



March 22, 2013

Ms. Laura Rocha, Finance Director
City of San Marcos
1 Civic Center Dr.
San Marcos, CA 92069

Dear Ms. Rocha:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the Successor Agency to the San Marcos Redevelopment 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 4, 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:

- Balances requested to be retained totaling \$35,958,731 for fiscal year 2012-13 obligations should be adjusted by \$18,717,173:
 - The Agency requested to retain \$27,512,718 of July through December 2012 Recognized Obligation Payment Schedule (ROPS II) expenditures that were approved with Redevelopment Property Tax Trust Funds (RPTTF) funding. According to the County Auditor Controller records, only \$4,319,257 was distributed to the Agency for ROPS II obligations. Pursuant to HSC 34177(a)(3), enforceable obligation payments must be made from the funds specified in the ROPS. However, to adequately fund the scheduled bond payments that were approved with RPTTF funding in ROPS II, Finance is authorizing the retention of \$15,586,013. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$11,926,705.
 - The Agency requested to retain \$6,497,131 of January through June 2013 ROPS III expenditures that were approved with 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. Therefore, the OFA

balances available for distribution to the taxing entities will be adjusted by \$6,497,131.

- The Agency requested to retain \$293,337 of ROPS III expenditures that were denied by Finance in the letter dated October 10, 2012. Subsequently, the Agency requested a Meet and Confer session regarding the disputed items. Based on the Meet and Confer session held on November 28, 2012, Finance continues to object to these items. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$293,337.
- The Agency set up a receivable related July true-up payment in the amount of \$12,976,044. Although it does not affect the unencumbered balances available for distribution to the taxing entities, the receivable is invalid and Finance does not have the statutory authorization to reduce the amount the Agency has been billed by the County Auditor Controller.
- Finance noted the county auditor controller adjusted the ROPS III January 2, 2013 distribution by \$169,215 pursuant to HSC section 34186 (a). Therefore, Finance is allowing the retention of these funds in order to adequately fund approved ROPS III expenditures.

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 \$5,505,283 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (13,042,675)
Finance Adjustments	
Add:	
Balances not allowed to be Retained for ROPS Payments:	\$ 18,717,173
HSC section 34186 (a) adjustment:	\$ (169,215)
Total OFA available to be distributed:	\$ 5,505,283

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 Wendy Griffe, Supervisor or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Lydia Romero, Deputy City Manager, City of San Marcos
Mr. Juan Perez, Senior Auditor and Controller Manager, County of San Diego
California State Controller's Office