



January 26, 2015

Mr. James P. Morris, Chief of Staff
City of San Bernardino
300 North D Street, 6th Floor
San Bernardino, CA 94218

Dear Mr. Morris:

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 December 22, 2014. The City of San Bernardino Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on October 7, 2014. 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 was 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 December 22, 2014. 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 January 8, 2015.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of OFA available for distribution to the taxing entities. 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 items being disputed. Specifically, the following adjustments were made:

- Assets transferred to the City of San Bernardino (City) or the San Bernardino Economic Development Corporation (SBEDC) totaling \$455,555,687 are not allowed, as follows:
 - The Agency transferred \$108,372,060 to SBEDC; however, these properties were not transferred for governmental use pursuant to HSC section 34181 (a), as indicated in the State Controller Office's (SCO's) Asset Transfer Report (ATR) dated March 2013. It was determined that the Agency should reverse the improper transfer of properties, recover the assets from SBEDC, and include these properties in its long-range property management plan to be submitted to Finance pursuant to HSC section 34191.5. However, for DDR purposes, these assets are not cash or cash equivalent and do not affect the amount available for distribution to the affected taxing entities.

During the Meet and Confer process, the Agency agreed that the transfers should be reversed and provided additional documents showing that the transfers of properties were reversed and the assets were recovered from SBEDC as of December 17, 2014. The Agency stated that these properties would be included in the long-range property management plan to be submitted to Finance pursuant to HSC section 34191.5.

- o The former City of San Bernardino Economic Development Agency (RDA) did not transfer assets totaling \$347,183,627 to the Agency. As indicated in the SCO's ATR dated March 2013, the Agency contends SCO made a misstatement with regards to this finding and the former RDA does not possess these assets. However, the Agency has not reached an agreement with the SCO that such misstatement should be corrected and the ATR should be revised. Therefore, the following assets should be transferred to the Agency in accordance with the SCO's ATR:
 - Cash and cash equivalents totaling \$39,204,632. During the Meet and Confer process, the Agency contended that this amount was already accounted for and included in the cash balance reported as part of the beginning balance in Procedure 5. Based on a review of additional information and bank statements provided, this amount has already been included in the beginning balance in Procedure 5 and should not be counted again. Therefore, Finance no longer increases the amount available for distribution by \$39,204,632.
 - Bond proceeds totaling \$35,407,477. For DDR purposes, these bond proceeds are restricted assets and will not affect the amount available for distribution to the affected taxing entities. The Agency did not object to this adjustment during the Meet and Confer process.
 - Other fixed assets and other assets totaling \$272,571,518. Of the \$272,571,518, \$97,843,174 represents long- and short-term account receivable balances, which are not cash available as of June 30, 2012. Therefore, Finance expects the Agency to utilize these funds to pay enforceable obligations as they become available.

Further, it was our initial understanding that the remaining \$174,728,344 represents other fixed assets (\$3,313,476) and resources available to retire long-term liabilities (\$171,414,868). During the initial review, Finance requested documentation to support the retention of these resources; however, the Agency was unable to provide adequate documentation to support the non-cash nature of the resources in the amount of \$171,414,868.

During the Meet and Confer process, the Agency provided additional information and clarification that the \$171,414,868 consisted of "contra accounts" that are non-economic, intangible internal use accounts to allow balanced fund reporting under the modified-accrual basis of accounting, and that the amount does not represent a true asset or a legal benefit of future cash receipts. The Agency provided additional information related to the year-end closing journal entries to close out the

“contra accounts.” As such, Finance no longer increases the amount available for distribution by \$171,414,868.

- The Agency’s request to retain funds totaling \$14,036,701 to satisfy Recognized Obligation Payment Schedule (ROPS) obligations for the 2012-13 fiscal year was initially decreased by \$2,870,937. Finance continues to decrease the request to retain funds to satisfy ROPS obligations by \$1,875,668. During the Meet and Confer process, the Agency contended it did not receive sufficient funding from the Redevelopment Property Tax Trust Fund (RPTTF) for the July through December 2012 (ROPS II) and the January through June 2013 (ROPS III) periods, in the amounts of \$1,691,267 and \$1,179,670, respectively.

For the ROPS II period, Finance approved \$12,857,031 and the county auditor-controller distributed \$11,165,765, which resulted in a \$1,691,266 shortfall. Finance calculated a prior period adjustment during the ROPS 13-14A period based on a review of the actual ROPS II expenditures, which indicates that sufficient funds were available from the ROPS II distribution and no additional funds were needed for the shortfall in funding. Therefore, Finance will increase the amount available for distribution by \$1,691,266 as the funds were not received or expended and should not be included in the request for retention.

For the ROPS III period, Finance approved \$13,248,533 and the county auditor-controller distributed \$12,068,863 and made a prior period adjustment in the amount of \$995,268 for the ROPS I period, which resulted in a shortfall of \$184,402. Finance calculated a prior period adjustment during the ROPS 13-14B period based on a review of the actual ROPS III expenditures, which indicates that sufficient funds were available from the ROPS III distribution and no additional funds were needed for the shortfall in funding. Therefore, Finance will increase the amount available for distribution by \$184,402 as the funds were not received or expended and should not be included in the request for retention.

As a result, the Agency did not experience a shortfall and the Finance is increasing the amount available for distribution by \$1,875,668 (\$1,691,266 + \$184,402).

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

- The total amount of assets held as of June 30, 2012 in the amount of \$145,511,980 has been adjusted by \$2,700,109. It is our understanding the 2006 Tax Allocation Bonds, in the amount of \$2,700,109, are housing bonds and have already been included in the Low and Moderate Income Housing Fund DDR; therefore, these bonds should not be included in the total assets for the OFA DDR, and the total amount of assets held as of June 30, 2012 should be \$142,811,871 (\$145,511,980 - \$2,700,109).
- The Agency’s request to retain funds totaling \$897,561 for the funding of enforceable obligations has been adjusted by \$69,213. The Agency requested \$69,213 for the administrative cost allowance for the January through June 2012 period, however, this amount exceeded the administrative allowance cap and was disallowed by Finance on the January through June 2012 Recognized Obligation Payment Schedule (ROPS I). Therefore, Finance has adjusted the request to \$828,348 (\$897,561 - \$69,213).

The Agency's OFA balance available for distribution to the affected taxing entities is \$1,949,036 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 4,155
Finance Adjustments	
Add:	
Denied ROPS Items	1,944,881
Total OFA available to be distributed:	\$ 1,949,036

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.

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 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.

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,



JUSTYN HOWARD
Acting Program Budget Manager

cc: Ms. Lisa Connor, Project Manager, City of San Bernardino
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
California State Controller's Office