



May 2, 2013

Ms. Joann Shao, Accounting Manager  
City of South El Monte  
1415 N. Santa Anita Ave  
South El Monte, CA 91733

Dear Ms. Shao:

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 26, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of South El Monte 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 March 26, 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 15, 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:

- Repayment of loan interest in the amount of \$251,736 to the City of South El Monte (City) was disallowed. It is our understanding cash transferred to the City on June 29, 2011. Per City Resolution No. 88-2873 dated June 9, 1988, the City was allowed to advance funds to the South El Monte Improvement District (RDA). Further, City Resolution No. 88-2873 states the former RDA agrees to reimburse the City for advances with an interest rate of seven percent. Per Agency staff, the transferred amount is a repayment on the accumulated interest from funds that were advanced within the first two years of creation. During the Meet and Confer process, the Agency provided additional documents showing the original loan was made within the first two years of creation. Therefore, Finance is reversing its adjustment of \$251,736.
- Retention of balances for fiscal year 2012-13 in the amount of \$3,671,506 is partially denied.

For the Recognized Obligation Payment Schedule (ROPS) for the January through June 2012 (ROPS I) period, the Agency accrued \$188,710 in expenditures from the ROPS I that were not paid until the July through December 2012 ROPS (ROPS II) period. During the Meet and Confer process, the Agency provided supporting documents

showing the payments were made after June 30, 2012. Therefore, the Agency may retain \$188,710 for ROPS I expenditures.

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 reclassify 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 approved \$3,840,406 for the ROPS II period and the County Auditor Controller distributed \$2,070,255 from the Redevelopment Property Tax Trust Fund (RPTTF) on June 1, 2012. On the July through December 2013 ROPS (ROPS 13-14A), the Agency reported and the County Auditor Controller verified that the Agency's expenditures on approved enforceable obligations for the ROPS II period did not exceed the amount from the RPTTF. Therefore, the Agency may retain \$2,070,255 received from the RPTTF, but the retention of additional OFA balances is unnecessary. To the extent the Agency did not fully expend the RPTTF received during the ROPS II, the County Auditor Controller may make an adjustment to the RPTTF distribution for the ROPS 13-14A period pursuant to HSC section 34186 (a).

For the January through December 2013 ROPS period (ROPS III), Finance approved \$1,743,198 and the County Auditor Controller distributed \$1,155,290 from the RPTTF. Additionally, Finance notes the County Auditor Controller adjusted the ROPS III January 2, 2013 distribution by \$342,600 pursuant to HSC section 34186 (a). This resulted in a \$245,308 (\$1,743,198 - \$1,155,290 - \$342,600) funding shortfall for the ROPS III period. Therefore, the Agency may retain \$587,908 (\$342,600 + \$245,308) in order to adequately fund approved ROPS III expenditures.

Should deficits 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.

As such, the OFA balance available for distribution to the taxing entities will be increased by \$824,633 (\$3,671,506 - \$188,710 - \$2,070,255 - \$587,908).

The Agency's OFA balance available for distribution to the affected taxing entities is \$555,425 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (269,208)
Finance Adjustments	
Add:	
Retained balances not supported:	\$ 824,633
<b>Total OFA available to be distributed:</b>	<b>\$ 555,425</b>

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. Anthony Ybarra, City Manager, City of South El Monte  
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller  
California State Controller's Office