DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR
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March 22, 2013

Mr. Geoffrey Buchheim, Financial Services Manager
City of Menlo Park
701 Laurel St.
Menlo Park, CA 94025

Dear Mr. Bucheheim:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Menlo Park 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.

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 requested to be retained totaling $7,588,966 for fiscal year 2012-13 obligations should be adjusted by $4,462,516. Specifically:

  - The Agency's request to retain $4,496,301 for July through December 2012 Recognized Obligation Payment Schedule (ROPS II) obligations is partially denied. Although the Agency wishes to retain $4,496,301, the County Auditor Controller (CAC) only distributed $2,728,300 on June 1, 2012. The Agency is limited to retaining the $2,728,000 from the CAC and $398,150 for the ROPS II enforceable obligation paid with reserves. As such, the OFA balance available for distribution to the taxing entities will be adjusted by $1,369,851.

    To the extent these constitute enforceable obligations, the Agency should request funding for these in a future ROPS.

  - The Agency requested to retain $3,092,665 of January through June 2013 ROPS III expenditures that were approved with Redevelopment Property Tax Trust Fund (RPTTF) funding. Since the CAC 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 $3,092,665.

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 $17,631,883 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	13,169,367
Finance Adjustments		
Add:		
Request to retain balance not supported:		4,462,516
Total OFA available to be distributed:	$	17,631,883

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. Margaret Roberts, City Clerk, City of Menlo Park
Mr. Bob Adler, Controller, San Mateo County
California State Controller's Office