



May 24, 2012

Mr. Thomas Prill, Acting Finance Director
City of San Jacinto
595 S. San Jacinto Avenue
San Jacinto, CA 92583

Dear Mr. Prill:

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 24, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of San Jacinto 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 24, 2012. 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:

- Transfers to the City of San Jacinto (City) in the amount of \$700,208 in cash and \$661,252 in property assets continue to be denied, as discussed below:
 - Disallowed cash transfers in the amount of \$700,208. The City and the former Redevelopment Agency (RDA) entered into a loan agreement in 2008 where the City loaned the former RDA \$600,000 to fund the Soboba Springs project area. The Agency contends that because the Soboba Springs Project Area merged with another project area and the Soboba Springs Project Area no longer existed, the loan and interest was repaid to the City. The Agency also contends that Section 3.2 of the Soboba Springs loan agreement allows the City to demand repayment and be repaid within 10 days. Our review indicates that the RDA transferred cash to the City on October 18, 2011 for \$628,208 and again on November 2, 2011 for \$72,000 to repay the entire Soboba Springs loan. Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former redevelopment agency or successor agency to the city, county, or city and county that formed the former RDA between January 1, 2011 through June 30, 2012 must be evidenced by documentation of the enforceable obligation that required the transfer. 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 RDA prior to June 28, 2011 with a third party other than the city, county, or city and county that created the former RDA. Further, HSC section 34171 (d) (2) states "enforceable obligation" does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted.

Finance notes the repayment of these loans may become enforceable obligations after the Agency receives a Finding of Completion from Finance. If the oversight board makes a finding that the loans were for legitimate redevelopment purposes, these loans should be placed on future Recognized Obligation Payment Schedules (ROPS) for repayment. Refer to HSC section 34191.4 (b) for more guidance.

- o Disallowed asset transfers in the amount of \$661,252. The former RDA transferred property to the City during the period January 1, 2011 through June 30, 2011. The Agency contends that the former RDA passed Resolution RDA 11-08 which allowed the properties to be transferred to the City to provide flexibility and preserve local public assets. Our review of RDA resolution indicates that the former RDA transferred properties and easements to the City valued at \$661,252. As previously stated above, HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former redevelopment agency or successor agency to the city, county, or city and county that formed the former RDA between January 1, 2011 through June 30, 2012 must be evidenced by documentation of the enforceable obligation that required the transfer. 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. HSC section 34171 (d) (2) states "enforceable obligation" does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted. In addition, transferred properties are considered non-liquid assets and therefore, do not affect the balance to be distributed to the taxing entities.

The non-liquid assets transferred to the City are subject to the California State Controller's Office review of asset transfers. Finance notes, however, that to the extent the City would like to retain these parcels, HSC section 34191.5 (c) (2) states that one of the property disposition options available to the successor agency of the former RDA is the retention of property for future development purposes pursuant to an approved LRPMP. If this option is selected, HSC section 34180 (f) (1) states that the city, county, or city and county must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to HSC section 34188, for the value of the property retained.

The Agency's OFA balance available for distribution to the affected taxing entities is \$3,878,323 (see table on next page).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 3,178,115
Finance Adjustments:	
Disallowed cash transfers	\$ 700,208
Total OFA available to be distributed: \$ 3,878,323	

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 Derk Symons, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Sharon Paisley, Development Director, City of San Jacinto
Ms. Pam Elias, Chief Accountant Property Tax Division, Riverside County
Auditor-Controller
California State Controller's Office