms. Mingay:

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 5, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Rancho Cordova Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on December 14, 2012. 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 5, 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 18, 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:

- Total transfers in the amount of $455,358 for the items noted below:
    - The transfer to the City of Rancho Cordova (City) in the amount of $369,535 was based on a loan agreement between the former redevelopment agency (RDA) and the City. Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred to the city, county, or city and county that formed the former RDA by the former redevelopment agency or successor agency 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. 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. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted.
    - The transfer in the amount of $85,823 as part of a Capital Improvement Plan was an agreement between the City and a third party, and there was no agreement in place obligating the former RDA for these costs. The Agency contends this is a

payment made to the City for goods and services in accordance with the 2005 reimbursement agreement between the City and the former RDA and is included in the annual budget. However, this payment was not pursuant to an enforceable obligation as defined in HSC section 34179.5 and is not permitted.

- The request to retain balances in the amount of $491,424 is allowed. Finance previously determined the Agency did not demonstrate an immediate need to retain these funds. Our review indicates the Agency was approved for $336,375 in RPTTF for the ROPS II period but did not receive any. Total expenditures for the ROPS II period were $240,514. In addition, the Agency was approved for $2.2 million in expenditures from "Other Funds" for the ROPS III period. Therefore, Finance has determined the request to retain balances totaling $491,424 is justified.

Finance notes that although the payments identified in the first bullet above have been denied, the Agency has adequately demonstrated it does not anticipate any available RPTTF funding for the current or subsequent fiscal years. As such, Finance has determined the Agency will not be required to remit any payment to the county auditor-controller as no funds are available and the amounts on-hand are needed to satisfy enforceable obligations for the current fiscal year in accordance with HSC section 34179.5 (c) (5) (E).

The Agency's OFA balance available for distribution to the affected taxing entities is $0 (see table below).

| **OFA Balances Available For Distribution To Taxing Entities** | | |
|---|---|---|
| Available Balance per DDR: | $ | - |
| Finance Adjustments | | |
| Add: | | |
| Disallowed transfers * | $ | 455,358 |
| **Total OFA available to be distributed:** | $ | - |

* *Disallowed as discussed in bullet one above, but allowed for retention due to shortage to pay enforceable obligations as per the second bullet, above.*

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: Ms. Mindy Cuppy, City Clerk, City of Rancho Cordova
Mr. David M. Sander, Chair, Successor Agency Oversight Board, City of Rancho Cordova
Mr. Ted Gaebler, City Manager, City of Rancho Cordova
Mr. Carlos Valencia, Senior Accounting Manager, Sacramento County
California State Controller's Office