



REVISED

March 29, 2013

Mr. Steve Toler, Assistant City Manager
City of Foster City
610 Foster City Blvd.
Foster City, CA 94404

Dear Mr. Toler:

Subject: Other Funds and Accounts Due Diligence Review

This letter supersedes Finance's March 26, 2013 Other Fund and Accounts (OFA) Due Diligence Review (DDR) determination letter. A revised letter is necessary to incorporate information that was provided to us by the Agency and confirmed by the county auditor controller (CAC). Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Foster City Successor Agency (Agency) submitted an oversight board approved OFA DDR to the California Department of Finance (Finance) on January 10, 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.

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 Foster City totaling \$4,386,050 during the period from January 1, 2011 to June 30, 2012. These transfers are pursuant to agreements between the City and the former RDA signed prior to the June 27, 2011. HSC section 34171 (d) (2) excludes agreements with the City that created the former RDA as enforceable obligations. In addition, HSC 34179.5 (b) (2) defines an enforceable obligation which excludes agreements between the city and the former RDA. Since HSC section 34179.5 (c) (2) only allows transfers to the city that are required by enforceable obligation. Since the agreements associated with these transfers are unenforceable, the OFA balances available for distribution to the taxing entities will be adjusted by \$4,386,050.

Upon receiving a Finding of Completion from Finance, HSC section 34191.4 (b) may cause these items to be enforceable in future ROPS periods.

- Fund balances requested to be retained in the amount of \$2,020,053 to cover future obligations was partially denied in our March 26, 2013 OFA determination letter. Based on additional conversations with Agency staff, we believe the retention of these funds is necessary to ensure adequate funding for enforceable obligations. Specifically:

- Finance determined \$710,500 is required to cover enforceable obligations for the fiscal year 2012-13 that were listed on an approved ROPS and funding was provided for.
- It is our understanding the Agency's largest project area reached its tax increment cap in April 2011. As a result, the Agency's available tax increment was significantly reduced and will not be sufficient to cover all the Agency's obligations. Therefore, Finance's is authorizing the retention of the remaining \$1,309,553 to ensure adequate funding for the Stipulated Judgment with San Mateo Union High School District, the last remaining obligation from the expired project area.

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/

The Agency's OFA balance available for distribution to the affected taxing entities is \$5,195,343 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 809,293
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 4,386,050
Total OFA available to be distributed:	\$ 5,195,343

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. 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 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 Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Lin-Lin Cheng, Finance Director, City of Foster City
Mr. Bob Adler, Auditor-Controller, County of San Mateo
Ms. Shirley Tourel, Auditor, County of San Mateo
California State Controller's Office