

# County of Santa Clara

Finance Agency

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May 11, 2012

**Re: May 1 Estimate of Distributions from Redevelopment Property Tax Trust Funds**

Dear Successor Agency Finance Directors and Finance Directors of Affected Taxing Entities:

Please find attached the May 1, 2012, estimate of distributions from the Redevelopment Property Tax Trust Funds (RPTTFs) for the former redevelopment agencies within Santa Clara County provided to the State Department of Finance (DOF) pursuant to Health & Safety Code section 34182(c)(3). This estimate is for the first distribution of money from the RPTTF for each former redevelopment agency. The distribution will occur on June 1, 2012, and in accordance with the "waterfall" as provided in section 34183. These estimates are based on the best available information as of this date. There are a number of outstanding issues that will affect the final distributions and their timing, most significantly the final valid Recognized Obligation Payment Schedule (ROPS) for the period of July 1, 2012, through December 31, 2012. Therefore, these estimates are subject to change.

Because we know that this marks a very significant shift in the distribution of former tax increment, we wanted to explain a number of items on the report so as to anticipate and respond to likely questions:

**The "Waterfall" – Order and Priority of Payments**

Section 34183(a) provides that the county auditor-controller shall make distributions from RPTTFs twice annually (every January 16 and June 1) as follows:

- County Administrative Costs: The costs for implementation of ABX1 26, including the one-time audit pursuant to section 34182, are listed separately on the estimate. In accordance with DOF guidance, only costs incurred up to April 30, 2012, will be allocated to the June 1, 2012, RPTTF distributions. As we have indicated since this process began, these charges will be substantially higher in these first periods due to the one-time audits being performed on all of the agencies. Final audits are due to the State Controller on July 15, 2012. If you would like further details on the County's implementation charges, please do not hesitate to contact John Guthrie, ABX1 26 Project Manager, at (408) 299-5246. In addition, separately listed, are the normal PTAF charges.

- Passthroughs: Section 34183(a)(1) provides that the first priority of payment is for passthroughs, both negotiated and statutory. The auditor-controller is now responsible for making these passthrough payments directly from the RPTTFs. We have attempted to gather all information related to those passthroughs (primarily negotiated) which our office did not previously handle. We have also attempted to account for those payments that need to be made for this fiscal year given the implementation of ABX1 26 and payments already made (or not made) by former RDAs. Please notify us immediately if we are missing any relevant passthrough information. Also, please note that the passthrough portion of the audit has not yet been completed, and there may be appropriate adjustments at the next distribution on January 16, 2013, to account for any findings.

In addition, please note that we will be creating a reserve to account for adjustments to AB1290 statutory passthrough based on the Los Angeles Unified School District (LAUSD) decision. As you may be aware, the Court of Appeal in that case determined that school entities' share of AB1290 passthrough must include the ERAF they receive. We are still waiting for a methodology and final determination by the courts in a currently-pending follow up action. The ultimate effect will be to re-distribute some yet-to-be-determined amount of the AB1290 paid to school entities that receive ERAF. We will implement the final decision in the LAUSD matter retroactive to this fiscal year.

- ROPS: Section 34183(a)(2) provides for payments, in a specified order of priority, on valid ROPS. The auditor-controller will transfer to each successor agency's Redevelopment Obligation Retirement Fund the amount stated on its valid ROPS. For a ROPS to be valid, it must meet the requirements of section 34177(l). For the purposes of this estimate, we used the best available information but are aware that the process of certifying and adopting ROPS is currently ongoing.
- Administrative Costs: Section 34183(a)(3) provides for the payment of successor agency administrative costs subject to a cap pursuant to section 34171(b). These monies will be paid directly to successor agencies, but only pursuant to an approved administrative budget and in accordance with the statutory cap.
- Residual: Section 34183(a)(4) provides that any residual money in the RPTTF is to be paid out to all affected taxing entities pursuant to section 34188 (pro-rata shares of property tax).
- Debt Service: With the implementation of ABX1 26 and the end of tax increment, State law requires—where increment was formerly allocated to RDAs—that special taxes not be placed into the RPTTF. The overall amounts placed into the RPTTF reflect this change.

- Reserves: Section 34183(a) does not expressly provide for the creation of reserves. However, in accordance with DOF guidance and the draft guidelines from the Property Tax Managers Group of the State Association of County Auditors, in certain circumstances it is appropriate to create a reserve within the RPTTF (e.g., to account for uneven debt payments that cannot be satisfied with the semi-annual distributions). Such amounts will be held in trust and not distributed as residual.

In addition, there are certain successor agencies where there are outstanding items that are under discussion for potential certification by the county auditor-controller and approval by the oversight board. The auditor-controller will hold such amounts in reserve and not distribute these amounts as residual to taxing entities pending action on these items.

### **Insufficient Funds Reports and “Reverse Waterfall”**

By May 1<sup>st</sup>, where applicable, we should have received from each successor agency notification as to whether there will be insufficient funds—from all sources, including RPTTF, assets, and other revenues—to meet all obligation payments due in the next ROPS period. Please formally notify us immediately if your successor agency has an insufficient funds situation as we must forward such notice to DOF and the State Controller.

Section 34183(b) provides a methodology to address insufficient funds situations. It specifies reductions in amounts paid out of the RPTTF as follows:

- First, residual is reduced.
- Second, the successor agency administrative allowance is reduced.
- Third, subordinated passthroughs are reduced.

Where applicable, we have applied this methodology in the attached estimate.

### **Correction to Account for Over-Appportionment**

For this first distribution from RPTTFs, there is a unique apportionment issue. The monies for the first ROPS period (January 1, 2012, through June 30, 2012) were provided in several tax distributions by the auditor-controller up through February 1, 2012, and those apportionments were provided prior to the certification and approval of first period ROPS. Therefore, in many cases, there were significant over-apportionments of tax revenues for the first ROPS period.

Pursuant to DOF Guidance: “For those agencies that received the regular property tax allocation in December, those amounts determined to be due to taxing agencies for the January to June period should be deducted from the June 1 payments due to successor agencies for the July 1, 2012, through December 31,

Letter to Successor Agency Finance Directors and Finance Directors of Affected Taxing Entities  
Re: May 1 Estimate of Distributions from Redevelopment Property Tax Trust Funds  
May 11, 2012

2012 period." We have followed this procedure in the attached estimates, showing the overpayments as a deduction against ROPS and successor agency administration distributions for the June 1, 2012, distribution.

We understand that some successor agencies may have used part of the earlier apportionment for payments due in the first half of this fiscal year. However, section 34177(1)(3) provides that "Former redevelopment agency enforceable obligation payments due, and reasonable or necessary administrative costs due or incurred, prior to January 1, 2012, shall be made from property tax revenues received in the spring of 2011 property tax distribution, and from other revenues and balances transferred to the successor agency." We are therefore correcting the over-apportionment, as shown on the attached estimate.

Thank you all for your continued cooperation and support in this very difficult and complex implementation process. Please do not hesitate to contact us with questions. The main contact regarding these estimates is Jai Singh, Controller-Treasurer Division Manager, at (408) 299-5251 or [jai.singh@fin.sccgov.org](mailto:jai.singh@fin.sccgov.org).

Sincerely yours,



Vinod K. Sharma  
Director of Finance

c: Hon. John Chiang, State Controller  
Ms. Ana J. Matosantos, Director, California Department of Finance  
Successor Agency Executive Officers  
Oversight Board Members