



**DEPARTMENT OF
FINANCE**

EDMUND G. BROWN JR. • GOVERNOR

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July 3, 2013

Mr. Tim Ogden, City Manager
City of Waterford
101 E Street
Waterford, CA 95386

Dear Mr. Ogden:

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 May 31, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Waterford Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on March 27, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the January 15, 2013 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). Finance issued an OFA DDR determination letter on May 31, 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 June 19, 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 the specific item being disputed. Specifically, the following adjustment was made:

- Assets transferred to the City of Waterford (City) during the period of January 1, 2011 through June 30, 2012 in the amount of \$137,640 continue to be denied. In March 2011, the Agency transferred \$137,640 from the former Redevelopment Agency's (RDA) Projects Fund to the City's Public Ways and Facilities Projects Capital Projects Fund.

During the Meet and Confer process, the Agency stated that the transfer was made to meet the local match requirement of a federal grant received by the City. However, no grant agreements or former RDA resolutions were provided showing that the former RDA was responsible for providing the match on the City's behalf. The Agency provided the resolutions and adopted budgets for the former RDA and the City showing the budgeted transfers between the former RDA and the City for fiscal year 2011-12; however, no resolutions were provided showing the former RDA committed the budgeted transfer of funds in the adopted budget as the local match to the federally funded transportation grants. Additionally, the Agency provided three grant applications that were submitted by the City, not the former RDA, that identify the funding source for the local match as the former RDA; however, no grant agreements were provided to

show that the former RDA is responsible for providing the match. In addition, the applications do not support the amount transferred; the applications only reflect \$71,824.

Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former RDA 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 RDA prior to June 28, 2011, with a third party other than the city, county, or city and county that created the former RDA. Because no documents support the transfer was required by an enforceable obligation, the transfer is not permitted. Accordingly, the OFA balance available for distribution to the taxing entities is increased by \$137,640.

If for some reason the Agency cannot immediately remit the entire sum, HSC section 34179.6 (h) (3) authorizes Finance to review requests for an installment payment plan. If the Agency wishes to make installment payments, please notify your Agency's assigned Finance review staff immediately. Upon receipt of your request, Finance will work with your Agency to determine whether installment payments are appropriate.

The Agency's OFA balance available for distribution to the affected taxing entities is \$137,640 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 137,640
Total OFA available to be distributed:	\$ 137,640

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

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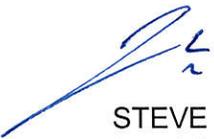
provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows 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, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Tina Envia, Finance Manager, City of Waterford
Ms. Lauren Klein, Auditor-Controller, County of Stanislaus
Mr. Steven Mar, Bureau Chief, Local Government Audit Bureau, California State
Controller's Office