



June 11, 2013

Ms. Shelly Gunby, Financial Management Director
City of Winters
318 First Street
Winters, CA 95694

Dear Ms. Gunby:

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 15, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Winters Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on March 4, 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 May 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 May 28, 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:

- Balances requested to be retained totaling \$1,501,329 (\$1,417,575 + \$83,754) for fiscal year 2012-13 obligations are approved. Our review indicated the following:
 - The Agency was approved for and received \$744,621 for the July through December 2012 Recognized Obligation Payment Schedule (ROPS II) period; however, the Agency reported total expenditures of \$1,114,177. Upon additional review, Finance verified that the Agency included a higher payment for the January through June 2012 (ROPS I) period, but only interest was due during the ROPS I period. The amounts paid in excess of the amounts approved for the ROPS II period were for bond debt service principal and interest payments in accordance with the bond debt service schedule for both the 2004 and 2007 bonds. The Agency will be permitted to retain the funds received for the ROPS II period and the funds approved during the ROPS I period, but not expended until the ROPS II period to make the debt service payments.

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.

- o The Agency was approved for \$1,015,549 in the January through June 2013 (ROPS III) period; however, the County Auditor Controller only distributed \$631,855. The Agency will be permitted to retain the difference, \$383,694 (\$1,015,549 - \$631,855), to satisfy ROPS III approved obligations.
- o The Agency will also be permitted to retain the remaining \$3,458 (\$1,501,329 - \$1,114,177 - \$383,694) requested. The Agency provided adequate information and documentation supporting these funds are needed to satisfy debt service obligations for the July through December 2013 (ROPS 13-14A) period.

Finance notes that HSC section 34177 (a) (3) states that only those payments listed in the approved ROPS may be made from the funding source specified in the ROPS. However, HSC section 34177 (a) (4) goes on to state that with prior approval from the oversight board, the successor agency can make payments for enforceable obligations from sources other than those listed in the ROPS. The Agency should obtain prior oversight board approval when making payments for enforceable obligations from a funding source other than those approved by Finance on the ROPS.

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:

- Assets transferred to the City of Winters (City) in the period between January and June 2011 totaling \$1.9 million. Agency transferred five properties to the City and the City transferred \$1.9 million to the Agency, which is essentially a wash. However, HSC section 34179.5 (c) (2) only allows transfers of assets required by an enforceable obligation. Enforceable obligations are defined in HSC section 34179.5 (b) (2). Therefore, this transfer is not allowed. These assets must be returned to the Agency to be included in the Long Range Property Management Plan. Since these are non-liquid assets, Finance made no adjustments to the available balance to the affected taxing entities.

The Agency's OFA balance available for distribution to the affected taxing entities has been revised to \$0, as reported on the DDR.

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.

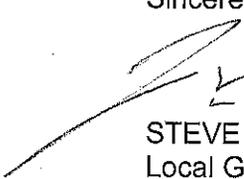
Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain 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: Mr. Howard Newens, CPA, Auditor-Controller, Yolo County
California State Controller's Office