



March 13, 2013

Mr. David A. Klug, Redevelopment Manager  
City of Pasadena  
100 North Garfield Avenue, Room S116  
Pasadena, CA 91101

Dear Mr. Klug:

Subject: Other Funds and Accounts Due Diligence Review

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

- An advance to the City of Pasadena (City) to purchase 600 parking spaces located in the Del Mar Gold Line Station parking facility in the amount of \$3 million is not allowed. It is our understanding no contract or repayment schedule is in place between the Agency and the City. Per the Agenda Report the loan is to be repaid in the future and does not state the specific dates of when the loan will be paid. Without a valid contract or repayment schedule, this loan is considered payable on demand and should be included as part of the June 30, 2012 balance. As such, the OFA available for distribution to the taxing entities will be adjusted by \$3 million.
- Your request to retain \$28.1 million is partially denied. Based on our review of your DDR, the Agency has not adequately proven there will be insufficient property tax revenues to pay for the \$28.1 million in obligations. HSC section 34179.5 (c) (5) (D) states that a successor agency shall provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements. Included in the request to retain \$28.1 million, Finance notes the following:
  - Obligations totaling \$2,207,365 pertains to expenditures for the January through June 2012 Recognized Obligation Payment Schedule (ROPS I) period. Per discussion with Agency representatives, \$2,015,697 of the \$2,207,365 was paid

during the ROPS I period and therefore, should have already been accounted for in June 30, 2012 balance stated in the DDR. The balance of \$191,668 was paid subsequent to ROPS I. Therefore, because of the timing of when the obligation was actually paid, the Agency's request will be adjusted to allow the retention of \$191,668.

- o Although Finance approved \$25.9 million for other obligations during the July through December 2012 ROPS II period, the County Auditor Controller distributed only \$13.8 million on June 1, 2012. Therefore, the Agency is limited to retaining \$13.8 million for ROPS II enforceable obligations.

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

For the remainder of the balance requested to be retained, it is not evident the thorough analysis required by HSC section 34179.5 (c) (5) (D) was conducted. Further, it is not evident that future property tax revenues will be insufficient. Therefore, your request to retain current \$28.1 million in OFA balances is partially denied and the OFA available for distribution to the taxing entities will be adjusted by \$14 million.

- Your request to retain OFA balances for fiscal year 2012-13 in the amount of \$18.1 million is denied. Per Agency staff, the \$18.1 million represents what the City believes to be enforceable obligations for the January through June 2013 ROPS III period. However, obligations totaling \$18.1 million for the ROPS III period were either denied by Finance or were approved for Redevelopment Property Tax Trust Fund (RPTTF) funding. 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 or were denied by Finance. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$18.1million.

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/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency's OFA balance available for distribution to the affected taxing entities is \$7,184,322 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (27,968,197)
Finance Adjustments	
Add:	
Adjustment to cash and cash equivalent balance:	\$ 2,959,136
Requested retained balance not supported:	\$ 32,193,383
<b>Total OFA available to be distributed:</b>	<b>\$ 7,184,322</b>

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 Kylie Le, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Steve Mermell, Assistant City Manager, City of Pasadena  
Mr. Robert Ridley, Controller, City of Pasadena  
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller  
California State Controller's Office