



May 1, 2013

Mr. Bryan Cook, Assistant City Manager  
City of South Gate  
8560 California Avenue  
South Gate, CA 90280

Dear Mr. Cook:

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 South Gate 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 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 22, 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:

- Transfers to the City of South Gate (City) totaling \$3,155,940 are partially disallowed. In September 2011, the former redevelopment agency (RDA) made payments totaling \$3,155,940 in payments to the City. Our review indicates the following:

The Agency paid \$2,001,562 in principal and interest payments to the City for for a Section 108 Housing and Urban Development (HUD) section 108 loan and 2002 Series A and B Certificates of Participation. These items were included and approved on the Recognized Obligation Payment Schedules (ROPS) for the January through June 2012 (ROPS I), July through December 2012 (ROPS II), and January through June 2013 (ROPS III) periods. Therefore, \$2,001,562 was paid pursuant to enforceable obligations and are permitted. No adjustment to the OFA balance available for distribution is warranted.

The Agency also transferred \$1,154,378 to the City towards principal and interest payments on advances the City made to the Agency. 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. HSC section 34171 (d) (2) states “enforceable obligation” does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA. These advances were issued after the first two years of the RDA’s creation. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted. The OFA balance available for distribution will be increased by \$1,154,378.

After the Agency receives a Finding of Completion from Finance, these loans may become enforceable and eligible to be repaid through the Recognized Obligation Payment Schedule (ROPS) process.

- Long-term receivables related to the South Gate Towne Center Plaza totaling \$7.2 million. In July 2010, the RDA and Southland Corporation were the plaintiffs in connection to Los Angeles County Superior Court Cases # VC050274 and #VC047162 whereby the resulting Settlement and Mutual General Release Agreement was signed in accordance to court rulings. Under the Settlement Agreement, a new promissory note was signed for \$6 million with the balance being due to the RDA by March 31, 2013. In addition, an existing promissory note was acknowledged with a balance of \$1.2 million which is also payable by March 31, 2013. These two notes are no longer considered long-term receivables in Procedure 7. As such, the OFA balance available for distribution to the taxing entities will be adjusted by \$7.2 million.
- Our review indicates the Agency requested to retain balances totaling \$939,908 that is legally restricted for funding enforceable obligations. Our review indicates this amount is needed to satisfy approved obligations for the ROPS II period; therefore, no adjustment is warranted.

The Agency’s OFA balance available for distribution to the affected taxing entities is \$10,585,948 (see table on the next page).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 2,272,498
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 1,154,378
Assets incorrectly categorized as non-cash	7,159,072
<b>Total OFA available to be distributed:</b>	<b>\$ 10,585,948</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 Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Nellie Ruiz, Senior Accountant, City of South Gate  
Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller  
California State Controller's Office