



REVISED

November 6, 2013

Ms. Bonnie Lipscomb, Director of Economic Development
City of Santa Cruz
337 Locust Street
Santa Cruz, CA 95060

Dear Ms. Lipscomb:

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 letters dated March 26, 2013 and May 3, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Santa Cruz 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 March 26, 2013. Subsequent to a Meet and Confer process on one or more items adjusted by Finance, Finance issued a final determination letter on May 3, 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:

- The Agency's request to retain \$2,552,247 in OFA balances to cover future obligations is partially allowed. Our review indicates that on the Recognized Obligation Payment Schedule (ROPS) for the January through June 2012 period (ROPS I), the Agency was approved to expend \$3,049,266 in reserve funds. The Agency provided documents supporting that \$497,019 in reserve funds were expended during the ROPS I period. The Agency also provided documentation that \$997,928 of ROPS I approved expenditures were accrued and paid during the July through December 2012 ROPS (ROPS II) period. Due to the timing of ROPS I and ROPS II submittals, these amounts were not included on the ROPS II; therefore, the Agency may retain \$997,928 to cover the ROPS I expenditures that were paid after June 30, 2012. The OFA balance available for distribution will be increased by the remaining \$1,554,319 (\$2,552,247 - \$997,928).

Finance notes that amounts requested and approved in a ROPS are effective only for the six-month period covered. To the extent the Agency does not expend funds approved and received on a ROPS until a subsequent period, the Agency should relist the unexpended amounts that need to be retained for those enforceable obligations on

the subsequent ROPS with the funding source as "Reserves" or "Other" and an entry in the Notes section indicating the funds were received in a prior ROPS period.

- The Agency requested it be permitted to retain \$227,950 more than reported in the original OFA DDR for the January through June 2013 ROPS (ROPS III) obligations. Our review indicates the Agency was approved to expend \$227,950 of reserve balances for the ROPS III period. As such, the Agency may retain \$227,950 in OFA balances to satisfy approved obligations for the ROPS III period.
- The Agency requested it be permitted to retain \$1,310,545 more than requested in the original OFA DDR. Per the Agency, this amount is needed in relation to Finance's increase to the OFA balances totaling \$1,310,545 (as referenced in the section below) for cash and cash equivalents not included in the OFA DDR. The Agency claims \$1,293,896 of the amount had already been included in the Low and Moderate Income Housing Fund (LMIHF) DDR and was used to pay the July 12, 2012 demand payment. Our review indicates \$1,293,896 was included in the LMIHF DDR and that the retention of this amount was requested and permitted on the Low and Moderate Income Housing Fund (LMIHF). The Agency transferred these funds into the new Agency's funds and combined with \$3,206,863 in OFA balances paid the July 12, 2012 demand payment totaling \$4,500,759. In addition, the Agency previously only requested and was permitted to retain \$3,206,863 in OFA balances for the July 12, 2012 demand payment. Therefore, it is reasonable that the Agency be permitted to retain the portion of Finance's adjustment used to make the July 12, 2012 demand payment in the amount of \$1,293,896.
- The Agency requested it be permitted to retain \$644,494 (\$419,210 + \$225,284) more than reported to satisfy ROPS for the July through December 2013 period (ROPS 13-14A). Per the County Auditor Controller's RPTTF distribution estimate for the ROPS 13-14A period, the Agency will receive sufficient RPTTF to cover approved enforceable obligations. We note that this amount is not included on the original OFA DDR; therefore, no adjustment to the OFA balance available for distribution is necessary.

The Agency did not object to the following adjustment made by Finance during the Meet and Confer process. HSC section 34179.6 (d) authorizes Finance to make adjustments. We maintain that the following adjustments are appropriate:

- Total amount of assets held as of June 30, 2012 should be \$53,539,349. Our review identified the final financial statements for the Agency as of June 30, 2012 disclosed \$1,310,545 of cash and cash equivalents that were not included in the DDR's total asset balance. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$1,310,545.
- The Agency's request to retain balances in the amount of \$3,623,346 for ROPS II is partially denied. Included in the amount is \$217,156 of balances that were not approved on either the ROPS II. HSC 34177 (a) (3) states that only those payments listed in the ROPS may be made by the successor agency from the funds specified. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$217,156.

The Agency's OFA balance available for distribution to the affected taxing entities is \$825,482.

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (734,692)
Finance Adjustments	
Add:	
Adjustment to the June 30, 2012 balance:	\$ 1,310,545
Request to retain balances not supported for ROPS I items:	1,554,319
Request to retain balances not supported for ROPS II items:	217,156
Request to retain balances supported for ROPS III items:	(227,950)
Additional allowed retention	(1,293,896)
Total OFA available to be distributed:	\$ 825,482

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, Supervisor, or Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Kathryn Mintz, Redevelopment Finance Manager, City of Santa Cruz
Ms. Mary Jo Walker, Auditor-Controller, County of Santa Cruz
California State Controller's Office