



June 21, 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

This letter supersedes the California Department of Finance's (Finance) original Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letter dated May 16, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Belmont Successor Agency (Agency) submitted an oversight board approved OFA DDR to 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. Finance issued an OFA DDR determination letter on May 16, 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 June 3, 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:

- Assets transferred to the City of Belmont (City) during the period of January 1, 2011 through June 30, 2012 totaling \$2,096,037 (\$1,469,356 + \$327,933 + \$298,748). 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. Based on additional documentation provided during the Meet and Confer process, Finance is reversing \$762,504 (\$146,489 + \$317,267 + \$298,748) of its adjustment and continues to increase the OFA balance available by \$1,333,533 (\$2,096,037 - \$762,504), as further discussed below.
 - Reimbursements totaling \$1,469,356. Based on additional information and documents provided during the Meet and Confer process, Finance is reversing its adjustment by \$146,489. These costs are associated with maintaining properties owned by the former RDA, administrative support costs, and agreements that were entered into by the former RDA with third parties prior to June 27, 2011, pursuant to former RDA Resolution Nos. 504, 523, and 531.

The remaining \$1,322,867 (\$1,469,356 - \$146,489) is related to costs incurred by the City for various projects pursuant to a Public Improvements Reimbursement Agreement between the former RDA and the City executed in March 2011. Per

HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former 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, contracts detailing specific work that were entered into by the former RDA 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 or reimbursements made pursuant to City and former RDA agreements or arrangements were not related to enforceable obligations of the former RDA and are not permitted. As such, the amount available for distribution to the affected taxing entities will be increased by \$1,322,867.

- Various Payments totaling \$327,933. Finance initially objected to the transfers because the Agency was unable to provide documentation of the enforceable obligation that required the transfers. During the Meet and Confer process, additional information was provided showing that \$317,267 of this amount was already included in Finance's adjustment of \$1,469,356, as discussed in the previous bullet above. The remaining \$10,666 (\$327,933 - \$317,267) is related to the costs incurred by the City for pothole repairs in the RDA area pursuant to an arrangement between the former RDA and the City. As previously stated, however, 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 reimbursement to the City and former RDA was not pursuant to an enforceable obligation and is not permitted. Finance is reversing \$317,267 of its adjustment and the amount available for the distribution to the affected taxing entities will be increased by \$10,666.
- Land Transferred from the former RDA to the City in the amount of \$298,748. During the Meet and Confer process, the Agency provided additional documents showing that this was an accounting transfer as the property was purchased by and belongs to the City, not the former RDA. As such, no adjustment to the OFA balance is necessary.
- Balances requested to be retained totaling \$2,546,332 for fiscal year 2012-13 obligations will be decreased by \$706,972 (\$9,295 + \$697,677). Specifically:

The Agency's request to retain \$15,272 in approved reserve funds for the Recognized Obligation Payment (ROPS) Schedule for the July through December 2012 (ROPS II) period is partially denied. Pursuant to HSC section 34186 (a), the Agency submitted a Prior Period Estimated Obligations versus Actual Payments Schedule (Schedule) for the ROPS II period with the July through December 2013 ROPS (ROPS 13-14A) form. In this Schedule, the Agency reported actual payments from reserve funds that differed from approved amounts. However, 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 increased by \$9,295 (\$4,251 + \$1,565 + \$3,479), as follows:

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

The Agency contends this adjustment will be accounted for through the prior period adjustment to be made by the County Auditor Controller on the Redevelopment Property Tax Trust Fund (RPTTF) distribution for the ROPS 13-14A period. However, the prior period adjustment for the ROPS 13-14A period only reflects the unexpended amounts from the RPTTF received for the ROPS II period, not the unexpended reserve balances. The prior period adjustment included in Finance's April 14, 2013 ROPS letter was \$12,211, which was the difference between the estimated and actual RPTTF expenditures during the ROPS II period as reported by the Agency. Therefore, Finance continues to increase the OFA balances available by \$9,295 as this amount is related to actual expended reserve balances, not RPTTF balances.

- The Agency's request to retain \$697,677 for the January through June 2013 ROPS (ROPS III) obligations is denied. On ROPS III, the Agency requested and Finance approved \$697,677 in enforceable obligations to be paid using RPTTF funding. The County Auditor Controller distributed \$697,677 from RPTTF for approved ROPS III obligations on January 2, 2013. This distribution occurred after the June 30, 2012 OFA balances delineated in the DDR; as such, it is unnecessary for the Agency to retain current OFA balances for obligations that have already been funded with RPTTF through a separate process. Therefore, the OFA balances available for distribution to the taxing entities will be increased by \$697,677.

The Agency's OFA balance available for distribution to the affected taxing entities is \$1,466,227 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (574,278)
Finance Adjustments	
Add:	
Disallowed transfers to the City of Belmont:	\$ 1,333,533
Requested retained balance not supported:	706,972
Total OFA available to be distributed:	\$ 1,466,227

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.

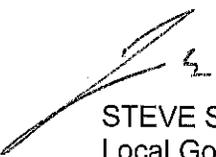
Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain 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, Dispute Resolution Supervisor, or Mary Halterman, 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
Mr. Steven Mar, Bureau Chief, Local Government Audit Bureau, California State
Controller's Office