



May 29, 2013

Mr. William Avera, Development Services Director
City of Hollister
375 Fifth Street
Hollister, CA 95023

Dear Mr. Avera:

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 April 24, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Hollister Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on February 7, 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 April 24, 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 May 20, 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:

- Our review indicates the Agency did not request to retain balances to satisfy Recognized Obligation Payment Schedule (ROPS) obligations for fiscal year 2012-13. Specifically, the Agency did not include the July through December 2012 (ROPS II) obligations in the amount of \$2,587,132 from the Redevelopment Property Tax Trust Fund. Therefore, the OFA balance available will be decreased by \$2,587,132.

During the Meet and Confer process, the Agency provided additional information showing that the Agency also expended \$284,177 during the January through June 2012 (ROPS I) period on items that were denied by Finance during the ROPS I review. These items were subsequently approved through the Meet and Confer process during the January through June 2013 (ROPS III) review. However, HSC section 34177 (a) (3) states that only those payments listed in the approved ROPS may be made from the funding source specified in the ROPS. To the extent the Agency believes the denied items on the ROPS I are enforceable obligations, the Agency should list those items on a future ROPS for payment.

In addition, the Agency claims \$804,781 should have been retained for ROPS I expenditures but was inadvertently deposited in Low and Moderate Income Housing Fund (LMIHF) and remitted through the LMIHF DDR process. As a result, ROPS I

expenditures were paid for from the City of Hollister's (City) pooled cash account. Therefore, the Agency should enter into an agreement with the City pursuant to HSC section 34173 (h) to formalize the loans made by the City to the Agency for ROPS I approved enforceable obligations. The loan should be placed on a subsequent ROPS for review and approval by Finance.

As a result, there are no unencumbered OFA balances available for distribution (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 1,605,882
Finance Adjustments	
Balance retained for fiscal year 2012-13 obligations	(2,587,132)
Total OFA available to be distributed:	\$ -

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.

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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. Mary Paxton, Program Manager, City of Hollister
Mr. Joe Paul Gonzalez, Auditor-Controller, San Benito County Auditor-Controller
California State Controller's Office