



April 27, 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

This letter supersedes the California Department of Finance's (Finance) original Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letter dated March 22, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of San Marcos Successor Agency (Agency) submitted an oversight board approved OFA DDR to 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. Finance issued an OFA DDR determination letter on March 22, 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 April 11, 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:

- Requested balance retention totaling \$35,958,731 for fiscal year 2012-13 is partially approved. Our review indicates the following:
 - For the Recognized Obligation Payment Schedule (ROPS) for the July through December 2012 (ROPS II) period, the Agency received \$4,319,257 from the Redevelopment Property Tax Trust Fund (RPTTF) prior to June 30, 2012 and the amount was included in the June 30, 2012 DDR balance. Therefore, the Agency will be permitted to retain the distributed \$4,319,257 to meet its Finance approved ROPS II enforceable obligations.

During the ROPS II period, Finance approved enforceable obligations totaling \$33,767,722 to be funded out of RPTTF; however, as discussed above, the Agency did not receive sufficient RPTTF for the ROPS II period; therefore, the Agency will be permitted to retain funds up to the amount actually expended on approved enforceable obligations during the ROPS II period (as reported on the ROPS 13-14A) less the amount of actual RPTTF distributed. As such, total allowed retention for is \$28,921,833 (\$33,241,090 - \$4,319,257).

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.

- o For the January through June 2013 ROPS (ROPS III) period, the Agency requested and was approved \$1,655,545 in "Other Funds". Therefore, the Agency will be permitted to retain the amount to meet Finance approved ROPS III "Other Fund" enforceable obligations.
- o The Agency was unable to provide documentation to support its request to retain the remaining \$1,062,096. Therefore, OFA balances available for distribution will be increased by this amount.
- Finance notes the County Auditor Controller adjusted the January 2, 2013 ROPS III 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 enforceable obligations.
- The Agency established a receivable related to the July 2012 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 authority to reduce the amount the Agency was billed for by the County Auditor Controller.

The Agency's OFA balance available for distribution to the affected taxing entities is \$0 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (13,042,675)
Finance Adjustments	
Add:	
Requested balance retention not supported:	\$ 1,062,096
HSC section 34186 (a) adjustment:	\$ (169,215)
Total OFA available to be distributed:	\$ -

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.

Please direct inquiries to Evelyn Suess, Supervisor or Danielle Brandon, 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