DEPARTMENT OF FINANCE

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June 14, 2013

Mr. Chris Pahule, Program Manager
Sacramento Housing & Redevelopment Agency
801 12th Street
Sacramento, CA 95814

Dear Mr. Pahule:

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 May 13, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the County of Sacramento Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on February 27, 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). Finance issued an OFA DDR determination letter on May 13, 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 May 30, 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 assets legally restricted for uses specified by debt covenants, grant restrictions, or other legal restrictions in the amount of $25,365,231 were decreased by $792,087. According to the 2003 Tax Allocation Revenue Bond Series A Official Statement, the Agency is required to maintain $2,512,175 to satisfy the bond reserve requirement; however, trustee statements provided indicate that the Agency holds $3,304,262 in the reserve account. The Agency contends that the excess funds held in bond reserves represent earnings of the fiscal agent and can only be used to pay future debt service consistent with the bond covenants. During the Meet and Confer process, the Agency provided the *Mather/McClellan Merged Loan Agreement Dated as of December 1, 2003* (Loan Agreement). Section 2.05 of the Loan Agreement specifically identifies what the Agency should do in the event that the amount in the reserve account exceeds the reserve requirement. The Loan Agreement states that "In the event that the amount on deposit in the Reserve Account on or before the sixth (6th) Business Day preceding and Interest Payment Date (other than the final Interest Payment Date) exceeds the Reserve Requirement, the Trustee shall withdraw from the Reserve Account all amounts in excess of the Reserve Requirement and deposit such amounts in the Revenue Fund to

be applied as a credit toward Loan Payments." Therefore, Finance is reversing its adjustment of $792,087. However, Finance notes that on subsequent Recognized Obligation Payment Schedules, the Agency should request the use of any excess funds in the bond reserve to make the debt service payments prior to requesting funding from the Redevelopment Property Tax Trust Fund.

- The non-cash or cash equivalent assets in the amount of $7,480,879 continue to be decreased by $5,961. The Agency stated that the $5,961 difference between Exhibits B and D in the OFA DDR was due to an adjustment made by the OFA DDR auditors to one of the exhibits, but not the other. The Agency provided additional information during the Meet and Confer process to clarify that the actual non-cash or cash equivalent assets is $7,474,918 and that this amount was used in the Agency's total asset calculation. Therefore, the Agency needs to retain $7,474,918 as restricted non-cash or cash equivalent assets and the OFA balance available for distribution should be increased by the remaining $5,961 ($7,480,879 - $7,474,918).

- The Agency's request to retain $9,472,873 to satisfy Recognized Obligation Payment Schedule obligations for the 2012-13 fiscal year is approved. The Agency provided additional information during the Meet and Confer process showing that all funds requested by the Agency in the OFA DDR are needed to satisfy approved obligations during the 2012-13 fiscal year. Therefore, Finance is reversing its adjustment of $2,406,430.

The Agency's OFA balance available for distribution to the affected taxing entities is $2,326,340 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	2,320,379
Finance Adjustments		
Add:		
Not cash or cash equivalent assets not supported	$	5,961
Total OFA available to be distributed:	$	2,326,340

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 Derk Symons, Analyst, at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Lori Miller, Finance Manager, Sacramento Housing and Redevelopment Agency
Mr. Carlos Valencia, Senior Accounting Manager, Sacramento County
California State Controller's Office