



REVISED

June 23, 2015

Mr. Jeff Kay, Business Development Manager
City of San Leandro
835 East 14th Street
San Leandro, CA 94577

Dear Mr. Kay:

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 San Leandro Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 11, 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. 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 9, 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:

- Transfer in the amount of \$173,477. Our review indicates that the Agency transferred \$48,141 in principal and \$125,336 in interest on January 23, 2012 to the City of San Leandro (City) to repay the Joint Project Area Loan. Pursuant to an October 2014 court order, Finance no longer objects to the transfer of these funds to the City.
- Transfers in the amount of \$2,437,273. Our review indicates \$2,437,273 was transferred to the City for the Plaza Project City Loan as follows:
 - Plaza Loan Repayments in January 21, 2011 for \$171,764 principal and \$128,236 interest
 - Plaza Loan Repayments in March 7, 2011 for balance repayment totaling \$2,137,273.
 - We note the balance repayment exceeds the outstanding amount at the time the payment was made. After the January 21, 2011 payment, the outstanding balance was \$1,965,510.

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. Further, 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.

The Plaza Project Area City loan was denied as an enforceable obligation in Finance's April 11, 2012 letter related to the January through June 2012 Recognized Obligation Payment Schedule. Additionally, the Agency confirmed this loan was not made within two years of the former RDA's creation, nor was it entered into at the time of and solely for the purpose of issuing debt. Therefore, the transfers were not made pursuant to an enforceable obligation and are not permitted.

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

- During the review of the OFA DDR, Finance noted a reserve amount of \$825,000 related to the 2002 Plaza Tax Allocation Bonds (TAB) that is legally restricted for a sinking fund requirement. However, this amount was not included in the restricted cash held with a fiscal agent balances. Our review of the 2002 Plaza TABs bond indentures indicates the Agency is required to set aside funds to account for a forecasted shortage of property tax increment toward the end of the bond's repayment period. Therefore, Finance recommends that the Agency establish a separate reserve account and or escrow account held with a trustee to set these funds aside in order to comply with bond indenture requirements.

The Agency's OFA balance available for distribution to the affected taxing entities is \$2,875,877 million (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 438,604
Finance Adjustments	
Disallowed transfers	\$ 2,437,273
Total OFA available to be distributed:	\$ 2,875,877

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, Dispute Resolution Supervisor, or Danielle Brandon, Analyst at (916) 445-3274.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Mr. David Baum, Finance Director, City of San Leandro
Ms. Carol S. Orth, Tax Analysis Division Chief, Alameda County
California State Controller's Office