DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

March 29, 2013

Mr. John Dutrey, Housing Program Manager
City of Rialto
131 South Palm Avenue
Rialto, CA 92376

Dear Mr. Dutrey,

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Rialto 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 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. Pursuant to HSC section 34179.6 (d), 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:

- The following transfers are not allowed as follows:

    - Transfer of cash in the amount of $193,558 to the City of Rialto Non-Profit Public Building Authority. The Agency transferred $289,940 to the Authority. Included in this amount is the $157,500 of January through June 2013 Recognized Obligation Payment Schedule (ROPS III) expenditures that were approved with Redevelopment Property Tax Trust Fund (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. The Agency requested $96,382 to be funded from "Other" funding source. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by $193,558 ($289 940 - $96,382).

    Transfer of land valued at $13,764,414 to the City of Rialto (City). As evidenced by the purchase and sale agreement, the City purchased the land, and the former redevelopment agency (RDA) was expected to repay the City based on the costs of development. On January 26, 2012, the Agency transferred the land back to the City. Pursuant to HSC section 34163 (d), agencies are prohibited

from disposing of assets by sale, long-term lease, gift, grant, exchange, transfer, assignment, or otherwise, for any purpose. However, because land is not considered cash or cash equivalent, the adjustment will not affect the balance available for distribution to the affected taxing entities. The Agency should reverse the improper transfer, recover the land from the City, and describe the planned disposition of the property in its long-range property management plan as required by HSC section 34191.5.

- Transfer of cash totaling $4,032,134 to the City. According to the grant agreements provided by the Agency, it appears the City and the former RDA were grant recipients, and not the Rialto Housing Authority as asserted in the DDR. However, because grant funds are considered restricted assets, the adjustment will not affect the balance available for distribution to the affected taxing entities. The Agency should reverse the improper transfer of grant proceeds and request authority to spend these bond proceeds on a duly authorized ROPS schedule for the period specified.

- The request to retain assets for legally restricted uses has been adjusted as follows:
  - The request to retain assets in the amount of $1,669,340; the Agency did not provide sufficient documentation to support the restriction of cash for citation collections due to the City.
  - The request to retain assets in the amount of $70,000 for Exclusive Right to Negotiate Agreements; the Agency has not included this obligation on a Recognized Obligation Payment Schedule (ROPS) for the periods January 2012 through June 2013.
  - The request to retain assets in the amount of $3,423,698 for the I-10/Riverside Project. This item has been denied as an enforceable obligation by Finance in our letter dated December 18, 2012. However, because bond funds are considered restricted assets, the adjustment will not affect the balance available for distribution to the affected taxing entities.

- The request to retain funds in the amount of $7,619,297 for future obligations has been adjusted by $346,311. The Agency has not adequately proven there will be insufficient property tax revenues to pay for these obligations. HSC section 34179.5 (c) (5) (D) requires an extensive analysis before retention of current unencumbered balances can be contemplated. This includes but is not limited to, providing a detail of the projected property tax revenues and other general purpose revenues to be received by the Agency, together with both the amount and timing of the bond debt service payments, for the period in which the oversight board anticipates the Agency will have insufficient property tax revenue to pay the specified obligations. It is not evident the thorough analysis required by HSC section 34179.5 (c) (5) (D) was conducted. Further, it is not evident that future property tax revenue will be insufficient or that there is an immediate need to retain these balances.

  Should a deficit occur in the future, HSC provides successor agencies with various methods to address short term cash flow issues. These may include requesting a loan from the city pursuant to HSC section 34173 (h), or subordinating pass-through payments pursuant to HSC section 34183 (b). The Agency should seek counsel from

their oversight board to determine the solution most appropriate for their situation if a deficiency were to occur.

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 $12,450,363 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	10,171,154
Finance Adjustments		
Add:		
Disallowed transfers	$	193,558
Request to legally restrict balances not supported	$	1,739,340
Requested retained balances not supported		346,311
Total OFA available to be distributed:	$	12,450,363

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 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 Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Robb Steel, Assistant to the City Administrator, City of Rialto
Ms. Vanessa Doyle, Auditor Controller Manager, County of San Bernardino
California State Controller's Office