



April 1, 2013

Mr. Jim Taubert, Executive Director
City of Madera
428 East Yosemite Avenue
Madera, CA 93638

Dear Mr. Taubert:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Madera 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 14, 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:

- Balances retained for fiscal year 2012-13 obligations in the amount of \$2,406,456. The Agency requested to retain a total of \$5,915,344 for fiscal year 2012-13 obligations. In addition, during Finance's review of the OFA DDR, the Agency submitted two oversight board (OB) resolutions to Finance on March 20, 2012 requesting to change funding source for some obligations.
 - OB Resolution No. 13-05 authorizing payment of certain enforceable obligations from sources other than those listed on the Recognized Obligation Schedule (ROPS) for the period July 1, 2012 through December 31, 2012 (ROPS II).
 - OB Resolution No. 13-06 authorizing payment of certain enforceable obligations from sources other than those listed on the ROPS for the period January 1, 2013 through June 30, 2013 (ROPS III).

These OB resolutions authorized change in funding source from Redevelopment Property Tax Trust Fund (RPTTF) to Reserve Funds for certain obligations listed on ROPS II and ROPS III. Based on our review and application of the law, OB Resolution No. 13-05, which revised ROPS II funding source from RPTTF to Reserve Funds, is not allowed. The Agency is not allowed to revise the funding sources of obligations for a ROPS period that has ended. However, since it is currently the ROPS III period, OB

Resolution No. 13-06, which revised ROPS III funding source from RPTTF to Reserve Funds, is allowed.

Therefore, of the \$5,915,344 requested to retain for fiscal year 2012-13 obligations, \$3,508,888 is allowed to be retained. Specifically, the \$2,007,911 RPTTF distribution received for ROPS II period and \$1,475,377 reserve funds for ROPS III period obligations are allowed to be retained. The remaining difference of \$2,406,456 is not allowed to be retained since the amount is for ROPS III obligations that will be paid with RPTTF distribution the Agency received from the Madera County Auditor-Controller's Office in January 2013 which is not part of the OFA balance.

- Balances retained for future obligations in the amount of \$4,258,342. The Agency's request to retain unencumbered OFA balances for the amount to cover future obligations is not allowed. Finance has only approved funding through the January through June 2013 Recognized Obligation Payment Schedule (ROPS III) period, the Agency's fund balances are only encumbered to the extent they have been approved on a ROPS through the June 30, 2013 period. The cash flow analysis provided by the Agency does not demonstrate an immediate need to retain these unencumbered OFA balances, nor does it suggest available funding will be insufficient to service the Agency's bond debt.

Should a deficit occur in the future, HSC provides successor agencies with various methods to address short term cash flow issues. These may include requesting a loan from the city pursuant to HSC section 34173 (h), requesting the accumulation of reserves on the ROPS when a future balloon or uneven payment is expected, or subordinating pass-through payments pursuant to HSC section 34183 (b). The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation if a deficiency were to occur.

Since the Agency has not demonstrated an immediate need to retain unencumbered OFA balances and possesses alternatives to address short term cash flow shortages, Finance deems it is not necessary for the Agency to retain \$4,258,342 in OFA unencumbered balances.

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 \$749,454 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR*:	\$ (5,915,344)
Finance Adjustments:	
Unallowed balances retained for fiscal year 2012-13 obligations	2,406,456
Unallowed balances retained for future obligations	4,258,342
Total OFA available to be distributed:	\$ 749,454

*Available balance adjusted for actuals instead of zero as reported on DDR.

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, 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 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. Bob Wilson, Redevelopment Manager, City of Madera
Mr. Brent Richardson, Deputy City Attorney, City of Madera
Ms. Sandi Brown, Agency Secretary, City of Madera
Mr. Jim Boyajian, Auditor-Controller, Madera County
California State Controller's Office