



April 1, 2013

Mr. Mark Evanoff, Redevelopment Manager
City of Union City
34009 Alvarado-Niles Road
Union City, CA 94587

Dear Mr. Evanoff:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the Union City 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 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. Pursuant to HSC section 34179.6 (d), Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

Finance made no adjustments to the OFA balance available for allocation to the affected taxing entities. As a result, there are no unencumbered OFA balances available for distribution. However, HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of OFA. Based on our review of your DDR, we noted the following improper asset transfers:

Unallowable transfers of assets to the City of Union City (City) after January 1, 2011. The Agency transferred assets totaling \$72,850,930 pursuant to a Disposition and Development Agreement (DDA) dated February 22, 2011 and a Public Improvement Agreement (PIA) dated March 8, 2011 as noted in Exhibit 2 of the OFA DDR. Both of these agreements were between the City and former redevelopment agency (RDA). HSC section 34171 (d) (2) states that agreements between the RDA and the City which created the RDA do not create enforceable obligations (EO). Therefore, the RDA was not permitted to transfer assets to the City.

The DDR also indicated that the City returned \$62,722,518 of the assets to the Agency as of June 30, 2012, which consisted of the entire amount of Land Held for Resale pursuant to the above mentioned DDA, and a portion of the assets transferred pursuant to the PIA. The difference between the transferred and returned amounts is \$10,128,412 (\$72,850,930 - \$62,722,518). The DDR noted that the City retained this amount plus revenues generated by their Economic Development Fund of \$354,591 to pay for expenditures of various projects.

The amount of \$10,128,412, retained by the City was not completely obligated to third parties. Our review noted that the City expended a combination of 2010 and 2011 Tax

Allocation Bond (TAB) proceeds on the following projects for a total of \$2,081,484 which are not supported by an EO and have been denied on all previous ROPS reviews:

- Construction of East Plaza and Loop Road in the amount of \$1,048,594
- Construction of Promenade and Playground in the amount of \$930,339
- Construction of East West Connector in the amount of \$95,888
- Survey Work for Bart Phase 2 in the amount of \$6,663

The disallowed amount included \$1,748,763 in 2011TAB proceeds. HSC section 34191.4 (c)(2)(B) requires the proceeds from bonds issued after December 31, 2010 that are not encumbered by an enforceable obligation pursuant to 34171 (d) to be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation. Therefore, Finance is objecting to the expenditure of 2011 TAB proceeds used for projects not supported by an EO. Since these are restricted assets, adjustments made to the OFA balance did not impact the available balance for disbursement to the affected taxing entities. However, the Agency is required to reverse the improper transfers and recover the assets.

If you disagree with Finance's adjusted amount of OFA balances, 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/

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 Beliz Chappuie, Supervisor or Todd Vermillion, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Tony Acosta, Deputy City Manager
Ms. Carol S. Orth, Tax Analysis Division Chief, Alameda County Auditor-Controller
California State Controller's Office