



**CITY OF SAND CITY SUCCESSOR AGENCY
Oversight Board Meeting
Agenda for May 6, 2013**

**3:00 p.m., Monday, May 6, 2013,
City Hall, Council Chambers, 1 Sylvan Park, Sand City, CA 93955**

AGENDA ITEMS:

1. CALL TO ORDER
2. ROLL CALL & ESTABLISHMENT OF QUOROM

John McPherson, Monterey County Office of Education
Jane Parker, Monterey County Board of Supervisors
Monterey County Board of Supervisors-Public Member (**Vacant**)
Stephen Ma, Monterey Peninsula College
Linda Scholink, City of Sand City Successor Agency
Steve Matarazzo, City of Sand City Successor Agency
Jayanti Addleman, Monterey County Libraries
3. PLEDGE OF ALLEGIANCE
4. COMMUNICATIONS FROM THE FLOOR: At this time, any person may comment on any item which is not on the agenda. Please state your name and address for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on the next agenda. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of three (3) minutes. Any member of the public may comment on any matter listed on this agenda at the time the matter is being considered by the Board.
5. BOARD MEMBER COMMENTS: Board Members may ask a question for clarification; make a brief report or announcement on his/her activities. Board members may provide a referral to Staff or other resources for factual information, or direct Staff to agendize a matter of business on a future agenda. Any item not listed on the Agenda after the posting of the Agenda and that must be acted upon (2/3rds vote required to place on agenda) prior to the next Board meeting may be addressed at this time. (G.C. 54954.2)
6. ACTION/ DISCUSSION ITEMS
 - A. Consideration of Oversight Board RESOLUTION Approving the Oversight Board Minutes of February 4, 2013
 - B. Consideration of Oversight Board RESOLUTION Approving the Oversight Board Minutes of April 8, 2013
 - C.
 - 1) Discussion regarding Conference Call with Department of Finance (DOF) on \$130,000 Contingent Liability Payment on ROPS 13-14A
 - 2) Presentation by Monterey Peninsula Unified School District (MPUSD) Counsel, Clarissa Canady, regarding MPUSD Legal Opinion on Claim against Successor Agency



**CITY OF SAND CITY SUCCESSOR AGENCY
Oversight Board Meeting Agenda for May 6, 2013**

- D. Review of Funds Received from Recognized Obligations Payment Schedule (ROPS I)
 - E. Status Report and Update on Department of Finance Other Funds Due Diligence Review
7. REQUEST FROM BOARD MEMBERS FOR FUTURE AGENDA ITEMS
8. ADJOURNMENT:

Next Scheduled Oversight Board Meeting:

Monday, June 3, 2013

3:00 P.M.

Sand City Council Chambers
1 Sylvan Park, Sand City

ALL MEETINGS ARE OPEN TO THE PUBLIC. The City of Sand City does not discriminate against persons with disabilities. City Hall and the Council Chambers are accessible facilities. Any person with a disability who requires a modification or accommodation to be able to participate in this meeting is asked to contact the office of the City Clerk at (831) 394-3054 no fewer than two business days prior to the meeting to allow for reasonable arrangements.

SAND CITY SUCCESSOR AGENCY OVERSIGHT BOARD

RESOLUTION OB _____, 2013

**RESOLUTION OF THE OVERSIGHT BOARD FOR THE SAND CITY SUCCESSOR
AGENCY APPROVING THE OVERSIGHT BOARD MEETING MINUTES OF
FEBRUARY 4, 2013**

WHEREAS, the Oversight Board at its regular meeting of May 6, 2013 reviewed the Oversight Board draft meeting minutes of February 4, 2013; and

WHEREAS, based on its review of said minutes, the Oversight Board finds the draft minutes to be an accurate summary of the major points and actions taken during the meeting of February 4, 2013.

NOW, THEREFORE, THE OVERSIGHT BOARD hereby finds the subject minutes to be adequate and they are hereby approved as the approved meeting minutes of February 4, 2013.

PASSED AND ADOPTED by the Sand City Successor Agency Oversight Board on this 6th day of May, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

John McPherson, Board Chair

ATTEST:

Connie Horca, Board Secretary



**CITY OF SAND CITY SUCCESSOR AGENCY
Oversight Board Meeting Minutes
February 4, 2013**

The meeting was called to order by Chair Ma at 3:03 P.M.

AGENDA ITEM 2, ROLL CALL & ESTABLISHMENT OF QUOROM

John McPherson, Monterey County Office of Education
Jane Parker, Monterey County Board of Supervisors
Jerry Lomax, Monterey County Board of Supervisors (absent)
Stephen Ma, Monterey Peninsula College
Linda Scholink, City of Sand City Successor Agency
Steve Matarazzo, City of Sand City Successor Agency
Jayanti Addleman, Monterey County Libraries

AGENDA ITEM 3, PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by Board Secretary Connie Horca.

AGENDA ITEM 4, COMMUNICATIONS FROM THE FLOOR

3:04 p.m. Floor opened for Public Comment.

There was no comment from the Public.

3:04 p.m. Floor closed to Public Comment.

AGENDA ITEM 5, BOARD MEMBER COMMENTS

Chair Ma requested if the Board had any objection to consider moving the closed session item prior to Agenda Item 6. There was no objection of the Board to move Agenda Item 7, Closed Session prior to Agenda Item 6, Action/Discussion Items.

Successor Agency Counsel Jim Heisinger addressed the Board to request that he speak under Public Comment since Agenda Item 7, Closed Session has been moved forward.

Board Member Parker clarified that the public may comment on the closed session item and present an opinion on that item.

3:05 p.m. Floor opened to Public Comment.

Sand City Successor Agency Counsel Jim Heisinger commented that a letter was received from special counsel Best, Best & Krieger representing the Sand City Successor Agency. Their opinion is that an Oversight Board is not a public entity and cannot sue or be sued. The reasons for meeting in closed session would be limited. If the Board cannot sue or be sued, then it would not be appropriate to meet in closed session, in his opinion.

Board Member Parker asked if the Board's Legal Counsel would like to express his opinion. Oversight Board Judd Jordan commented that he will respond with his opinion under closed session.

AGENDA ITEM 7, CLOSED SESSION

3:07 P.M.

- A. Oversight Board to adjourn to Closed Session in accordance with Government Code Section 54956.9(c) of the Ralph M. Brown Act
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Deciding whether to Initiate Litigation: Two potential cases

3:24 P.M. *Board Members Matarazzo and Scholink stepped down from the dais and were excused from Closed Session.*

3:56 P.M. *Board Members Matarazzo and Scholink returned to the dais.*

4:01 P.M.

- B. Re-adjourn to Open Session to report any action taken at the conclusion of Closed Session in accordance with 54957.1 of the Ralph M. Brown Act

There was no action to report.

AGENDA ITEM 6, ACTION/DISCUSSION ITEMS

- A. **Approval of Oversight Board Resolution approving the Oversight Board Minutes of December 17, 2012**

Motion to approve the **Resolution** approving the Oversight Board minutes of December 17, 2012 was made by Board Member Matarazzo, seconded by Board Member McPherson. AYES: Board Members McPherson, Parker, Ma, Scholink, Matarazzo, Addleman. NOES: None. ABSENT: Board Member Lomax. ABSTAIN: None. Motion carried.

- B. **Approval of Oversight Board Resolution approving the Oversight Board Special Meeting Minutes of January 17, 2013**

Motion to approve the **Resolution** approving the Oversight Board

minutes of January 17, 2013 was made by Board Member Parker, seconded by Board Member Scholink. AYES: Board Members McPherson, Parker, Ma, Scholink, Matarazzo, Addleman. NOES: None. ABSENT: Board Member Lomax. ABSTAIN: None. Motion carried.

C. Consideration of Oversight Board Resolution amending the By-Laws and Rules of Procedure of the Sand City Oversight Board

Board Member Matarazzo reported that Article II, Section 1 of the Oversight Board By-Laws would be amended to include the following language: *The Chairperson and Vice-Chairperson shall be elected for one-year terms, starting in March of each calendar year and until the Oversight Board is consolidated into one, County-wide Board.* Motion to approve the **Resolution** amending the By-Laws and Rules of Procedure of the Sand City Oversight Board was made by Board Member McPherson, seconded by Board Member Parker. AYES: Board Members McPherson, Parker, Ma, Scholink, Matarazz, Addleman. NOES: None. ABSENT: Board Member Lomax. ABSTAIN: None. Motion carried.

D. Consideration of Resolution to Oversight Board correcting Resolution OB 12-23, 2012 approving the Due Diligence Review (DDR) of Successor Agency Funds other than those related to the Low and Moderate Income Housing Fund (LMIHF) and Account Balances

Board Member Matarazzo reported that the original resolution was not necessarily incorrect; however, it did not include the written public comment received a few minutes prior to the meeting on December 17, 2012. The attached resolution would correct Resolution OB 12-23 and indicate that comments were received on the Due Diligence Review. Motion to approve the **Resolution** to Oversight Board correcting Resolution OB 12-23, 2012 approving the Due Diligence Review (DDR) of Successor Agency Funds other than those related to the Low and Moderate Income Housing Funds (LMIHF) and Account Balances was made by Board Member Scholink, seconded by Board Member McPherson. AYES: Board Members McPherson, Parker, Ma, Scholink, Matarazzo, Addleman. NOES: None. ABSENT: Board Member Lomax. ABSTAIN: None. Motion carried

E. Consideration of Contingent Liability related to potential future payments to Seaside as part of the Recognized Obligations Payment Schedule (ROPS) Process: Successor Agency Counsel and Oversight Board Counsel Opinions Requested

Successor Agency Counsel Jim Heisinger commented that this matter was placed on the original EOPS and put on the Recognized Obligations Payment Schedule (ROPS). On ROPS III, a payment was made by the

County Auditor-Controller regarding the contingent liability, but the payment did not indicate exactly what items were included in the payment. The City is waiting for a response from the County Auditor-Controller.

Board Member Parker received clarification regarding the tax sharing agreement that was reflected on ROPS I, II, & III. Successor Agency Counsel reported that a contingent liability payment appeared to have been received in the amount indicated on ROPS III. Prior to ROPS III, there had been no payments shown. The original tax sharing agreements indicated that the City would loan money out of its general fund to the Redevelopment Agency until the Agency was able to repay these funds out of its tax increment.

AGENDA ITEM 7, CLOSED SESSION was moved before AGENDA ITEM 6.

AGENDA ITEM 8, REQUEST FROM BOARD MEMBERS FOR FUTURE AGENDA ITEMS

Board Member Matarazzo reported that the Sand City Arts Committee may request use of the Carroll Property, 525 Ortiz Avenue to hold a mural competition. The Board had previously approved the use of the property for overflow parking for the Farmers Market. Board Member Matarazzo also clarified that ROPS IV is due to the Department of Finance by March 1st. The Board was in consensus to reschedule the next Oversight Board meeting to 2:00 P.M. on Monday, February 25, 2013. Board Member Parker requested that ROPS IV be sent to Board Members for review well in advance of the next meeting. The election of officers will also be placed on the next agenda.

AGENDA ITEM 9, ADJOURNMENT

Motion to adjourn the Oversight Board Meeting was made by Board Member Parker, seconded by Board Member McPherson, to the next scheduled Oversight Board Meeting on Monday, February 25, 2013 at 2:00 P.M. There was unanimous consensus of the Board to adjourn the meeting at 4:19 P.M.

Connie Horca, Board Secretary

SAND CITY SUCCESSOR AGENCY OVERSIGHT BOARD

RESOLUTION OB _____, 2013

**RESOLUTION OF THE OVERSIGHT BOARD FOR THE SAND CITY SUCCESSOR
AGENCY APPROVING THE OVERSIGHT BOARD SPECIAL MEETING MINUTES
OF APRIL 8, 2013**

WHEREAS, the Oversight Board at its regular meeting of May 6, 2013 reviewed the Oversight Board draft meeting minutes of April 8, 2013; and

WHEREAS, based on its review of said minutes, the Oversight Board finds the draft minutes to be an accurate summary of the major points and actions taken during the meeting of April 8, 2013.

NOW, THEREFORE, THE OVERSIGHT BOARD hereby finds the subject minutes to be adequate and they are hereby approved as the approved meeting minutes of April 8, 2013.

PASSED AND ADOPTED by the Sand City Successor Agency Oversight Board on this 6th day of May, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

John McPherson, Board Chair

ATTEST:

Connie Horca, Board Secretary



**CITY OF SAND CITY SUCCESSOR AGENCY
Oversight Board Meeting Minutes
April 8, 2013**

The meeting was called to order by Chair McPherson at 2:03 P.M.

AGENDA ITEM 2, ROLL CALL & ESTABLISHMENT OF QUOROM

John McPherson, Monterey County Office of Education
Jane Parker, Monterey County Board of Supervisors
Jerry Lomax, Monterey County Board of Supervisors (**Resigned**)
Stephen Ma, Monterey Peninsula College
Linda Scholink, City of Sand City Successor Agency
Steve Matarazzo, City of Sand City Successor Agency
Jayanti Addleman, Monterey County Libraries

AGENDA ITEM 3, PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Board Member Addleman.

AGENDA ITEM 4, COMMUNICATIONS FROM THE FLOOR

2:04 P.M. Floor opened for Public Comment.

There was no comment from the public.

2:04 P.M. Floor closed to Public Comment.

AGENDA ITEM 5, BOARD MEMBER COMMENTS

There was no comment from the Board.

AGENDA ITEM 6, ACTION/ DISCUSSION ITEMS

A. Consideration of Oversight Board Resolution Approving the Oversight Board Minutes of February 26, 2013

Board Member Parker expressed her thanks to Staff for her suggestion to include the titles on the Oversight Board Minutes

Motion to approve the Oversight Board **Resolution** approving the Oversight Board Minutes of February 26, 2013 was made by Board Member Parker, seconded by Board Member Scholink. AYES: Board Members Parker, Ma, Scholink, Matarazzo, McPherson, Addleman. NOES: None. ABSENT: Board Member Lomax. ABSTAIN: None.



**CITY OF SAND CITY SUCCESSOR AGENCY
Oversight Board Meeting Minutes for April 8, 2013**

B. Consideration of Oversight Board Resolution approving the Oversight Board Special Meeting Minutes of March 1, 2013

Board Member Parker received clarification regarding a future agenda item as requested by Board Member Ma.

Motion to approve the Oversight Board **Resolution** approving the Oversight Board Special Meeting Minutes of March 1, 2013 was made by Board Member Parker, seconded by Board Member Addleman. AYES: Board Members Parker, Ma, Scholink, Matarazzo, McPherson, Addleman. NOES: None. ABSENT: Board Member Lomax. ABSTAIN: None.

C. Status Report regarding the State Review of Other Funds and Accounts DDR and Recognized Obligations Payment Schedule 13-14A

Board Member Matarazzo reported that the Oversight Board approved Other Funds Account-Due Diligence Review (OFA DDR) in December which noted that \$6.2 million of assets were transferred to the Successor Agency (SA) from the former Redevelopment Agency. A portion of the assets are in the form of properties, and are not liquid and subject to future disposition as part of a Long Term Property Management Plan. The State Controller's Office (SCO) found that approximately \$34 million of assets were transferred, not the \$6.2 million stated in the OFA DDR. This misunderstanding occurred due in part to a posting of approximately \$23 million, which represented the amount required to fund the long term debt of the former Redevelopment Agency. It was explained to the SCO that this figure was really a credit in the double-entry accounting system used by the City to balance its ledger. SCO has left it to the Oversight Board and County Auditor to render final judgment regarding this issue. The Department of Finance (DOF) also reviewed the OFA DDR and advised that an additional \$2.375 million of assets be transferred to the County Auditor for future disbursement to the taxing entities. The Successor Agency does not have \$2.375 million in liquid assets, and has requested a "Meet and Confer" with the Department of Finance. Current assets retained by the City are held for future payment of enforceable obligations. The DOF has been flooded with "meet and confer" requests, and to date, have not responded to the Successor Agency's notice. DOF is required by law to meet with the Successor Agency prior to rendering a final decision.

The Recognized Obligations Payment Schedule ROPS 13-14A was approved by the Oversight Board at the special meeting of March 1, 2013 following a meeting with the Successor Agency, and Dolinka Group. The Dolinka Group, representing the Local Educational Agencies (LEAs) claims that the Successor



**CITY OF SAND CITY SUCCESSOR AGENCY
Oversight Board Meeting Minutes for April 8, 2013**

Agency owes approximately \$1.6 million in prior pass-through payments. DOF has requested more detail and information on this “contingent liability”. At present, there has been no further question regarding the “contingent liability” of \$130,000 to the LEA’s.

In response to Board Member Ma’s question regarding the Successor Agency’s liquid assets, Board Member Matarazzo explained that approximately \$2.5 million of assets are in the form of properties, and this amount may be significantly lower dependent on the appraisals. Most of the assets of the Successor Agency are legally restricted in the form of bond proceeds, bond reserves, and sales tax increment that needs to be transferred back to the City.

There was Board discussion regarding the \$2.375 million being requested by the DOF, and the Successor Agencies liquid assets. The Board further discussed a probable course of action should the DOF reject the \$130,000 ‘contingent liability’ payment.

There was consensus of the Board directing Staff to request a ‘meet and confer’ should the DOF reject the ROPS 13-14A in regard to the ‘contingent liability’.

AGENDA ITEM 7, REQUEST FROM BOARD MEMBERS FOR FUTURE AGENDA ITEMS

Board Member Ma requested the City’s Legal position regarding the funding source of the Seaside payment. Board Member Matarazzo requested that the Oversight Board postpone Board Member Ma’s request until Staff has exhausted settlement discussion and prior to approval of the next ROPS.

2:24 P.M. Floor opened for Public Comment.

Successor Agency Legal Counsel Jim Heisinger commented that per Board Member Matarazzo’s request, a legal opinion is not advised while this matter is in litigation. The City is hopeful to come to some form of settlement with the City of Seaside before the next ROPS is presented to the Oversight Board for approval. There was general consensus that a legal opinion on this issue would only be required if and when a “seaside contingency payment” was placed on a future ROPS.

2:25 P.M. Floor closed to Public Comment.

There was Board discussion regarding the payment due to the City, of funds advanced to the former Redevelopment Agency for staff and services. The Board further discussed whether the LEAs were prepared to present their

legal opinion regarding the 'contingent liability'.

Board Member Ma added that should a 'meet and confer' request be made regarding the LEA's contingent liability, he would be happy to accompany Staff to meet with DOF.

Board Member Parker suggested setting a date and time to arrange a phone call with Staff for future agenda items.

Chair McPherson also requested an update at the next meeting regarding a payment made to the Successor Agency from the County Auditor of funds received from ROPS I. Board Member Matarazzo added that should a finding of completion be received from the DOF, Staff would present an update at the next Oversight Board meeting.

AGENDA ITEM 8, ADJOURNMENT


Motion to adjourn the Oversight Board Meeting was made by Board Member Parker, seconded by Board Member Matarazzo, to the next scheduled Oversight Board meeting on May 6, 2013 at 3:00 P.M. There was unanimous consensus of the Board to adjourn the meeting at 2:34 P.M.

Connie Horca, Board Secretary

Oversight Board to the Sand City Successor Agency
staff memorandum

DATE: May 1, 2013 (for Oversight Board Meeting of May 6, 2013)

TO: Sand City Oversight Board

FROM: Steve Matarazzo, Staff 

SUBJECT: Update on Conference Call Between Successor Agency and the Department of Finance (DOF) Regarding Contingent Liability Disallowed from ROPS 13-14A

On April 14, 2013, the Department of Finance (DOF) approved the Recognized Obligation Payment Schedule (ROPS) for June 2013 through December 2013, with the exception of the \$130,000 contingent liability item attributed to potential payments to the Local Educational Agencies (LEAs). (See Attachment 1.) Shortly thereafter, the Successor Agency (SA) requested a "meeting and confer" with DOF to discuss continuing to place this item on the ROPS.

A conference call regarding this matter was convened with DOF on April 23rd. In attendance from the Oversight Board (OB) and Successor Agency (SA) were the OB Chair, John McPherson and SA staff Steve Matarazzo and SA legal counsel, Jim Heisinger. In summary, SA staff stated there may be a future financial liability of the SA due to payments to LEAs that were not made by the County Auditor. SA staff did not concur with the Dolinka letter (see attachment 2) that stated we had agreed to make back payments of approximately \$500,000 for alleged monies owed. Chair McPherson stated that it was probable some settlement would result from this dispute. He requested that the \$130,000 stay on the ROPS until the matter was resolved. The DOF staff (four staff members on the phone) stated they do not fund "contingent liabilities", a position stated in their letter of rejection. They were, however, very sympathetic and allowed significant discussion for approximately 40 minutes. In essence, DOF staff concluded that when the issue is resolved, they would likely accept payments as enforceable obligations on future ROPS.

ATTACHMENTS:

1. ROPS 13-14A and DOF Letter of Approval
2. Dolinka Letter dated March 14, 2013

| | A | B | C | D | E | F | G | H | I | J | K |
|----|---|---|-----------------------------|---|---|---|----------------|---|----------|-----------------------|------------------------|
| 1 | SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE | | | | | | | | | | |
| 2 | Filed for the July 1, 2013 to December 31, 2013 Period | | | | | | | | | | |
| 3 | | | | | | | | | | | |
| 4 | Name of Successor Agency: | | SAND CITY (MONTEREY) | | | | | | | | |
| 5 | | | | | | | | | | | |
| 6 | Outstanding Debt or Obligation | | | | | | | | | | Total |
| 7 | | Total Outstanding Debt or Obligation | | | | | | | | | \$22,323,280 |
| 8 | | | | | | | | | | | |
| 9 | Current Period Outstanding Debt or Obligation | | | | | | | | | | Six-Month Total |
| 10 | A | Available Revenues Other Than Anticipated RPTTF Funding | | | | | | | | | \$0 |
| 11 | B | Enforceable Obligations Funded with RPTTF | | | | | | | | | \$305,463 |
| 12 | C | Administrative Allowance Funded with RPTTF | | | | | | | | | \$184,671 |
| 13 | D | Total RPTTF Funded (B + C = D) | | | | | | | | | \$490,134 |
| 14 | E | Total Current Period Outstanding Debt or Obligation (A + B + C = E) <i>Should be same amount as ROPS form six-month total</i> | | | | | | | | | \$490,134 |
| 15 | F | Enter Total Six-Month Anticipated RPTTF Funding | | | | | | | | | \$475,000 |
| 16 | G | Variance (F - D = G) <i>Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding</i> | | | | | | | | | (\$15,134) |
| 17 | | | | | | | | | | | |
| 18 | Prior Period (July 1, 2012 through December 31, 2012) Estimated vs. Actual Payments (as required in HSC section 34186 (a)) | | | | | | | | | | |
| 19 | H | Enter Estimated Obligations Funded by RPTTF (<i>lesser of Finance's approved RPTTF amount including admin allowance or the actual amount distributed</i>) | | | | | | | | | \$307,731 |
| 20 | I | Enter Actual Obligations Paid with RPTTF | | | | | | | | | \$182,731 |
| 21 | J | Enter Actual Administrative Expenses Paid with RPTTF | | | | | | | | | \$125,000 |
| 22 | K | Adjustment to Redevelopment Obligation Retirement Fund (H - (I + J) = K) | | | | | | | | | \$0 |
| 23 | L | Adjustment to RPTTF (D - K = L) | | | | | | | | | \$490,134 |
| 24 | | | | | | | | | | | |
| 25 | Certification of Oversight Board Chairman: | | | | | | John McPherson | | | Oversight Board Chair | |
| 26 | Pursuant to Section 34177(m) of the Health and Safety code, | | | | | | Name | | Title | | |
| 27 | I hereby certify that the above is a true and accurate Recognized | | | | | | | | | | |
| 28 | Obligation Payment Schedule for the above named agency. | | | | | | /s/ | | 3/1/2013 | | |
| 29 | | | | | | | Signature | | Date | | |

**DEPARTMENT OF
FINANCE**

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

RECEIVED**APR 15 2013****CITY OF SAND CITY**

April 14, 2013

Mr. Steve Matarazzo, City Administrator
Sand City Successor Agency
1 Sylvan Park
Sand City, CA 93955

Dear Mr. Matarazzo:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the Sand City Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14A) to the California Department of Finance (Finance) on March 1, 2013 for the period of July through December 2013. Finance has completed its review of your ROPS 13-14A, which may have included obtaining clarification for various items.

HSC section 34171 (d) defines enforceable obligations. Based on a sample of line items reviewed and application of the law, the following does not qualify as an enforceable obligation:

Item No. 17 – Contingency Payments for pass-through payments in the amount of \$130,000 is not an enforceable obligation. Per HSC section 34183 (a) (1), the county auditor-controller will make the required pass-through payments starting with the July through December 2012 ROPS. Additionally, allocating funds for unknown contingencies is not an allowable use of funds. Therefore, this item is not eligible for funding on the ROPS.

Except for item denied in whole or in part as enforceable obligation, Finance is not objecting to the remaining items listed on your ROPS 13-14A. This determination applies only to items where funding was requested for the six month period. If you disagree with the determination with respect to any items on your ROPS 13-14A, 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 maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$360,134 as summarized below:

| Approved RPTTF Distribution Amount For the period of July through December 2013 | |
|--|-------------------|
| Total RPTTF funding requested for obligations | \$ 305,463 |
| Minus: Six-month total for items denied or reclassified as administrative cost Item 17 | 130,000 |
| Total approved RPTTF for enforceable obligations | \$ 175,463 |
| Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost | 184,671 |
| Minus: ROPS II prior period adjustment | |
| Total RPTTF approved for distribution: | \$ 360,134 |

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2012 period. The amount of RPTTF approved in the above table includes the prior period adjustment that was self-reported by the Agency. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. Any proposed CAC adjustments were not received in time for inclusion in this letter. Therefore, the amount of RPTTF approved in the above table includes only the prior period adjustment that was self-reported by the Agency.

Please refer to the ROPS 13-14A schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14A Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS%2013-14A%20Forms%20by%20Successor%20Agency/).

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2013. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC 34177.5 (i). Finance's review of items that have received a Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

To the extent proceeds from bonds issued after December 31, 2010 exist and are not encumbered by an enforceable obligation pursuant to 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

Mr. Matarazzo
April 14, 2013
Page 3

Please direct inquiries to Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish at the end.

STEVE SZALAY
Local Government Consultant

cc: Ms. Linda Scholink, Director of Administrative Services
Ms. Julie Aguero, Auditor Controller Analyst II, County of Monterey
California State Controller's Office



CITY OF SAND CITY

MAR 15 2013

RECEIVED

To: David Ngo, Department of Finance

From: Darrin Watters, Dolinka Group, LLC.

Date: March 14, 2013

RE: Sand City ROPS 13-14A, Line Item 17 – Contingency Payments: \$130,000

Background:

On July 14, 1987, the Monterey Peninsula College ("MPC") entered into a pass-through agreement (Attachment 1) with the Sand City Redevelopment Agency ("RDA"). Section 3.1 of MPC's agreement entitles MPC to facility pass-through payments:

"Upon the request of the School District, the Agency shall provide, as a minimum an amount equal to the projected portion of the tax revenues generated by the incremental two percent (2%) increase in the base year assessed valuation of the property within the redevelopment area during the period of the project, including any amendment."

On August 3, 1987, the Monterey Peninsula Unified School District ("MPUSD") entered into a similar pass-through agreement (Attachment 2) with the RDA. Identical to the language in MPC's agreement, Section 3.2 of MPUSD's agreement entitles MPUSD to similar payments.

The Monterey County Office of Education ("MCOE") did not enter into a pass-through agreement with the RDA, but is entitled to inflationary pass-through payments pursuant to the former Health and Safety Code ("HSC") 33676, and SB 211 payments pursuant to HSC 33607.7.

Pass-Through Payment Audit:

In 2010, MPC, MPUSD, and MCOE ("LEAs") hired Dolinka Group, a redevelopment consultant, to audit their redevelopment pass-through payments. The audit results indicated that MPC and MPUSD have never been paid for the RDA pass-through agreements, but did receive a few small payments from the Auditor-Controller in 2009/2010 and 2010/2011, which do not appear to be pass-through agreement payments. MCOE has never been paid inflationary payments, but had received one year of SB 211 payments (Attachment 3). MPC, MPUSD, and MCOE sent demand letters addressing the pass-through payments to the RDA in January 2012, prior to the RDA's dissolution (Attachment 4).

Meeting with Successor Agency:

On February 28, 2013, the Successor Agency met with MPC, MCOE and Dolinka Group on behalf of the LEAs to discuss the pass-through payments. MPC and MPUSD interpret their agreements differently than the Successor Agency interprets the agreements. It is MPC and MPUSD's interpretation that once the pass-through payments are requested, the 2% payments will be paid in full, from the execution of the

contract. It is the Successor Agency's interpretation that once the pass-through payments are requested, only the current year's 2% payments will be paid, and each year thereafter MPC and MPUSD will receive the annual 2% payments. The Successor Agency believes that four years' worth of 2% payments is more reasonable based on their interpretation of the statute of limitations. Because the LEAs and the Successor Agency have not yet determined which interpretation will guide the amounts due to the LEAs, the following table shows the pass-through payments associated with each interpretation:

| LEA | LEA's Interpretation | Successor Agency's Interpretation |
|-------|----------------------|-----------------------------------|
| MPC | \$ 150,148 | \$ 46,741 |
| MPUSD | \$ 1,390,483 | \$ 432,949 |
| MCOE | \$ 42,358 | \$ 26,677 |
| Total | \$ 1,582,989 | \$ 506,368 |

\$130,000 Contingency Payment:

The LEAs and the Successor Agency are currently reviewing their interpretations with their legal counsels. The \$130,000 contingency payment was included on the Recognized Obligation Payment Schedule ("ROPS") as a good-faith down payment for the LEAs. The \$130,000 is significantly less than the dollars potentially owed to the LEAs for either the LEA's interpretation or the Successor Agency's interpretation. Once the LEAs and the Successor Agency agree on the appropriate dollar amount, the remaining payment to the LEAs will be trued up and placed on the future ROPS.

If you have any additional questions, please do not hesitate to contact me at 949-250-8319.

Thank you,



Darrin Watters
Executive Director, Dolinka Group, LLC.

AGREEMENT FOR COOPERATION BETWEEN
THE MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT,
THE REDEVELOPMENT AGENCY FOR THE CITY OF SAND CITY
AND THE CITY OF SAND CITY

1. PARTIES & DATE

1.1 This Agreement entered into in the City of Sand City, County of Monterey, State of California, this 14 day of JULY, 1987, between the Monterey Peninsula Community College District, a Public Agency (School District), and the Redevelopment Agency for the City of Sand City, a Public Body (Agency), and the City of Sand City, a Municipal Corporation (City).

2. RECITALS

2.1 Agency is proposing to undertake a program under the California Community Redevelopment Law (Health and Safety code Section 33000 et. seq.) replanning and redesign of blighted areas within the City which are stagnant, improperly utilized, and unproductive because of defective or inadequate street layout, faulty lot layout in relation to size, shape, accessibility, or usefulness, or for other causes and because the area requires replanning for reclamation or development in the interest of the general welfare because of various reasons.

2.2 The School District is in receipt of Ordinance No. 87-6, adopted by the City Council of the City of Sand City, California, on JULY 20, 1987, authorizing the redevelopment of an area within the territorial limits of the City of Sand City Redevelopment Agency for the City of Sand City.

2.3 The Redevelopment Agency for the City of Sand City has found and declared that there exists in the City of Sand City blight areas which are characterized by one or more of those conditions set forth in Sections 33031 and 33032, causing a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise acting alone.

2.4 As defined in Section 33353.2, the School District is an affected taxing entity which had bonded indebtedness and general purpose property taxes levied on its behalf by the County of Monterey of all of the property located in the proposed Redevelopment Project Area in fiscal year 1986-1987.

2.5 The California Community Redevelopment Law authorized redevelopment agencies to pay to any taxing agency with territory located within a project area other than the community which has adopted the project, any amounts of money which in the agency determination is appropriate to alleviate any financial burden or detriment caused to any taxing agency by a redevelopment project.

2.6 School District and Agency wish to enter a Cooperative Agreement between themselves to provide mutual aid and assistance in the redevelopment, development, and physical improvements in certain areas inside or outside the Project Area and Agency and School District have a common interest in and wish to facilitate redevelopment and to provide for the cooperation of School District and Agency in carrying out the redevelopment activities, goals and objectives set forth in the Redevelopment Plan.

Now therefore in consideration of the foregoing and the mutual promises and covenants contained herein, the parties hereto agree as follows:

3. AGREEMENT

3.1 Upon the request of the School District the Agency shall provide as a minimum an amount equal to the projected portion of the tax revenues generated by the incremental two percent (2%) increase in the base year assessed valuation of the property within the redevelopment area during the period of the project, including any amendments.

3.2 The City and Agency agrees to assist the School District by providing meeting and classroom space within the existing City Hall and or the proposed police and fire facility for the use of the School District. Said use to allow the School District to conduct classes, forums, lectures and other related School District activities within the City.

Both parties mutually agree to meet to determine a time schedule for the providing of the space and the times said space will be made available.

3.3 The School District to have the option as early as the fifth year from adoption of the Redevelopment Plan to open negotiations with the Agency to review and discuss fiscal detriment the plan may have caused and both parties agree to negotiate in good faith mitigation, measures to eliviate said fiscal detriment.

3.4 Agreement shall be binding and considered in force only if mutually agreed upon by Agency and School District.

CITY OF SAND CITY

David H. Paulsen
MAYOR

ATTEST:

May Ann Weems
CITY CLERK

REDEVELOPMENT AGENCY OF THE CITY OF SAND CITY

David H. Paulsen
CHAIRMAN

ATTEST:

May Ann Weems
SECRETARY

MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT

J. [Signature] Business Manager
for PRESIDENT

ATTEST:

Zerika N. Patterson
SECRETARY

AGREEMENT FOR COOPERATION BETWEEN
THE MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT,
THE REDEVELOPMENT AGENCY FOR THE CITY OF SAND CITY
AND THE CITY OF SAND CITY

1. PARTIES & DATE

1.1 This agreement entered into in the City of Sand City, County Monterey, State of California, this 3rd day of AUGUST, 1987, between the Monterey Peninsula Unified School District, a Public Agency (School District), and the Redevelopment Agency for the City of Sand City, a Public Body (Agency).

2. RECITALS

2.1 Agency is proposing to undertake a program under the California Community Redevelopment Law (Health and Safety code Section 33000 et. seq.) replanning and redesign of blighted areas within the City which are stagnant, improperly utilized, and unproductive because of defective or inadequate street layout, faulty lot layout in relation to size, shape, accessibility, or usefulness, or for other causes and because the area requires replanning for reclamation or development in the interest of the general welfare because of various reasons.

2.2 The School District is in receipt of Ordinance No. 87-6, adopted by the City Council of the City of Sand City, California, on JULY 20, 1987, authorizing the redevelopment of an area within the territorial limits of the City of Sand City Redevelopment Agency for the City of Sand City.

2.3 The Redevelopment Agency for the City of Sand City has found and declared that there exists in the City of Sand City blight areas which are characterized by one or more of those conditions set forth in Sections 33031 and 33032, causing a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise acting alone.

2.4 As defined in Section 33353.2, the School District is an affected taxing entity which had bonded indebtedness and general purpose property taxes levied on its behalf by the County of Monterey of all the property located in the proposed Redevelopment Project Area in fiscal year 1987-1988.

2.5 The California Community Redevelopment Law authorized redevelopment agencies to pay to any taxing agency with territory located within a project area other than the community which has adopted the project, any amounts of money which in the agency determination is appropriate to alleviate any financial burden or detriment caused to any taxing agency by a redevelopment project.

2.6 School District and Agency wish to enter a Cooperative Agreement between themselves to provide mutual aid and assistance in the redevelopment, development, and physical improvements in certain areas inside or outside the Project Area through the rehabilitation, construction, purchase or reconstruction of permanent or portable public school facilities and Agency and School District have a common interest in and wish to facilitate redevelopment and to provide for the cooperation of School District and Agency in carrying out the redevelopment activities, goals and objectives set forth in the Redevelopment Plan.

Now therefore in consideration of the foregoing and the mutual promises and covenants contained herein, the parties hereto agree as follows:

3. AGREEMENT

3.1 Agency and School District agree to negotiate the use of proceeds of taxes attributable to that area within the territorial limits of the School District resulting from an increase in the assessed valuation of the Project Area over the base year which would have otherwise been levied upon taxable property in the Project Area by or for the benefit of the School District and which are allocated to Agency pursuant to Section 33670 (b) (Tax Increment).

3.2 Upon the request of the School District the Agency shall provide as a minimum, an amount equal to the projected portion of the tax revenues generated by the incremental two percent (2%) increase in the base year assessed valuation of the property within the redevelopment area during the period of the project, including any amendments.

3.3 Agreement shall be binding and considered in force only if mutually agreed upon by Agency and School District.

3.4 Agency and School District shall meet at a time and place mutually agreed upon between the date of execution of this document and August 20, 1992, to begin to determine fiscal detriment and to negotiate the payment of tax proceeds if necessary to alleviate said fiscal detriment to School District from Agency.

REDEVELOPMENT AGENCY OF THE CITY OF SAND CITY

Chairman

David H. Pauligross

ATTEST:

Secretary

Mary Ann Weems

MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT

President

Edith Johnson

ATTEST:

Secretary

James C. Harris

**Sand City Redevelopment Agency
 Redevelopment Money Owed to Local Educational Agencies
 As of October 2012**

| Local Educational Agency and Project Area Monterey County Office of Education | Owed Amounts (based on Dolinka Group Calculations) \$42,701 | Amount Actually Paid to LEA \$343 | Difference (Amount Owed) (\$42,358) | Reason for Discrepancy |
|--|---|---|---|---|
| SB 211 | \$1,527 | \$0 | (\$1,527) | SB 211 Payment not paid |
| 2008/2009 | \$877 | \$0 | (\$877) | Cause of discrepancy unknown due to format of records provided by Auditor |
| 2010/2011 | \$650 | \$343 | (\$307) | Controller's Office |
| Two-Percent | \$41,174 | \$0 | (\$41,174) | 2% Payment not paid |
| 2004/2005 | \$4,883 | \$0 | (\$4,883) | |
| 2005/2006 | \$5,225 | \$0 | (\$5,225) | |
| 2006/2007 | \$5,573 | \$0 | (\$5,573) | |
| 2007/2008 | \$5,928 | \$0 | (\$5,928) | |
| 2008/2009 | \$6,290 | \$0 | (\$6,290) | |
| 2009/2010 | \$6,660 | \$0 | (\$6,660) | |
| 2010/2011 | \$6,615 | \$0 | (\$6,615) | |
| Monterey Peninsula Unified School District | \$1,407,340 | \$16,856 | (\$1,390,483) | |
| PTA | \$1,407,340 | \$16,856 | (\$1,390,483) | |
| 1987/1988 | \$4,004 | \$0 | (\$4,004) | Not Paid; Pursuant to Agreement, payments need to be requested, they have been requested. - Payments in 2009/2010 and 2010/2011 seem unusual and do not seem to be PTA payments - Payments in 2011/2012 seem not to be PTA payments, but SB 211 payments |
| 1988/1989 | \$8,087 | \$0 | (\$8,087) | |
| 1989/1990 | \$12,253 | \$0 | (\$12,253) | |
| 1990/1991 | \$16,501 | \$0 | (\$16,501) | |
| 1991/1992 | \$20,835 | \$0 | (\$20,835) | |
| 1992/1993 | \$25,255 | \$0 | (\$25,255) | |
| 1993/1994 | \$29,764 | \$0 | (\$29,764) | |
| 1994/1995 | \$34,363 | \$0 | (\$34,363) | |
| 1995/1996 | \$39,054 | \$0 | (\$39,054) | |
| 1996/1997 | \$43,839 | \$0 | (\$43,839) | |
| 1997/1998 | \$48,719 | \$0 | (\$48,719) | |
| 1998/1999 | \$53,697 | \$0 | (\$53,697) | |
| 1999/2000 | \$58,775 | \$0 | (\$58,775) | |
| 2000/2001 | \$63,954 | \$0 | (\$63,954) | |
| 2001/2002 | \$69,237 | \$0 | (\$69,237) | |
| 2002/2003 | \$74,625 | \$0 | (\$74,625) | |
| 2003/2004 | \$80,121 | \$0 | (\$80,121) | |
| 2004/2005 | \$85,727 | \$0 | (\$85,727) | |
| 2005/2006 | \$91,445 | \$0 | (\$91,445) | |

| Local Educational Agency and Project Area | Owed Amounts (based on Dolinka Group Calculations) | | Amount Actually Paid to LEA | | Difference (Amount Owed) | Reason for Discrepancy |
|---|---|--|--------------------------------|--|-----------------------------|---|
| | | | | | | |
| 2006/2007 | \$97,278 | | \$0 | | (\$97,278) | Not Paid; Pursuant to Agreement, payments need to be requested, they have been requested. - Payments in 2009/2010 and 2010/2011 seem unusual and do not seem to be PTA payments - Payments in 2011/2012 seem not to be PTA payments, but SB 211 payments |
| 2007/2008 | \$103,227 | | \$0 | | (\$103,227) | |
| 2008/2009 | \$109,295 | | \$0 | | (\$109,295) | |
| 2009/2010 | \$115,485 | | \$11,221 | | (\$104,264) | |
| 2010/2011 | \$121,798 | | \$5,635 | | (\$116,163) | |
| Monterey Peninsula College District | | | | | | |
| | \$151,983 | | \$1,835 | | (\$150,148) | |
| PTA | | | | | | |
| | \$151,783 | | \$1,835 | | (\$150,948) | |
| 1987/1988 | \$432 | | \$0 | | (\$432) | Not Paid; Pursuant to Agreement, payments need to be requested, they have been requested. - Payments in 2009/2010 and 2010/2011 seem unusual and do not seem to be PTA payments - Payments in 2011/2012 reflect not to be PTA payments, but SB 211 payments |
| 1988/1989 | \$873 | | \$0 | | (\$873) | |
| 1989/1990 | \$1,323 | | \$0 | | (\$1,323) | |
| 1990/1991 | \$1,782 | | \$0 | | (\$1,782) | |
| 1991/1992 | \$2,250 | | \$0 | | (\$2,250) | |
| 1992/1993 | \$2,727 | | \$0 | | (\$2,727) | |
| 1993/1994 | \$3,214 | | \$0 | | (\$3,214) | |
| 1994/1995 | \$3,711 | | \$0 | | (\$3,711) | |
| 1995/1996 | \$4,218 | | \$0 | | (\$4,218) | |
| 1996/1997 | \$4,734 | | \$0 | | (\$4,734) | |
| 1997/1998 | \$5,261 | | \$0 | | (\$5,261) | |
| 1998/1999 | \$5,799 | | \$0 | | (\$5,799) | |
| 1999/2000 | \$6,347 | | \$0 | | (\$6,347) | |
| 2000/2001 | \$6,907 | | \$0 | | (\$6,907) | |
| 2001/2002 | \$7,477 | | \$0 | | (\$7,477) | |
| 2002/2003 | \$8,059 | | \$0 | | (\$8,059) | |
| 2003/2004 | \$8,653 | | \$0 | | (\$8,653) | |
| 2004/2005 | \$9,258 | | \$0 | | (\$9,258) | |
| 2005/2006 | \$9,876 | | \$0 | | (\$9,876) | |
| 2006/2007 | \$10,505 | | \$0 | | (\$10,505) | |
| 2007/2008 | \$11,148 | | \$0 | | (\$11,148) | |
| 2008/2009 | \$11,803 | | \$0 | | (\$11,803) | |
| 2009/2010 | \$12,472 | | \$1,215 | | (\$11,257) | |
| 2010/2011 | \$13,153 | | \$620 | | (\$12,533) | |
| Grand Total | | | | | | |
| | \$1,602,024 | | \$19,034 | | (\$1,582,990) | |



Monterey Peninsula College

Revised Payment Calculation (As of October 4, 2011)

| | | | | | |
|------------|--------|--------------|--------------|-----------|----------|
| 2010/2011 | 2.000% | \$74,805,341 | \$28,297,253 | \$282,973 | \$13,153 |
| 2009/2010 | 2.000% | \$73,338,570 | \$26,830,482 | \$268,305 | \$12,472 |
| 2008/2009 | 2.000% | \$71,900,559 | \$25,392,471 | \$253,925 | \$11,803 |
| 2007/2008 | 2.000% | \$70,490,744 | \$23,982,656 | \$239,827 | \$11,148 |
| 2006/2007 | 2.000% | \$69,108,572 | \$22,600,484 | \$226,005 | \$10,505 |
| 2005/2006 | 2.000% | \$67,753,502 | \$21,245,414 | \$212,454 | \$9,876 |
| 2004/2005 | 2.000% | \$66,425,002 | \$19,916,914 | \$199,169 | \$9,258 |
| 2003/2004 | 2.000% | \$65,122,551 | \$18,614,463 | \$186,145 | \$8,653 |
| 2002/2003 | 2.000% | \$63,845,638 | \$17,337,550 | \$173,376 | \$8,059 |
| 2001/2002 | 2.000% | \$62,593,763 | \$16,085,675 | \$160,857 | \$7,477 |
| 2000/2001 | 2.000% | \$61,366,434 | \$14,858,346 | \$148,583 | \$6,907 |
| 1999/2000 | 2.000% | \$60,163,171 | \$13,655,083 | \$136,551 | \$6,347 |
| 1998/1999 | 2.000% | \$58,983,501 | \$12,475,413 | \$124,754 | \$5,799 |
| 1997/1998 | 2.000% | \$57,826,962 | \$11,318,874 | \$113,189 | \$5,261 |
| 1996/1997 | 2.000% | \$56,693,100 | \$10,185,012 | \$101,850 | \$4,734 |
| 1995/1996 | 2.000% | \$55,581,470 | \$9,073,382 | \$90,734 | \$4,218 |
| 1994/1995 | 2.000% | \$54,491,638 | \$7,983,550 | \$79,835 | \$3,711 |
| 1993/1994 | 2.000% | \$53,423,174 | \$6,915,086 | \$69,151 | \$3,214 |
| 1992/1993 | 2.000% | \$52,375,661 | \$5,867,573 | \$58,676 | \$2,727 |
| 1991/1992 | 2.000% | \$51,348,687 | \$4,840,599 | \$48,406 | \$2,250 |
| 1990/1991 | 2.000% | \$50,341,850 | \$3,833,762 | \$38,338 | \$1,782 |
| 1989/1990 | 2.000% | \$49,354,755 | \$2,846,667 | \$28,467 | \$1,323 |
| 1988/1989 | 2.000% | \$48,387,015 | \$1,878,927 | \$18,789 | \$873 |
| 1987/1988 | 2.000% | \$47,438,250 | \$930,162 | \$9,302 | \$432 |
| 1986/1987 | NA | \$46,508,088 | NA | NA | NA |
| 2011/2012* | 2.000% | \$76,301,448 | \$29,793,360 | \$297,934 | \$13,849 |

* Pursuant to AB 1494, 2011/2012 pass-through payment true-up is the responsibility of the Auditor-Controller.



Monterey Peninsula Unified School District

Revised Payment Calculation (As of October 4, 2011)

| | | | | | |
|-------------------|---------------|---------------------|---------------------|------------------|------------------|
| 2010/2011 | 2.000% | \$74,805,341 | \$28,297,253 | \$282,973 | \$121,798 |
| 2009/2010 | 2.000% | \$73,338,570 | \$26,830,482 | \$268,305 | \$115,485 |
| 2008/2009 | 2.000% | \$71,900,559 | \$25,392,471 | \$253,925 | \$109,295 |
| 2007/2008 | 2.000% | \$70,490,744 | \$23,982,656 | \$239,827 | \$103,227 |
| 2006/2007 | 2.000% | \$69,108,572 | \$22,600,484 | \$226,005 | \$97,278 |
| 2005/2006 | 2.000% | \$67,753,502 | \$21,245,414 | \$212,454 | \$91,445 |
| 2004/2005 | 2.000% | \$66,425,002 | \$19,916,914 | \$199,169 | \$85,727 |
| 2003/2004 | 2.000% | \$65,122,551 | \$18,614,463 | \$186,145 | \$80,121 |
| 2002/2003 | 2.000% | \$63,845,638 | \$17,337,550 | \$173,376 | \$74,625 |
| 2001/2002 | 2.000% | \$62,593,763 | \$16,085,675 | \$160,857 | \$69,237 |
| 2000/2001 | 2.000% | \$61,366,434 | \$14,858,346 | \$148,583 | \$63,954 |
| 1999/2000 | 2.000% | \$60,163,171 | \$13,655,083 | \$136,551 | \$58,775 |
| 1998/1999 | 2.000% | \$58,983,501 | \$12,475,413 | \$124,754 | \$53,697 |
| 1997/1998 | 2.000% | \$57,826,962 | \$11,318,874 | \$113,189 | \$48,719 |
| 1996/1997 | 2.000% | \$56,693,100 | \$10,185,012 | \$101,850 | \$43,839 |
| 1995/1996 | 2.000% | \$55,581,470 | \$9,073,382 | \$90,734 | \$39,054 |
| 1994/1995 | 2.000% | \$54,491,638 | \$7,983,550 | \$79,835 | \$34,363 |
| 1993/1994 | 2.000% | \$53,423,174 | \$6,915,086 | \$69,151 | \$29,764 |
| 1992/1993 | 2.000% | \$52,375,661 | \$5,867,573 | \$58,676 | \$25,255 |
| 1991/1992 | 2.000% | \$51,348,687 | \$4,840,599 | \$48,406 | \$20,835 |
| 1990/1991 | 2.000% | \$50,341,850 | \$3,833,762 | \$38,338 | \$16,501 |
| 1989/1990 | 2.000% | \$49,354,755 | \$2,846,667 | \$28,467 | \$12,253 |
| 1988/1989 | 2.000% | \$48,387,015 | \$1,878,927 | \$18,789 | \$8,087 |
| 1987/1988 | 2.000% | \$47,438,250 | \$930,162 | \$9,302 | \$4,004 |
| 1986/1987 | NA | \$46,508,088 | NA | NA | NA |
| 2011/2012* | 2.000% | \$76,301,448 | \$29,793,360 | \$297,934 | \$128,238 |

* Pursuant to AB 1484, 2011/2012 pass-through payment true-up is the responsibility of the Auditor-Controller.



Monterey County Office of Education
 Sand City
 Combo (2% and SB 211)

City: Sand City
 County: Monterey
 Agency: Sand City

| Dates | | Two-Percent | | | | Assessed Valuation | | | SB 211 | | | Redevelopment Tax Increment | | | SB 211 | | CRL 3334.2 | |
|--------------------|-------------|--------------------|--------------------------------|--------------------|--------------------------------|--------------------|--------------------------------|---------------------------|---------------|-------------------|---------------|-----------------------------|---------------|-------------------|-------------------------------------|--|------------|--|
| Payment Year | Fiscal Year | Assessed Valuation | % Change in Assessed Valuation | Assessed Valuation | % Change in Assessed Valuation | Assessed Valuation | % Change in Assessed Valuation | Prop 13 - 1% Tax Rate (A) | Tax Increment | Tax Increment (4) | Tax Increment | Tax Increment (4) | Tax Increment | Tax Increment (4) | 20% Housing Set-Aside Reduction (B) | | | |
| Official Base Year | | (1) | | (2) | | | | | | | | | | | | | | |
| 18 | 1999/2000 | \$46,508,088 | 1.87% | \$46,508,088 | NA | NA | 1.0000% | NA | \$188,352 | \$0 | \$0 | \$0 | \$0 | \$0 | | | | |
| 19 | 2004/2005 | \$65,143,327 | 2.00% | \$65,143,327 | NA | NA | 1.0000% | NA | \$198,381 | \$0 | \$0 | \$0 | \$0 | \$0 | | | | |
| 20 | 2005/2006 | \$65,446,184 | 2.00% | \$65,446,184 | NA | NA | 1.0000% | NA | \$212,870 | \$0 | \$0 | \$0 | \$0 | \$0 | | | | |
| 2006/2007 | | \$67,775,118 | 2.00% | \$67,775,118 | NA | NA | 1.0000% | NA | \$226,228 | \$0 | \$0 | \$0 | \$0 | \$0 | | | | |
| 2007/2008 | | \$69,130,620 | 2.00% | \$69,130,620 | NA | NA | 1.0000% | NA | \$240,051 | \$173,538 | \$173,538 | \$173,538 | \$173,538 | \$173,538 | | | | |
| 2008/2009 | | \$70,513,233 | 2.00% | \$70,513,233 | 7.95% | \$235,390,612 | 2.35% | 1.0000% | \$254,154 | \$117,287 | \$117,287 | \$117,287 | \$117,287 | \$117,287 | | | | |
| 2009/2010 | | \$71,823,487 | 2.00% | \$71,823,487 | 0.24% | \$230,711,969 | 0.43% | 1.0000% | \$252,450 | \$127,262 | \$127,262 | \$127,262 | \$127,262 | \$127,262 | | | | |
| 2010/2011 | | \$71,653,039 | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | | | | |
| 24 | | | | | | | | | | | | | | | | | | |
| Total | | | | | | | | | | | | | | | | | | |

Note: Numbers may not sum due to rounding.

- (1) Assessed valuation growth based on the annual Consumer Price Index percentage (not to exceed 2-percent) increase from the applicable base year assessed value per Tax and Revenue Code 110.1(f).
- (2) Assessed valuation is based off of the equalized roll.
- (3) Prop 13 Tax Rate is shown for illustrative purposes, and is based on 2 types of data provided by the Auditor-Controller: (i) assessed valuation from the equalized roll and (ii) tax increment received by the Agency.
- (4) Includes tax increment from all three-layers: Level 1, Level 2 and Level 3.
- (5) 20% Housing Set-Aside Requirement pursuant to AB 1280 legislation.
- (6) Impact Ratio derived from base year AV and tax rate data provided by the Monterey County Auditor-Controller.
- (7) 2% Payment based on a 100% share.
- (8) Impact Ratio based on a weighted average of assessed valuation growth and tax rates.
- (9) Level 2 and 3 Impact Ratio calculated using a weighted average of assessed value growth and tax rates, redistributing the Community's (city/county that adopted the project area) share to all other taxing entities per HSCS 33607.5(a)(9).
- (10) SB 211 based on three-tier share: Level 1 is a 25% share, Level 2 is a 21% share, and Level 3 is a 14% share.
- (11) Includes payments A & B.
- (12) Use of funds requirements based on AB 1280/2% payment legislation.

S:\Clients\Monterey CO Office of Education\Finance\ReDevelopment\Annual Audit\0910_1011\Sand City ReDevelopment Agency\Back up Calcs RDA Copy\MCOE_SandCity_AnnualAudit_0910_1011.xls\Report



CONFIDENTIAL

Monterey County Office of Education
 Sand City
 Combo (2% and SB 211)

City: Sand City
 County: Monterey
 Agency: Sand City

| Two-Percent | | Share Amounts | | | | | SB 211 | | |
|------------------|----------------|---------------------------------------|---|--|---------------------------------------|---------------------------|-------------------------------------|---------------------------------|--|
| Impact Ratio [8] | Subtotal A [7] | Level 1 Impact Ratio without ERAF [8] | Level 2 and 3 Impact Ratio without ERAF [9] | Subtotal B to MCOE (without ERAF) [10] | Total Share to MCOE without ERAF [11] | Non-Facilities/Facilities | Non-Facilities (19% of Total Share) | Facilities (81% of Total Share) | |
| 2.6204% | \$4,883 | NA | NA | \$0 | \$4,883 | \$4,883 | \$0 | \$0 | |
| 2.6204% | \$5,225 | NA | NA | \$0 | \$5,225 | \$5,225 | \$0 | \$0 | |
| 2.6204% | \$5,573 | NA | NA | \$0 | \$5,573 | \$5,573 | \$0 | \$0 | |
| 2.6204% | \$5,928 | 2.5487% | NA | \$0 | \$5,928 | \$5,928 | \$0 | \$0 | |
| 2.6204% | \$6,280 | 2.5281% | NA | \$377 | \$7,168 | \$6,280 | \$167 | \$711 | |
| 2.6204% | \$6,680 | 2.5671% | NA | \$602 | \$7,282 | \$6,680 | \$174 | \$468 | |
| 2.6204% | \$6,815 | 2.5627% | NA | \$650 | \$7,295 | \$6,815 | \$173 | \$528 | |
| NA | \$11,174 | NA | NA | \$2,120 | \$13,303 | | | | |

Note: Numbers may not sum due to rounding.
 [1] Assessed valuation growth based on the annual Consumer Price Index percentage (not to exceed 2-percent) increase from the applicable base year assessed value per Tax and Revenue Code 110.1(f).
 [2] Assessed valuation is based off of this equalized roll.
 [3] Prop 13 Tax Rate is shown for illustrative purposes, and is based on 2 types of data provided by the Auditor/Controller: (i) assessed valuation from the equalized roll and (ii) tax increment received by the Agency.
 [4] Includes tax increment from all three-levels: Level 1, Level 2 and Level 3.
 [5] 20% Housing Set-Aside Requirement pursuant to AB 1280 legislation.
 [6] Impact Ratio derived from base year AV and tax rate data provided by the Monterey County Auditor/Controller.
 [7] 2% Payment based on a 100% share.
 [8] Impact Ratio based on a weighted average of assessed valuation growth and tax rates.
 [9] Level 2 and 3 Impact Ratio calculated using a weighted average of assessed value growth and tax rates, redistributing the Community's (city/county that adopted the project area) share to all other taxing entities per HSC § 33607.5(c)(6).
 [10] SB 211 based on three-tier share: Level 1 is a 25% share, Level 2 is a 21% share, and Level 3 is a 14% share.
 [11] Includes payments A & B.
 [12] Use of funds requirements based on AB 1280/2% payment legislation.

mailed 1/26/12
- emailed Dolinda
to update.



January 25, 2012

Doug Yount
Redevelopment Director
Marina Redevelopment Agency
211 Hillcrest Avenue
Marina, CA 93933

Jim Cook
Redevelopment Director
Monterey County Redevelopment Agency
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

✓ Steve Matarazzo
City Administrator
Sand City Redevelopment Agency
1 Sylvan Park
Sand City, CA 93955

Diana Ingersoll, PE
Resource Management Services
Seaside Redevelopment Agency
440 Harcourt Avenue
Seaside, CA 93955

Michael J Miller, CPA, CISA
Auditor-Controller
Monterey County Auditor-Controller
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

RE: Demand for Payment of Delinquent Tax Increment Revenues and for Inclusion in County Auditor-Controller's Audit Pursuant to Health and Safety Code 34182

As you know, the California Supreme Court recently upheld Assembly Bill ("AB") 1X 26, which orders the dissolution of all redevelopment agencies by February 1, 2012, including the following Redevelopment Agencies (collectively "RDAs"):

- County of Monterey Redevelopment Agency
- Marina Redevelopment Agency
- Sand City Redevelopment Agency
- Seaside Redevelopment Agency

When the RDA dissolves, its existing obligations, including its duty to make proper pass-through payments to the Monterey Peninsula Community College School District ("District"), will shift to a successor agency.

Therefore, prior to the RDA's dissolution, we wish to notify you and reiterate some of the claims of the District as a result of the RDA's failure to properly calculate and allocate pass-through payments. The District is an affected taxing entity for redevelopment project area managed by the RDA. As shown on the attached financial overview (Attachment #1), the District believes that the RDA has incorrectly calculated the amount of

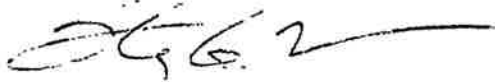
tax increment to be passed-through the District. This miscalculation is believed to have resulted in a significant loss to the District and will result in an even larger deficit in the future, if not corrected. Please take notice that this letter constitutes the District's demand, under all applicable laws, including the Government Claims Act if applicable, that payment of all past due amounts be made immediately.

In addition, it is our understanding that under Health & Safety Code section 34182 (added by AB X1 26), that the County Auditor-Controller must conduct an audit of "each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's pass-through payment obligations to other taxing agencies, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency and certify the initial Recognized Obligation Payment Schedule." The District hereby requests that the County Auditor-Controller review and analyze payments from prior fiscal years when conducting its audit pursuant to Health & Safety Code section 34182. } *v

We value our relationship with our cities and RDAs, and we hope to resolve this matter as quickly as possible. If you have any questions or require additional information, please contact Kajal Vora at 949.250.8389.

Thank you for your prompt attention to this matter.

Sincerely,



Stephen Ma
Vice President for Administrative Services

Enclosures

cc: Garry Bousum, Associate Superintendent Finance and Business Services,
Monterey County Office of Education
Kajal Vora, Associate Director, Dolinka Group, LLC

**Attachment #1
Financial Overview**

| Redevelopment Agency | Project Area | Payment Type | Discrepancy (Owed Amount) | Reason for Discrepancy |
|---|---------------------------------|--------------|---------------------------|---|
| 2% Discrepancy (2004/2005 to 2008/2009): | | | | |
| Marina | Marina | 2% | \$41,523 | <p>Discrepancy (2% Payments): 2% payments are not being paid in accordance with former Health and Safety Code Section 33676.</p> <ul style="list-style-type: none"> The project area was adopted between 1985 through 1993 and does not have a contractual pass-through agreement, and therefore is automatically entitled to 2% payments according to former Health and Safety Code Section 33676 and under the following case law: <i>Santa Ana Joint Union High LEA v. Orange County Development Agency</i> ("Santa Ana Decision") Neither the RDA nor the Auditor Controller's Office has made any payments pursuant to former Health and Safety Code 33676 Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33676. |
| Seaside | Gateway Auto Center Expansion | | \$44,685 | |
| | City Center Revitalization Area | | \$47,746 | |
| AB 1290/Other Statutory Discrepancy (2004/2005 to 2006/2007) | | | | |
| Seaside | Fort Ord | AB 1290 | \$20,846 | <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> Tier 1 payments according to Section 33607.5(b) should be based on "tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted." The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. Please revise the calculation of redevelopment payments using supplementals in Tier I |
| | Gateway '97 Anx | | \$4,009 | |

| | | | | |
|---------|-----------------------|---------|---------|---|
| Seaside | | | | <p>to the LEA as they should be.</p> <ul style="list-style-type: none"> • Please revise the calculation of redevelopment payments using supplementals in Tier I <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> • Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" • The project area is in Tier II and requires Tier II payments, however they are not being made • Please revise the calculation of redevelopment payments to include these Tier II payments. |
| | Laguna Grande '97 Anx | AB 1290 | \$8,551 | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> • Pursuant to Section 33607.5, the County Office is owed money for this project area, however the RDA nor the Auditor Controller have calculated any pass-through payments for this project area for fiscal year 2004/2005 • Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33607.5 <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> • Tier 1 payments according to Section 33607.5(b) should be based on "tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted." • The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. • Please revise the calculation of redevelopment payments using supplementals in Tier I <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> • Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" • The project area is in Tier II and requires Tier II payments, however they are not being made • Please revise the calculation of redevelopment payments to include these Tier II payments |

| | | | | |
|---|------------------------------------|------------------------|---------|---|
| Seaside | Gateway | Other Statutory | \$4,026 | <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" The project area is in Tier II and requires Tier II payments, however they are not being made Please revise the calculation of redevelopment payments to include these Tier II payments. <p>Discrepancy (Incorrect Base Year)</p> <ul style="list-style-type: none"> Payments are not being calculated in accordance with HSC 33607.7(b) regarding the base year value: "The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment." When the time limit of the effectiveness of the redevelopment plan was extended from 1986/1987 to 2006/2007 by Ordinance 842 on December 15, 1994, the applicable base year was automatically modified to 1986/1987. Please revise the calculation of redevelopment payments using the correct base year. |
| Seaside | Noche Buena | Other Statutory | \$339 | <p>Discrepancy (not paid for 2004/2005) The LEA was not paid for 2004/2005. Please calculate the pass-through payment for 2004/2004 in accordance with Health and Safety Code Section 33607.7.</p> |
| Pass-Through Agreement Discrepancy | | | | |
| Sand City | Sand City | Pass-Through Agreement | Unknown | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> Pursuant to Section 3.2, the LEA is owed money for this project area and it now requesting payments since the inception of the plan. Please calculate the pass-through payments in accordance with Section 3.2 of the Pass-through Agreement |
| ERAF Discrepancy | | | | |
| All | All Project Areas with 2% Payments | Unknown | Unknown | <p>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</p> <ul style="list-style-type: none"> RDAs must allocate pass-through payments in proportion to the percentage share of property taxes each affected taxing entity receives. |

| | | | |
|-----|-----------------------------|---------|---|
| | | | <ul style="list-style-type: none"> • RTC 97.2(d)(5) and 97.3(d)(5) require that "for purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993-94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code [Supplemental Educational Revenue Augmentation Fund], shall be deemed property tax revenue..." • Please revise the calculation of redevelopment payments to include our full share of property taxes |
| All | All Statutory Project Areas | Unknown | <p>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</p> <ul style="list-style-type: none"> • RDAs must allocate pass-through payments in "proportion to the percentage share of property taxes each affected taxing entity...receives during the fiscal year the funds are allocated" pursuant to HSC 33607.5(a)(2). • <i>Los Angeles Unified School District v. County of Los Angeles, et al</i> (2010) 181 Cal.App.4th 414, clarifies that RDAs must include payments made to an Education Revenue Augmentation Fund in calculating the "percentage share of property taxes." • The California Supreme Court has denied all appeal petitions for this case, making the LAUSD Decision final and binding on RDAs statewide. • Please revise the calculation of redevelopment payments to include our full share of property taxes. |



Monterey County Office of Education

Leadership, Support, and Service to Prepare All Students for Success

*Dr. Nancy Kotowski
County Superintendent of Schools*

January 24, 2012

Steve Matarazzo
City Administrator
Sand City Redevelopment Agency
1 Sylvan Park
Sand City, CA 93955

and

Redevelopment Agency Directors (see Distribution List)

RE: Demand for Payment of Delinquent Tax Increment Revenues and for Inclusion in County Auditor-Controller's Audit Pursuant to Health and Safety Code 34182

As you know, the California Supreme Court recently upheld Assembly Bill ("AB") 1X 26, which orders the dissolution of all redevelopment agencies by February 1, 2012, including the following Redevelopment Agencies (collectively "RDAs"):

- County of Monterey Redevelopment Agency
- Gonzales Redevelopment Agency
- Greenfield Redevelopment Agency
- King City Redevelopment Agency
- Marina Redevelopment Agency
- Salinas Redevelopment Agency
- Sand City Redevelopment Agency
- Seaside Redevelopment Agency
- Soledad Redevelopment Agency

When the RDA dissolves, its existing obligations, including its duty to make proper pass-through payments to the Monterey County Office of Education ("COE"), will shift to a successor agency.

Therefore, prior to the RDA's dissolution, we wish to notify you and reiterate some of the claims of the COE as a result of the RDA's failure to properly calculate and allocate pass-through payments. The COE is an affected taxing entity for redevelopment project areas managed by RDAs. As shown on the attached financial overview (Attachment #1), the COE believes that the RDAs have incorrectly calculated the amount of tax increment to be passed-through the COE. This miscalculation is believed to have resulted in a significant loss to the COE and will result in an even larger deficit in the future, if not corrected.

Please take notice that this letter constitutes the COE's demand, under all applicable laws, including the Government Claims Act if applicable, that payment of all past due amounts be made immediately.

In addition, it is our understanding that under Health & Safety Code section 34182 (added by AB X1 26), that the County Auditor-Controller must conduct an audit of "each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's pass-through payment obligations to other taxing agencies, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency and certify the initial Recognized Obligation

Payment Schedule." The COE hereby requests that the County Auditor-Controller review and analyze payments from prior fiscal years when conducting its audit pursuant to Health & Safety Code section 34182.

We value our relationship with our County, cities, and RDAs, and we hope to resolve this matter as quickly as possible. If you have any questions or require additional information, please contact Kajal Vora at 949.250.8389.

Thank you for your prompt attention to this matter.

Sincerely,



Garry P. Bousum
Associate Superintendent
Finance and Business Services

Enclosures

GPB:cd

cc: Dr. Nancy Kotowski, County Superintendent of Schools
Lou Lozano, Lozano Smith Attorneys at Law
Kajal Vora, Associate Director, Dolinka Group, LLC

Distribution:

Tom Truszkowski
Community Development Director
Gonzales Redevelopment Agency
147 Fourth Street
Gonzales, CA 93926

Brent Slama
Community Development Director
Greenfield Redevelopment Agency
599 El Camino Real
Greenfield, CA 93927

Michael Powers
Community Development Director
King City Redevelopment Agency
212 South Vanderhurst Avenue
King City, CA 93930

Doug Yount
Redevelopment Director
Marina Redevelopment Agency
211 Hillcrest Avenue
Marina, CA 93933

Jim Cook
Redevelopment Director
Monterey County Redevelopment Agency
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

Fred Meurer
Redevelopment Director
580 Pacific Street
Monterey, CA 93940

Alan Stumpf
Redevelopment Director
Salinas Redevelopment Agency
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Salinas, CA 93901

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City Administrator
Sand City Redevelopment Agency
1 Sylvan Park
Sand City, CA 93955

Diana Ingersoll, PE
Resource Management Services
Seaside Redevelopment Agency
440 Harcourt Avenue
Seaside, CA 93955

Steve McHarris
Community and Economic Development Director
Soledad Redevelopment Agency
248 Main Street
Soledad, CA 93960

Michael J Miller, CPA, CISA
Auditor-Controller
Monterey County Auditor-Controller
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

**Attachment #1
Financial Overview**

| Redevelopment Agency | Project Area | Payment Type | Discrepancy (Owed Amount) | Reason for Discrepancy |
|--|-------------------------------|--------------|---------------------------|---|
| 2% Discrepancy (2004/2005 to 2006/2009): | | | | |
| King City | King City | 2% | \$128,665 | <p>Discrepancy (2% Payments): 2% payments are not being paid in accordance with former Health and Safety Code Section 33676.</p> <ul style="list-style-type: none"> The project area was adopted between 1985 through 1993 and does not have a contractual pass-through agreement, and therefore is automatically entitled to 2% payments according to former Health and Safety Code Section 33676 and under the following case law: <i>Santa Ana Joint Union High LEA v. Orange County Development Agency</i> ("Santa Ana Decision") Neither the RDA nor the Auditor Controller's Office has made any payments pursuant to former Health and Safety Code 33676 Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33676. |
| Sand City | Sand City | | \$30,884 | |
| Salinas | Sunset Ave '90 Anx | | \$47,563 | |
| Seaside | Gateway Auto Center Expansion | | \$2,720 | |
| County | Boronda | | \$10,717 | |
| | Castroville-Pajaro | | \$38,469 | |
| AB 1290/SB 211 Discrepancy (2004/2005 to 2006/2007) | | | | |
| Gonzales | Gonzales Amended | AB 1290 | \$2,268 | <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> Tier 1 payments according to Section 33607.5(b) should be based on "tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted." The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. Please revise the calculation of redevelopment payments using supplementals in Tier I |
| Greenfield | Greenfield Amended | | \$7,845 | |
| | Fort Ord | | \$29,666 | |
| Seaside | Gateway '97 Anx | | \$2,007 | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> Pursuant to Section 33607.5, the County Office is owed money for this project area, however the RDA nor the Auditor Controller have calculated any pass-through payments for this project area. Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33607.5 |

| | | | | |
|---|-------------------------------------|--------------------------|---------|--|
| Seaside | Laguna Grande/Laguna Grande '97 Anx | Other Statutory/ AB 1290 | \$1,941 | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> • Pursuant to Section 33607.5, the County Office is owed money for this project area, however the RDA nor the Auditor Controller have calculated any pass-through payments for this project area for fiscal year 2004/2005 • Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33607.5 <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> • Tier 1 payments according to Section 33607.5(b) should be based on "tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted." • The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. • Please revise the calculation of redevelopment payments using supplementals in Tier I <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> • Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" • The project area is in Tier II and requires Tier II payments, however they are not being made • Please revise the calculation of redevelopment payments to include these Tier II payments. |
| Other Statutory Discrepancies (2004/2005 to 2006/2007) | | | | |
| Seaside | Gateway | Other Statutory | \$1,947 | <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> • Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" • The project area is in Tier II and requires Tier II payments, however they are not being made • Please revise the calculation of redevelopment |

| | | | | |
|--|------------------------------------|-----------------|---------|--|
| Seaside | | | | <p>payments to include these Tier II payments.</p> <p>Discrepancy (Incorrect Base Year)</p> <ul style="list-style-type: none"> • Payments are not being calculated in accordance with HSC 33607.7(b) regarding the base year value: "The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment." • When the time limit of the effectiveness of the redevelopment plan was extended from 1986/1987 to 2006/2007 by Ordinance 842 on December 15, 1994, the applicable base year was automatically modified to 1986/1987. Please revise the calculation of redevelopment payments using the correct base year. |
| | Noche Buena | Other Statutory | \$956 | <p>Discrepancy (not paid for 2004/2005) The LEA was not paid for 2004/2005. Please calculate the pass-through payment for 2004/2004 in accordance with Health and Safety Code Section 33607.7.</p> |
| Soledad | Soledad | SB 211 | \$3,534 | <p>Discrepancy (Base Year Value) The RDA was using a different base year assessed valuation. The RDA has revised their calculation to use the correct base year assessed valuation. Please make payments to the LEA for the calculated amount.</p> |
| Unknown Statutory Discrepancies (2007/2008 - 2008/2009) | | | | |
| 2007/2008 | All Statutory Project Areas | | \$3,419 | <p>Discrepancy (Improper application of HSC 33607.5 and HSC 33607.7 when calculating pass-through payments): The calculation performed by our audit has been done in accordance with HSC 33607.5 and HSC 33607.7, while it appears that the RDA's calculation is not done accordingly. Please revise the calculation of redevelopment payments to be in compliance with this section, and any other applicable statutes.</p> |
| 2008/2009 | | | \$2,167 | |
| ERAF Discrepancy | | | | |
| All | All Project Areas with 2% Payments | | Unknown | <p>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</p> <ul style="list-style-type: none"> • RDAs must allocate pass-through payments in proportion to the percentage share of property taxes each affected taxing entity receives. • RTC 97.2(d)(5) and 97.3(d)(5) require that "for purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993-94 |

| | | | |
|------------|------------------------------------|----------------|--|
| | | | <p>fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33881 of the Health and Safety Code [Supplemental Educational Revenue Augmentation Fund], shall be deemed property tax revenue..."</p> <ul style="list-style-type: none"> • Please revise the calculation of redevelopment payments to include our full share of property taxes |
| All | All Statutory Project Areas | Unknown | <p><i>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</i></p> <ul style="list-style-type: none"> • RDAs must allocate pass-through payments in "proportion to the percentage share of property taxes each affected taxing entity...receives during the fiscal year the funds are allocated" pursuant to HSC 33607.5(a)(2). • <i>Los Angeles Unified School District v. County of Los Angeles, et al</i> (2010) 181 Cal.App.4th 414, clarifies that RDAs must include payments made to an Education Revenue Augmentation Fund in calculating the "percentage share of property taxes." • The California Supreme Court has denied all appeal petitions for this case, making the LAUSD Decision final and binding on RDAs statewide. • Please revise the calculation of redevelopment payments to include our full share of property taxes. |



MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT

P.O. Box 1031
700 Pacific Street
Monterey, CA 93942-1031

(831) 645-1282
(831) 649-1729 FAX
www.mpusd.k12.ca.us

Dan Albert, Asst. Superintendent, Administrative Services
dalbert@mpusd.k12.ca.us

January 25, 2012

Steve Matarazzo
City Administrator
Sand City Redevelopment Agency
1 Sylvan Park
Sand City, CA 93955

**RE: Demand for Payment of Delinquent Tax Increment Revenues and for
Inclusion in County Auditor-Controller's Audit Pursuant to Health and Safety
Code 34182**

As you know, the California Supreme Court recently upheld Assembly Bill ("AB") 1X 26, which orders the dissolution of all redevelopment agencies by February 1, 2012, including the following Redevelopment Agencies (collectively "RDAs"):

- County of Monterey Redevelopment Agency
- Marina Redevelopment Agency
- Sand City Redevelopment Agency
- Seaside Redevelopment Agency

When the RDA dissolves, its existing obligations, including its duty to make proper pass-through payments to the Monterey Peninsula Unified School District ("District"), will shift to a successor agency.

Therefore, prior to the RDA's dissolution, we wish to notify you and reiterate some of the claims of the District as a result of the RDA's failure to properly calculate and allocate pass-through payments. The District is an affected taxing entity for redevelopment project area managed by the RDA. As shown on the attached financial overview (Attachment #1), the District believes that the RDA has incorrectly calculated the amount of tax increment to be passed-through the District. This miscalculation is believed to have resulted in a significant loss to the District and will result in an even larger deficit in the future, if not corrected.

Please take notice that this letter constitutes the District's claim, under all applicable laws, including the Government Claims Act if applicable, that payment of all past due amounts be made without delay.

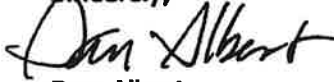
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We value our relationship with our cities and RDAs, and we hope to resolve this matter as quickly as possible. If you have any questions or require additional information, please contact our representative from Dolinka Group, Kajal Vora at 949.250.8389.

Thank you for your prompt attention to this matter.

Sincerely,



Dan Albert
Interim Associate Superintendent
Business Services/District Operations

Enclosures

cc: Garry Bousum, Associate Superintendent Finance and Business Services,
Monterey County Office of Education
Kajal Vora, Associate Director, Dolinka Group, LLC



MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT

P.O. Box 1031
700 Pacific Street
Monterey, CA 93942-1031

(831) 645-1282
(831) 649-1729 FAX
www.mpusd.k12.ca.us

Dan Albert, Asst. Superintendent, Administrative Services
dalbert@mpusd.k12.ca.us

January 25, 2012

Michael J Miller, CPA, CISA
Auditor-Controller
Monterey County Auditor-Controller
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

RE: Demand for Payment of Delinquent Tax Increment Revenues and for Inclusion in County Auditor-Controller's Audit Pursuant to Health and Safety Code 34182

As you know, the California Supreme Court recently upheld Assembly Bill ("AB") 1X 26, which orders the dissolution of all redevelopment agencies by February 1, 2012, including the including the following Redevelopment Agencies (collectively "RDAs"):

- County of Monterey Redevelopment Agency
- Marina Redevelopment Agency
- Sand City Redevelopment Agency
- Seaside Redevelopment Agency

When the RDA dissolves, its existing obligations, including its duty to make proper pass-through payments to the Monterey Peninsula Unified School District ("District"), will shift to a successor agency.

Therefore, prior to the RDA's dissolution, we wish to notify you and reiterate some of the claims of the District as a result of the RDA's failure to properly calculate and allocate pass-through payments. The District is an affected taxing entity for redevelopment project area managed by the RDA. As shown on the attached financial overview (Attachment #1), the District believes that the RDA has incorrectly calculated the amount of tax increment to be passed-through the District. This miscalculation is believed to have resulted in a significant loss to the District and will result in an even larger deficit in the future, if not corrected.

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Business Services/District Operations

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Dan Albert, Asst. Superintendent, Administrative Services
dalbert@mpusd.k12.ca.us

January 25, 2012

Doug Yount
Redevelopment Director
Marina Redevelopment Agency
211 Hillcrest Avenue
Marina, CA 93933

RE: Demand for Payment of Delinquent Tax Increment Revenues and for Inclusion in County Auditor-Controller's Audit Pursuant to Health and Safety Code 34182

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Dan Albert

Interim Associate Superintendent
Business Services/District Operations

Enclosures

cc: Garry Bousum, Associate Superintendent Finance and Business Services,
Monterey County Office of Education
Kajal Vora, Associate Director, Dolinka Group, LLC



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Dan Albert, Asst. Superintendent, Administrative Services
dalbert@mpusd.k12.ca.us

January 25, 2012

Jim Cook
Redevelopment Director
Monterey County Redevelopment Agency
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

RE: Demand for Payment of Delinquent Tax Increment Revenues and for Inclusion in County Auditor-Controller's Audit Pursuant to Health and Safety Code 34182

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Dan Albert
Interim Associate Superintendent
Business Services/District Operations

Enclosures

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Dan Albert, Asst. Superintendent, Administrative Services
dalbert@mpusd.k12.ca.us

January 25, 2012

Diana Ingersoll, PE
Resource Management Services
Seaside Redevelopment Agency
440 Harcourt Avenue
Seaside, CA 93955

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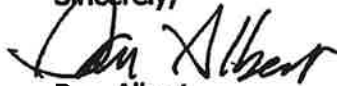
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Dan Albert
Interim Associate Superintendent
Business Services/District Operations

Enclosures

cc: Garry Bousum, Associate Superintendent Finance and Business Services,
Monterey County Office of Education
Kajal Vora, Associate Director, Dolinka Group, LLC

**Attachment #1
Financial Overview**

| Redevelopment Agency | Project Area | Payment Type | Discrepancy (Award Amount) | Reason for Discrepancy |
|---|---------------------------------|--------------|----------------------------|---|
| 2% Discrepancy (2004/2005 to 2008/2009): | | | | |
| Marina | Marina | 2% | \$41,523 | <p>Discrepancy (2% Payments): 2% payments are not being paid in accordance with former Health and Safety Code Section 33676.</p> <ul style="list-style-type: none"> The project area was adopted between 1985 through 1993 and does not have a contractual pass-through agreement, and therefore is automatically entitled to 2% payments according to former Health and Safety Code Section 33676 and under the following case law: <i>Santa Ana Joint Union High LEA v. Orange County Development Agency</i> ("Santa Ana Decision") Neither the RDA nor the Auditor Controller's Office has made any payments pursuant to former Health and Safety Code 33676 Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33676. |
| Seaside | Gateway Auto Center Expansion | | \$44,685 | |
| | City Center Revitalization Area | | \$47,746 | |
| AB 1290/Other Statutory Discrepancy (2004/2005 to 2006/2007) | | | | |
| Seaside | Fort Ord | AB 1290 | \$20,846 | <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> Tier 1 payments according to Section 33607.5(b) should be based on "tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted." The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. Please revise the calculation of redevelopment payments using supplementals in Tier I |
| | Gateway '97 Anx | | \$4,009 | |

| | | | | |
|---------|-----------------------|---------|---------|---|
| Seaside | | | | <p>agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted.”</p> <ul style="list-style-type: none"> • The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. • Please revise the calculation of redevelopment payments using supplementals in Tier I <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> • Health and Safety Code Section 33607.5 (c) states that “commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment” • The project area is in Tier II and requires Tier II payments, however they are not being made • Please revise the calculation of redevelopment payments to include these Tier II payments. |
| | Laguna Grande '97 Anx | AB 1290 | \$8,551 | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> • Pursuant to Section 33607.5, the County Office is owed money for this project area, however the RDA nor the Auditor Controller have calculated any pass-through payments for this project area for fiscal year 2004/2005 • Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33607.5 <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> • Tier 1 payments according to Section 33607.5(b) should be based on “tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted.” • The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. • Please revise the calculation of redevelopment payments using supplementals in Tier I <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> |

| | | | | |
|---|-------------|-----------------|---------|---|
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| Seaside | Gateway | Other Statutory | \$4,026 | <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" The project area is in Tier II and requires Tier II payments, however they are not being made Please revise the calculation of redevelopment payments to include these Tier II payments. <p>Discrepancy (Incorrect Base Year)</p> <ul style="list-style-type: none"> Payments are not being calculated in accordance with HSC 33607.7(b) regarding the base year value: "The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment." When the time limit of the effectiveness of the redevelopment plan was extended from 1986/1987 to 2006/2007 by Ordinance 842 on December 15, 1994, the applicable base year was automatically modified to 1986/1987. Please revise the calculation of redevelopment payments using the correct base year. |
| Seaside | Noche Buena | Other Statutory | \$339 | <p>Discrepancy (not paid for 2004/2005) The LEA was not paid for 2004/2005. Please calculate the pass-through payment for 2004/2004 in accordance with Health and Safety Code Section 33607.7.</p> |
| Pass-Through Agreement Discrepancy | | | | |
| Sand City | Sand City | Pass-Through | Unknown | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> Pursuant to Section 3.2, the LEA is owed |

| | | | | |
|-------------------------|------------------------------------|-----------|--|--|
| | | Agreement | | <p>money for this project area and it now requesting payments since the inception of the plan.</p> <ul style="list-style-type: none"> Please calculate the pass-through payments in accordance with Section 3.2 of the Pass-through Agreement |
| ERAF Discrepancy | | | | |
| All | All Project Areas with 2% Payments | Unknown | | <p>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</p> <ul style="list-style-type: none"> RDAs must allocate pass-through payments in proportion to the percentage share of property taxes each affected taxing entity receives. RTC 97.2(d)(5) and 97.3(d)(5) require that "for purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993-94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code [Supplemental Educational Revenue Augmentation Fund], shall be deemed property tax revenue..." Please revise the calculation of redevelopment payments to include our full share of property taxes |
| All | All Statutory Project Areas | Unknown | | <p>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</p> <ul style="list-style-type: none"> RDAs must allocate pass-through payments in "proportion to the percentage share of property taxes each affected taxing entity...receives during the fiscal year the funds are allocated" pursuant to HSC 33607.5(a)(2). <i>Los Angeles Unified School District v. County of Los Angeles, et al</i> (2010) 181 Cal.App.4th 414, clarifies that RDAs must include payments made to an Education Revenue Augmentation Fund in calculating the "percentage share of property taxes." The California Supreme Court has denied all appeal petitions for this case, making the LAUSD Decision final and binding on RDAs statewide. Please revise the calculation of redevelopment payments to include our full share of property taxes. |

| ROPS 1 | | | |
|---|-----------------------|--|---------------------|
| <u>January 2012 through June 2012</u> | | | |
| <u>Description</u> | <u>ROPS Requested</u> | <u>December 2011 Property Tax Received</u> | <u>Not Received</u> |
| 2008A Tax Allocation Bonds May 2012 Payment | 137,250.00 | 137,250.00 | 0.00 |
| 2008A Tax Allocation Bonds November 2012 Payment | 367,250.00 | 367,250.00 | 0.00 |
| 2008B Tax Allocation Bonds May 2012 Payment | 52,931.00 | 52,931.00 | 0.00 |
| 2008B Tax Allocation Bonds November 2012 Payment | 172,931.00 | 107,413.42 | 65,517.58 |
| COP Reimbursement | | | |
| SERAF Payment | | | |
| RDA L&M Housing | | | |
| McDonald Contingency Reimbursement | | | |
| Seaside Tax Sharing Agreement | 400,000.00 | | 400,000.00 |
| Administrative Costs | | | |
| City Loan to RDA | 762,946.00 | | 762,946.00 |
| | | | |
| TOTAL | 1,893,308.00 | 664,844.42 | 1,228,463.58 |
| Pass Throughs | | | |
| <u>34183 Distributions</u> | | | |
| County Passthrough Payments | | 174,578.00 | |
| Special District Passthrough Payments | | 14,290.00 | |
| K-12 School Passthrough Pmts - Tax Portion | | 77,254.00 | |
| K-12 School Passthrough Pmts - Facilities Portion | | -2,672.00 | |
| Community College Passthrough Pmts - Tax Portion | | 5,284.00 | |
| Community College Passthrough Pmts - Facilities Portion | | -267.00 | |
| County Office of Education - Tax Portion | | 3,060.00 | |
| County Office of Education - Facilities Portion | | -232.00 | |
| SUB TOTAL | | 271,295.00 | |
| | | | |
| TOTAL | | 936,139.42 | |
| | | | |
| | | | |

MyDocs/ROPS/ROPS vs. Actual Received



distributed
by MS CANADY
5/6/13 OB
meeting.

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19th Floor
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CLARISSA R. CANADY
Attorney at Law
ccanady@DWKesq.com

San Francisco

301 East Ocean Boulevard
Suite 1750
Long Beach, CA 90802
TEL 562.366.8500
FAX 562.366.8505

March 15, 2013

VIA EMAIL and U.S. MAIL

Garry P Bousum
Associate Superintendent, Finance & Business Services
Monterey County Office of Education
901 Blanco Circle
Salinas, CA 93901

750 B Street
Suite 2310
San Diego, CA 92101
TEL 619.595.0202
FAX 619.702.6202

www.DWKesq.com

Re: *Response to Sand City Re. Interpretation of Cooperation Agreements*
Our file 5040.10212

Dear Mr Bousum:

We have reviewed the Agreements for Cooperation between Monterey Peninsula Unified School District ("MPUSD"), Monterey Peninsula Community College District ("MPCCD"), the former Sand City RDA and Sand City ("Cooperation Agreement"). I focused specific attention on Sections 3.1 and 3.2 of the Cooperation Agreements in light of Sand City's claim that MPUSD and MPCCD were required to make a request for certain 2% payments, and that those payments would only flow prospectively following the request. We disagree with this interpretation.

BRIEF SUMMARY

In July and August of 1987, MPUSD and MPCCD entered into Cooperation Agreements with the former Sand City RDA and Sand City. These agreements were commonly known as "mitigation agreements" in which RDA's worked with school districts to negotiate payments to defray the costs to districts associated with growth in the area due to redevelopment activities. It appears that the primary purpose of the Cooperation Agreements at issue was to address these mitigation issues.

The Cooperation Agreements both contain the following "2%" provision:

3.2 Upon the request of the School District the Agency shall provide as a minimum, an amount equal to the projected portion of the tax revenues generated by the incremental two percent (2%) increase in the base

DEDICATION
WISDOM
KNOW-HOW



year assessed valuation of the property within the redevelopment area during the period of the project, including any amendments.

(MPUSD Agmt., §3.2, MPCCD Agmt., §3.1) The Districts and Sand City disagree regarding the interpretation of this provision.

LEGAL ANALYSIS

Sand City contends. (1) that 2% provision requires the City/former RDA to pay these amounts *prospectively*; (2) the City was only required to hold these funds in reserve for 1 year, and if the Districts failed to make a request, they were entitled to spend these revenues on other items, and (3) even assuming the Districts could seek payment for prior years, the Districts would be limited to a four year statute of limitations to make such a claim. San City's contentions are not supported by the clear contract language, or the law

There is no reference in the 2% provision to an annual reserve that can be spent if the Districts did not make a request in that year. In other words, there is no "use it or lose it" language in the provision that amounts to a waiver on the part of the District if it does not make a request in a given year. Thus, any expenditure of these funds by the City/former RDA was made at their risk, and did not alleviate the City/former RDA's obligation to make full payment under the 2% provision.

Moreover, Cooperation Agreement does not place a time limit on the amount of funds that can be sought under the 2% provision. In fact, there is no specified timeframe for the Districts to make the request. Rather, the language of the provision is quite broad, and requires the City/former RDA to make, at a minimum, "an amount equal to the projected portion of the tax revenue s generated by the incremental two percent (2%) increase in the base year assessed valuation of the property within the redevelopment area *during the period of the project, including any amendments.*" This highlighted language clearly requires the payment of these sums for the entire period of the project. In other words, the request does not trigger only a prospective payment of these amounts, but rather the full payment of these amounts for the entire period of the project, as amended. In sum, there is simply no support for the City's interpretation that the request only requires payments going forward. The plain language of the provision clearly states otherwise.

Finally, the City lacks any basis to conclude that the Districts would be limited to only four years of payments based on the statute of limitations for contracts. The 4-year statute of limitations applies where there has been a breach of an obligation in the contract. Here, the Districts are simply exercising their rights under the agreements by requesting that the City fulfill its obligation to pay the 2% payments for the entire period of the project pursuant to sections 3.1 and 3.2. If the City fails to do so, the Districts will have 4 years from the date of their refusal to bring a legal action to pursue their claims. However, in the resulting action, the City would be required to make the payments specified in the 2% provision - i.e., the entire sum for the full project period - and not be limited to only four years. Thus, it is our opinion that the City is misapplying the statute of limitations in this case.

Their claim might have merit if the 2% provision required the Districts to make an election at a time certain, and the Districts did so but the City failed to make such payment. Alternatively, if

Garry P Bousum
Monterey County Office of Education
March 15, 2013
Page 3

the payments were supposed to be made automatically, and the City failed to do so, the Districts may be limited to seeking payments for only four years from the dates the City was required to make the automatic payments. However, as explained above, the express terms of the agreements do not require the Districts to make a request at a time certain, the failure to respond to which by the City would trigger the statute of limitations. Moreover, the City also concedes, and the plain language provides, that the Districts were required to make a request. Thus, there was not a failure to make an automatic payment which might trigger the statute of limitations.

CONCLUSION

Based on the foregoing, we conclude that the Cooperation Agreements provide for full payment under the 2% provision for the entire period of the project, as amended, not simply prospective payments. We further found no contractual or legal basis to read into the Cooperation Agreements the "use it or lose it" terms that the City relies upon. We likewise find no merit in the City's argument that the statute of limitations would bar the Districts from seeking full payment under the 2% provision. Rather, the Districts are entitled to pursue the payments by merely exercising their rights under the agreement and making the requisite requests. After such requests are made, the agreement is clear that the City/former RDA "shall" make such payments.

Please contact me should you have further questions on this matter

Very truly yours,

DANNIS WOLIVER KELLEY



Clarissa R. Canady

CRC:dlh

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by DARRIN
WATTERS 5/6/13

To: David Ngo, Department of Finance

From: Darrin Watters, Dolinka Group, LLC.

Date: March 14, 2013

RE: Sand City ROPS 13-14A, Line Item 17 – Contingency Payments: \$130,000

Background:

On July 14, 1987, the Monterey Peninsula College ("MPC") entered into a pass-through agreement (Attachment 1) with the Sand City Redevelopment Agency ("RDA"). Section 3.1 of MPC's agreement entitles MPC to facility pass-through payments:

"Upon the request of the School District, the Agency shall provide, as a minimum an amount equal to the projected portion of the tax revenues generated by the incremental two percent (2%) increase in the base year assessed valuation of the property within the redevelopment area during the period of the project, including any amendment."

On August 3, 1987, the Monterey Peninsula Unified School District ("MPUSD") entered into a similar pass-through agreement (Attachment 2) with the RDA. Identical to the language in MPC's agreement, Section 3.2 of MPUSD's agreement entitles MPUSD to similar payments.

The Monterey County Office of Education ("MCOE") did not enter into a pass-through agreement with the RDA, but is entitled to inflationary pass-through payments pursuant to the former Health and Safety Code ("HSC") 33676, and SB 211 payments pursuant to HSC 33607.7.

Pass-Through Payment Audit:

In 2010, MPC, MPUSD, and MCOE ("LEAs") hired Dolinka Group, a redevelopment consultant, to audit their redevelopment pass-through payments. The audit results indicated that MPC and MPUSD have never been paid for the RDA pass-through agreements, but did receive a few small payments from the Auditor-Controller in 2009/2010 and 2010/2011, which do not appear to be pass-through agreement payments. MCOE has never been paid inflationary payments, but had received one year of SB 211 payments (Attachment 3). MPC, MPUSD, and MCOE sent demand letters addressing the pass-through payments to the RDA in January 2012, prior to the RDA's dissolution (Attachment 4).

Meeting with Successor Agency:

On February 28, 2013, the Successor Agency met with MPC, MCOE and Dolinka Group on behalf of the LEAs to discuss the pass-through payments. MPC and MPUSD interpret their agreements differently than the Successor Agency interprets the agreements. It is MPC and MPUSD's interpretation that once the pass-through payments are requested, the 2% payments will be paid in full, from the execution of the

contract. It is the Successor Agency's interpretation that once the pass-through payments are requested, only the current year's 2% payments will be paid, and each year thereafter MPC and MPUSD will receive the annual 2% payments. The Successor Agency believes that four years' worth of 2% payments is more reasonable based on their interpretation of the statute of limitations. Because the LEAs and the Successor Agency have not yet determined which interpretation will guide the amounts due to the LEAs, the following table shows the pass-through payments associated with each interpretation:

| LEA | LEA's Interpretation | Successor Agency's Interpretation |
|-------|----------------------|-----------------------------------|
| MPC | \$ 150,148 | \$ 46,741 |
| MPUSD | \$ 1,390,483 | \$ 432,949 |
| MCOE | \$ 42,358 | \$ 26,677 |
| Total | \$ 1,582,989 | \$ 506,368 |

\$130,000 Contingency Payment:

The LEAs and the Successor Agency are currently reviewing their interpretations with their legal counsels. The \$130,000 contingency payment was included on the Recognized Obligation Payment Schedule ("ROPS") as a good-faith down payment for the LEAs. The \$130,000 is significantly less than the dollars potentially owed to the LEAs for either the LEA's interpretation or the Successor Agency's interpretation. Once the LEAs and the Successor Agency agree on the appropriate dollar amount, the remaining payment to the LEAs will be trued up and placed on the future ROPS.

If you have any additional questions, please do not hesitate to contact me at 949-250-8319.

Thank you,



Darrin Watters
Executive Director, Dolinka Group, LLC.

AGREEMENT FOR COOPERATION BETWEEN
THE MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT,
THE REDEVELOPMENT AGENCY FOR THE CITY OF SAND CITY
AND THE CITY OF SAND CITY

1. PARTIES & DATE

1.1 This Agreement entered into in the City of Sand City, County of Monterey, State of California, this 14 day of JULY, 1987, between the Monterey Peninsula Community College District, a Public Agency (School District), and the Redevelopment Agency for the City of Sand City, a Public Body (Agency), and the City of Sand City, a Municipal Corporation (City).

2. RECITALS

2.1 Agency is proposing to undertake a program under the California Community Redevelopment Law (Health and Safety code Section 33000 et. seq.) replanning and redesign of blighted areas within the City which are stagnant, improperly utilized, and unproductive because of defective or inadequate street layout, faulty lot layout in relation to size, shape, accessibility, or usefulness, or for other causes and because the area requires replanning for reclamation or development in the interest of the general welfare because of various reasons.

2.2 The School District is in receipt of Ordinance No. 87-6, adopted by the City Council of the City of Sand City, California, on JULY 20, 1987, authorizing the redevelopment of an area within the territorial limits of the City of Sand City Redevelopment Agency for the City of Sand City.

2.3 The Redevelopment Agency for the City of Sand City has found and declared that there exists in the City of Sand City blight areas which are characterized by one or more of those conditions set forth in Sections 33031 and 33032, causing a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise acting alone.

2.4 As defined in Section 33353.2, the School District is an affected taxing entity which had bonded indebtedness and general purpose property taxes levied on its behalf by the County of Monterey of all of the property located in the proposed Redevelopment Project Area in fiscal year 1986-1987.

2.5 The California Community Redevelopment Law authorized redevelopment agencies to pay to any taxing agency with territory located within a project area other than the community which has adopted the project, any amounts of money which in the agency determination is appropriate to alleviate any financial burden or detriment caused to any taxing agency by a redevelopment project.

2.6 School District and Agency wish to enter a Cooperative Agreement between themselves to provide mutual aid and assistance in the redevelopment, development, and physical improvements in certain areas inside or outside the Project Area and Agency and School District have a common interest in and wish to facilitate redevelopment and to provide for the cooperation of School District and Agency in carrying out the redevelopment activities, goals and objectives set forth in the Redevelopment Plan.

Now therefore in consideration of the foregoing and the mutual promises and covenants contained herein, the parties hereto agree as follows:

3. AGREEMENT

3.1 Upon the request of the School District the Agency shall provide as a minimum an amount equal to the projected portion of the tax revenues generated by the incremental two percent (2%) increase in the base year assessed valuation of the property within the redevelopment area during the period of the project, including any amendments.

3.2 The City and Agency agrees to assist the School District by providing meeting and classroom space within the existing City Hall and or the proposed police and fire facility for the use of the School District. Said use to allow the School District to conduct classes, forums, lectures and other related School District activities within the City.

Both parties mutually agree to meet to determine a time schedule for the providing of the space and the times said space will be made available.

3.3 The School District to have the option as early as the fifth year from adoption of the Redevelopment Plan to open negotiations with the Agency to review and discuss fiscal detriment the plan may have caused and both parties agree to negotiate in good faith mitigation measures to eliviate said fiscal detriment.

3.4 Agreement shall be binding and considered in force only if mutually agreed upon by Agency and School District.

CITY OF SAND CITY

David H. Paulsen
MAYOR

ATTEST:

May Ann Weems
CITY CLERK

REDEVELOPMENT AGENCY OF THE CITY OF SAND CITY

David H. Paulsen
CHAIRMAN

ATTEST:

May Ann Weems
SECRETARY

MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT

J. J. [Signature] Business Manager
for PRESIDENT

ATTEST:

Zarika N. Patterson
SECRETARY

AGREEMENT FOR COOPERATION BETWEEN
THE MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT,
THE REDEVELOPMENT AGENCY FOR THE CITY OF SAND CITY
AND THE CITY OF SAND CITY

1. PARTIES & DATE

1.1 This agreement entered into in the City of Sand City, County Monterey, State of California, this 3rd day of AUGUST, 1987, between the Monterey Peninsula Unified School District, a Public Agency (School District), and the Redevelopment Agency for the City of Sand City, a Public Body (Agency).

2. RECITALS

2.1 Agency is proposing to undertake a program under the California Community Redevelopment Law (Health and Safety code Section 33000 et. seq.) replanning and redesign of blighted areas within the City which are stagnant, improperly utilized, and unproductive because of defective or inadequate street layout, faulty lot layout in relation to size, shape, accessibility, or usefulness, or for other causes and because the area requires replanning for reclamation or development in the interest of the general welfare because of various reasons.

2.2 The School District is in receipt of Ordinance No. 87-6, adopted by the City Council of the City of Sand City, California, on JULY 20, 1987, authorizing the redevelopment of an area within the territorial limits of the City of Sand City Redevelopment Agency for the City of Sand City.

2.3 The Redevelopment Agency for the City of Sand City has found and declared that there exists in the City of Sand City blight areas which are characterized by one or more of those conditions set forth in Sections 33031 and 33032, causing a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise acting alone.

2.4 As defined in Section 33353.2, the School District is an affected taxing entity which had bonded indebtedness and general purpose property taxes levied on its behalf by the County of Monterey of all the property located in the proposed Redevelopment Project Area in fiscal year 1987-1988.

2.5 The California Community Redevelopment Law authorized redevelopment agencies to pay to any taxing agency with territory located within a project area other than the community which has adopted the project, any amounts of money which in the agency determination is appropriate to alleviate any financial burden or detriment caused to any taxing agency by a redevelopment project.

2.6 School District and Agency wish to enter a Cooperative Agreement between themselves to provide mutual aid and assistance in the redevelopment, development, and physical improvements in certain areas inside or outside the Project Area through the rehabilitation, construction, purchase or reconstruction of permanent or portable public school facilities and Agency and School District have a common interest in and wish to facilitate redevelopment and to provide for the cooperation of School District and Agency in carrying out the redevelopment activities, goals and objectives set forth in the Redevelopment Plan.

Now therefore in consideration of the foregoing and the mutual promises and covenants contained herein, the parties hereto agree as follows:

3. AGREEMENT

3.1 Agency and School District agree to negotiate the use of proceeds of taxes attributable to that area within the territorial limits of the School District resulting from an increase in the assessed valuation of the Project Area over the base year which would have otherwise been levied upon taxable property in the Project Area by or for the benefit of the School District and which are allocated to Agency pursuant to Section 33670 (b) (Tax Increment).

3.2 Upon the request of the School District the Agency shall provide as a minimum, an amount equal to the projected portion of the tax revenues generated by the incremental two percent (2%) increase in the base year assessed valuation of the property within the redevelopment area during the period of the project, including any amendments.

3.3 Agreement shall be binding and considered in force only if mutually agreed upon by Agency and School District.

3.4 Agency and School District shall meet at a time and place mutually agreed upon between the date of execution of this document and August 20, 1992, to begin to determine fiscal detriment and to negotiate the payment of tax proceeds if necessary to alleviate said fiscal detriment to School District from Agency.

REDEVELOPMENT AGENCY OF THE CITY OF SAND CITY

David H. Pedersen
CHAIRMAN

ATTEST:

Mary Ann Weems
SECRETARY

MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT

Edith Johnson
PRESIDENT

ATTEST:

James C. Harris
SECRETARY

Sand City Redevelopment Agency
 Redevelopment Money Owed to Local Educational Agencies
 As of October 2012

| Local Educational Agency and Project Area | Owed Amounts (based on Dolinka Group Calculations) | Amount Actually Paid to LEA | Difference (Amount Owed) | Reason for Discrepancy |
|---|---|--------------------------------|-----------------------------|--|
| Monterey County Office of Education | | | | |
| Sand City | | | | |
| SB 211 | \$42,701 | \$343 | (\$42,358) | |
| 2008/2009 | \$1,527 | \$343 | (\$1,184) | |
| | \$877 | \$0 | (\$877) | SB 211 Payment not paid |
| 2010/2011 | \$650 | \$343 | (\$307) | Cause of discrepancy unknown due to format of records provided by Auditor |
| Two-Percent | \$41,174 | \$0 | (\$41,174) | Controller's Office |
| 2004/2005 | \$4,883 | \$0 | (\$4,883) | |
| 2005/2006 | \$5,225 | \$0 | (\$5,225) | |
| 2006/2007 | \$5,573 | \$0 | (\$5,573) | |
| 2007/2008 | \$5,928 | \$0 | (\$5,928) | |
| 2008/2009 | \$6,290 | \$0 | (\$6,290) | |
| 2009/2010 | \$6,660 | \$0 | (\$6,660) | |
| 2010/2011 | \$6,615 | \$0 | (\$6,615) | 2% Payment not paid |
| Monterey Peninsula Unified School District | | | | |
| Sand City | | | | |
| PTA | \$1,407,340 | \$16,856 | (\$1,390,483) | |
| 1987/1988 | \$4,004 | \$0 | (\$4,004) | |
| 1988/1989 | \$8,087 | \$0 | (\$8,087) | |
| 1989/1990 | \$12,253 | \$0 | (\$12,253) | |
| 1990/1991 | \$16,501 | \$0 | (\$16,501) | |
| 1991/1992 | \$20,835 | \$0 | (\$20,835) | |
| 1992/1993 | \$25,255 | \$0 | (\$25,255) | |
| 1993/1994 | \$29,764 | \$0 | (\$29,764) | |
| 1994/1995 | \$34,363 | \$0 | (\$34,363) | |
| 1995/1996 | \$39,054 | \$0 | (\$39,054) | |
| 1996/1997 | \$43,839 | \$0 | (\$43,839) | |
| 1997/1998 | \$48,719 | \$0 | (\$48,719) | |
| 1998/1999 | \$53,697 | \$0 | (\$53,697) | |
| 1999/2000 | \$58,775 | \$0 | (\$58,775) | |
| 2000/2001 | \$63,954 | \$0 | (\$63,954) | |
| 2001/2002 | \$69,237 | \$0 | (\$69,237) | |
| 2002/2003 | \$74,625 | \$0 | (\$74,625) | |
| 2003/2004 | \$80,121 | \$0 | (\$80,121) | |
| 2004/2005 | \$85,727 | \$0 | (\$85,727) | |
| 2005/2006 | \$91,445 | \$0 | (\$91,445) | |
| | | | | Not Paid; Pursuant to Agreement, payments need to be requested, they have been requested. |
| | | | | - Payments in 2009/2010 and 2010/2011 seem unusual and do not seem to be PTA payments |
| | | | | - Payments in 2011/2012 seem not to be PTA payments, but SB 211 payments |

| Local Educational Agency and Project Area | Owed Amounts (based on Dolinka Group Calculations) | Amount Actually Paid to LEA | Difference (Amount Owed) | Reason for Discrepancy |
|--|---|--------------------------------|-----------------------------|--|
| 2006/2007 | \$97,278 | \$0 | (\$97,278) | Not Paid; Pursuant to Agreement, payments need to be requested, they have been requested. - Payments in 2009/2010 and 2010/2011 seem unusual and do not seem to be PTA payments - Payments in 2011/2012 seem not to be PTA payments, but SB 211 payments |
| 2007/2008 | \$103,227 | \$0 | (\$103,227) | |
| 2008/2009 | \$109,295 | \$0 | (\$109,295) | |
| 2009/2010 | \$115,485 | \$11,221 | (\$104,264) | |
| 2010/2011 | \$121,798 | \$5,635 | (\$116,163) | |
| Monterey Peninsula College District | \$151,983 | \$1,835 | (\$150,148) | |
| Sand City | \$151,983 | \$1,835 | (\$150,148) | |
| PTA | \$432 | \$0 | (\$432) | |
| 1987/1988 | \$873 | \$0 | (\$873) | |
| 1988/1989 | \$1,323 | \$0 | (\$1,323) | |
| 1989/1990 | \$1,782 | \$0 | (\$1,782) | |
| 1990/1991 | \$2,250 | \$0 | (\$2,250) | |
| 1991/1992 | \$2,727 | \$0 | (\$2,727) | |
| 1992/1993 | \$3,214 | \$0 | (\$3,214) | |
| 1993/1994 | \$3,711 | \$0 | (\$3,711) | |
| 1994/1995 | \$4,218 | \$0 | (\$4,218) | |
| 1995/1996 | \$4,734 | \$0 | (\$4,734) | |
| 1996/1997 | \$5,261 | \$0 | (\$5,261) | |
| 1997/1998 | \$5,799 | \$0 | (\$5,799) | Not Paid; Pursuant to Agreement, payments need to be requested, they have been requested. - Payments in 2009/2010 and 2010/2011 seem unusual and do not seem to be PTA payments - Payments in 2011/2012 reflect not to be PTA payments, but SB 211 payments |
| 1998/1999 | \$6,347 | \$0 | (\$6,347) | |
| 1999/2000 | \$6,907 | \$0 | (\$6,907) | |
| 2000/2001 | \$7,477 | \$0 | (\$7,477) | |
| 2001/2002 | \$8,059 | \$0 | (\$8,059) | |
| 2002/2003 | \$8,653 | \$0 | (\$8,653) | |
| 2003/2004 | \$9,258 | \$0 | (\$9,258) | |
| 2004/2005 | \$9,876 | \$0 | (\$9,876) | |
| 2005/2006 | \$10,505 | \$0 | (\$10,505) | |
| 2006/2007 | \$11,148 | \$0 | (\$11,148) | |
| 2007/2008 | \$11,803 | \$0 | (\$11,803) | |
| 2008/2009 | \$12,472 | \$1,215 | (\$11,257) | |
| 2009/2010 | \$13,153 | \$620 | (\$12,533) | |
| 2010/2011 | \$1,602,024 | \$19,034 | (\$1,582,990) | |
| Grand Total | | | | |



**Monterey Peninsula College
Sand City Project Area**

Revised Payment Calculation (As of October 4, 2011)

| Year | Base Year Value Change | Inflated Base Year Value | Incremental AV | Tax Increment (1% of Incremental AV) | Amount Owed (4.6483% Share) |
|--|------------------------|--------------------------|----------------|--------------------------------------|-----------------------------|
| 2010/2011 | 2.000% | \$74,805,341 | \$28,297,253 | \$282,973 | \$13,153 |
| 2009/2010 | 2.000% | \$73,338,570 | \$26,830,482 | \$268,305 | \$12,472 |
| 2008/2009 | 2.000% | \$71,900,559 | \$25,392,471 | \$253,925 | \$11,803 |
| 2007/2008 | 2.000% | \$70,490,744 | \$23,982,656 | \$239,827 | \$11,148 |
| 2006/2007 | 2.000% | \$69,108,572 | \$22,600,484 | \$226,005 | \$10,505 |
| 2005/2006 | 2.000% | \$67,753,502 | \$21,245,414 | \$212,454 | \$9,876 |
| 2004/2005 | 2.000% | \$66,425,002 | \$19,916,914 | \$199,169 | \$9,258 |
| 2003/2004 | 2.000% | \$65,122,551 | \$18,614,463 | \$186,145 | \$8,653 |
| 2002/2003 | 2.000% | \$63,845,638 | \$17,337,550 | \$173,376 | \$8,059 |
| 2001/2002 | 2.000% | \$62,593,763 | \$16,085,675 | \$160,857 | \$7,477 |
| 2000/2001 | 2.000% | \$61,366,434 | \$14,858,346 | \$148,583 | \$6,907 |
| 1999/2000 | 2.000% | \$60,163,171 | \$13,655,083 | \$136,551 | \$6,347 |
| 1998/1999 | 2.000% | \$58,983,501 | \$12,475,413 | \$124,754 | \$5,799 |
| 1997/1998 | 2.000% | \$57,826,962 | \$11,318,874 | \$113,189 | \$5,261 |
| 1996/1997 | 2.000% | \$56,693,100 | \$10,185,012 | \$101,850 | \$4,734 |
| 1995/1996 | 2.000% | \$55,581,470 | \$9,073,382 | \$90,734 | \$4,218 |
| 1994/1995 | 2.000% | \$54,491,638 | \$7,983,550 | \$79,835 | \$3,711 |
| 1993/1994 | 2.000% | \$53,423,174 | \$6,915,086 | \$69,151 | \$3,214 |
| 1992/1993 | 2.000% | \$52,375,661 | \$5,867,573 | \$58,676 | \$2,727 |
| 1991/1992 | 2.000% | \$51,348,687 | \$4,840,599 | \$48,406 | \$2,250 |
| 1990/1991 | 2.000% | \$50,341,850 | \$3,833,762 | \$38,338 | \$1,782 |
| 1989/1990 | 2.000% | \$49,354,755 | \$2,846,667 | \$28,467 | \$1,323 |
| 1988/1989 | 2.000% | \$48,387,015 | \$1,878,927 | \$18,789 | \$873 |
| 1987/1988 | 2.000% | \$47,438,250 | \$930,162 | \$9,302 | \$432 |
| 1986/1987 | NA | \$46,508,088 | NA | NA | NA |
| Total Payments Owed to District from 1987/1988 to 2010/2012 | | | | | \$151,984 |
| 2011/2012* | 2.000% | \$76,301,448 | \$29,793,360 | \$297,934 | \$13,849 |
| Total Payments Owed to District from 1987/1988 to 2011/2012 | | | | | \$165,832 |

* Pursuant to AB 1484, 2011/2012 pass-through payment true-up is the responsibility of the Auditor-Controller.



**Monterey Peninsula Unified School District
Sand City Project Area**

Revised Payment Calculation (As of October 4, 2011)

| Year | Base Year Value Change | Inflated Base Year Value | Incremental AV | Tax Increment (1% of Incremental AV) | Amount Owed (43.0424% Share) |
|--|------------------------|--------------------------|----------------|--------------------------------------|------------------------------|
| 2010/2011 | 2.000% | \$74,805,341 | \$28,297,253 | \$282,973 | \$121,798 |
| 2009/2010 | 2.000% | \$73,338,570 | \$26,830,482 | \$268,305 | \$115,485 |
| 2008/2009 | 2.000% | \$71,900,559 | \$25,392,471 | \$253,925 | \$109,295 |
| 2007/2008 | 2.000% | \$70,490,744 | \$23,982,656 | \$239,827 | \$103,227 |
| 2006/2007 | 2.000% | \$69,108,572 | \$22,600,484 | \$226,005 | \$97,278 |
| 2005/2006 | 2.000% | \$67,753,502 | \$21,245,414 | \$212,454 | \$91,445 |
| 2004/2005 | 2.000% | \$66,425,002 | \$19,916,914 | \$199,169 | \$85,727 |
| 2003/2004 | 2.000% | \$65,122,551 | \$18,614,463 | \$186,145 | \$80,121 |
| 2002/2003 | 2.000% | \$63,845,638 | \$17,337,550 | \$173,376 | \$74,625 |
| 2001/2002 | 2.000% | \$62,593,763 | \$16,085,675 | \$160,857 | \$69,237 |
| 2000/2001 | 2.000% | \$61,366,434 | \$14,858,346 | \$148,583 | \$63,954 |
| 1999/2000 | 2.000% | \$60,163,171 | \$13,655,083 | \$136,551 | \$58,775 |
| 1998/1999 | 2.000% | \$58,983,501 | \$12,475,413 | \$124,754 | \$53,697 |
| 1997/1998 | 2.000% | \$57,826,962 | \$11,318,874 | \$113,189 | \$48,719 |
| 1996/1997 | 2.000% | \$56,693,100 | \$10,185,012 | \$101,850 | \$43,839 |
| 1995/1996 | 2.000% | \$55,581,470 | \$9,073,382 | \$90,734 | \$39,054 |
| 1994/1995 | 2.000% | \$54,491,638 | \$7,983,550 | \$79,835 | \$34,363 |
| 1993/1994 | 2.000% | \$53,423,174 | \$6,915,086 | \$69,151 | \$29,764 |
| 1992/1993 | 2.000% | \$52,375,661 | \$5,867,573 | \$58,676 | \$25,255 |
| 1991/1992 | 2.000% | \$51,348,687 | \$4,840,599 | \$48,406 | \$20,835 |
| 1990/1991 | 2.000% | \$50,341,850 | \$3,833,762 | \$38,338 | \$16,501 |
| 1989/1990 | 2.000% | \$49,354,755 | \$2,846,667 | \$28,467 | \$12,253 |
| 1988/1989 | 2.000% | \$48,387,015 | \$1,878,927 | \$18,789 | \$8,087 |
| 1987/1988 | 2.000% | \$47,438,250 | \$930,162 | \$9,302 | \$4,004 |
| 1986/1987 | NA | \$46,508,088 | NA | NA | NA |
| Total Payments Owed to District from 1987/1988 to 2010/2012 | | | | | |
| 2011/2012* | 2.000% | \$76,301,448 | \$29,793,360 | \$297,934 | \$1,407,340 |
| Total Payments Owed to District from 1987/1988 to 2011/2012 | | | | | |
| | | | | | \$1,535,577 |

* Pursuant to AB 1484, 2011/2012 pass-through payment true-up is the responsibility of the Auditor-Controller.



Pass-Through Payment Analysis

Merced County Office of Evaluation
 Merced County
 City of Sand City
 Council (2011 and SB 211)

City: Sand City
 County: Monterey
 Agency: Sand City

| Payment Year | Fiscal Year | Two-Percent | | | Assessed Valuation | | | SB 211 | | | Redevelopment Tax Increment | | | SB 211 | | 20% Housing Set-Aside Reduction [5] | | |
|-------------------|-------------|------------------------|--------------------------------|------------------------|--------------------------------|--------------------|--------------------------------|---------------------------|---------------|---------------|-----------------------------|---------------|---------------|---------------|---------------|-------------------------------------|-----|--|
| | | Assessed Valuation [1] | % Change In Assessed Valuation | Assessed Valuation [2] | % Change In Assessed Valuation | Assessed Valuation | % Change In Assessed Valuation | Prop 13 - 1% Tax Rate [4] | Tax Increment | Tax Increment | Tax Increment [4] | Tax Increment | Tax Increment | Tax Increment | Tax Increment | | | |
| 18 | 1996/1997 | \$46,508,068 | --- | \$46,508,068 | --- | NA | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | |
| 19 | 2004/2005 | \$65,143,327 | 1.87% | NA | NA | NA | 1.0000% | \$168,352 | --- | --- | --- | --- | --- | --- | --- | --- | --- | |
| 20 | 2005/2006 | \$66,446,194 | 2.00% | NA | NA | NA | 1.0000% | \$169,381 | --- | --- | --- | --- | --- | --- | --- | --- | --- | |
| 21 | 2006/2007 | \$67,775,118 | 2.00% | NA | NA | NA | 1.0000% | \$212,670 | --- | --- | --- | --- | --- | --- | --- | --- | --- | |
| Level 1 Base Year | 2007/2008 | \$69,130,620 | 2.00% | \$218,045,840 | NA | NA | 1.0000% | \$226,225 | --- | --- | --- | --- | --- | --- | --- | --- | --- | |
| 22 | 2008/2009 | \$70,513,233 | 2.00% | \$235,399,612 | 7.96% | NA | 1.0000% | \$240,051 | --- | --- | --- | --- | --- | --- | --- | --- | --- | |
| 23 | 2009/2010 | \$71,923,497 | 2.00% | \$239,772,562 | -2.39% | NA | 1.0000% | \$264,154 | --- | --- | --- | --- | --- | --- | --- | --- | --- | |
| 24 | 2010/2011 | \$71,753,039 | -0.24% | \$230,771,999 | 0.43% | NA | 1.0000% | \$252,450 | --- | --- | --- | --- | --- | --- | --- | --- | --- | |
| Total | | | | | | | | | | | | | | | | | | |

Note: Numbers may not sum due to rounding.
 [1] Assessed valuation growth based on the annual Consumer Price Index percentage (not to exceed 2-percent) increase from the applicable base year assessed value per Tax and Revenue Code 110.1(f).
 [2] Assessed valuation is based off of the equalized roll.
 [3] Prop 13 Tax Rate is shown for illustrative purposes, and is based on 2 types of data provided by the Auditor Controller: (i) assessed valuation from the equalized roll and (ii) tax increment received by the Agency.
 [4] Includes tax increment from all three-layers: Level 1, Level 2 and Level 3.
 [5] 20% Housing Set-Aside Requirement pursuant to AB 1290 legislation.
 [6] Impact Ratio derived from base year AV and tax rate data provided by the Monterey County Auditor-Controller.
 [7] 2% Payment based on a 100% share.
 [8] Impact Ratio based on a weighted average of assessed valuation growth and tax rates.
 [9] Level 2 and 3 Impact Ratio calculated using a weighted average of assessed value growth and tax rates, redistributing the Community's (city/county that adopted the project area) share to all other taxing entities per HSC 33607.5(4)(b).
 [10] SB 211 based on three-tier share: Level 1 is a 25% share, Level 2 is a 21% share, and Level 3 is a 14% share.
 [11] Includes payments A & B.
 [12] Use of funds requirements based on AB 1290/2%, payment legislation.

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Prepared by Dolinka Group, LLC
CONFIDENTIAL

Pass-Through Payment Analysis
Monterey County Office of Education
Sand City
Combo (per sub SB 211)

City: Sand City
County: Monterey
Agency: Sand City

| Twee-Percent | | Share Amounts | | | Use of Funds Requirement 121 | | | |
|------------------|----------------|---------------------------------------|---|--|---------------------------------------|---------------------------|-------------------------------------|---------------------------------|
| SB 211 | | SB 211 | | | SB 211 | | | |
| Impact Ratio [6] | Subtotal A [7] | Level 1 Impact Ratio without ERAF [8] | Level 2 and 3 Impact Ratio without ERAF [9] | Subtotal B to MCOE (without ERAF) [10] | Total Share to MCOE without ERAF [11] | Non-Facilities/Facilities | Non-Facilities (19% of Total Share) | Facilities (81% of Total Share) |
| 2.6204% | \$4,803 | NA | NA | \$0 | \$4,883 | NA | \$0 | \$0 |
| 2.6204% | \$5,225 | NA | NA | \$0 | \$5,225 | NA | \$0 | \$0 |
| 2.6204% | \$5,573 | NA | NA | \$0 | \$5,573 | NA | \$0 | \$0 |
| 2.6204% | \$5,928 | 2.5487% | NA | \$0 | \$5,928 | NA | \$0 | \$0 |
| 2.6204% | \$6,290 | 2.5281% | NA | \$877 | \$7,168 | NA | \$167 | \$711 |
| 2.6204% | \$6,860 | 2.5671% | NA | \$602 | \$7,462 | NA | \$114 | \$448 |
| 2.6204% | \$6,615 | 2.5527% | NA | \$650 | \$7,265 | NA | \$123 | \$526 |
| NA | \$41,174 | NA | NA | \$2,143 | \$43,303 | NA | \$449 | \$1,979 |

Note: Numbers may not sum due to rounding.
 [1] Assessed valuation growth based on the annual Consumer Price Index percentage (not to exceed 2-percent) increase from the applicable base year assessed value per Tax and Revenue Code 110.1(f).
 [2] Assessed valuation is based off of the equalized roll.
 [3] Prop 13 Tax Rate is shown for illustrative purposes, and is based on 2 types of data provided by the Auditor Controller: (i) assessed valuation from the equalized roll and (ii) tax increment received by the Agency.
 [4] Includes tax increment from all three-layers: Level 1, Level 2 and Level 3.
 [5] 20% Housing Set-Aside Requirement pursuant to AB 1290 legislation.
 [6] Impact Ratio derived from base year AV and tax rate data provided by the Monterey County Auditor-Controller.
 [7] 2% Payment based on a 100% share.
 [8] Impact Ratio based on a weighted average of assessed valuation growth and tax rates.
 [9] Level 2 and 3 Impact Ratio calculated using a weighted average of assessed value growth and tax rates, redistributing the Community's (city/county that adopted the project area) share to all other taxing entities per HSCS 33507.5(d)(b).
 [10] SB 211 based on three-tier share: Level 1 is a 25% share, Level 2 is a 21% share, and Level 3 is a 14% share.
 [11] Includes payments A & B.
 [12] Use of funds requirements based on AB 1290/2% payment legislation.

mailed 1/26/12
- emailed Dolinka
to update.



January 25, 2012

Doug Yount
Redevelopment Director
Marina Redevelopment Agency
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Marina, CA 93933

Jim Cook
Redevelopment Director
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440 Harcourt Avenue
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Michael J Miller, CPA, CISA
Auditor-Controller
Monterey County Auditor-Controller
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

RE: Demand for Payment of Delinquent Tax Increment Revenues and for Inclusion in County Auditor-Controller's Audit Pursuant to Health and Safety Code 34182

As you know, the California Supreme Court recently upheld Assembly Bill ("AB") 1X 26, which orders the dissolution of all redevelopment agencies by February 1, 2012, including the following Redevelopment Agencies (collectively "RDAs"):

- County of Monterey Redevelopment Agency
- Marina Redevelopment Agency
- Sand City Redevelopment Agency
- Seaside Redevelopment Agency

When the RDA dissolves, its existing obligations, including its duty to make proper pass-through payments to the Monterey Peninsula Community College School District ("District"), will shift to a successor agency.

Therefore, prior to the RDA's dissolution, we wish to notify you and reiterate some of the claims of the District as a result of the RDA's failure to properly calculate and allocate pass-through payments. The District is an affected taxing entity for redevelopment project area managed by the RDA. As shown on the attached financial overview (Attachment #1), the District believes that the RDA has incorrectly calculated the amount of

tax increment to be passed-through the District. This miscalculation is believed to have resulted in a significant loss to the District and will result in an even larger deficit in the future, if not corrected. Please take notice that this letter constitutes the District's demand, under all applicable laws, including the Government Claims Act if applicable, that payment of all past due amounts be made immediately.

In addition, it is our understanding that under Health & Safety Code section 34182 (added by AB X1 26), that the County Auditor-Controller must conduct an audit of "each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's pass-through payment obligations to other taxing agencies, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency and certify the initial Recognized Obligation Payment Schedule." The District hereby requests that the County Auditor-Controller review and analyze payments from prior fiscal years when conducting its audit pursuant to Health & Safety Code section 34182. } **

We value our relationship with our cities and RDAs, and we hope to resolve this matter as quickly as possible. If you have any questions or require additional information, please contact Kajal Vora at 949.250.8389.

Thank you for your prompt attention to this matter.

Sincerely,



Stephen Ma
Vice President for Administrative Services

Enclosures

cc: Garry Bousum, Associate Superintendent Finance and Business Services,
Monterey County Office of Education
Kajal Vora, Associate Director, Dolinka Group, LLC

**Attachment #1
Financial Overview**

| Redevelopment Agency | Project Area | Payment Type | Discrepancy (Owed Amount) | Reason for Discrepancy |
|---|---------------------------------|--------------|---------------------------|---|
| 2% Discrepancy (2004/2005 to 2008/2009): | | | | |
| Marina | Marina | 2% | \$41,523 | <p>Discrepancy (2% Payments): 2% payments are not being paid in accordance with former Health and Safety Code Section 33676.</p> <ul style="list-style-type: none"> The project area was adopted between 1985 through 1993 and does not have a contractual pass-through agreement, and therefore is automatically entitled to 2% payments according to former Health and Safety Code Section 33676 and under the following case law: <i>Santa Ana Joint Union High LEA v. Orange County Development Agency</i> ("Santa Ana Decision") Neither the RDA nor the Auditor Controller's Office has made any payments pursuant to former Health and Safety Code 33676 Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33676. |
| Seaside | Gateway Auto Center Expansion | | \$44,685 | |
| | City Center Revitalization Area | | \$47,746 | |
| AB 1290/Other Statutory Discrepancy (2004/2005 to 2006/2007) | | | | |
| Seaside | Fort Ord | AB 1290 | \$20,846 | <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> Tier 1 payments according to Section 33607.5(b) should be based on "tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted." The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. Please revise the calculation of redevelopment payments using supplementals in Tier I |
| | Gateway '97 Anx | | \$4,009 | |

| | | | | |
|---------|-----------------------|---------|---------|--|
| Seaside | | | | <p>to the LEA as they should be.</p> <ul style="list-style-type: none"> • Please revise the calculation of redevelopment payments using supplementals in Tier I <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> • Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" • The project area is in Tier II and requires Tier II payments, however they are not being made • Please revise the calculation of redevelopment payments to include these Tier II payments. |
| | Laguna Grande '97 Anx | AB 1290 | \$8,551 | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> • Pursuant to Section 33607.5, the County Office is owed money for this project area, however the RDA nor the Auditor Controller have calculated any pass-through payments for this project area for fiscal year 2004/2005 • Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33607.5 <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> • Tier 1 payments according to Section 33607.5(b) should be based on "tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted." • The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. • Please revise the calculation of redevelopment payments using supplementals in Tier I <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> • Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" • The project area is in Tier II and requires Tier II payments, however they are not being made • Please revise the calculation of redevelopment payments to include these Tier II payments. |

| | | | | |
|---|------------------------------------|------------------------|---------|---|
| Seaside | Gateway | Other Statutory | \$4,026 | <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" The project area is in Tier II and requires Tier II payments, however they are not being made Please revise the calculation of redevelopment payments to include these Tier II payments. <p>Discrepancy (Incorrect Base Year)</p> <ul style="list-style-type: none"> Payments are not being calculated in accordance with HSC 33607.7(b) regarding the base year value: "The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment." When the time limit of the effectiveness of the redevelopment plan was extended from 1986/1987 to 2006/2007 by Ordinance 842 on December 15, 1994, the applicable base year was automatically modified to 1986/1987. Please revise the calculation of redevelopment payments using the correct base year. |
| Seaside | Noche Buena | Other Statutory | \$339 | <p>Discrepancy (not paid for 2004/2005) The LEA was not paid for 2004/2005. Please calculate the pass-through payment for 2004/2004 in accordance with Health and Safety Code Section 33607.7.</p> |
| Pass-Through Agreement Discrepancy | | | | |
| Sand City | Sand City | Pass-Through Agreement | Unknown | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> Pursuant to Section 3.2, the LEA is owed money for this project area and it now requesting payments since the inception of the plan. Please calculate the pass-through payments in accordance with Section 3.2 of the Pass-through Agreement |
| ERAF Discrepancy | | | | |
| All | All Project Areas with 2% Payments | | Unknown | <p>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</p> <ul style="list-style-type: none"> RDAs must allocate pass-through payments in proportion to the percentage share of property taxes each affected taxing entity receives. |

| | | | |
|------------|------------------------------------|----------------|--|
| | | | <ul style="list-style-type: none"> • RTC 97.2(d)(5) and 97.3(d)(5) require that "for purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993-94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code [Supplemental Educational Revenue Augmentation Fund], shall be deemed property tax revenue..." • Please revise the calculation of redevelopment payments to include our full share of property taxes |
| All | All Statutory Project Areas | Unknown | <p><i>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</i></p> <ul style="list-style-type: none"> • RDAs must allocate pass-through payments in "proportion to the percentage share of property taxes each affected taxing entity...receives during the fiscal year the funds are allocated" pursuant to HSC 33607.5(a)(2). • <i>Los Angeles Unified School District v. County of Los Angeles, et al</i> (2010) 181 Cal.App.4th 414, clarifies that RDAs must include payments made to an Education Revenue Augmentation Fund in calculating the "percentage share of property taxes." • The California Supreme Court has denied all appeal petitions for this case, making the LAUSD Decision final and binding on RDAs statewide. • Please revise the calculation of redevelopment payments to include our full share of property taxes. |



Monterey County Office of Education

Leadership, Support, and Service to Prepare All Students for Success

*Dr. Nancy Kotowski
County Superintendent of Schools*

January 24, 2012

Steve Matarazzo
City Administrator
Sand City Redevelopment Agency
1 Sylvan Park
Sand City, CA 93955

and

Redevelopment Agency Directors (see Distribution List)

RE: Demand for Payment of Delinquent Tax Increment Revenues and for Inclusion in County Auditor-Controller's Audit Pursuant to Health and Safety Code 34182

As you know, the California Supreme Court recently upheld Assembly Bill ("AB") 1X 26, which orders the dissolution of all redevelopment agencies by February 1, 2012, including the following Redevelopment Agencies (collectively "RDAs"):

- County of Monterey Redevelopment Agency
- Gonzales Redevelopment Agency
- Greenfield Redevelopment Agency
- King City Redevelopment Agency
- Marina Redevelopment Agency
- Salinas Redevelopment Agency
- Sand City Redevelopment Agency
- Seaside Redevelopment Agency
- Soledad Redevelopment Agency

When the RDA dissolves, its existing obligations, including its duty to make proper pass-through payments to the Monterey County Office of Education ("COE"), will shift to a successor agency.

Therefore, prior to the RDA's dissolution, we wish to notify you and reiterate some of the claims of the COE as a result of the RDA's failure to properly calculate and allocate pass-through payments. The COE is an affected taxing entity for redevelopment project areas managed by RDAs. As shown on the attached financial overview (Attachment #1), the COE believes that the RDAs have incorrectly calculated the amount of tax increment to be passed-through the COE. This miscalculation is believed to have resulted in a significant loss to the COE and will result in an even larger deficit in the future, if not corrected.

Please take notice that this letter constitutes the COE's demand, under all applicable laws, including the Government Claims Act if applicable, that payment of all past due amounts be made immediately.

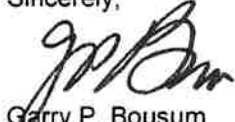
In addition, it is our understanding that under Health & Safety Code section 34182 (added by AB X1 26), that the County Auditor-Controller must conduct an audit of "each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's pass-through payment obligations to other taxing agencies, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency and certify the initial Recognized Obligation

Payment Schedule." The COE hereby requests that the County Auditor-Controller review and analyze payments from prior fiscal years when conducting its audit pursuant to Health & Safety Code section 34182.

We value our relationship with our County, cities, and RDAs, and we hope to resolve this matter as quickly as possible. If you have any questions or require additional information, please contact Kajal Vora at 949.250.8389.

Thank you for your prompt attention to this matter.

Sincerely,



Garry P. Bousum
Associate Superintendent
Finance and Business Services

Enclosures

GPB:cd

cc: Dr. Nancy Kotowski, County Superintendent of Schools
Lou Lozano, Lozano Smith Attorneys at Law
Kajal Vora, Associate Director, Dolinka Group, LLC

Distribution:

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Community Development Director
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Redevelopment Director
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Michael J Miller, CPA, CISA
Auditor-Controller
Monterey County Auditor-Controller
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

**Attachment #1
Financial Overview**

| Redevelopment Agency | Project Area | Payment Type | Discrepancy (Owed Amount) | Reason for Discrepancy |
|--|-------------------------------|--------------|--|---|
| 2% Discrepancy (2004/2005 to 2008/2009): | | | | |
| King City | King City | 2% | \$128,665 | <p>Discrepancy (2% Payments): 2% payments are not being paid in accordance with former Health and Safety Code Section 33676.</p> <ul style="list-style-type: none"> The project area was adopted between 1985 through 1993 and does not have a contractual pass-through agreement, and therefore is automatically entitled to 2% payments according to former Health and Safety Code Section 33676 and under the following case law: <i>Santa Ana Joint Union High LEA v. Orange County Development Agency</i> ("Santa Ana Decision") Neither the RDA nor the Auditor Controller's Office has made any payments pursuant to former Health and Safety Code 33676 Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33676. |
| Sand City | Sand City | | \$30,884 | |
| Salinas | Sunset Ave '90 Anx | | \$47,563 | |
| Seaside | Gateway Auto Center Expansion | | \$2,720 | |
| County | Boronda | | \$10,717 | |
| | Castroville-Pajaro | \$38,469 | | |
| AB 1290/SB 211 Discrepancy (2004/2005 to 2006/2007) | | | | |
| Gonzales | Gonzales | AB 1290 | \$2,268 | <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> Tier 1 payments according to Section 33607.5(b) should be based on "tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted." The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. Please revise the calculation of redevelopment payments using supplementals in Tier I |
| | Gonzales Amended | | | |
| Greenfield | Greenfield | | \$7,845 | |
| | Greenfield Amended | | | |
| Seaside | Fort Ord | | \$29,666 | |
| | Gateway '97 Anx | \$2,007 | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> Pursuant to Section 33607.5, the County Office is owed money for this project area, however the RDA nor the Auditor Controller have calculated any pass-through payments for this project area. Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33607.5 | |

| | | | | |
|---|-------------------------------------|--------------------------|---------|---|
| Seaside | Laguna Grande/Laguna Grande '97 Anx | Other Statutory/ AB 1290 | \$1,941 | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> Pursuant to Section 33607.5, the County Office is owed money for this project area, however the RDA nor the Auditor Controller have calculated any pass-through payments for this project area for fiscal year 2004/2005 Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33607.5 <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> Tier 1 payments according to Section 33607.5(b) should be based on "tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted." The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. Please revise the calculation of redevelopment payments using supplementals in Tier I <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment... a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" The project area is in Tier II and requires Tier II payments, however they are not being made Please revise the calculation of redevelopment payments to include these Tier II payments. |
| Other Statutory Discrepancies (2004/2005 to 2006/2007) | | | | |
| Seaside | Gateway | Other Statutory | \$1,947 | <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment... a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" The project area is in Tier II and requires Tier II payments, however they are not being made Please revise the calculation of redevelopment |

| | | | | |
|--|------------------------------------|-----------------|---------|--|
| Seaside | | | | <p>payments to include these Tier II payments.</p> <p>Discrepancy (Incorrect Base Year)</p> <ul style="list-style-type: none"> • Payments are not being calculated in accordance with HSC 33607.7(b) regarding the base year value: "The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment." • When the time limit of the effectiveness of the redevelopment plan was extended from 1986/1987 to 2006/2007 by Ordinance 842 on December 15, 1994, the applicable base year was automatically modified to 1986/1987. Please revise the calculation of redevelopment payments using the correct base year. |
| | Noche Buena | Other Statutory | \$956 | <p>Discrepancy (not paid for 2004/2005) The LEA was not paid for 2004/2005. Please calculate the pass-through payment for 2004/2004 in accordance with Health and Safety Code Section 33607.7.</p> |
| Soledad | Soledad | SB 211 | \$3,534 | <p>Discrepancy (Base Year Value) The RDA was using a different base year assessed valuation. The RDA has revised their calculation to use the correct base year assessed valuation. Please make payments to the LEA for the calculated amount.</p> |
| Unknown Statutory Discrepancies (2007/2008 – 2008/2009) | | | | |
| 2007/2008 | All Statutory Project Areas | | \$3,419 | <p>Discrepancy (Improper application of HSC 33607.5 and HSC 33607.7 when calculating pass-through payments): The calculation performed by our audit has been done in accordance with HSC 33607.5 and HSC 33607.7, while it appears that the RDA's calculation is not done accordingly. Please revise the calculation of redevelopment payments to be in compliance with this section, and any other applicable statutes.</p> |
| 2008/2009 | | | \$2,167 | |
| ERAF Discrepancy | | | | |
| All | All Project Areas with 2% Payments | | Unknown | <p>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</p> <ul style="list-style-type: none"> • RDAs must allocate pass-through payments in proportion to the percentage share of property taxes each affected taxing entity receives. • RTC 97.2(d)(5) and 97.3(d)(5) require that "for purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993-94 |

| | | | |
|------------|------------------------------------|----------------|--|
| | | | <p>fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code [Supplemental Educational Revenue Augmentation Fund], shall be deemed property tax revenue..."</p> <ul style="list-style-type: none"> • Please revise the calculation of redevelopment payments to include our full share of property taxes |
| All | All Statutory Project Areas | Unknown | <p><i>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</i></p> <ul style="list-style-type: none"> • RDAs must allocate pass-through payments in "proportion to the percentage share of property taxes each affected taxing entity...receives during the fiscal year the funds are allocated" pursuant to HSC 33607.5(a)(2). • <i>Los Angeles Unified School District v. County of Los Angeles, et al</i> (2010) 181 Cal.App.4th 414, clarifies that RDAs must include payments made to an Education Revenue Augmentation Fund in calculating the "percentage share of property taxes." • The California Supreme Court has denied all appeal petitions for this case, making the LAUSD Decision final and binding on RDAs statewide. • Please revise the calculation of redevelopment payments to include our full share of property taxes. |



MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT

P.O. Box 1031
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Monterey, CA 93942-1031

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(831) 649-1729 FAX
www.mpusd.k12.ca.us

Dan Albert, Asst. Superintendent, Administrative Services
dalbert@mpusd.k12.ca.us

January 25, 2012

Steve Matarazzo
City Administrator
Sand City Redevelopment Agency
1 Sylvan Park
Sand City, CA 93955

RE: Demand for Payment of Delinquent Tax Increment Revenues and for Inclusion in County Auditor-Controller's Audit Pursuant to Health and Safety Code 34182

As you know, the California Supreme Court recently upheld Assembly Bill ("AB") 1X 26, which orders the dissolution of all redevelopment agencies by February 1, 2012, including the including the following Redevelopment Agencies (collectively "RDAs"):

- County of Monterey Redevelopment Agency
- Marina Redevelopment Agency
- Sand City Redevelopment Agency
- Seaside Redevelopment Agency

When the RDA dissolves, its existing obligations, including its duty to make proper pass-through payments to the Monterey Peninsula Unified School District ("District"), will shift to a successor agency.

Therefore, prior to the RDA's dissolution, we wish to notify you and reiterate some of the claims of the District as a result of the RDA's failure to properly calculate and allocate pass-through payments. The District is an affected taxing entity for redevelopment project area managed by the RDA. As shown on the attached financial overview (Attachment #1), the District believes that the RDA has incorrectly calculated the amount of tax increment to be passed-through the District. This miscalculation is believed to have resulted in a significant loss to the District and will result in an even larger deficit in the future, if not corrected.

Please take notice that this letter constitutes the District's claim, under all applicable laws, including the Government Claims Act if applicable, that payment of all past due amounts be made without delay.

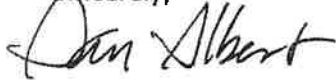
In addition, it is our understanding that under Health & Safety Code section 34182 (added by AB X1 26), that the County Auditor-Controller must conduct an audit of "each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's pass-through payment obligations to other taxing agencies, and to document and determine both the

amount and the terms of any indebtedness incurred by the redevelopment agency and certify the initial Recognized Obligation Payment Schedule." The District hereby requests that the County Auditor-Controller review and analyze payments from prior fiscal years when conducting its audit pursuant to Health & Safety Code section 34182.

We value our relationship with our cities and RDAs, and we hope to resolve this matter as quickly as possible. If you have any questions or require additional information, please contact our representative from Dolinka Group, Kajal Vora at 949.250.8389.

Thank you for your prompt attention to this matter.

Sincerely,



Dan Albert
Interim Associate Superintendent
Business Services/District Operations

Enclosures

cc: Garry Bousum, Associate Superintendent Finance and Business Services,
Monterey County Office of Education
Kajal Vora, Associate Director, Dolinka Group, LLC

**Attachment #1
Financial Overview**

| Redevelopment Agency | Project Area | Payment Type | Discrepancy (Owed Amount) | Reason for Discrepancy |
|---|---------------------------------|--------------|---------------------------|---|
| 2% Discrepancy (2004/2005 to 2008/2009): | | | | |
| Marina | Marina | 2% | \$41,523 | <p>Discrepancy (2% Payments): 2% payments are not being paid in accordance with former Health and Safety Code Section 33676.</p> <ul style="list-style-type: none"> The project area was adopted between 1985 through 1993 and does not have a contractual pass-through agreement, and therefore is automatically entitled to 2% payments according to former Health and Safety Code Section 33676 and under the following case law: <i>Santa Ana Joint Union High LEA v. Orange County Development Agency</i> ("Santa Ana Decision") Neither the RDA nor the Auditor Controller's Office has made any payments pursuant to former Health and Safety Code 33676 Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33676. |
| Seaside | Gateway Auto Center Expansion | | \$44,685 | |
| | City Center Revitalization Area | | \$47,746 | |
| AB 1290/Other Statutory Discrepancy (2004/2005 to 2006/2007) | | | | |
| Seaside | Fort Ord | AB 1290 | \$20,846 | <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> Tier 1 payments according to Section 33607.5(b) should be based on "tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted." The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. Please revise the calculation of redevelopment payments using supplementals in Tier I |
| | Gateway '97 Anx | | \$4,009 | |

| | | | | |
|---------|-----------------------|---------|---------|---|
| Seaside | | | | <p>agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted.”</p> <ul style="list-style-type: none"> • The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. • Please revise the calculation of redevelopment payments using supplementals in Tier I <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> • Health and Safety Code Section 33607.5 (c) states that “commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment” • The project area is in Tier II and requires Tier II payments, however they are not being made • Please revise the calculation of redevelopment payments to include these Tier II payments. |
| | Laguna Grande '97 Anx | AB 1290 | \$8,551 | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> • Pursuant to Section 33607.5, the County Office is owed money for this project area, however the RDA nor the Auditor Controller have calculated any pass-through payments for this project area for fiscal year 2004/2005 • Please start calculating redevelopment payments in accordance with former Health and Safety Code Section 33607.5 <p>Discrepancy (Supplementals): AB 1290 Supplemental Payments are not being paid in accordance with Health and Safety Code Section 33607.5.</p> <ul style="list-style-type: none"> • Tier 1 payments according to Section 33607.5(b) should be based on “tax increment received by the agency after the amount deposited in the Low and Moderate Income Housing Fund has been deducted.” • The calculations show that the tax increment received according to the equalized roll is being distributed to the LEA, however any type of supplemental taxes are not taken being distributed to the LEA as they should be. • Please revise the calculation of redevelopment payments using supplementals in Tier I <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> |

| | | | | |
|---|-------------|-----------------|---------|---|
| | | | | <ul style="list-style-type: none"> Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" The project area is in Tier II and requires Tier II payments, however they are not being made Please revise the calculation of redevelopment payments to include these Tier II payments. |
| Seaside | Gateway | Other Statutory | \$4,026 | <p>Discrepancy (Tier II Payments): Statutory Tier II payments are not being paid in accordance with Health and Safety Code Section 33607.5 and 33607.7.</p> <ul style="list-style-type: none"> Health and Safety Code Section 33607.5 (c) states that "commencing with the 11th fiscal year in which the agency receives tax increment...a redevelopment agency shall pay to affected entities an amount equal to 21 percent of the portion of tax increment" The project area is in Tier II and requires Tier II payments, however they are not being made Please revise the calculation of redevelopment payments to include these Tier II payments. <p>Discrepancy (Incorrect Base Year)</p> <ul style="list-style-type: none"> Payments are not being calculated in accordance with HSC 33607.7(b) regarding the base year value: "The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment." When the time limit of the effectiveness of the redevelopment plan was extended from 1986/1987 to 2006/2007 by Ordinance 842 on December 15, 1994, the applicable base year was automatically modified to 1986/1987. Please revise the calculation of redevelopment payments using the correct base year. |
| Seaside | Noche Buena | Other Statutory | \$339 | <p>Discrepancy (not paid for 2004/2005) The LEA was not paid for 2004/2005. Please calculate the pass-through payment for 2004/2004 in accordance with Health and Safety Code Section 33607.7.</p> |
| Pass-Through Agreement Discrepancy | | | | |
| Sand City | Sand City | Pass-Through | Unknown | <p>Discrepancy (Not Paid at all):</p> <ul style="list-style-type: none"> Pursuant to Section 3.2, the LEA is owed |

| | | | | |
|-------------------------|------------------------------------|-----------|--|---|
| | | Agreement | | <p>money for this project area and it now requesting payments since the inception of the plan.</p> <ul style="list-style-type: none"> Please calculate the pass-through payments in accordance with Section 3.2 of the Pass-through Agreement |
| ERAF Discrepancy | | | | |
| All | All Project Areas with 2% Payments | Unknown | | <p><i>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</i></p> <ul style="list-style-type: none"> RDAs must allocate pass-through payments in proportion to the percentage share of property taxes each affected taxing entity receives. RTC 97.2(d)(5) and 97.3(d)(5) require that "for purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993-94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code [Supplemental Educational Revenue Augmentation Fund], shall be deemed property tax revenue..." Please revise the calculation of redevelopment payments to include our full share of property taxes |
| All | All Statutory Project Areas | Unknown | | <p><i>Discrepancy (Improper exclusion of ERAF when calculating share of property taxes)</i></p> <ul style="list-style-type: none"> RDAs must allocate pass-through payments in "proportion to the percentage share of property taxes each affected taxing entity...receives during the fiscal year the funds are allocated" pursuant to HSC 33607.5(a)(2). <i>Los Angeles Unified School District v. County of Los Angeles, et al</i> (2010) 181 Cal.App.4th 414, clarifies that RDAs must include payments made to an Education Revenue Augmentation Fund in calculating the "percentage share of property taxes." The California Supreme Court has denied all appeal petitions for this case, making the LAUSD Decision final and binding on RDAs statewide. Please revise the calculation of redevelopment payments to include our full share of property taxes. |