



May 22, 2013

Mr. Jim Throop, Director of Administrative Services  
City of Paso Robles  
821 Pine Street, Suite A  
Paso Robles, CA 93446

Dear Mr. Throop:

Subject: Other Funds and Accounts Due Diligence Review

The City of Paso Robles 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 March 7, 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:

- Assets transferred to the City of Paso Robles (City) during the period of January 1, 2011 through June 30, 2012 totaling \$1,228,839 are not allowable. The former redevelopment agency (RDA) and the City entered into a Funding Agreement on February 1, 2011 in which the former RDA pledged bond proceeds to help fund the City's obligation to install certain improvements (Americans with Disabilities Act (ADA) Improvements) required by a settlement agreement for violations of the ADA. During Finance's review, the Agency provided a schedule of major project spending that included a summary of bond and tax increment uses. The schedule disclosed that the former RDA made numerous payments for ADA Improvements with tax increment revenues. Specifically:
  - Payments for the City Park Bathroom in the amount of \$77,739.
  - Payments to assist the rebuilding of 21<sup>st</sup> Street in the amount of \$167,381.
  - Payments for miscellaneous projects totaling \$983,719.

HSC section 34179.5 (c) (2) and HSC section 34179.5 (c) (3) state that assets transferred after January 1, 2011 through June 30, 2012 must be supported by documentation to validate that the required transfers are enforceable obligations.

The Agency was unable to provide documentation to support the amount of payments made for ADA Improvements prior to January 1, 2011. Further, HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171, contracts detailing specific work that were entered into by the former redevelopment agency prior to June 28, 2011 with a third party other than the city, county, or city and county that created the former RDA. The Agency was unable to provide documentation of the enforceable obligation that required such payments from tax increment revenues. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$1,228,839.

- The Agency's non-cash asset balances as of June 30, 2012 totaling \$1,758,062 should be adjusted by \$204,868. Specifically:
  - Accounts receivable balance in the amount of \$100,514. The Agency claims that this accounts receivable balance pertains to Redevelopment Property Tax Trust Fund amounts owed from the San Luis Obispo County Auditor-Controller (CAC) for July through December 2012 Recognized Obligations Payment Schedule (ROPS II) obligations. However, the Agency requests to retain the total amount of funds needed to satisfy ROPS II obligations in procedure 9 of the DDR. Therefore, in order to not duplicate the restriction of funds necessary for ROPS II obligations, the OFA balances available for distribution to the taxing entities will be adjusted by \$100,514.
  - Loans receivable balance in the amount of \$40,282 is not supported by any contracts or agreements. The Agency was unable to provide documentation that displayed the terms for the amounts and the timing of loan payments receivable. Therefore, the loans receivable balance in the amount of \$40,282 should be considered payable on demand. HSC section 34179.5 (b) (1) states that "cash" and "cash equivalents" includes payables on demand. Therefore, the loans receivable balances cannot be considered a non-cash asset and the OFA balances available for distribution to the taxing entities will be adjusted by \$40,282.
  - Due from the Successor Agency Housing Fund in the amount of \$64,072 is not supported by any contracts or agreements. The Agency was unable to provide documentation that displayed the purpose of the amount or the payment terms of the short term loan to the housing agency. Therefore, the amount due from the successor agency housing fund of \$64,072 should be considered payable on demand. HSC section 34179.5 (b) (1) states that "cash" and "cash equivalents" includes payables on demand. Therefore, the due from the successor agency housing fund balance cannot be considered a non-cash asset and the OFA balances available for distribution to the taxing entities will be adjusted by \$64,072.
- Balances requested to be retained for fiscal year 2012-13 obligations should be adjusted by \$933,810. Specifically:
  - The Agency requests to retain a total of \$780,038 for the July 1, 2012 debt service payments on the series 2000 and 2009 Tax Allocation Bonds (TAB). Included in this amount is a total of \$762,401 that was already restricted in procedure 6 of the DDR under the 2000 TAB Debt Service Fund and the 2009

TAB Interest Account. The Agency was required to make deposits in such accounts prior to June 30, 2012 under specific debt covenants: the 2000 and 2009 Bond Indentures. Therefore, no adjustment was made to the restricted balances listed in procedure 6. As such, the Agency cannot restrict additional unencumbered OFA balances in the amount of \$762,401 that were already restricted in the DDR under procedure 6. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$762,401.

- The Agency's request to retain \$171,409 for fiscal year 2012-13 obligations that were not approved on a ROPS by Finance is denied. The Agency requests to retain funds for two ROPS II that were not approved by Finance. HSC section 34177 (a) (3) states that only those payments listed in the ROPS may be made from the funds specified in the ROPS. Therefore, the OFA balance available for distribution to the taxing entities will be adjusted by \$171,409.
- Balances requested to be retained for the July 2012 (True-Up) payment made to the CAC as directed by Finance should be adjusted by \$130,878. The Agency requests to retain OFA balances in the amount of \$189,016 for the True-Up payment. However, the Agency already accounted for the \$189,016 True-Up payment in the Low and Moderate Income Housing Funds (LMIHF) DDR. Therefore, it is inappropriate for the Agency to restrict unencumbered OFA balances for the True-Up payment that was already accounted for in the LMIHF DDR.

Per Finance's LMIHF DDR determination letter, dated January 25, 2013, the LMIHF balance available for distribution to the taxing entities totaled \$58,138. Therefore, Finance will permit the Agency to retain OFA balances in the amount of \$58,138 in order to satisfy the True-Up payment. As such, the OFA balances available for distribution to the taxing entities will be adjusted by \$130,878.

- Finance noted that the CAC adjusted the ROPS III January 2, 2013 distribution by \$51,761 pursuant to HSC section 34183 (a). Therefore, Finance is allowing the retention of these funds in order to adequately fund approved ROPS III obligations.

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 \$2,739,636 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 293,002
Finance Adjustments:	
Disallowed transfers to the City:	\$ 1,228,839
Reversal of non-cash transfers to the City:	204,868
Requested retained balance not supported:	933,810
Requested balance for LMIHF DDR true-up payment:	130,878
HSC section 34186 (a) adjustment:	(51,761)
<b>Total OFA available to be distributed:</b>	<b>\$ 2,739,636</b>

Absent a Meet and Confer request, HSC section 34179.6 (f) requires successor agencies to transmit to the CAC 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.

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 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.

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Please direct inquiries to Wendy Griffe, Supervisor or Medy Lamorena, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Ed Gallagher, Director of Community Development, City of Paso Robles  
Ms. Barbara Godwin, Property Tax Manager, County of San Luis Obispo  
California State Controller's Office