April 27, 2013

Ms. Mary Rister, Finance Officer
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677

Dear Ms. Rister:

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 25, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Rocklin 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 25, 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 11, 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 transferred cash totaling $2,710,450 to the City of Rocklin (City) and the Rocklin Public Financing Authority (Authority). The available balance to the affected taxing entities was previously increased by $1,136,969; however, during the Meet and Confer process, the Agency provided additional information showing that the funds were bond proceeds. Therefore, Finance is reversing the increase, but continues to maintain a portion of the adjustments.

    - An amount of $2,250,450 was transferred to the City in March 2011 for a Public Improvements Reimbursement Agreement between the City and the former Redevelopment Agency (RDA). The former RDA committed funds up to $2,250,450 for five public improvement projects. Documents provided by the Agency show that the City executed contracts with third parties on behalf of the former RDA, committing $1,767,384 in tax allocation bonds as of June 27, 2011. Additionally, $216,637 was expended on direct project management costs. Therefore, the uncommitted amount of $266,429 ($2,250,450 - $1,767,384 - $216,637) should be returned to Agency. Since these amounts are related to legally restricted bond funds, Finance is making no adjustments to the available balance to the affected taxing entities.

Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former redevelopment agency or successor agency to the city, county, or city and county that formed the former RDA 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 Public Improvements Reimbursement Agreement is not an enforceable obligation. Furthermore, pursuant to HSC section 34177.3, the successor agency lacks the authority to create new obligations, except in compliance with an enforceable obligation that existed prior to June 28, 2011. Since the Public Improvements Reimbursement Agreement is not an enforceable obligation, the City can no longer contractually commit any additional funds of the former RDA.

- An amount of $460,000 was transferred to the Authority in March 2011 for a loan agreement executed between the former RDA and the Authority to provide gap financing to the Croftwood Sever Lift Station Project. The Authority is a Joint Powers Agency (JPA) between the City of Rocklin and the former RDA, and the board is composed of the City Council and the former RDA members. Therefore, Finance considers this an agreement between the former RDA and the City. As previously stated, HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171. Pursuant to HSC section 34171 (d) (2), agreements between the City and former RDA are not enforceable obligations. Therefore, the transfer of $460,000 from the former RDA to the Authority is not allowed and the funds should be returned to the Agency. Since these are bond funds, Finance is making no adjustments to the available balance to the affected taxing entities.

Once the Agency receives a finding of completion pursuant to HSC section 34179.7, the Agency will be permitted to use bond proceeds derived from bonds issued on or before December 31, 2010, for the purposes for which the bonds were sold.

- The Agency requested to retain a balance of $5,731,886 to satisfy obligations for fiscal year 2012-13.

For the Recognized Obligation Payment Schedule (ROPS) for July through December 2012 period (ROPS II), Finance approved $4,583,022 and the County Auditor Controller distributed $1,472,194 from the Redevelopment Property Tax Trust Fund (RPTTF). For the July through December 2013 ROPS period (ROPS 13-14A), the Agency reported actual expenditures of $1,811,880 for the ROPS II period. Therefore, the Agency may retain $1,811,880.

For the January through June 2013 ROPS period (ROPS III), Finance approved $3,697,015 and the County Auditor Controller distributed $1,681,176 from the RPTTF. The Agency had total cash balances of $1,890,051. Since $1,811,880 is being retained for the ROPS II period, only $78,171 ($1,890,051 - $1,811,880) remains to cover the shortfall in the ROPS III period. Therefore, the Agency may retain the remaining $78,171 for the ROPS III period.

The Agency has insufficient cash to cover the requested $5,731,886. Therefore, Finance is decreasing the request by $3,841,835 ($5,731,886 - $1,811,880 - $78,171).

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:	$	(3,841,835)
Finance Adjustments		
Unsupported balances retained for 2012-13 obligatons		3,841,835
Total OFA available to be distributed:	$	-

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 Mary Halterman, Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Kim Sarkovich, Chief Finance Officer, City of Rocklin
Ms. Jayne Goulding, Managing Accountant Auditor, County of Placer
California State Controller's Office