



March 25, 2013

Ms. Cindy Trobitz-Thomas  
Director of Economic Development and Housing  
City of Eureka  
531 K Street  
Eureka, CA 95501

Dear Ms. Trobitz-Thomas:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Eureka 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 January 15, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Pursuant to HSC section 34179.6 (d), Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

Based on our review, Finance made no additional adjustments to the OFA balance available for allocation to the affected taxing entities. As a result, the Agency's OFA balance available for distribution to the affected taxing entities is \$1,646,062.

However, Finance noted unallowable property transfer in the amount of \$5,195,433. The properties listed in the OFA DDR, Attachment B transferred pursuant to the March 9, 2011 Property Conveyance Agreement (Agreement) between the City of Eureka (City) and the Agency. HSC 34167.5 states that asset transfers occurring after January 1, 2011 between the City and the RDA are required to be contractually committed to a third party. The Agency was not able to provide sufficient documentation to demonstrate that a contractual obligation existed with a third party prior to June 27, 2011; therefore, the asset transfers are not allowed. Since land is not considered cash or a cash-equivalent asset, Finance has made no adjustment to the available balance to the affecting taxing entities. The Agency is required to reverse the improper transfers of property and recover the following assets from the City.

- The following properties were identified on the OFA DDR, Attachment B:
  - Vacant land at Eighth & Myrtle Streets
  - Romano Gabriel Art Exhibit at the north side of Second Street between D and E Streets
  - Adorni Public Parking at the East Foot of L Street
  - City Schools Bus Yard at 1401 Third Street
  - Public Parking Lot on the Southeast Corner of Fourth and G Streets

- Public Parking/Police annex on the Southwest Corner of Third Street
  - Clarke Plaza at the Northeast Corner of Third and E Streets (Listed as two separate parcels in the Agreement)
  - Public Parking Lot at the Southwest Corner of First and C Streets
  - Vacant Land at the Foot of S Street
  - Vacant Land at the Northeast Corner of First and D Streets
  - Vacant Land at the Northeast Corner of First and C Streets
  - Improvement and Buildings at the Southeast Adorni parking lot
  - Improvement and building at the C Street Plaza
- Although the following properties were not included on the OFA DDR, Attachment B, they were listed as part of the Property Conveyance Agreement:
    - Vacant land at Seventh & Myrtle Streets
    - Vacant land at the Carson Mill Site
    - Adorni public parking at the east foot of K Street
    - Adorni public parking at the north side of Second Street between K and L Streets
    - Fishermen's Work Area north of First Street west of C Street
    - Clara Mae Berry Park at 1401 Third Street

Pursuant to HSC section 34191.5, within six months after receiving a Finding of Completion from the Finance, the Agency is required to submit for approval to the Oversight Board and Finance a Long-Range Property Management Plan (LRPMP) that addresses the disposition and use of the real properties of the former redevelopment agency (RDA). The Agency should include the above properties in the inventory of all former RDA properties and describe the planned disposition of each property in its LRPMP.

HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified above within five working days, plus any interest those sums accumulated while in the possession of the recipient. Upon submission of payment, please 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

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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 Beliz Chappuie, Supervisor or Todd Vermillion, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Wendy Howard, Accounting Supervisor, City of Eureka  
Mr. Joe Mellett, Auditor-Controller, County of Humboldt  
California State Controller's Office