



April 18, 2013

Ms. Christine Londo, Finance Director  
City of Walnut  
P.O. Box 682  
Walnut, CA 91788-0682

Dear Ms. Londo:

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 15, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Walnut Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on December 13, 2012. 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 15, 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 3, 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:

- The Agency's request to retain \$2,453 in Procedure 6 for item 7 listed on the January through June 2012 Recognized Obligation Payment Schedule (ROPS I) was denied due to duplicity. It appears that the Agency had also requested to retain funds for this item in Procedure 8. However, during the Meet and Confer process, the Agency provided additional information showing that the \$2,453 was only included in Procedure 6 and not in Procedure 8. Therefore, Finance is reversing its adjustment of \$2,453.
- The Agency's request to retain \$1,756,270 for SERAF loan payments for 2010 and 2011 is not allowed. It is our understanding that the SERAF payments were made from funds borrowed out of the former Redevelopment Agency's Low and Moderate Income Housing Fund (LMIHF). Although SERAF payments are considered enforceable obligations per HSC section 34171 (d) consistent with the statutes governing the OFA DDR, HSC section 34176 (e) (6) (B) specifies loan or deferral repayments shall not be made prior to the 2013-14 fiscal year. While ROPS 13-14A falls within fiscal year 2013-14, the repayment of these loans is subject to the repayment formula outlined in HSC section 34191.4 (b) (2) (A). HSC section 34191.4 (b) (2) (A) allows this repayment to be equal to one-half of the increase between the Recognized Obligation Payment Schedule residual pass-through distributed to the taxing entities in that fiscal year and the ROPS residual pass-through distributed to the taxing entities in the 2012-13 base year. Since

the formula does not allow for estimates, the Agency must wait until the ROPS residual pass-through distributions are known for fiscal year 2013-14 before requesting funding for this obligation. As such, because there are currently no enforceable obligations, the OFA balance available for distribution to the taxing entities is increased by \$1,756,270.

The Agency did not object to the following adjustments made by Finance during the Meet and Confer process. HSC section 34179.6 (d) authorizes Finance to make adjustments. We maintain that the following adjustments are appropriate:

- The Agency's request to retain \$222,212 as legally restricted for the funding of an enforceable obligation is partially denied. It is our understanding this amount is comprised of ROPS I obligations totaling \$78,012 and the remaining balance from ROPS II. Since these are ROPS I obligations that have not been spent as of the date of this letter, we are disallowing the Agency's request to retain these amounts. Although ROPS I obligations were approved with reserves as a funding source, these obligations can be placed on a future ROPS to be funded with RPTTF. Therefore, the OFA balance available for distribution to the taxing entities will be increased by \$78,012.

The Agency's OFA balance available for distribution to the affected taxing entities is \$254,224 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (1,580,058)
Finance Adjustments	
Add:	
Requested retained balance not supported:	1,834,282
<b>Total OFA available to be distributed:</b>	<b>\$ 254,224</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. Tom Weiner, Community Development Director, City of Walnut  
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller  
California State Controller's Office