City of Santa Monica

Information Item

Date: August 3, 2015

To: Mayor and City Council

From: Gigi Decavalles-Hughes, Finance Director
Andy Agle, Director of Housing and Economic Development

Subject: Final State Controller's Office Report on Redevelopment Asset Transfers

Introduction

The California State Controller's Office has issued the final audit report regarding assets transferred from the former Santa Monica Redevelopment Agency to the City after January 1, 2011. The assets were transferred in accordance with various cooperation and implementation agreements entered into prior to the dissolution of redevelopment agencies. The final report requires the transfer of $19.1 million from the City to the Santa Monica Redevelopment Successor Agency.

Background

On December 29, 2011, the California Supreme Court issued its decision in the case of *California Redevelopment Association et al v. Matosantos et al*. The net effect of the decision was to uphold the passage of AB1x26 and require all California redevelopment agencies, including the Redevelopment Agency of the City of Santa Monica ("the former RDA"), to be dissolved as of February 1, 2012. On January 10, 2012, Council elected for the City to become the Successor Agency to the former RDA in order to satisfy obligations of the former agency, as well as to retain housing assets and functions of the former agency.

On June 27, 2012, the Governor signed AB1484, a measure meant to clarify existing legislation related to the dissolution of redevelopment. Collectively, AB1x26 and AB1484 (referenced hereinafter as "the Dissolution Statutes") required successor

agencies to undergo two independent financial audits. The first audit process, under the direction of the Department of Finance ("DOF"), reviewed all cash and cash-equivalent assets in the possession of the Successor Agency, as well as assets transferred by the former RDA and Successor Agency to the City. The purpose of the audit process was to determine the amount of unobligated balances available for transfer to the taxing entities. The audit process resulted in a stipulated judgment ("Stipulated Judgment") wherein the City agreed to transfer $56,784,229 of cash to the Successor Agency for distribution to the affected taxing entities by July 15, 2015. In consideration of the transfer, the DOF approved the expenditure of the former RDA's housing bond funds and other low- and moderate-income cash for pre-existing housing obligations. The Successor Agency has satisfied all of its obligations under the Stipulated Judgment.

The second audit, conducted by the State Controller's Office ("SCO"), involved a review of all asset transfers made by the former RDA or Successor Agency to the City after January 1, 2011. The Dissolution Statutes provide that any assets transferred from redevelopment agencies to cities after January 1, 2011 must be transferred to successor agencies, unless the assets were committed to private, third parties prior to June 27, 2011.

Community Redevelopment Law authorized the transfer of cash, cash-equivalent, and capital assets to cities for redevelopment purposes, including the construction of public improvements, and the financing of redevelopment projects and affordable housing. As a result, the former RDA followed the practice common among redevelopment agencies of effectuating asset transfers through cooperation and implementing agreements with the City until AB1x26 went into effect on June 27, 2011.

With some very limited statutory exceptions, almost all of the agreements were deemed to be invalid, retroactively, upon the passage of AB1x26. As a practical matter, any outstanding debt owed to the City by the former RDA as of January 1, 2011 was

deemed as uncollectable, even if lawfully paid to the City during the period from January 1, 2011 through June 27, 2011, before AB1x26 went into effect.

Notwithstanding the retroactive invalidation of certain former RDA-City obligations, the Dissolution Statutes authorized certain post-dissolution transfers, including the transfer of housing assets and designated government-purpose assets to the City. The Dissolution Statutes also authorized asset transfers made by former RDAs to cities that were committed to private, third parties before June 27, 2011, to avoid claims of interference with private contracts. Following these dictates, the SCO conducted an audit of all transfers made by the former RDA to the City after January 1, 2011, and then credited the transfers back to the City that were authorized by the Dissolution Statutes.

Discussion

The SCO completed its preliminary audit report in March 2015 and allowed the Successor Agency to comment before issuing its final audit report. The SCO then issued its final audit report on June 30, 2015 (see Attachment). The final report requires the transfer of $19.1 million from the City to the Santa Monica Redevelopment Successor Agency.

The SCO's final audit report identified total RDA transfers of $456.9 million in former RDA assets, including cash, restricted bond proceeds, and capital assets (both housing and non-housing). After allowing for (a) the authorized transfer of housing assets, (b) government-purpose assets (including Parking Structures 1 through 6 and Tongva Park), and (c) assets committed to third parties before June 27, 2011 (including the Fourth and Arizona properties), as well as crediting the City for the cash payment made pursuant to the Stipulated Judgment, the SCO found that $19.1 million of unallowable transfers to the City must be paid to the Successor Agency.

The amount represents $12.2 million in restricted, unspent loan proceeds and $6.9 million in loan payments lawfully made to the City before June 27, 2011, but deemed invalid after AB1x26 went into effect. The SCO's report directs the City to

transfer the $19.1 million to the Successor Agency. Based on initial findings provided by the SCO, the City accounted for the cash transfer to the Successor Agency in its FY 2013-14 financial statements. As a result, no further impact will be shown on the City's books based on the final SCO report.

Prepared By: Gigi Decavalles-Hughes, Director of Finance
Andy Agle, Director of Housing and Economic Development

Attachment: Santa Monica Redevelopment Agency Asset Transfer Review by the State Controller's Office

BETTY T. YEE
California State Controller

June 30, 2015

Gigi Decavalles-Hughes, Finance Director
City of Santa Monica/Redevelopment Successor Agency
1717 Fourth Street, Suite 250
Santa Monica, CA 90401

Dear Ms. Decavalles-Hughes:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Santa Monica Redevelopment Agency (RDA) to the City of Santa Monica (City) or any other public agency after January 1, 2011. This statutory provision states, "The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in furtherance of the Community Redevelopment Law and is thereby unauthorized." Therefore, our review included an assessment of whether each asset transfer was allowable and whether the asset should be turned over to the Successor Agency.

Our review applied to all assets including, but not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payment of any kind. We also reviewed and determined whether any unallowable transfers to the City or any other public agency have been reversed.

Our review found that the RDA transferred $456,914,648 in assets after January 1, 2011, including unallowable transfers to the City totaling $239,695,264, or 52.46% of transferred assets.

However, the following corrective actions have been taken:

- As of May 15, 2013, the City turned over a total of $33,041,853 in cash to the Successor Agency.
- On October 28, 2013, the City agreed to turn over a total of $56,784,229 in cash to the Successor Agency by July 15, 2015. Once all of the cash is turned over to the Successor Agency, no further action is necessary.
- As of April 15, 2014, the City had expended $47,619,826 in restricted cash.

- The Oversight Board approved Resolution No. 13 (SAS) on May 8, 2013, and No. 20 (SAS) on June 16, 2014, directing the Successor Agency to transfer ownership of $47,400,084 in governmental-purpose properties to the City. The California Department of Finance approved the resolutions as of December 30, 2014.
- As of June 24, 2014, the Successor Agency effectuated the transfer of $19,361,188 in restricted cash, and $16,338,405 in properties to the City as the Housing Successor Agency, pursuant to Resolution No. 14 (SAS) and Resolution No. 21 (SAS).

Therefore, the remaining $19,149,679 ($12,249,174 in restricted Wells Fargo cash proceeds and $6,900,505 in unrestricted cash) in unallowable transfers must be turned over to the Successor Agency.

If you have any questions, please contact Elizabeth González by telephone at (916) 324-0622 or by email at egonzalez@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/as

Attachment

cc: Elaine Polachek, City Manager
City of Santa Monica
Paul Silvern, Chair, Successor Agency Oversight Board
City of Santa Monica
John Naimo, Auditor-controller
County of Los Angeles
Elizabeth González, Bureau Chief
Division of Audits, State Controller's Office
Reginald Nidoy, Audit Manager
Division of Audits, State Controller's Office
Venus Sharifi, Auditor-in-Charge
Division of Audits, State Controller's Office
Tuan Tran, Auditor
Division of Audits, State Controller's Office
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office

SANTA MONICA REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012

BETTY T. YEE

California State Controller

June 2015

Contents

Review Report

Summary 1

Background 1

Objective, Scope, and Methodology 2

Conclusion 2

Views of Responsible Officials 3

Restricted Use 3

Finding and Order of the Controller 4

Schedule 1—Unallowable Asset Transfers to the City of Santa Monica 8

Schedule 2—Detail of Capital Asset Transfers to the City of Santa Monica 9

Schedule 3—Detail of Housing Capital Asset Transfers to the City of Santa Monica 10

Attachment—City and Successor Agency's Response to Draft Review Report

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Santa Monica Redevelopment Agency (RDA) after January 1, 2011. Our review included, but was not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payments of any kind from any source.

Our review found that the RDA transferred $456,914,648 in assets after January 1, 2011, including unallowable transfers to the City of Santa Monica (City) totaling $239,695,264, or 52.46% of transferred assets.

However, the following corrective actions have been taken:

- As of May 15, 2013, the City turned over a total of $33,041,853 in cash to the Successor Agency.
- On October 28, 2013, the City agreed to turn over a total of $56,784,229 in cash to the Successor Agency by July 15, 2015. Once all of the cash is turned over to the Successor Agency, no further action is necessary.
- As of April 15, 2014, the City had expended $47,619,826 in restricted cash.
- The Oversight Board approved Resolution No. 13 (SAS) on May 8, 2013 and No. 20 (SAS) on June 16, 2014, directing the Successor Agency to transfer ownership of $47,400,084 in governmental-purpose properties to the City. The California Department of Finance approved the resolutions as of December 30, 2014.
- As of June 24, 2014, the Successor Agency effectuated the transfer of $19,361,188 in restricted cash, and $16,338,405 in properties to the City as the Housing Successor Agency, pursuant to Resolution No. 14 (SAS) and Resolution No. 21 (SAS).

Therefore, the remaining $19,149,679 ($12,249,174 in restricted Wells Fargo cash proceeds and $6,900,505 in unrestricted cash) in unallowable transfers must be turned over to the Successor Agency.

Background

In January of 2011, the Governor of the State of California proposed statewide elimination of redevelopment agencies (RDAs) beginning with the fiscal year (FY) 2011-12 State budget. The Governor's proposal was incorporated into Assembly Bill 26 (ABX1 26, Chapter 5, Statutes of 2011, First Extraordinary Session), which was passed by the Legislature, and signed into law by the Governor on June 28, 2011.

ABX1 26 prohibited RDAs from engaging in new business, established mechanisms and timelines for dissolution of the RDAs, and created RDA successor agencies and oversight boards to oversee dissolution of the RDAs and redistribution of RDA assets.

A California Supreme Court decision on December 28, 2011 (*California Redevelopment Association et al. v. Matosantos*), upheld ABX1 26 and the Legislature's constitutional authority to dissolve the RDAs.

ABX1 26 was codified in the Health and Safety (H&S) Code beginning with section 34161.

H&S Code section 34167.5 states in part, ". . . the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency."

The SCO identified asset transfers that occurred after January 1, 2011, between the RDA, the City and/or any other public agency. By law, the SCO is required to order that such assets, except those that already had been committed to a third party prior to June 28, 2011, the effective date of ABX1 26, be turned over to the Successor Agency. In addition, the SCO may file a legal action to ensure compliance with this order.

Objective, Scope, and Methodology

Our review objective was to determine whether asset transfers that occurred after January 1, 2011, and the date upon which the RDA ceased to operate, or January 31, 2012, whichever was earlier, between the city or county, or city and county that created an RDA or any other public agency, and the RDA, were appropriate.

We performed the following procedures:

- Interviewed Successor Agency personnel to gain an understanding of the Successor Agency's operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the City, the RDA, the Successor Agency, and the Oversight Board.
- Reviewed accounting records relating to the recording of assets.
- Verified the accuracy of the Asset Transfer Assessment Form. This form was sent to all former RDAs to provide a list of all assets transferred between January 1, 2011, and January 31, 2012.
- Reviewed applicable financial reports to verify assets (capital, cash, property, etc.).

Conclusion

Our review found that the Santa Monica Redevelopment Agency transferred $456,914,648 in assets after January 1, 2011, including unallowable transfers to the City of Santa Monica (City) totaling $239,695,264, or 52.46% of transferred assets.

However, the following corrective actions have been taken:

- As of May 15, 2013, the City turned over a total of $33,041,853 in cash to the Successor Agency.

- On October 28, 2013, the City agreed to turn over a total of $56,784,229 in cash to the Successor Agency by July 15, 2015. Once all of the cash is turned over to the Successor Agency, no further action is necessary.
- As of April 15, 2014, the City had expended $47,619,826 in restricted cash.
- The Oversight Board approved Resolution No. 13 (SAS) on May 8, 2013 and No. 20 (SAS) on June 16, 2014, directing the Successor Agency to transfer ownership of $47,400,084 in governmental-purpose properties to the City. The California Department of Finance approved the resolutions as of December 30, 2014.
- As of June 24, 2014, the Successor Agency effectuated the transfer of $19,361,188 in restricted cash, and $16,338,405 in properties to the City as the Housing Successor Agency, pursuant to Resolution No. 14 (SAS) and Resolution No. 21 (SAS).

Therefore, the remaining $19,149,679 ($12,249,174 in restricted Wells Fargo cash proceeds and $6,900,505 in unrestricted cash) in unallowable transfers must be turned over to the Successor Agency.

Details of our finding are described in the Finding and Order of the Controller section of this report.

Views of Responsible Officials

We issued a draft report on March 11, 2015. Gigi Decavalles-Hughes, Director of Finance, responded by letter dated March 26, 2015. The City's response is included in the final review report as an attachment.

Restricted Use

This report is solely for the information and use of the City, the Successor Agency, the Oversight Board, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record when issued final.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

June 30, 2015

Finding and Order of the Controller

FINDING—Unallowable asset transfers to the City of Santa Monica

The Santa Monica Redevelopment Agency (RDA) made unallowable asset transfers totaling $239,695,264 to the City of Santa Monica (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On March 9, 2011, the RDA transferred $110,907,393 in capital assets to the City, pursuant to an Option Agreement (Second Implementing Agreement No. 9340). However, $20,920,751 in properties (Parking Structures #7 and #8) were transferred pursuant to the 1978 Lease Agreement, and $42,586,558 in land located at 1301 and 1333 Fourth Street was contractually committed to a third party prior to June 27, 2011, by deeds of trust. Therefore, the remaining $47,400,084 in capital asset transfers are unallowable.

- On March 9, 2011, the RDA transferred 6,900,505 in cash to the City. The transfers were for Repayment of a City advance to the RDA for the Downtown Redevelopment and Earthquake Recovery Project Area.

- On March 9, 2011, the RDA transferred $19,361,188 in Low- and Moderate-Income Housing Fund (Low-Mod) cash to the City, pursuant to a September 1, 2010 Master Cooperation Agreement (MCA). The Low-Mod cash is restricted by the Bank of America Loan Agreement.

- On March 11, 2011, the RDA transferred $59,869,000 in cash to the City pursuant to the MCA. The cash is restricted by Wells Fargo Bank Loan Agreement.

- On various dates from March 30, 2011 to June 29, 2011, the RDA transferred $68,831,245 in cash to the City pursuant to the September 1, 2010 MCA.

- On various dates from March 30, 2011 to June 29, 2011, the RDA transferred $29,234,540 in Low-Mod cash to the City pursuant to the September 1, 2010 MCA. However, $8,239,703 was contractually committed to a third party prior to June 28, 2011, therefore the remaining $20,994,837 in cash transfers is unallowable.

- On June 29, 2011, the RDA transferred $16,338,405 in Low-Mod capital assets to the City pursuant to an Option Agreement – Second Implementing Agreement No. 9340.

Pursuant to Health and Safety (H&S) Code section 34167.5, the RDA may not transfer assets to a city, county, city and county, or any other public agency after January 1, 2011. The assets must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177 (d) and (e).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers of assets in the amount of $239,695,264, and turn over the assets to the Successor Agency.

However, the following corrective actions have been taken:

- As of May 15, 2013, the City turned over a total of $33,041,853 in cash to the Successor Agency. Of that amount, $3,500,000 was used for debt service payments, pursuant to the Recognized Obligation Payment Schedule III.
- On October 28, 2013, the City agreed to turn over a total of $56,784,229 in cash to the Successor Agency by July 15, 2015, pursuant to the Stipulation Settlement Agreement, entered into on October 28, 2013. Once all of the cash is turned over to the Successor Agency, no further action is necessary.
- As of April 15, 2014, the City had expended $47,619,826 in restricted cash in accordance with the Wells Fargo Bank Loan Agreement.
- The Oversight Board approved Resolution No. 13 (SAS) on May 8, 2013, and No. 20 (SAS) on June 16, 2014, directing the Successor Agency to transfer ownership of $47,400,084 in governmental-purpose properties to the City. The California Department of Finance (DOF) approved the resolutions as of December 30, 2014.
- As of June 24, 2014, the Successor Agency effectuated the transfer of $19,361,188 in restricted cash, and $16,338,405 in properties to the City as the Housing Successor Agency, pursuant to Resolution Nos. 14 (SAS) and Resolution No. 21 (SAS).

Therefore, the remaining $19,149,679 ($12,249,174 in restricted Wells Fargo cash proceeds and $6,900,505 in unrestricted cash) in unallowable transfers must be turned over to the Successor Agency.

City's Response

1. The City disputes the characterization of all transfers listed on page 4 as unallowable transfers…

2. The listing of unallowable transfers" on page 4 does not include the transfer of $12,249,174 in restricted Wells Fargo loan proceeds… and that the restricted cash proceeds are not subject to disposition under Health and Safety Code section 34177(d) and (e)…

3. The Stipulation Settlement Agreement, entered into on October 28, 2013, in which, the State Controller's Office was a party, states that the City's payment of $56,784,229 to the County Auditor-Controller represents the full remittance and payment of all unobligated or uncommitted cash previously held by or paid to the RDA and/or Successor Agency. The City contends that it is not legally obligated to pay any more than the stipulated amount. However; the City agreed, in protest, to turn over $6,900,505 used for the Downtown Redevelopment and Earthquake Recovery Project Area to the Successor Agency. The City reserves the right to contest the Controller's Order, and that the City has no obligation to transfer unrestricted cash in excess of the Stipulated amount.

4. The City requests the modification of the phrase "Low-Mod assets" to read "Low-Mod capital assets," and that the transfers were approved by the Successor Agency's Oversight Board and the DOF.

5. The Draft Report has a few factual misstatements regarding the resolutions approved by the Oversight Board. . .

See Attachment for the City's complete response.

<u>SCO's Comment:</u>

1. The SCO's authority under H&S Code section 34167.5 extends to all assets transferred after January 1, 2011, by the RDA to the city or county, or city and county that created the RDA or any other public agency. This responsibility is not limited by the other provisions of the RDA dissolution legislation. As a result, the transfers made by the RDA to the City during the period of January 1, 2011 through January 31, 2012 are unallowable.

2. The SCO will clarify the $19,149,679 ordered by the Controller to be turned over to the Successor Agency by stating that, of that amount, $12,249,174 is in restricted Wells Fargo loan proceeds and the remaining $6,900,505 is in unrestricted cash proceeds. However, the sentence, "The assets must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d) and (e)" will not be removed from the Finding because the unallowable transfers are subject to the Successor Agency's decisions regarding the disposition of the assets, not the City's.

3. The SCO acknowledges that the City will turn over, in protest, $6,900,505 used for the Downtown Redevelopment and Earthquake Recovery Project Area, to the Successor Agency.

4. The SCO will modify "Low-Mod assets" to read "Low-Mod capital assets" in the Finding. The Finding and Order of the Controller will reflect Resolution Nos. 14(SAS) and 21 (SAS) as corrective actions for the housing capital assets being turned over to the Successor Agency's control and the DOF's subsequent approval. As such, Schedule 1 and Schedule 3 have been modified to reflect the Oversight Board resolutions effectuating the transfers as the corrective actions.

5. The SCO agrees with the City. The resolution numbers and dates have been updated throughout the report.

Schedule 1—
Unallowable Asset Transfers to the City of Santa Monica
January 1, 2011, through January 31, 2012

Capital asset transfers (March 9, 2011)	$ 47,400,0844 [1]
Cash transfer for repayment of advance (March 9, 2011)	6,900,505
Restricted cash transfers (March 9, 2011)	19,361,188
Restricted cash transfers (March 11, 2011)	59,869,000
Cash transfer for the MCA (March 30, 2011 through June 29, 2011)	89,826,082
Low-Mod capital assets transfer (June 29, 2011)	16,338,405 [2]
Total unallowable transfers	239,695,264
Cash turned over to Successor Agency (as of May 15, 2013)	(33,041,853)
Cash to be turned over to the Successor Agency per the Stipulation Settlement Agreement (October 28, 2013)	(56,784,229)
Restricted cash expended in accordance with loan agreement (as of April 15, 2014)	(47,619,826)
Property transfers for governmental use (as of June 16, 2014)	(47,400,084) [1]
Effectuated restricted cash transfers to the Housing Successor (as of June 24, 2014)	(19,361,188)
Effectuated housing capital asset transfers to the Housing Successor Agency (as of June 24, 2014)	(16,338,405) [2]
Total transfer subject to H&S Code section 34167.5	$ 19,149,679

[1] See Schedule 2 for details
[2] See Schedule 3 for details

Schedule 2—
Detail of Capital Asset Transfers to the City of Santa Monica January 1, 2011, through January 31, 2012

	APN	Transferred on March 9, 2011	Approved for Governmental Use on December 30, 2014	Total Transfers Subject to H&S Code section 34167.5
Civic Land (Public Park)		$ 43,430,619	$ (43,430,619)	$ —
1673 Ocean Avenue	4290-015-903	—	—	—
1677 Ocean Avenue	4290-015-904	—	—	—
1683 Ocean Avenue	4290-015-905	—	—	—
1700 Main Street	4290-015-900	—	—	—
1665 Ocean Avenue	4290-015-902	809,381	(809,381)	—
Parking Structure #1	4291-003-903	—	—	—
Parking Structure #2	4291-002-901	672,364	(672,364)	—
Parking Structure #3	4291-012-900, 901	654,337	(654,337)	—
Parking Structure #4	4291-013-901	1,030,566	(1,030,566)	—
Parking Structure #5	4291-017-905	487,639	(487,639)	—
Parking Structure #6	4291-016-902	315,178	(315,178)	—
Total		$ 47,400,084	$ (47,400,084)	$ —

Schedule 3—
Detail of Housing Capital Asset Transfers to the City of Santa Monica January 1, 2011, through January 31, 2012

Land (2018 19th Street)	$ 575,000
Land (Village)	11,060,000
Land (1751 Cloverfield)	3,480,520
Structure (1751 Cloverfield)	1,222,885
Total unallowable transfers	16,338,405
Effectuated housing capital asset transfers to the Housing Successor Agency (as of June 24, 2014)	(16,338,405)
Total transfer subject to H&S Codes section 34167.5	$ —

Attachment—
City of Santa Monica's and the Successor Agency to the Former Redevelopment Agency of the City of Santa Monica's Response to Draft Review Report

City of Santa Monica
Finance Department
1717 4th Street, Suite 250
Santa Monica, CA 90401
www.smgov.net

March 26, 2015

Elizabeth Gonzalez, Chief, Local Government Compliance Bureau
State Controller's Office, Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Draft Asset Transfer Review Report for Santa Monica Redevelopment Agency

Dear Ms. Gonzalez:

The City of Santa Monica ("City") and Successor Agency ("Successor Agency") to the former Redevelopment Agency of the City of Santa Monica ("RDA") hereby acknowledge receipt of the draft Asset Transfer Review Report (January 1, 2011 through January 31, 2012), dated March 2015 ("Draft Report"). The Draft Report was prepared by the State Controller.

This correspondence constitutes the City's and Successor Agency's comments to the Finding and Order of the Controller on pages 4 and 5 of the Draft Report, as follows:

1. As a general, global comment, the City disputes the characterization of all transfers listed on page 4 as "unallowable transfers" because these payments were either authorized by law, committed to a third party, or considered as cash payments for goods or services and thus not subject to recapture.

2. The listing of "unallowable transfers" on page 4 does not include the transfer of $12,249,174 in restricted Wells Fargo loan proceeds (though acknowledged in Schedule 1 of the Draft Report). This should be included in the listing because it constitutes a large portion of the $19,149,679 that the State Controller has determined must be returned to the Successor Agency, as stated on the bottom of page 5 of the Draft Report. To avoid confusion or any inadvertent claim in the future that the City has not complied with this portion of the State Controller's order, the State Controller should expressly acknowledge that it is seeking the transfer of $12,249,174 of *restricted* cash proceeds (the balance of the $19,149,679 representing $6,900,505 in unrestricted cash described in paragraph 3, below) and clarify that the restricted cash proceeds are not subject to disposition under Health and Safety Code section 34177(d) and (e), as asserted on the bottom of page 4. Once transferred to the Successor Agency, these proceeds would either remain with the Successor Agency until legally feasible to defease the Wells Fargo loan obligation or be expended in accordance with law.

3. The State Controller asserts in the paragraph associated with the second bullet on page 4 that the RDA made an "unallowable transfer" of $6,900,505 in cash to the

tel: 310 458-8281 • fax: 310 394-0647

City for repayment of a City advance to the RDA for Downtown Redevelopment and Earthquake Recovery Project Area, and is seeking a return of this cash as part of the State Controller's Order of transfer of $19,149,679. The Department of Finance, State Controller, City and Successor Agency were parties to a Stipulation to Entry of Judgment and Judgment (collectively, "Stipulation") entered on October 28, 2013. Section 3 of the Stipulation provided that the City's payment of $56,784,229 to the Auditor-Controller represents " ... *the full remittance and payment to the Auditor-Controller of all uncommitted or unobligated cash and cash-equivalent balances previously held by or paid to the [RDA] and/or Successor Agency, whether originating from the Low and Moderate Income Housing Fund and/or any other fund or account balance* ...." The Successor Agency made its final payment of the $56,784,229 on January 14, 2015, as acknowledged by the Department of Finance. Therefore, no further payment of cash is required (as acknowledged by the State Controller in the third bullet on page 5). Notwithstanding that the City has no legal obligation to make any additional cash transfers to the Successor Agency for disposition under Health and Safety Code section 34177(d) and (e), the City agrees to transfer unrestricted cash in the amount of $6,900,505 to the Successor Agency for disposition in accordance with Health and Safety Code section 34177(d) and seek reimbursement of this amount under Health and Safety Code section 34191.4 in lieu of contesting the State Controller's order at this time. The City's transfer of these funds is being made under protest, subject to all reservation of rights to contest the State Controller's order that the City has an obligation to transfer unrestricted cash to the Successor Agency in excess of the stipulated amount of $56,784,229.

4. The State Controller asserts in the paragraph associated with the last bullet on page 4 that the RDA transferred $16,338,405 in "Low-Mod assets". For purposes of clarity, the City and Successor Agency request that State Controller modify this phrase to "Low-Mod *capital* assets." The City and Successor Agency also note that page 5 of the Draft Report does not expressly acknowledge that the transfer of these Low-Mod capital assets were approved by Successor Agency's Oversight Board and the Department of Finance as transfers of Housing Assets (though acknowledged in Schedule 1 of the Draft Report). Express acknowledgement on page 5 is necessary to acknowledge the Successor Agency's corrective action.

5. The Draft Report has a few factual misstatements regarding the resolutions approved by the Oversight Board to ratify the transfer of government purpose and housing assets to the City. Resolution No. 13 (SAS), adopted on May 8, 2013, and Resolution No. 20 (SAS), adopted on June 16, 2014, collectively ratified the transfer of all identified government purpose assets to the City. Resolution No. 14 (SAS), adopted on June 24, 2013, and Resolution No. 21, adopted on June 16, 2014, collectively ratified the transfer of all identified housing assets to the City. The Department of Finance approved all of these transfers on August 21, 2013, October 2, 2013, October 2, 2014, and December 30, 2014.

Other than the aforementioned items, the City and Successor Agency have no further comments to the Draft Report.

Sincerely,

Gigi Decavalles-Hughes
Director of Finance

State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874

http://www.sco.ca.gov

S14-RDB-946