



May 24, 2013

Ms. Linda Benedetti-Leal, City Manager
City of Paramount
16400 Colorado Avenue
Paramount, CA 90723

Dear Ms. Benedetti-Leal:

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 17, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Paramount Successor Agency (Agency) submitted an oversight board approved OFA DDR to 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. Finance issued an OFA DDR determination letter on April 17, 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:

- The Agency's request to retain \$5.5 million for an Owner Participation Agreement (OPA) between the Agency and Falcon Fuels, Inc. (Falcon) is partially approved. Our review indicates that on November 2, 2005, the Agency entered into an agreement with Falcon to induce Falcon from relocating its business outside of the City of Paramount (City). The agreement was retroactive to January 1, 2005. Payments to Falcon are to be calculated at 20 percent of the sales tax generated by the City to be paid using redevelopment funds. On February 1, 2011 the Agency amended the agreement with Falcon to increase the basis of calculation from 20 percent to 30 percent of sales tax generated by the City.

Additional review of the agreement indicates the agreement shall continue in full force and effect until terminated by either party. More specifically, Section 3 of the OPA states the Agency may terminate the agreement by giving Falcon 30 days advance notice. We note all payments must be made until the effective date of termination; however, the true-up between estimated and actual sales tax generated will be based on the number of days during the quarter the agreement was still in effect. Per HSC section 34177 (h), the Agency is to expeditiously wind down the affairs of the former redevelopment agency. This is a commercial financial assistance or subsidy agreement, not a development contract, and the Agency has discretion to terminate this contract at any

time; therefore, the Agency should terminate the contract per Section 3 of the OPA. The Agency will be permitted to retain the necessary funds to fulfill the agreement through June 30, 2013 that is more than 30 days from the date of this letter and Finance's May 17, 2013 Recognized Obligation Payment Schedule (ROPS) determination letter for the July through December 2013 (ROPS 13-14A) period. The Agency requested and will be permitted to retain \$200,000 on the ROPS for the January through June 2013 ROPS period (ROPS III). We note the actual estimated amount for the ROPS III period is \$138,352; therefore, to the extent the \$200,000 is not needed to fully satisfy the amount due to Falcon within the ROPS III period, the Agency should use the remaining funds to satisfy approved obligations on future ROPS. Accordingly, the OFA balance available for remittance is increased by \$5.3 million.

- Balances to be retained in the amount of \$8,189,856 for fiscal year 2012-13 obligations is partially denied, as further discussed below:
 - Our review indicates the Agency was approved for \$5,086,365 for ROPS items for the July through December 2013 period (ROPS II); however, the County Auditor Controller (Controller) only distributed \$4,713,387. The Agency will be permitted to retain these funds as they were included in the June 30, 2012 OFA balance and intended for ROPS II items.
 - Our review also indicates the Agency did not expend all distributed funds for the ROPS II period and the Controller made a prior period adjustment pursuant to HSC section 34186 (a) to the ROPS 13-14A distribution; however, the Agency claims the Controller did not consider the administrative costs funded from reserves totaling \$125,000. Finance verified the prior period adjustment did not allow for administrative costs funded from reserves. The Agency was approved for \$125,000 for Administrative costs; however, the RPTTF distribution was not sufficient to satisfy all approved items; therefore, the Agency used reserve funds for administrative costs. The Agency will be permitted to retain these funds totaling \$125,000.

Finance notes that 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. However, HSC section 34177 (a) (4) goes on to state that with prior approval from the oversight board, the successor agency can make payments for enforceable obligations from sources other than those listed in the ROPS. In the future, the Agency should obtain prior oversight board approval when making payments for enforceable obligations from a funding source other than those approved by Finance.

- Finally, the Agency was approved for \$3,176,141 in RPTTF for the ROPS III period; however, the Controller only distributed \$2,366,846. Our review indicates the Controller made a prior period adjustment pursuant to HSC section 34186 (a) to the RPTTF distribution totaling \$809,295. This prior period adjustment assumes these funds are available; therefore, the Agency will be permitted to retain the amount of the prior period adjustment \$809,295 to satisfy approved ROPS III obligations.
- The remaining \$2,542,174 is not supported and is not permitted. Therefore, the OFA balance available for distribution will be increased by \$2,542,174.

The Agency's OFA balance available for distribution to the affected taxing entities is \$2,524,069 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (5,318,105)
Finance Adjustments	
Add:	
Denied ROPS item:	5,300,000
Requested retained balance not supported:	2,542,174
Total OFA available to be distributed:	\$ 2,524,069

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 Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Terry Cahoon, Assistant Finance Director, City of Paramount
Ms. Karina Lam, Finance Director, City of Paramount
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office