



March 22, 2013

John Meyer, Director of Redevelopment and Housing
City of Vista
200 Civic Center Drive
Vista, CA 92084

Dear Mr. Meyer:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), City of Vista (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.

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:

- Total amount of assets held as June 30, 2012 in the amount of \$23,848,643 should be increased to \$29,100,159. On DDR Attachment B5, the Agency reported \$23,848,643 of assets as of June 30, 2012, including cash, cash with fiscal agent, notes receivable, intergovernmental receivable, and land held for resale. Based on additional information provided by the Agency, Finance determined that Agency excluded \$5,224,263 from the cash balance in order to pay post June 30, 2012 enforceable obligations. Since these funds were actually held by the Agency as of June 30, 2012, Finance is making an adjustment of \$5,224,263 to accurately reflect the June 30, 2012 balance.
- Assets transferred to the City of Vista (City) during the period of January 1, 2011 through June 30, 2012 in the amount of \$82,908,069 are not allowable. HSC section 34179.5 (c) (2) only allows asset transfers within this period that are required by enforceable obligation or meet the definition of governmental use. Specifically:
 - Cash in the amount of \$985,643 was transferred to the City to purchase property located at 1124 S. Santa Fe Avenue. However, the Agency was not a party to the contract.

- Cash in the amount of \$290,875 was transferred to the City to purchase property located on Monte Vista Drive. However, the Agency was not a party to the contract.
- Transfers in the amount of \$19,267,672 were made to repay City loans. No documents received support that the following transfer was required by an enforceable obligation.
- Transfers in the amount of \$19,410,280 were made to repay advances made in prior years with the City. No documents received support that the following transfer was required by an enforceable obligation.
- Transfers of unspent bond proceeds in the amount of \$15,094,569 were made to the City. The unspent bond proceeds are restricted assets of the Agency, not the City. It is our understanding these proceeds are not included in Procedure 5 of the OFA DDR denoting the Agency's asset balance as of June 30, 2012, but are included in Procedure 6 as a legally restricted asset. Therefore, an offsetting adjustment to identify these funds as legally restricted is not necessary, as they are already accounted for in Procedure 6.
- Transfer of 20 parcels totaling \$27,859,030 from the former Vista Redevelopment Agency (RDA) to the City during 2011. The Agency did not provide documentation to validate the transfers. These non-liquid assets transferred to the City are subject to the California State Controller's Office review of asset transfers. To the extent these assets that transferred are not for a government purpose or pursuant to an enforceable obligation, these assets should be returned to the Agency and disposed of in a manner consistent to the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5.

Since the Properties in the amount of \$27,859,030 are illiquid, they are considered a non-cash asset of the Agency. Therefore, another adjustment is being made to increase the non-cash balance by an equal amount. In effect, these adjustments balance out and do not affect the ending OFA available balance.

HSC section 34171 (d) (2) states that agreements between the former redevelopment agency and the city that created the redevelopment agency are not enforceable obligations. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by a total of \$82,908,069 with an offsetting adjustment of \$27,859,030.

Upon receiving a Finding of Completion, these City/Agency agreements may become enforceable and eligible for funding through the ROPS process.

- Balances legally restricted in the amount of \$2,116,495. On the July through December 2012 Recognized Obligation Payment Schedule (ROPS II), Agency requested and received approval for enforceable obligations in the amount of \$7,512,866. However, the San Diego County Auditor Controller only distributed \$5,224,263 for ROPS II obligations. The DDR requests to retain \$2,116,495 to cover the deficiency of Redevelopment Property Tax Trust Fund (RPTTF) funds for ROPS II obligations. HSC 34177 does not allow the Agency to retain OFA balances to pay obligations approved with RPTTF as the funding source. To the extent these items are enforceable

obligations, the Agency may request RPTTF on future ROPS to pay for these unfunded obligations. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$2,116,495.

- Balances allowed to be retained in the amount of \$5,224,263. The Agency received \$5,224,263 from the San Diego County Auditor Controller for ROPS II obligations to be paid after June 30, 2012. This amount should be reported as needing to be retained. Therefore, the OFA balance available for distribution to the taxing entities will be reduced by \$5,224,263.

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 \$56,795,412 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (370,122)
Finance Adjustments	
Add:	
Adjustment to June 30,2012 balance:	\$ 5,224,263
Disallowed transfers to the City of Vista:	\$ 82,908,069
Reversal of non-cash transfers to the City of Vista:	\$ (27,859,030)
Adjustment to legally restricted balance:	\$ 2,116,495
Adjustment to balance needed to be retained:	(5,224,263)
Total OFA available to be distributed:	\$ 56,795,412

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 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: Mr. Jeff Zinner, Redevelopment and Housing Manager, City of Vista
Mr. Juan Perez, Senior Auditor and Controller Manager, County of San Diego
California State Controller's Office