



REVISED

January 13, 2014

Ms. Diana De Anda, Finance Director  
City of Loma Linda  
25541 Barton Road  
Loma Linda, CA 92354

Dear Ms. De Anda:

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 letters dated March 22, 2013 and April 27, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Loma Linda Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 15, 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 22, 2013. Subsequent to a Meet and Confer process, Finance issued a determination letter on April 27, 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:

- Our review indicates that \$2,273,000 was transferred to pay for loans between the City of Loma Linda and the agency. Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former redevelopment agency (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. HSC section 34171 (d) (2) states "enforceable obligation" does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA. These loans were issued after the first two years of the RDA's creation. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted. The OFA balance available for distribution will be increased by \$2,273,000.

The repayment of these loans may become enforceable obligations after the Agency receives a Finding of Completion from Finance. If the oversight board makes a finding that the loans were for legitimate redevelopment purposes, these loans should be placed on future Recognized Obligation Payment Schedules (ROPS) for repayment. Refer to HSC section 34191.4 (b) for more guidance.

- The request to restrict assets as non-cash or cash equivalent was previously increased by \$13,881,609. As further discussed below, the Agency provided additional information subsequent to the meet and confer to show that \$13,015,379 of this amount is not payable on demand and should not be included in the OFA balance available for distribution. However, we maintain that the remaining \$866,230 (\$857,646 + \$8,584) in OFA balances is available for distribution.

Finance previously determined a loan from the former RDA to the City for the Connected Communities Program (Program) totaling \$13,015,379 was payable on demand. Based on the additional information, Finance determined the former RDA loaned \$9,792,100 to the City between June 2005 and June 2007 for the Connected Communities Program. The remaining \$3,223,279 is unpaid interest on the loans. While the Agency did not provide an agreement for the loan, former RDA resolutions were provided indicating the loan would be repaid to the Agency at such time as receipts by the Program permit. Therefore, the loan is not considered payable-on-demand. During our review, the Agency provided documentation supporting that the Program has not received sufficient receipts to repay the loan. As such, no adjustment to the OFA balance is necessary.

Should the program receive sufficient receipts in the future, the Agency should request the use of these funds on a future ROPS for payment of enforceable obligations. Per HSC section 34177 (l)(1), these funds should be utilized prior to requesting funds from the Redevelopment Property Tax Trust Fund.

Additionally, Finance previously determined that \$857,646 related to a former RDA loan to the City for the Open Space land purchase is not permitted as a non-cash or cash equivalent asset. The Agency could not demonstrate that the loan was a valid long-term receivable. Commercial Code section 3108 states a promise or order is payable on demand if it does not state any time of payment. During the meet and confer, the Agency did not dispute that the funds should be returned to the Agency. As such, Finance maintains the adjustment to increase the OFA balance in the amount of \$857,646 is necessary.

Lastly, the former RDA loaned the Loma Linda Chamber of Commerce \$8,584. The Loan Agreement dated June 30, 2007 states "the entire Loan Amount and interest thereon shall be due and payable as of the third anniversary of the Date of Agreement." Therefore, this loan is no longer an illiquid asset and is available for distribution to the affected taxing entities.

- The request to restrict funds for uses specified by debt covenants, grant restrictions, or restrictions imposed by other governments was adjusted by \$2,032,850. During the Meet and Confer process, the Agency provided additional information showing that \$1,857,669 of the adjustment should be reversed and OFA balances should be increased by \$175,181, as further discussed below:

The repayment of funds dispersed from the Inland Valley Development Authority (IVDA) in the amount of \$175,181 is not allowed. In Finance's letter dated December 14, 2012 to IVDA, Finance reversed its decision regarding the need for the IVDA to recover funds, which originally appeared to be housing set-aside funds. It is our understanding that those funds were paid to the Joint Powers Authority (JPA) members per the JPA Agreement. Therefore, there is no need for the Agency to retain these funds for remittance to IVDA or for housing purposes.

Additionally, the Agency requested funds in the amount of \$1,857,669 for July 2012 debt service payments. During the Meet and Confer process, the Agency provided clarifying information showing that the \$1,857,669 was paid to the trustee in June 2012 from ROPS I funding and the subsequent bond payments were then made in July 2012 by the trustee. Therefore, the balances need to be restricted as of June 30, 2012, and Finance is reversing its previous adjustment of \$1,857,669.

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:

- The request to retain current cash balances totaling \$31,481 is not allowed. Sufficient documentation was not provided to support the request to retain funds totaling \$30,986 in cash, and the Paredes Replacement Housing Assistance item in the amount of \$495 was denied by Finance during the ROPS for the period January 2013 through June 2013 as stated in our letter dated October 19, 2012.

The Agency's OFA balance available for distribution to the affected taxing entities is \$2,232,917 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (1,112,975)
Finance Adjustments	
Add:	
Disallowed transfers	\$ 2,273,000
Requested retained balances not supported	1,072,892
<b>Total OFA available to be distributed:</b>	<b>\$ 2,232,917</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 Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD  
Assistant Program Budget Manager

cc: Mr. Jarb Thaipejr, Executive Director, City of Loma Linda  
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County  
California State Controller's Office