



May 16, 2013

Mr. Thomas Fil, Finance Director  
City of Belmont Successor Agency  
One Twin Pines Lane, Suite 320  
Belmont, CA 94112

Dear Mr. Fil:

Subject: Other Funds and Accounts Due Diligence Review

The City of Belmont Successor Agency (Agency) submitted an oversight board approved Other Funds and Accounts (OFA) Due Diligence Review (DDR) to the California Department of Finance (Finance) on March 1, 2013. 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 is not bound to completing its review and making a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). However, Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

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 our review of your DDR, the following adjustments were made:

- Assets transferred to the City of Belmont (City) during the period of January 1, 2011 through June 30, 2012 totaling \$2,096,037. HSC section 34179.5 (c) (2) only allows asset transfers within this period that are required by enforceable obligation or meet the definition of governmental use. Specifically:
  - Reimbursements totaling \$1,469,356. On March 8, 2011 the former redevelopment agency (RDA) and the City entered into a Reimbursement Agreement wherein the former RDA agreed to reimburse the City, from available tax increment, for various costs associated with redevelopment projects.

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. 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. Therefore, the transfers were not made pursuant to an enforceable obligation and are not permitted. As such, the

amount available for distribution to the affected taxing entities should be increased by \$1,469,356.

- Various Payments totaling \$327,933. The Agency was unable to provide documentation of the enforceable obligation that required such transfers. Therefore, the amount available for the distribution to the affected taxing entities should be increased by \$327,933.
- Land Transferred from the RDA to the City in the amount of \$298,748. The Agency did not provide documentation to validate the transfer. This non-liquid asset transferred to the City is subject to the California State Controller's Office review of asset transfers. To the extent this asset that transferred is not for a government purpose or pursuant to an enforceable obligation, this asset should be returned to the Agency and disposed of in a manner consistent to the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5.

Since the land in the amount of \$298,748 is illiquid, it is considered a non-cash asset of the Agency. Therefore, another adjustment is being made to increase the non-cash balance by an equal amount. In effect, this adjustment balances out and does not affect the ending OFA available balance.

- Balances requested to be retained totaling \$2,546,332 for fiscal year 2012-13 obligations should be adjusted by \$703,493. Specifically:
  - The Agency's request to retain \$15,272 for July through December 2012 Recognized Obligation Payment Schedule (ROPS II) obligations that were approved for Reserve Balance funding is partially denied. Pursuant to HSC section 34186 (a), the Agency submitted, for ROPS 13-14A, a Prior Period Estimated Obligations versus Actual Payments Schedule for the ROPS II period.

In this Schedule, the Agency reported actual payments from reserve funds that were inconsistent with approved amounts, as follows:

- Item No 4 for Trustee Services. The Agency was approved for \$4,251; however, no payments were made for this obligation so an adjustment was made for this amount.
- Item No. 6 for Legal Services. The Agency was approved for \$6,000, yet expended \$4,435. Therefore, an adjustment will be made for the unexpended difference of \$1,565.
- Item No. 7 for Audit Services. Although the Agency was approved for \$5,021, they exceeded the approved amount by \$3,479 which totals to \$8,500. This excess expenditure over the approved amount is disallowed.

HSC section 34177 (a) (3) states that only those payments listed in the ROPS may be made from the funds specified in the ROPS. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$5,816.

- The Agency's request to retain \$697,677 for January through June 2013 ROPS III obligations that were approved with Redevelopment Property Tax Trust Fund

(RPTTF) funding is denied. Since the County Auditor Controller distributed RPTTF for approved ROPS III obligations on January 2, 2013, after the June 30, 2012 OFA balances delineated in the DDR, it is inappropriate for the Agency to retain current OFA balances for obligations that have already been funded through a separate process. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$697,677.

If you disagree with Finance's adjusted amount of OFA balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

[http://www.dof.ca.gov/redevelopment/meet\\_and\\_confer/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency's OFA balance available for distribution to the affected taxing entities is \$1,926,504 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (574,278)
Finance Adjustments	
Add:	
Disallowed transfers to the City of Belmont:	\$ 2,096,037
Reversal of non-cash transfers to the City of Belmont	\$ (298,748)
Requested retained balance not supported:	703,493
<b>Total OFA available to be distributed:</b>	<b>\$ 1,926,504</b>

Absent a Meet and Confer request, 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.

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.

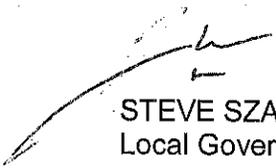
Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain 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 section 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 Wendy Griffe, Supervisor or Medy Lamorena, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Jennifer Walker, Management Analyst, City of Belmont  
Ms. Shirley Tourel, Senior Internal Auditor, County of San Mateo  
California State Controller's Office