DEPARTMENT OF FINANCE
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May 5, 2013

Mr. Omar Dadabhoy, Development Executive Director
City of Stanton
7800 Katella Avenue
Stanton, CA 90680

Dear Mr. Dadabhoy:

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 Stanton 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 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:

- Our review indicates the total amount of assets held as of June 30, 2012 should be $31,793,842 due to the fact the June 30, 2012 balance reflects disallowed expenditures. As such, the total amount of assets held as of June 30, 2012 has been adjusted by $318,370. During the Meet and Confer process, the Agency requested to retain the funds for future enforceable obligations. However, the Agency has not provided sufficient documentation to support the request to retain funds.

- Transfers totaling $9,029,841 are disallowed. The Agency transferred bond proceeds in the amounts of $8,586,029 and $443,232 to the City of Stanton (City) to repay an advance. 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 loans 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. For DDR purposes, these disallowed transactions will not affect the amount available for distribution to the affected taxing entities because bond proceeds are restricted assets. However, these improper transfers should be reversed, and the Agency should recover the bond proceeds.

We note that pursuant to HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010, for the purposes for which the bonds were issued.

Additionally, the repayment of these loans may become enforceable obligations after the Agency receives a Finding of Completion from Finance. If the oversight board makes a finding that the loans were for legitimate redevelopment purposes, these loans should be placed on future Recognized Obligation Payment Schedules (ROPS) for repayment. Refer to HSC section 34191.4 (b) for more guidance.

Finance also noted property transfers totaling $52,236,498. The Agency transferred properties and other assets improperly to the City during the period March 2011 through June 2012. These non-liquid assets transferred to the City are subject to the California State Controller's Office review of asset transfers. To the extent these 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.

- The request to restrict funds for uses specified by debt covenants in the amount of $16,612,073 has been adjusted by $2,488,788. During the Meet and Confer process, the Agency stated the funds are needed for future enforceable obligations. However, the Agency has not provided sufficient documentation to support the request to restrict the funds. The OFA balance available will be increased by $2,488,788.

- In Schedule 6 of the DDR, the Agency requested $83,235 to retain legally restricted assets for enforceable obligations in the January through June 2012 Recognized Obligation Payment Schedule (ROPS I) period. However, the Agency did not provided supporting documents showing that these items were paid after June 30, 2012. Additionally, some of the items listed were denied by Finance and consequently could not be funded during the ROPS I period. Therefore, the Agency has not shown a need to retain OFA balances for ROPS I obligations. The OFA balance available will be increased by $83,235.

  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.

- The Agency requested to retain balances for the funding of enforceable obligations totaling $4,695,421. Based on further review during the Meet and Confer process, the Agency may retain $3,378,347 to fund approved enforceable obligations and the OFA balance available will be increased by $1,317,074 ($4,695,421 - $3,378,347), as further discussed below.

  For the July through December 2012 ROPS (ROPS II) period, Finance approved $4,026,074 and the County Auditor Controller (CAC) distributed $3,378,347 from the Redevelopment Property Tax Trust Fund (RPTTF). On the July through December 2013 ROPS (ROPS 13-14A) form the Agency reported expenditures totaling $3,343,745 and the CAC verified actual expenditures of $3,343,094 from RPTTF funding. The Agency received sufficient funds from the RPTTF to cover all of its expenditures in the ROPS II period and no additional OFA balances need to be retained. To the extent excess RPTTF was provided during the ROPS II period, the CAC may make an adjustment to the ROPS 13-14A distribution pursuant to HSC section 34186 (a). Therefore, the Agency may retain $3,378,347 for the ROPS II period.

For the January through June 2013 (ROPS III) period, Finance approved and the CAC distributed $4,102,935 from the RPTTF. The Agency contends $1,044,600 is included as an adjustment of future ROPS and is to be withheld by the County Auditor Controller (CAC) through the reconciliation process. However, the CAC did not make any adjustments for the January through June 2012 period (ROPS I) on the ROPS III January 2, 2013 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.

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.

The Agency's OFA balance available for distribution to the affected taxing entities is $4,207,467 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	-
Finance Adjustments		
Add:		
Adjustment to the June 30, 2012 balance		318,370
Requested restricted items not supported		2,572,023
Requested retained items not supported		1,317,074
Total OFA available to be distributed:	$	4,207,467

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. Terri Marsh, Director of Administrative Services, City of Stanton
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office