DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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May 1, 2013

Mr. Martin Tuttle, City Manager
City of West Sacramento
1110 West Capitol Avenue
West Sacramento, CA 95691

Dear Mr. Tuttle:

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 West Sacramento Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 14, 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:

- Assets transferred during the period of January 1, 2011 through June 30, 2012 in the amount of $1,656,097 are not allowable, as discussed below:
    - Pursuant to a purchase and sale agreement, the former Redevelopment Agency (RDA) paid $1.2 million of the $2.7 million total purchase price to the Sacramento-Yolo Port District (Port), a component of the City of West Sacramento (City), on March 4, 2011 to purchase property. The Agency, in concurrence with the Oversight Board, subsequently elected to discontinue the purchase and returned the property to the Port via a Deed in Lieu of Foreclosure, waiving the remaining payment of $1.5 million due on March 1, 2012; the Agency received nothing in return for the $1.2 million paid towards the property purchase. The Agency contends that there is no provision for seeking reimbursement of the funds.
    - Pursuant to the Port Capital Reserve Funding Agreement entered into by the former RDA and the Port on April 2009, $226,562 and $229,535 were transferred to the Port between April 2011 and June 2012. Per the Agency, the funding agreement provides that the RDA would make payments to the Port over time for the principal amount of $10 million in lieu of a cash payment for property transferred to the RDA. As stated above, the Port is a component unit of the

City; therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted. Therefore, the OFA balances available for distribution to the taxing entities will be increased by $456,097.

Pursuant to HSC section 34167.10 (a), the definition of "city" includes, but is not limited to, any reporting entity of the city for purposes of its comprehensive annual financial report (CAFR), any component unit of the city, or any entity controlled by the city or for which the city is financially responsible or accountable. The Port is included in the City's CAFR and is identified as a component unit of the City in the CAFR. Although the Port is a separate legal entity from the City, HSC section 34167.10 (c) states that it shall not be relevant that the entity is formed as a separate legal entity. Therefore, both agreements are between the City and the former RDA and are not enforceable obligations.

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, and indebtedness obligations as defined in subdivision (e) of Section 34171. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted. As such, the OFA balances available for distribution to the taxing entities will be increased by $1.2 million.

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

- Balances requested to be retained in the amount of $11,595,431 should be decreased by $3,132,621.
    - The Agency requested to retain $2,531,127 for the pass-through payments for the July through December 2012 Recognized Obligation Payment Schedule period (ROPS II). These payments were made directly by the County Auditor Controller. The Agency did not receive the associated funding for these payments and it was not included in the Agency's DDR total asset balance. Therefore, the OFA balances available for distribution to the taxing entities will be increased by $2,531,127.
    - The Agency requested to retain $601,494 for fiscal year 2012-13 obligations. This amount was included in the January through June 2013 ROPS (ROPS III) expenditures that were approved with Redevelopment Property Tax Trust Fund (RPTTF) funding. Since the County Auditor Controller distributed RPTTF for approved ROPS III obligations on January 2, 2013, after the June 30, 2012 OFA balances delineated in the DDR, it is inappropriate for the Agency to retain current OFA balances for obligations that have already been funded through a separate process. Therefore, the OFA balances available for distribution to the taxing entities will be increased by $601,494.

The Agency's OFA balance available for distribution to the affected taxing entities is $4,788,718 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	-
Finance Adjustments		
Add:		
Disallowed transfers:	$	1,656,097
Request to retain balance not supported:		3,132,621
Total OFA available to be distributed:	$	4,788,718

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. Paul Blumberg, Public Finance Manager, City of West Sacramento
Mr. Howard Newens, Auditor-Controller, County of Yolo
California State Controller's Office