



May 1, 2013

Ms. Cynthia A. Fortune, Finance Manager  
City of Grand Terrace  
22795 Barton Road  
Grand Terrace, CA 92313-5295

Dear Cynthia A. Fortune:

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 25, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Grand Terrace 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 25, 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 16, 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:

- Transfers totaling \$1,519,590 (\$651,875 + \$867,715) were previously not allowed. During the Meet and Confer process, the Agency provided additional information showing \$700,355 (\$651,875 + \$48,480) of the adjustment should be reversed and the \$819,235 adjustment should be equally offset with an increase to non-cash or cash equivalent assets, as further discussed below. Additionally, during the Meet and Confer process, another \$267,622 transfer was identified that should be adjusted and restricted as a non-cash or cash equivalent asset. Therefore, there is no affect to the OFA balance available.

During the initial review, it appeared that the Agency transferred funds in the amount of \$1,207,500 to Stater Bros. Markets. However, during the Meet and Confer process, the Agency provided additional information showing that only \$163,125 has been paid to Stater Bros. Markets and \$1,207,500 remains outstanding. Therefore, Finance is reversing its adjustment of \$651,875.

Additionally, the Agency recorded transfers totaling \$867,715 to the City of Grand Terrace (City). The transfers consisted of a reduction to a loan receivable from the City to the former Redevelopment Agency (RDA) in the amount of \$819,235 and two payments on a project totaling \$48,480.

The \$819,235 reduction to a loan receivable was to retroactively give credit to the City for completing projects that may have been eligible to be paid using redevelopment funds. Furthermore, another credit of \$267,622 related to a 2003 property acquisition was made to the loan in February 2011. However, all of the projects had already been approved for funding from other funding sources, not RDA funds, and the expenditures had already been incurred and paid for many years ago. Therefore, the Agency should reverse the credits and increase the receivable from the City as a non-cash or cash equivalent asset.

Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former redevelopment agency 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 redevelopment agency 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.

The \$48,480 consisted of payments for a public improvements project. The Agency provided a resolution from the former RDA's Board committing up to \$266,040 in funding and a corresponding City Council resolution awarding a construction contract for the project on July 13, 2010. Therefore, Finance is reversing its adjustment of \$48,480.

- The request to restrict assets in the amount of \$2,022,528 was previously not allowed. During the Meet and Confer process, the Agency provided clarification that some of the bond proceeds had been transferred out of the investment account into the cash account because they had planned to begin a project. However, the project was denied by Finance and the Agency subsequently transferred the funds back to the investment account in December 2012. Therefore, Finance is reversing its adjustment of \$2,022,528.
- The request to restrict non-cash assets totaling \$3,230,823 (\$3,219,889 + \$10,934) was previously not allowed. During the Meet and Confer process, the Agency provided the loan agreement between the City and the RDA, which included the repayment terms. However, based on the adjustments made in the first bullet above, the loan receivable should be \$4,306,746 (\$3,219,889 + \$819,235 + \$267,622). Additionally, the Agency provided supporting documentation showing the accrued investment earnings should be \$5,865, rather than the \$10,934 that was estimated. Therefore, Finance is reversing its adjustment of \$3,230,823 and increasing the OFA balance available by \$5,865.
- The Agency requested to retain \$5,278,709 to cover enforceable obligations. Based upon further review during the Meet and Confer process, the Agency may retain \$5,285,380 (\$2,288,572 + \$1,437,405 + \$1,559,403) and the OFA balance available will be decreased by \$6,671 (\$5,278,709 - \$5,285,380), as further discussed below.
  - For the Recognized Obligation Payment Schedule (ROPS) period of January through June 2012 (ROPS I), the Agency incurred \$195,488 in expenditures that were not paid until the July through December 2012 ROPS period (ROPS II).

During the Meet and Confer process, the Agency provided supporting documents showing \$194,960 of the accruals were paid during the ROPS II period. Additionally, the Agency reported and provided supporting documents for another \$2,093,612 in ROPS I approved expenditures. Therefore, the Agency may retain \$2,288,572 (\$194,960 + \$2,093,612) to cover the ROPS I expenditures that were paid during the ROPS II period.

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.

- For the ROPS II period, Finance approved \$4,051,817 and the County Auditor Controller (CAC) distributed \$1,437,405 from the Redevelopment Property Tax Trust Fund (RPTTF). On the July through December 2013 ROPS form (ROPS 13-14A), the Agency reported and the CAC verified expenditures totaling \$1,290,403 funded by the RPTTF. Therefore, sufficient RPTTF was received to cover the expenditures during the ROPS II period and the Agency may retain \$1,437,405 for the ROPS II period.
- For the January through June 2013 ROPS period (ROPS III), Finance approved \$1,196,536 and the CAC distributed \$920,548 from the RPTTF. The CAC made a \$275,988 adjustment for the ROPS I period on the January 2, 2013 ROPS III distribution pursuant to HSC section 34186 (a). Additionally, Finance approved \$1,283,415 for enforceable obligations to be paid out of OFA balances. As such, the Agency may retain \$1,559,403 (\$275,988 + \$1,283,415) to cover approved enforceable obligations during the ROPS III period.

Should deficits 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.

- An increase to the OFA balance available in the amount of \$220,024 was made for the July 12, 2012 payment to the San Bernardino County Auditor-Controller. However, during the Meet and Confer process, the Agency provided additional information showing that this amount was not related to the July 12, 2012 payment, but pass through payments for the January through June 2012 period. Therefore, Finance is reversing its adjustment of \$220,024.

The Agency's OFA balance available for distribution to the affected taxing entities is \$1,650,496 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 1,651,302
Finance Adjustments	
Add:	
Balances need for fiscal year 2012-13 obligations	(6,671)
Requested restricted balances not supported	5,865
<b>Total OFA available to be distributed:</b>	<b>\$ 1,650,496</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.

Ms. Cynthia A. Fortune

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Please direct inquiries to Evelyn Suess, Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish at the end.

STEVE SZALAY

Local Government Consultant

cc: Ms. Betsy Adams, City Manager  
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County  
California State Controller's Office