



REVISED

March 26, 2013

Mr. Jeff Rein, Deputy CAO
Lake County
255 North Forbes Street
Lakeport, CA 95453

Dear Mr. Rein:

Subject: Other Funds and Accounts Due Diligence Review

This letter supersedes our March 15, 2013 Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letter. A revised letter is necessary to reflect a government use property transfer that was previously categorized incorrectly. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the Lake County Successor Agency (Agency) submitted an oversight board approved OFA 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.

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 Lake County in the period between January 1, 2011 and June 30, 2012 in the amount of \$10,277,725. HSC section 34179.5 (c) (2) only allows asset transfers within this period that are required by enforceable obligation and meet the definition of governmental use. No documents received support the transfers were required by an enforceable obligation.

The following assets valued at \$2,605,143 meet the definition of governmental use as defined in the HSC 34181 (a):

- 3555, 3605, 3655 Lakeshore Blvd, Nice
- 6005 E. State Highway 20, Lucerne
- 12565 E. Hwy. 20, Clearlake Oaks
- 12559 E. State Highway 20, Clearlake Oaks
- 12497, 12501, and 12513 The Plaza, Clearlake Oaks
- 6195, 6222, 6224 E. Hwy. 20, Lucerne
- 12588 Acorn St, Clearlake Oaks

This amount has been reduced from the asset transfer total resulting in \$7,672,582 which was added to Procedure 2 & 3 totals in order to reflect the transfers made to Lake

County. Since these properties are illiquid, they are considered a non-cash asset of the RDA. Therefore, another adjustment is being made to increase the assets restricted as non-cash in the amount of \$7,672,582. In effect, these adjustments balance out and do not affect the ending OFA available balance. The assets in question include the following:

- o 3752, 3772, 3792, 3812 Country Club Dr, Lucerne
- o 3700 Country Club Dr, Lucerne
- o 6607 14th Ave, Lucerne (Lucerne Hotel)
- o 6532 Thirteenth Ave, Lucerne
- o 6545, 6535 Twelfth Ave, Lucerne
- o 6273 E. Hwy 20 Lucerne
- o 99 Paper Subdivision Lots in Nice and Lucerne

HSC section 34181 (a) requires that properties be used for a government purpose at the time of transfer. An intended government use of the property does not permit the transfer under this HSC section.

These non-liquid assets transferred to the City are subject to the California State Controller's Office review of asset transfers. To the extent these properties do not meet criteria outlined in HSC section 34181 (a), they should be returned to the Agency and disposed of in a manner consistent to the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5.

- Balances to be retained in the amount of \$16,153 are denied. The DDR requests to retain \$16,153 for fiscal year 2012-13 obligations. The Agency states this amount is to cover enforceable obligations which not enough funding was received. However, the County Auditor Controller distributed \$105,762 in Redevelopment Property Tax Trust Funds. This is enough to cover the obligations listed on the Recognized Obligation Payment Schedule with the exception of the pass-through payments which were paid directly by the County Auditor Controller. Since the County Auditor Controller distributed RPTTF for approved ROPS III obligations on January 2, 2013, after the June 30, 2012 OFA balances delineated in the DDR, it is inappropriate for the Agency to retain current OFA balances for obligations that have already been funded through a separate process. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$16,153.

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 \$16,153 (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:	16,153
Transfers to Lake County:	7,672,582
Reversal of non-cash transfers:	(7,672,582)
Total OFA available to be distributed:	\$ 16,153

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.

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Please direct inquiries to Wendy Griffe, Supervisor or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'S Szalay', with a large, sweeping flourish extending to the left.

STEVE SZALAY
Local Government Consultant

cc: Mr. Matt Perry, Chief Administrative Officer, Lake County
Ms. Liz Martinez, Accountant II, Lake County
Ms. Cathy Saderlund, Auditor-Controller, Lake County
California State Controller's Office