DEPARTMENT OF FINANCE

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May 8, 2013

Ms. Susan Gorospe, Senior Management Analyst
City of Santa Ana
20 Civic Center Plaza, M-25
Santa Ana, CA 92701

Dear Ms. Gorospe:

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 April 1, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Santa Ana Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 10, 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 April 1, 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 23, 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 request to restrict balances for uses specified by debt covenants or other legal restrictions in the amount of $15,048,956 was decreased by $8,369,675. During the Meet and Confer process, the Agency provided additional information showing that the $8,369,675 was related to bond proceeds and reserves for the Series 2003 A and 2011 A Bonds. Therefore, Finance is reversing its adjustment of $8,369,675.

- The Agency requested to retain $20,091,182 for fiscal year 2012-13 enforceable obligations. Based upon further review during the Meet and Confer process, the Agency may retain $8,935,436 ($8,810,436 + $125,000) for approved enforceable obligations, as further discussed below. Accordingly, the OFA balance available will be increased by $11,155,746 ($20,091,182 - $8,935,436.

    - On the Recognized Obligation Payment Schedule (ROPS) for the July through December 2012 (ROPS II) period, Finance approved $7,422,871 and the County Auditor Controller (CAC) distributed $0 from the Redevelopment Property Tax Trust Fund (RPTTF). During the Meet and Confer process, the Agency provided additional information showing that $3,318,741 was expended from OFA balances on obligations approved on the ROPS II form. Additionally, the Agency expended $5,491,695 on bond debt service during the ROPS II period with funds

that were approved on the January through June 2012 (ROPS I) form. Therefore, the Agency may retain $8,810,436 ($3,318,741 + $5,491,695) for the ROPS II period.

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.

Finance also notes that HSC section 34177 (a) (3) states that only those payments listed in the approved ROPS may be made from the funding source specified in the ROPS. However, HSC section 34177 (a) (4) goes on to state that with prior approval from the oversight board, the successor agency can make payments for enforceable obligations from sources other than those listed in the ROPS. In the future, the Agency should obtain prior oversight board approval when making payments for enforceable obligations from a funding source other than those approved by Finance.

- For the January through June 2013 ROPS (ROPS III) period, Finance approved and the CAC distributed $7,152,258 from the RPTTF. The CAC did not make any adjustments for the January through June 2012 (ROPS I) period to the January 2, 2013 ROPS III distribution pursuant to HSC section 34186 (a). As such, the Agency received sufficient funds from the RPTTF to cover all of the approved expenditures in the ROPS III period and it is unnecessary for the Agency to retain current OFA balances for obligations that have already been funded through a separate process. However, Finance approved $125,000 to be expended from OFA balances during the ROPS III period. Therefore, the Agency may retain $125,000 for approved enforceable obligations during the ROPS III period.

  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), requesting the accumulation of reserves on the ROPS when a future balloon or uneven payment is expected pursuant to HSC section 34177 (d) (1) (A), 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.

Additionally, Finance notes the following:

- The DDR identified 15 properties transferred to the City of Santa Ana per Oversight Board (OB) Resolution 2012-09, adopted on June 26, 2012. Although Finance did not initiate a review of this OB action, we would like to remind the Agency that pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency.

- The Agency issued 2011 Tax Allocation Bonds. To the extent proceeds from bonds issued after December 31, 2010 exist and are not encumbered by an enforceable obligation pursuant to HSC 34171 (d), HSC section 34191.4 (c) (2) (B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

The Agency's OFA balance available for distribution to the affected taxing entities is $21,760,018 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	10,604,272
Finance Adjustments		
Add:		
Requested retained balance not supported		11,155,746
Total OFA available to be distributed:	$	21,760,018

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. Nancy Edwards, Interim Executive Director, Community Development Agency, City of Santa Ana
Mr. Frank Davies, Property Tax Manager, Orange County
Mr. Steven Mar, Bureau Chief, Local Government Audit Bureau, California State Controller's Office