



April 26, 2013

Ms. Carol E. Giovanatto, City Manager
City of Sonoma
No. 1 The Plaza
Sonoma, CA 95476
3232 Main Street

Dear Ms. Giovanatto:

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 22, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Sonoma 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 22, 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 5, 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:

- Assets transferred to the City of Sonoma (City) in the period between January 2011 and January 2012 was increased by \$1,985,807. HSC section 34179.5 (c) (2) only allows asset transfers within this period that are required by an enforceable obligation. In addition, HSC section 34171 (d) (2) states that agreements or contracts between the former redevelopment agency and the City that created the redevelopment agency (RDA) are not enforceable. During the Meet and Confer process, the Agency provided additional information and documents for the transfers. Finance is reversing \$1,802,660 of the adjustment and continues to increase the OFA balance available by \$183,147, as discussed below.
 - Reimbursement of purchases of goods and services in the amount of \$1,802,660. During the Meet and Confer process, the Agency provided additional documents to support these expenditures. Additionally, all the transactions occurred prior to January 1, 2011. Therefore, these transfers should not have been included in the DDR and Finance is reversing its adjustment of \$1,802,660.

- Lease payments in the amount of \$38,647 in which the former RDA covers 37 percent of the total lease payments. The lease agreement is between the Municipal Finance Corporation and the City, and the former RDA is not a party to the agreement. Additionally, the agreement states the lease payments will be made by the City, not the former RDA. Therefore, this item is not an enforceable obligation and Finance continues to increase the OFA balance available by \$38,647.
- Cooperation Agreement between the City and the former RDA in the amount of \$144,500 related to the repayment of Clean Renewable Energy Bonds (CREBs) received by the City from the United States Department of Treasury/Internal Revenue Service. 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, contracts detailing specific work that were entered into by the former redevelopment agency prior to June 28, 2011 with a third party other than the city, county, or city and county that created the former RDA. HSC section 34171 (d) (2) states that written agreements entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations.

Although the Cooperation Agreement is solely for the purpose of securing or repaying indebtedness obligations, it was not entered into at the time of issuance of the indebtedness obligations. The Cooperation Agreement was entered into on June 2, 2010, and the CREBs were received December 11, 2007. Therefore, this item is not an enforceable obligation and Finance continues to increase the OFA balance available by \$144,500.

- Balances to be retained for assets legally restricted in the amount of \$7,662,353 were originally decreased by Finance in the amount of \$2,522,442. The balance considered restricted was limited to the \$5,139,911 reserved and supported by the fiscal agent bank statements; no additional support was provided to indicate the \$2,522,442 is legally restricted.

During the Meet and Confer process, the Agency provided additional information showing that \$2,406,033 of the \$2,522,442 was bond proceeds transferred to the City. Further, the Agency provided additional documents showing that \$3,454,000 and \$3,177,100 in bond proceeds was transferred to the City on July 12, 2011 and January 4, 2012, respectively. The transfers were related to various projects listed on the Recognized Obligation Payment Schedules (ROPS), which were denied by Finance. Therefore, the Agency should recover the transferred bond proceeds from the City. In addition, the restricted amount for bond proceeds, including the reserve account, should be increased from \$7,545,944 to \$11,771,011 ($\$7,545,944 - \$2,406,033 + \$3,454,000 + \$3,177,100$).

The remaining \$116,409 of the \$2,522,442 is related to Item 12 on Form A of the January through June 2012 ROPS (ROPS I). Finance did not deny the item during the

ROPS I review; however, the Agency did not expend the funds during the ROPS I period. Finance notes that amounts requested and approved in a ROPS are effective only for the six-month period covered. To the extent this item is an enforceable obligation, the Agency should relist it on a subsequent ROPS for review requesting funds from the Redevelopment Property Tax Trust Fund. Therefore, Finance continues to increase the OFA balance available by \$116,409.

- During the Meet and Confer process, the Agency identified an error made in the DDR related to funds needed for fiscal year 2012-13 not being restricted in Procedure 9.

For the July through December 2012 ROPS period (ROPS II), Finance approved \$4,551,292 and the County Auditor Controller (CAC) distributed \$2,750,874 from the Redevelopment Property Tax Trust Fund (RPTTF). This resulted in a shortfall for the ROPS II period and the Agency provided additional information showing \$449,652 was expended from the OFA balances to cover the shortfall. Additionally, Finance approved \$24,453 to be expended from OFA balances. Therefore, the Agency may retain \$3,224,979 (\$2,750,874 + \$449,652 + \$24,453) for the ROPS II period.

For the January through June 2013 ROPS period (ROPS III), Finance approved and the CAC distributed \$789,725 from the RPTTF. The CAC did not make any adjustments for the January through June 2012 period (ROPS I) on 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.

Therefore, Finance is decreasing the OFA balances available by \$3,224,979 to cover enforceable obligations from the ROPS II period.

The Agency's OFA balance available for distribution to the affected taxing entities is \$5,564,657 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 8,490,080
Finance Adjustments	
Add/Deduct:	
Disallowed transfers:	\$ 183,147
Requested retained balance not supported:	116,409
Amounts to retain for FY 2012-13 obligations:	(3,224,979)
Total OFA available to be distributed:	\$ 5,564,657

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.

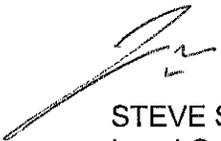
Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain 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: Mr. Scott Williams, Accountant, City of Sonoma
Mr. Erick Roeser, Property Tax Manager, County of Sonoma
California State Controller's Office