DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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

July 3, 2013

Ms. Karin Schnaider, Finance Director
City of Sierra Madre
252 West Sierra Madre Boulevard
Sierra Madre, CA 91024

Dear Ms. Schnaider:

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 29, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Sierra Madre Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on March 14, 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 was 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 29, 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 June 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:

- Property transfers to the City of Sierra Madre (City) in May and June 2012 totaling $5.2 million from the former Redevelopment Agency (RDA) was partially denied. The Agency states that the transfer is enforceable due to the Oversight Board Resolution approving the transfer. During the Meet and Confer process, the Agency provided lease agreements stating that the titles of the properties were to pass from the Agency to the City when the bonds and other costs of the building were paid in full. The Oversight Board concluded in resolution OB-12-003 that the properties and other fixed assets were for governmental use and thereby allowable for transfer to the City; however, Finance did not review OB-12-003 and is unable to determine whether or not all properties meet the definition of governmental use.

  The non-liquid assets transferred to the City are subject to the California State Controller's Office (SCO) review of asset transfers. It is our understanding the SCO is concluding its review of those properties. Finance will rely upon the outcome of the SCO audit to determine if the property transfers are allowable. To the extent it is determined the properties do not meet criteria outlined in HSC section 34181 (a), they should be

returned to the Agency and disposed of in a manner consistent with the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5.

Since property is not considered cash or cash-equivalent asset, Finance has made no adjustment to the available balance to the affecting taxing entities for this amount. However, the Agency is required to reverse any improper transfers of property and recover the assets from the City.

- The request to retain $5,194 to pay for bond trustee fees continues to be denied. The Agency stated that these were bond trustee fees that are required by the 1998 bond indenture to be paid annually to the Bank of New York; however, this obligation was not placed in a Recognized Obligation Payment Schedule (ROPS). Pursuant to HSC section 34177 (a) (3) only payments listed and approved in a ROPS may be made by the successor agency from the funds specified in the ROPS. Finance does not question the enforceability of the $5,194 in 1998 bond trustee fees; however, the Agency is required to place this obligation on a future ROPS for review and approval. As such, the Agency cannot restrict OFA balances for obligations not yet deemed enforceable and as such, Finance is increasing the OFA balance available by $5,194.

- Balances requested to be retained in the amount of $442,500 for fiscal year 2012-13 obligations are approved. During the Meet and Confer process, the Agency provided additional documentation supporting the need to retain $442,500 in order to satisfy the Agency's fiscal year 2012-13 obligations. Therefore, Finance is reversing its adjustment of $114,700.

The Agency's OFA balance available for distribution to the affected taxing entities is $547,192 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	541,998
Finance Adjustments		
Add:		
Requested retained balance not supported:		5,194
Total OFA available to be distributed:	$	547,192

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, Dispute Resolution Supervisor, or Derk Symons, Analyst, at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Elaine Aguilar, City Manager, City of Sierra Madre
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office