



July 11, 2013

Ms. Devon Rodriguez, Development Specialist
City of Citrus Heights
6237 Fountain Square Drive
Citrus Heights, CA 95621

Dear Ms. Rodriguez:

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 June 4, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Citrus Heights Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on March 30, 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 was not bound to complete its review and make a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). Finance issued an OFA DDR determination letter on June 4, 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 24, 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:

- The total amount of assets held as of June 30, 2012 should be \$2,099,436 (\$1,658,377 + \$441,059). Finance increased the beginning OFA balance of \$1,658,377 by \$441,059 to account for OFA balances as of June 30, 2012 attributable to the Redevelopment Agency Public Improvement Grant Fund (Fund 822); the balance of Fund 822 was not included in the total assets as of June 30, 2012 under Procedure 5. The Agency claims this amount is included in Schedule 2 of the DDR report, "Non-Housing Asset Transfer Schedule", and to include this adjustment would double count the funds. However, Procedure 5 of the OFA DDR, accounts for all former redevelopment agency (RDA) assets and funds as of June 30, 2012. Transfers are accounted for through Procedures 2 and 3. Therefore, the increase of \$441,059 represents an unreported balance, not a transfer. Accordingly, the OFA balance available for distribution remains increased by \$441,059.
- Total transfers to the City of Citrus Heights (City) were previously increased from \$391,913 to \$7,773,224. However, our review during the Meet and Confer, Finance determined the transfers should be a total of \$8,222,079, as further discussed below.

Therefore, the OFA balance available for distribution is increased by \$7,830,166 (\$8,222,079 - \$391,913). Specifically, the following transfers are not allowed:

- o The Agency transferred \$872,113 to the City for the Tiara/Mariposa Multi-Family Improvement Project. The Agency entered into an agreement with the City on January 17, 2011 to provide tax increment funds as the local match for a Local Housing Trust Fund Grant. According to documentation provided, tax increment was not the original source of funding when the grant was secured.

The City entered into a grant agreement with the California Department of Housing and Community (HCD) under the Local Housing Trust Fund Program in June of 2004. The Agency provided documentation supporting that, at that time, the match portion of HCD grant was to be funded from the City's Housing Impact Fees (Fees). The grant agreement does not indicate that the former Redevelopment Agency (RDA) would be responsible for providing the matching funds.

The Agency also provided a memorandum of understanding (MOU) between the City and the Housing Authority of the County of Sacramento (Authority) dated December 29, 2006. The purpose of the MOU was to establish terms and conditions to provide financing to rehabilitate 44 Authority owned public housing units. Again, there was no indication that the former RDA would be responsible for any actions under the MOU.

Subsequently, when the City realized it would not be able to adequately fund the grant, the City issued a resolution dated January 17, 2011 to use RDA funds to cover the funding shortfall. However, the City did not amend the grant agreement to change the funding source for the matching funds. Because the City is a separate legal entity from the former RDA, the obligations of the City are not those of the RDA. In addition, the resolution does not meet the exceptions of HSC section 34171(d) (2) and does not create an enforceable obligation of the Agency.

- o The Agency transferred \$7,349,967 (\$7,090,000 + \$259,967) to the City on June 16, 2011 for principal and interest payments on a loan from the City to the Agency dated August 14, 2008. The Agency claims the City demanded payment in accordance with a 2008 loan between the Agency and the City. The Agency also claims the payment was made prior to June 28, 2011. However, the loan agreement does not meet the exceptions of HSC section 34171 (d) (2) and is not an enforceable obligation.

Finance notes that upon receiving a Finding of Completion from Finance, and after the oversight board makes a finding the loans was for legitimate redevelopment purposes, HSC section 34191.4(b) may cause these items to be enforceable. The Agency may then request funding for these items on a Recognized Obligation Payment Schedule (ROPS).

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. 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. Neither of the above transfers were pursuant to agreements entered into within the first two years of creation, nor were they entered into at the same time and solely for the purpose of securing debt. Therefore, the transfers were not made pursuant to enforceable obligations and are not permitted.

- The request to retain funds for the Housing Replacement Plan in the amount of \$405,259 is not allowed. The Agency contends they are obligated to provide replacement housing per HSC section 33413, thus creating an enforceable obligation pursuant HSC 34171 (d) (1) (C). However, the Agency does not have a contract in place that was executed prior to June 28, 2011 for the Housing Replacement Plan. HSC section 34177.3 states successor agencies shall lack the authority to, and shall not, create new enforceable obligations. In addition, obligations associated with the former RDA's previous statutory housing obligations are not enforceable obligations. Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 requires that "all rights, powers, duties, obligations and housing assets... shall be transferred" to the new housing entity. This transfer of "duties and obligations" necessarily includes the transfer of statutory obligations; to the extent any continue to be applicable. To conclude that such costs should be on-going enforceable obligations of the successor agency could require a transfer of tax increment for life – directly contrary to the wind down directive in ABx1 26/AB 1484. Finance notes that this obligation was previously denied by Finance on the ROPS. Therefore, the retention of \$405,259 is not allowed.
- The request to retain funds in the amount of \$46,600 for the July through December 2012 ROPS (ROPS II) is allowed. The Agency entered into a loan agreement with the City on February 25, 1998 for administrative services and start up project costs. This item was determined an enforceable obligation via Finance's Meet and Confer determination letter dated December 18, 2012 and the amount requested ties to the loan payment schedule. Therefore, Finance has determined an increase to the available OFA balance is not necessary.
- Our review indicates the Agency requested to retain \$288,643 for 2012-2013 fiscal year enforceable obligations. However, the actual amount needed is \$365,834; therefore, the Agency will be permitted to retain an additional \$77,191 (\$365,834 - \$288,643) of OFA balances to satisfy enforceable obligations for the ROPS II and January through June 2013 ROPS (ROPS III) period as follows:
 - The County Auditor Controller (CAC) distributed \$280,440 to satisfy approved ROPS II enforceable obligations. While the Agency did not expend the entire amount, we verified the CAC made a prior period on the July through December 2013 ROPS (ROPS 13-14A) adjustment pursuant to HSC section 34186 (a). Therefore, the Agency will be permitted to retain these funds.
 - The CAC made an \$85,394 prior period adjustment on the ROPS III pursuant to HSC section 34186 (a). This adjustment assumes funds from the January

through June 2012 ROPS period (ROPS I) are still available. Because they would have been included in the June 30, 2012 balance, the Agency will be permitted to retain these funds to satisfy ROPS III approved enforceable obligations.

The Agency's OFA balance available for distribution to the affected taxing entities is \$8,599,293 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Adjustment to the June 30, 2012 balance	\$ 441,059
Disallowed transfer	7,830,166
Requested retained balance not supported	405,259
Additional allowed retention	(77,191)
Total OFA available to be distributed:	\$ 8,599,293

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.

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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 Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Rhonda Sherman, Community & Economic Development Director, City of Citrus Heights
Mr. Carlos Valencia, Senior Accounting Manager, County of Sacramento
California State Controller's Office