



June 25, 2013

Mr. John Raymond, Director of Community and Economic Development
City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Dear Mr. Raymond:

Subject: Other Funds and Accounts Due Diligence Review

The City of Palm Springs 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 April 9, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the January 15, 2013 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). However, 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:

- Transfers to the City of Palm Springs (City) in the amount of \$1,300,152. Our review indicates that the amount was transferred for accelerated repayment of loans for the City Waste Water Treatment Plant Fund. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the City that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$1,300,152.
- Properties transferred to the City including Prairie Schooner Parcel, Foster Leasehold, PSL 315, Plaza Theatre and parking lots located at Prairie Schooner, Catholic Church, Blue Coyote, Vineyard, Food Court, Henry Frank Arcade, Convention Center are not exclusively used for governmental purposes. HSC section 34191.3 suspended the Agency's ability to dispose assets for non-governmental purposes until Finance has issued a Finding of Completion and has approved a long range property management plan (LRPMP). Additionally, the California State Controller's Office (SCO) authorized that properties held for resale located at Cork and Bottle, Casa del Camino, McKinney Parcel, and Desert Hotel should be returned to the Successor Agency. Since the transfers are for non-liquid assets, Finance made no adjustments to the available balance to the affected taxing entities for these items. However, the Agency should

reverse the improper transfers, recover the assets, and address the disposition of these properties in its LRPMP.

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 \$5,427,344 (see table below).

| OFA Balances Available For Distribution To Taxing Entities | |
|---|---------------------|
| Available Balance per DDR: | \$ 4,127,192 |
| Finance Adjustments | |
| Disallowed transfers: | \$ 1,300,152 |
| Total OFA available to be distributed: | \$ 5,427,344 |

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.

Mr. John Raymond
June 25, 2013
Page 3

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 Anna Kyumba, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Szalay", with the word "for" written below it.

STEVE SZALAY
Local Government Consultant

cc: Mr. Geoffrey Kiehl, Director of Finance, City of Palm Springs
Ms. Pam Elias, Chief Accountant, Property Tax Division, County of Riverside
Auditor-Controller
California State Controller's Office