

CONTRA COSTA COUNTY REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

November 2013



JOHN CHIANG
California State Controller

November 7, 2013

Steven L. Goetz, Deputy Director
Conservation, Transportation, and Successor Agency
Contra Costa County
30 Muir Road
Martinez, CA 94553

Dear Mr. Goetz:

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

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

Our review found that the RDA transferred \$73,858,172 in assets after January 1, 2011, including unallowable transfers of assets totaling \$21,924,471 (\$5,482,124 to the County and \$16,442,347 to the Housing Authority), or 29.68% of the total assets, that must be turned over to the RDA Successor Agency.

If you have any questions, please contact Steven Mar, Bureau Chief, Local Government Audits Bureau, by phone at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

Attachment

cc: Robert Campbell, Auditor-Controller
Contra Costa County
William Lau, Oversight Board Chair
Contra Costa County Redevelopment Successor Agency
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Steven Mar, Bureau Chief
Division of Audits, State Controller's Office
Betty Moya, Audit Manager
Division of Audits, State Controller's Office
Cecilia Michaels, Auditor-in-Charge
Division of Audits, State Controller's Office
Daniel Tobia, Auditor
Division of Audits, State Controller's Office

Contents

Review Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Officials	2
Restricted Use	2
Findings and Orders of the Controller	3
Schedule 1—Unallowable RDA Asset Transfers to the County of Contra Costa	7
Schedule 2—Unallowable RDA Asset Transfers to the Housing Authority	8
Attachment A—Detailed Listing of Capital Assets Transferred to Housing Authority	
Attachment B—Contra Costa County Response to Draft Review Report	
Attachment C—Resolution 2013-8	
Attachment D—Resolution 2013-7	

Asset Transfer Review Report

Summary

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

Our review found that the RDA transferred \$73,858,172 in assets after January 1, 2011, including unallowable transfers of assets totaling \$21,924,471 (\$5,482,124 to the County and \$16,442,347 to the Housing Authority), or 29.68% of the total assets, that must be turned over to the Successor Agency.

Background

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

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

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

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

In accordance with the requirements of H&S Code section 34167.5, the State Controller is required to review the activities of RDAs, "to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency, or any other public agency, and the redevelopment agency," and the date on which the RDA ceases to operate, or January 31, 2012, whichever is earlier.

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

Objective, Scope, and Methodology

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

We performed the following procedures:

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

Conclusion

Our review found that the RDA transferred \$73,858,172 in assets after January 1, 2011, including unallowable transfers of assets totaling \$21,924,471 (\$5,482,124 to the County and \$16,442,347 to the Housing Authority), or 29.68% of the total assets, that must be turned over to the Successor Agency.

Details of our findings are in the Findings and Orders of the Controller section of this report. We also have included a detailed schedule of assets to be turned over to, or transferred to, the Successor Agency.

Views of Responsible Officials

We issued a draft report on August 29, 2013. Maureen Toms, Program Manager, responded by letter dated September 19, 2013, disagreeing with the review results. The County's response is included in this final review report as an attachment.

Restricted Use

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

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

November 7, 2013

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to Contra Costa County

The Contra Costa County Redevelopment Agency (RDA) transferred \$5,482,124 in assets to Contra Costa County (County). All of the asset transfers to the County occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On March 1, 2011, the RDA transferred \$209,421 in capital assets (\$121,543 for the Rodeo Senior Center and \$87,878 for the North Richmond Health Center). This transfer was made in accordance with the March 9, 2011 City Resolution No. 19-11 and RDA Resolution No. 785-11 during a special joint meeting.
- On January 27, 2012, the RDA transferred \$5,545,840 in cash for an accelerated loan repayment on various long-term loans received from the County over a period of 15 years. However, \$273,137 was repaid during the period of January 1, 2011, through January 31, 2012. We determined that the remaining \$5,272,703 is an unallowable transfer that was made in accordance with the March 9, 2011 City Resolution No. 19-11 and RDA Resolution No. 785-11 during a special joint meeting.

Pursuant to Health & Safety (H&S) Code section 34167.5, the RDA may not transfer assets to a city, county, city and county, or any other public agency after January 1, 2011. Those assets should be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177 (d) and (e). However, it appears that some of those assets also may be subject to the provisions of H&S Code section 34181(a). H&S Code section 34181(a) states:

The oversight board shall direct the successor agency to do all of the following:

- (a) Dispose of all assets and properties of the former redevelopment agency that were funded by tax increment revenues of the dissolved redevelopment agency; provided however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a government purpose, such as roads, school buildings, parks, and fire stations, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such as asset....

Order of the Controller

Based on H&S Code section 34167.5, the County is ordered to return the above assets, described in Schedule 1, in the amount of \$5,482,124, and return them to the RDA Successor Agency.

The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(d) and (e) and 34181(a).

Successor Agency's Response

The Successor Agency disagrees with the SCO's determination that the two parcels transferred to the County be returned to the Successor Agency. The Successor Agency states that the parcels are government-use properties, and as the County is the responsible party of ownership, operation, and maintenance of its public facilities. The County further maintains that the Oversight Board will consider a resolution to ratify the disposition of the two properties as government use. (See attachment B, page 2, section II A.)

SCO's Comment

On September 26, 2013, the SCO received a copy of the Oversight Board Resolution No. 2013-8, which approved the transfer of parcel number 409-070-029 and parcel number 357-171-006 to the County (see attachment C). No further action is necessary in relation to the transfer of asset finding.

Note that the Department of Finance (DOF) must approve the Oversight Board's decision in this matter. If the DOF does not approve this decision, then the County is ordered to transfer the assets to the Successor Agency pursuant to H&S Code section 34167.5.

Successor Agency's Response

The Successor Agency disagrees with the SCO's determination that the transfer of funds from the former RDA to the County, for the repayment of long term debts after January 1, 2011, was impermissible. The Successor Agency states that the loans were evidenced by various resolutions over a period of years dating back to 1998. Pursuant to those resolutions the loans were to be repaid as funds were available. (See Attachment B, page 4 item C.)

SCO's Comment

The SCO disagrees with regards to the validity of repayment of the debts in question, pursuant to H&S Code section 34171(d)(2). An enforceable obligation does not include agreements, contracts, or arrangements between the city, county, or city and county entered after the first two years of the creation of the RDA. In this case, the RDA and the County entered into various agreements long after the first two years of the creation of the RDA (1984); therefore the amount of \$5,272,703 remains subject to H&S Code section 34167.5 and should be turned over to the Successor Agency for proper disposal.

**FINDING 2—
Unallowable assets
transferred to
Housing Authority**

The RDA made an unallowable asset transfer of \$16,442,347 (\$8,770,712 in land held for resale, a \$250,000 deposit for APN 409-080-015, and \$7,421,635 in loans receivable) to the Housing Authority on February 2, 2012. The asset transfer to the Housing Authority occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Pursuant to H&S Code section 34175(b) the RDA was required to transfer all assets, including housing assets, to the Successor Agency.

H&S Code section 34175(b) states that all assets, properties, contracts, leases, books and records, buildings, and equipment of the former RDA were transferred on February 1, 2012, to the control of the Successor Agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the RDA as of February 1, 2012.

Additionally, H&S Code section 34181(c) requires the oversight board to direct the Successor Agency transfer housing assets pursuant to section 34176.

Also, pursuant to H&S Code section 34177(d), the Successor Agency is to:

Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency. . . for allocation and distribution. . . [in accordance with]. . . Section 34188.

Order of the Controller

Based on H&S Code section 34167.5, the Housing Authority is ordered to reverse the transfer of the above assets, described in Schedule 2, in the amount of \$16,442,347, and return them to the Successor Agency.

The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(d) and (e) and 34181(c).

Successor Agency's Response

The Successor Agency disagrees with the SCO's determination that the housing assets were transferred to the County as the Housing Authority. The RDA contends that by operation of law, the housing assets were to be transferred to the Housing Authority as of February 1, 2012, which was before the Oversight Board was established. However, the RDA is taking steps to ratify the transfers. The Oversight Board will consider a resolution to ratify the transfer of the housing assets to the Housing Authority (see Attachment B, page 3, section B).

SCO's Comments

On September 26, 2013, the SCO received a copy of the Oversight Board Resolution No. 2013-7, which approved the transfer of housing assets to the Housing Authority (see Attachment D). No further action is necessary in relation to the transfer of asset finding.

Note that the DOF must approve the Oversight Board's decision in this matter. If the DOF does not approve this decision, then the County is ordered to transfer the assets to the Successor Agency pursuant to H&S Code section 34167.5.

**Schedule 1—
Unallowable RDA Asset Transfers to
the County of Contra Costa
January 1, 2011, through January 31, 2012**

Unallowable transfers to Contra Costa County:

Current assets	
Cash	\$ 5,545,840
Capital assets	
Rodeo Senior Center, APN 357-171-006	121,543
North Richmond Health Center, APN 409-070-029	87,878
Adjustment for loans entered and repaid during 2011	<u>(273,137)</u>
Total unallowable transfers	<u>\$ 5,482,124</u> ¹

¹ See the Findings and Orders of the Controller section.

**Schedule 2—
Unallowable RDA Asset
Transfers to the Housing Authority
January 1, 2011, through January 31, 2012**

Unallowable transfers to Housing Authority:

Current assets	
Loans receivable	\$ 7,421,635
Capital assets ¹	
Land held for resale	8,770,712
Deposit on land held for resale	<u>250,000</u>
Total unallowable transfers	16,442,347
Less Oversight Board approval on September 26, 2013	<u>(16,442,347)</u>
Total asset transfers subject to H&S Code section 34167.5	<u>\$ —</u>

¹ See Attachment.

**Attachment A—
Detailed Listing of Capital Assets
Transferred to the Housing Authority
January 1, 2011, through January 31, 2012**

ATTACHMENT A

CONTRA COSTA COUNTY REDEVELOPMENT AGENCY
 LAND HELD FOR RESALE AND CAPITAL ASSETS - LAND
 as of April 1, 2013

PARCEL	SITE NO#	DOC DATE	SITE STREET	ACQUISITION PRICE	REALIZABLE VALUE (note 2)	BEGINNING BALANCE	ADDITIONS	ENDING BALANCE
Land Held for Resale								
Bay Point - Capital Projects								
096 041 026	187	11/12/2003	N. Broadway	58,000	50.0%	29,000		29,000
094-015-010	585	10/17/2005	S. Broadway	399,000	50.0%	199,500		199,500
094-013-001	610	3/16/2006	S. Broadway	395,000	50.0%	197,500		197,500
094-012-035	581	6/13/2006	Bailey Road	330,000	50.0%	165,000		165,000
094-026-002	690	8/10/2007	S. Broadway	520,000	35.0%	182,000		182,000
094-014-011	51	8/16/2007	Mayland Street	450,000	35.0%	157,500		157,500
094-013-005	668	10/12/2007	S. Broadway	387,000	35.0%	135,450		135,450
094-012-024	560	10/29/2007	S. Broadway	183,000	35.0%	64,050		64,050
094-012-027	590	10/29/2007	S. Broadway	382,500	35.0%	133,875		133,875
094-013-006	670	10/29/2007	S. Broadway	460,000	35.0%	161,000		161,000
094-014-012	641	10/29/2007	S. Broadway	480,000	35.0%	168,000		168,000
094-015-013	551	10/29/2007	S. Broadway	435,000	35.0%	152,250		152,250
094-015-014	541	10/29/2007	S. Broadway	302,000	35.0%	105,700		105,700
094-015-027	591	11/28/2007	S. Broadway	525,000	35.0%	183,750		183,750
094-013-003	650	12/17/2007	S. Broadway	450,000	35.0%	157,500		157,500
094-013-004	660	12/17/2007	S. Broadway	360,000	35.0%	126,000		126,000
094-014-013	651	12/17/2007	S. Broadway	295,000	35.0%	103,250		103,250
094-012-025	570	2/29/2008	S. Broadway	325,000	35.0%	113,750		113,750
094-012-022	540	3/17/2008	S. Broadway	355,000	35.0%	124,250		124,250
094-013-007	631	3/17/2008	Bailey Road	121,000	35.0%	42,350		42,350
094-026-001	680	3/17/2008	S. Broadway	120,000	35.0%	42,000		42,000
094-012-023	550	4/10/2008	S. Broadway	555,000	35.0%	194,250		194,250
094-015-006	498	4/11/2008	Wollam	500,000	35.0%	175,000		175,000
094-014-014	661	6/12/2008	S. Broadway	500,000	35.0%	175,000		175,000
094-016-002	495	8/21/2008	Wollam	610,000	35.0%	213,500		213,500
094-026-005	681	11/7/2008	Bailey Road	415,000	35.0%	145,250		145,250
094-012-026	580	11/26/2008	S. Broadway	500,000	35.0%	175,000		175,000
094-014-001	671	1/30/2009	S. Broadway	145,000	35.0%	50,750		50,750
094-014-010	571	1/30/2009	S. Broadway	500,000	35.0%	175,000	refer to 671 S. Broadway	-
094-013-010	611	2/27/2009	Bailey Road	610,000	35.0%	213,500	refer to 611 Bailey	-
094-013-011	605	2/27/2009	Bailey Road	415,000	35.0%	145,250		145,250
094-013-002	620-1/2	2/27/2009	S. Broadway	500,000	35.0%	175,000		175,000
094-015-011	581	9/18/2009	S. Broadway	390,000	35.0%	136,500		136,500
094-015-012	571	1/29/2010	S. Broadway	505,000	35.0%	176,750		176,750
094-012-036	591	1/29/2010	Bailey Road	550,000	35.0%	192,500		192,500
				13,002,500		4,728,175		4,728,175

Bay Point - Low/Mod Housing Projects

094 012 021	530	01/03/2001	S. Broadway	19,050	50.0%	9,525		9,525
094 012 030	531	01/03/2001	Bailey Rd	7,962	50.0%	3,981		3,981
094 012 031	541	01/03/2001	Bailey Rd	8,917	50.0%	4,459		4,459
094 012 032	551	01/03/2001	Bailey Rd	11,026	50.0%	5,513		5,513
094 012 033	561	01/03/2001	Bailey Rd	19,431	50.0%	9,716		9,716
094 012 034	571	01/03/2001	Bailey Rd	8,917	50.0%	4,459		4,459
094 015 028		01/03/2001	Memorial Way	18,380	50.0%	9,190		9,190
097 270 018		04/07/1995	Amerson Ave	28,422	50.0%	14,211		14,211
097 270 021	231	04/07/1995	Amerson Ave	17,052	50.0%	8,526		8,526
097 270 022	235	11/30/1995	Amerson Ave	28,111	50.0%	14,056		14,056
097 270 076		12/14/1998	merson (Canal R	42,443	50.0%	21,221		21,221

ATTACHMENT A

CONTRA COSTA COUNTY REDEVELOPMENT AGENCY
LAND HELD FOR RESALE AND CAPITAL ASSETS - LAND
as of April 1, 2013

PARCEL	SITE NO#	DOC DATE	SITE STREET	ACQUISITION PRICE	REALIZABLE VALUE (note 2)	BEGINNING BALANCE	ADDITIONS	ENDING BALANCE
097 270 056	190	12/15/1993	Bel Air Ln	80,536	50.0%	40,268	-	40,268
097 270 074		01/03/2001	Mims Ave	3,400	50.0%	1,700	-	1,700
097 270 078		01/03/2001	Canal Rd	11,997	50.0%	5,998	-	5,998
097 270 080		01/03/2001	Canal Rd	20,795	50.0%	10,397	-	10,397
096 041 001	195	06/23/2003	N. Broadway	53,580	50.0%	26,790	-	26,790
096 041 013	199	06/23/2003	N. Broadway		50.0%		refer to 195 North Broadway	
097-037-007	96	4/26/2007	Enes Avenue	368,775	70.5%	260,000	-	260,000
094-013-008	621-625 (605)	9/30/2008	Bailey Road	169,000	35.0%	59,150	-	59,150
094-013-009	615	9/21/2010	Bailey Road	650,000	35.0%	227,500	-	227,500
094-026-006	671	11/3/2010	Bailey Road	525,000	35.0%	183,750	-	183,750
				<u>2,092,794</u>		<u>920,410</u>	-	<u>920,410</u>
Rodeo - Capital Projects								
357 161 001 and 002		04/15/2005	airload Ave (Bepk	302,383	50.0%	151,192	-	151,192
				<u>302,383</u>		<u>151,192</u>	-	<u>151,192</u>
Rodeo - Public Projects (4)								
357 171 006	199	12/28/1994	Parker Ave	243,087	50.0%	-	-	-
				<u>243,087</u>				
Rodeo - Low/Mod Housing Projects								
357 120 074	710	03/05/1998	Willow Ave	376,366	50.0%	188,183	-	188,183
357-161-013	223	3/31/2006	Parker Ave	1,575,200	50.0%	787,600	-	787,600
				<u>1,951,566</u>		<u>975,783</u>	-	<u>975,783</u>
Contra Costa Centre - Capital								
148 180 050		3/20/2003	Las Juntas Way	78,748	50.0%	39,374	-	39,374
148 180 051		3/20/2003	Las Juntas Way	27,593	50.0%	13,797	-	13,797
148 180 052		3/20/2003	Las Juntas Way	65,227	50.0%	32,613	-	32,613
				<u>171,568</u>		<u>85,784</u>	-	<u>85,784</u>
Contra Costa Centre - Low/Mod Housing Projects								
148 180 050		3/20/2003	Las Juntas Way		50.0%			
148 180 051		3/20/2003	Las Juntas Way	2,005,242	50.0%	1,002,621	-	1,002,621
148 180 052		3/20/2003	Las Juntas Way		50.0%			
				<u>2,005,242</u>		<u>1,002,621</u>	-	<u>1,002,621</u>
North Richmond - Capital								
408-230-080	239	3/31/2008	Ruby	252,672	87.1%	-	-	-
				<u>252,672</u>				
North Richmond - Low/Mod Housing Projects								
409 132 015		02/17/2004	6th Street	10,222	50.0%	5,111	-	5,111
409 261 015		02/17/2004	4th Street	10,221	50.0%	5,111	-	5,111
408-230-019	140	7/6/2007	Malcolm	203,762	100.0%	-	-	-
408-230-079	231	10/1/2008	Ruby	234,000	-	-	-	-
408-230-067	1532	10/17/2008	Martin Drive	211,988	-	-	-	-

ATTACHMENT A

CONTRA COSTA COUNTY REDEVELOPMENT AGENCY
 LAND HELD FOR RESALE AND CAPITAL ASSETS - LAND
 as of April 1, 2013

PARCEL	SITE NO#	DOC DATE	SITE STREET	ACQUISITION PRICE	REALIZABLE VALUE (note 2)	BEGINNING BALANCE	ADDITIONS	ENDING BALANCE
Wells	356	10/22/2008	Malcolm	19,710	-	-	-	-
Ford/Terrell	440	3/4/2009	Malcolm	38,364	-	-	-	-
409-080-013	305	6/17/2009	Chesley	420,000	35.0%	147,000	-	147,000
409-080-014	1534	9/1/2009	3rd Street	470,000	35.0%	164,500	-	164,500
409-080-020	1546	12/21/2009	3rd Street	1,200,000	35.0%	420,000	-	420,000
409-080-001	304		Grove	212,500	35.0%	74,375	-	74,375
409-080-016	1542		3rd Street	259,000	35.0%	90,650	-	90,650
409-080-015	1538 & 1540		3rd Street	250,000	100.0%	250,000	250,000	250,000
				<u>3,539,767</u>		<u>906,747</u>	<u>250,000</u>	<u>1,156,747</u>
				23,561,579		8,770,712	250,000	9,020,712
Capital Assets - Land								
North Richmond	1501	06/16/1995	3rd St	87,878	100.0%	-	-	-
409 070 029				<u>87,878</u>		<u>-</u>	<u>-</u>	<u>-</u>

**Attachment B—
Contra Costa County’s Response to
Draft Review Report**

**Successor Agency to
Contra Costa County
Redevelopment
Agency**



**Department of
Conservation &
Development**

30 Muir Road
Martinez, CA 94553-4601

925-674-7878

September 19, 2013

Jeffrey V. Brownfield, CPA
Chief, Division of Audits
State Controller's Office
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Contra Costa County Successor Agency Draft Asset Transfer Review Report.

Dear Mr. Brownfield:

The Contra Costa County Successor Agency (the "Successor Agency"), successor in interest to the dissolved Contra Costa County Redevelopment Agency (the "Dissolved RDA"), is in receipt of the draft "Contra Costa County Redevelopment Agency Asset Transfer Review Report", which the Successor Agency received September 9, 2013, prepared by the State Controller's Office (the "SCO") in connection with the requirements set forth in Health and Safety Code Section 34167.5 (the "Draft Report").

In the letter transmitting the Draft Report, the SCO provides the Successor Agency an opportunity to submit any comments concerning the draft report within 10 calendar days after receipt of the letter (or by September 19, 2013). The Successor Agency strongly disagrees with the SCO's determinations in the Draft Report and respectfully submits this letter as the Successor Agency's written comments on the specified findings of the Draft Report.

I. SUMMARY OF DISPUTED ASSETS

As referenced in the transmittal letter, the SCO is required, under Health and Safety Code Section 34167.5, to review the activities of the Dissolved RDA to determine whether an asset transfer occurred after January 1, 2011 between the Dissolved RDA and the County of Contra Costa (the "County"). Under the requirements of Section 34167.5, if such an asset transfer did occur during that period and the County is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the extent not prohibited by state and federal law, the SCO may order the available assets to be returned to the Successor Agency.

In the Draft Report the SCO asserts that the Dissolved RDA made "unallowable transfers of assets totaling \$21,924,471" and that such assets must be returned to the Successor Agency. Specifically, the SCO has questioned the following transactions:

- \$209,421 of capital assets conveyed to the County consisting of the Rodeo Senior Center (\$121,543) and the North Richmond Health Center (87,878) (collectively the "Public Use Parcels");
- \$16,442,347 of housing assets transferred to the County¹ as the housing successor of the Dissolved RDA pursuant to Health and Safety Code Section 34176 consisting of land valued at \$8,770,712, a deposit of \$250,000 for an acquisition of property pursuant to an enforceable obligation, and \$7,421,635 in loan receivables (collectively, the "Housing Assets"); and
- \$5,272,703 in cash payments on various long-term debts owed by the Dissolved RDA to the County (the "Loan Repayments").

For the reasons explained in Section II of this Letter, the Successor Agency strongly disagrees with the SCO's determinations and contests the SCO's proposed order requiring that the Public Use Parcels, the Loan Repayments, and the Housing Assets be returned to the Successor Agency.

II. BACKGROUND AND JUSTIFICATION

A. Public Use Properties. On March 15, 2011, the Dissolved RDA transferred the Public Use Parcels to the County, pursuant to and in accordance with duly authorized resolutions of both the County Board of Supervisors and the governing board of the Dissolved RDA, and prior to the adoption of any legislation making such transfers invalid. Because the County is the public jurisdiction generally responsible for the ownership, operation, and maintenance of County public facilities in the unincorporated County, the County is the appropriate public jurisdiction for the ultimate disposition of the Public Use Parcels. The Successor Agency is taking steps to ratify these transfers as allowed under the specified laws cited below which would negate the need for the County to return the Public Use Parcels to the Successor Agency.

Health and Safety Code Section 34191.3 and Health and Safety Code Section 34181(a) authorize the Oversight Board to direct and approve disposition by the Successor Agency to the appropriate public jurisdiction of the Dissolved RDA's governmental purpose properties constructed and used for, among others, roads, school buildings, parks and open space, police and fire stations, libraries, and local agency administrative buildings. Health and Safety Code Section 34177(e) further authorizes the Oversight Board to direct the transfer of ownership of assets and properties used for governmental purposes pursuant to Health and Safety Code Section 34181(a).

¹ The Draft Report incorrectly states that the Housing Assets were transferred to the County Housing Authority.

The Rodeo Senior Center parcel is a publicly owned, operated, and maintained property currently in operation and dedicated for use as a senior center. The North Richmond Health Center parcel is a publicly owned, operated, and maintained property currently in operation and dedicated for use as a community health center. The Public Use Parcels were constructed and used for governmental purposes and are generally located in the County within the Former Agency's various redevelopment project areas. Because the County is the public jurisdiction generally responsible for the ownership, operation, and maintenance of County public facilities (like the Public Use Parcels) in the unincorporated County, the County is the appropriate public jurisdiction for the ultimate disposition of the Public Use Parcels.

As allowed pursuant to Health and Safety Code Sections 34191.3, 34177(e), and 34181(a), the Oversight Board will, at its September 25, 2013 meeting, consider a resolution to ratify the disposition of the Public Use Parcels to the County in consideration of the County's continued use, operation, and maintenance of the Public Use Parcels. The Oversight Board's ratification of the transfer of the Public Use Parcels to the County would negate the need for the Public Use Parcels to be transferred back to the Successor Agency pursuant to the SCO's proposed order in the Draft Report.

B. Housing Asset Transfers. The County, pursuant to Health and Safety Code Section 34176, elected to retain and accept specified affordable housing assets, obligations, and housing functions of the Dissolved RDA. Effective February 1, 2012 (the "Dissolution Date"), the Dissolved RDA transferred to the County, as required under Health and Safety Code Section 34176(a)(1), \$16,442,347 of Housing Assets consisting of land valued at \$8,770,712, a deposit of \$250,000 for an acquisition of property pursuant to an enforceable obligation, and \$7,421,635 in loan receivables. Because the transfer of the Housing Assets occurred by operation of law and before the Successor Agency's oversight board (the "Oversight Board") was constituted, the transfer is not of the type which was intended to be reversed under Health and Safety Code Section 34176.5. Moreover, the Successor Agency is taking steps to ratify these transfers as allowed under the specified laws cited below, which would negate the need for the County to return the Housing Assets to the Successor Agency.

Under Health and Safety Code Section 34176(a)(1), "If a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a redevelopment agency, **all rights, powers, duties, obligations, and housing assets**, as defined in subdivision (e), excluding any amounts on deposit in the Low and Moderate Income Housing Fund and enforceable obligations retained by the successor agency, **shall be transferred** to the city, county, or city and county. [**emphasis added**]"

Under Health and Safety Code Section 34176(e)(2), "the entity assuming the housing functions of the former redevelopment agency shall submit to the Department of Finance by August 1, 2012, a list of all housing assets that contains an explanation of how the assets meet the criteria specified in subdivision (e). . . The **list shall include assets transferred between February 1, 2012, and the date upon which the list is created**. [**emphasis added**]"

On August 3, 2012, the County submitted the draft housing asset transfer list (the "Draft Housing Asset List") to the California Department of Finance (the "DOF"). The Draft Housing Asset List specifically enumerated all "housing assets" of the Dissolved Agency, as defined in Health and Safety Code Section 34176(e), including: real and personal property interests acquired for low- and moderate-income housing purposes; encumbered funds; loan and grant receivables for assistance provided by the Low and Moderate Income Housing Fund ("Housing Fund"); rents and payments from housing operations; and amounts owed to the Housing Fund as a result of previously deferred or borrowed Housing Fund deposits. The County received a letter from the DOF, dated February 6, 2013, approving all housing assets listed on the Draft Housing Asset List, except for Item 2 on Exhibit C-1 and Items 1-8 on Exhibit C-2 thereof, (hereinafter referred to as the "Final Housing Asset List".) The Final Housing Asset List approved by the DOF includes all of the Housing Assets being contested in the Draft Report. The Final Housing Asset List and the DOF's approval letter thereof are attached to this letter for your reference.

Because the County elected to retain the authority to perform housing functions previously performed by the Dissolved RDA, all rights, powers, duties, obligations, and housing assets transferred to County by operation of law, making the County the appropriate entity for the ultimate disposition of the Housing Assets. As such, the SCO's order requiring the Successor Agency to return the Housing Assets to the Successor Agency, only to be then re-conveyed to the County, is unnecessary.

Moreover, in accordance Health and Safety Code Section 34181(c), the Oversight Board has the authority to authorize and direct the transfer of the housing assets. The Oversight Board will, at its September 25, 2013 meeting, consider a resolution to ratify the Final Housing Asset List and to do everything necessary and appropriate to effectuate said transfer. The Oversight Board's ratification of the transfer of the Housing Assets to the County would make the SCO's proposed order in the Draft Report regarding the Housing Assets moot.

C. Loan Repayments. On March 2011, the Dissolved RDA made payments on various long-term debts owed by the Dissolved RDA to the County in the approximate amount of \$5,272,703. The Loan Repayments were owed by the Dissolved RDA to the County for various redevelopment project costs advanced by the County to the Dissolved RDA commencing as early as 1998. The reversal of the Loan Repayments as suggested in the Draft Report would result in an increase of the outstanding principal and accrued interest from \$5,272,703 to \$7,236,408 and would thus result in a loss of \$1,963,735 of tax increment revenue to the affected taxing entities.

The attached Reconciliation of County Advances (the "Reconciliation Chart") identifies each of the loans, the date the loans were made, the original loan amount, the applicable interest rate, and the purpose of the loan. The Reconciliation Chart further describes the negative impact on the affected taxing entities if the Successor Agency were to comply with the SCO's proposed order under the Draft Report. Specifically, the Reconciliation Chart estimates that if the Successor Agency were to be forced to reverse the Loan

Jefferey Brownfield
State Controller's Office
September 19, 2012
Page - 5 -

Repayments, the accrual of interest on the loans since March 2011 would result in a loss of \$1,963,735 of tax increment revenue to the affected taxing entities. The actual net loss of tax increment revenue to affected taxing entities would increase over time because the loans would continue to accrue interest over the extended period necessary to repay the loans under the statutory repayment formulas. Consequently, implementation of the proposed order in the Draft Report would result in a negative impact to taxing entities and thus should not be enforced.

Thank you in advance for your assistance in this matter.

Sincerely,



Maureen Toms, AICP
Successor Agency Program Manager

Attachments:

1. Final Housing Asset Transfer List
2. DOF Approval Letter of Final Housing Asset Transfer List
3. Reconciliation Chart

cc:

Richard J. Chivaro, Chief Legal Counsel
Steven Mar, Bureau Chief
Betty Moya, Audit Manager
Cecilia Michaels, Auditor-in-Charge
Daniel Tobia, Auditor

**Attachment C—
Resolution 1203-8**

RESOLUTION 2013-8

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE
CONTRA COSTA COUNTY REDEVELOPMENT AGENCY RATIFYING THE
DISPOSITION OF SPECIFIED GOVERNMENTAL USE PROPERTIES PREVIOUSLY
CONVEYED TO THE COUNTY OF CONTRA COSTA FOR CONTINUED
GOVERNMENTAL USE, OPERATION, AND MAINTENANCE

WHEREAS, the California Legislature enacted ABx1 26 (“ABx1 26”), effective June 28, 2011, to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), including the Contra Costa County Redevelopment Agency (the “Former Agency”); and

WHEREAS, pursuant to Health and Safety Code Section 34173, the County Board of Supervisors declared that the County of Contra Costa (the “County”) would act as successor agency (the “Successor Agency”) to the Former Agency effective February 1, 2012, the date the Former Agency was dissolved pursuant to ABx1 26; and

WHEREAS, pursuant to AB 1484 (together with ABx1 26, the “Redevelopment Dissolution Statutes”), enacted June 27, 2012, to amend various provisions of ABx1 26, the Successor Agency is now declared to be a separate legal entity from the County; and

WHEREAS, the Redevelopment Dissolution Statutes provide for the appointment of an oversight board (the “Oversight Board”) with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

WHEREAS, the Successor Agency received a Finding of Completion from the State Department of Finance, effective as of July 18, 2013; and

WHEREAS, the Former Agency transferred the properties listed below to the County on March 15, 2011, which shall herein after be collectively referred to as the “Transferred Governmental Use Parcels”:

1. Property located in Contra Costa County identified as Assessor’s Parcel No. 409-070-029 a publicly owned, operated, and maintained area dedicated for use as a community health center (the “Health Center Parcel”); and
2. Property located in Contra Costa County identified as Assessor’s Parcel No. 357-171-006 a publicly owned, operated, and maintained area dedicated for use as a senior center (the “Senior Center Parcel”); and

WHEREAS, Health and Safety Code Section 34191.3 and Health and Safety Code Section 34181(a) authorize the Oversight Board to direct and approve disposition by the Successor Agency to the appropriate public jurisdiction of Former Agency governmental purpose properties constructed and used for, among others, roads, school buildings, parks and open space, police and fire stations, libraries, and local agency administrative buildings; and

WHEREAS, Health and Safety Code Section 34177(e) further authorizes the Oversight Board to direct the transfer of ownership of assets and properties used for governmental purposes pursuant to Health and Safety Code Section 34181(a); and

WHEREAS, the properties that are the subject of this Resolution were constructed and used for a governmental purpose, including a county health center and a senior center (collectively, the "Governmental Use Purposes"), are generally located in the County within the Former Agency's various redevelopment project areas; and

WHEREAS, the County, as the public jurisdiction generally responsible for the ownership, operation and maintenance of County public facilities in the unincorporated County, is the appropriate public jurisdiction for the ultimate disposition of the Transferred Governmental Use Parcels; and

WHEREAS, ratification of the disposition of the Transferred Governmental Use Parcels to the County for continued use, operation and maintenance for Governmental Use Purposes is consistent with the County's General Plan, the approved redevelopment plans for the Former Agency's various redevelopment project areas, and other applicable County codes and policies in that these local laws and plans call for continued public use and maintenance of these recreational, educational, and health service facilities;

WHEREAS, public notice of the proposed actions set forth in this Resolution was published in the Successor Agency's newspaper of general circulation on September 20, 2013 in compliance with the requirement of Health and Safety Code Section 34181(f); and

WHEREAS, the ratification of the disposition of the Transferred Governmental Use Parcels and their continued use, operation, and maintenance by the County for Governmental Use Purposes pursuant to the Agreement is exempt from the requirements of the California Environmental Quality Act and the applicable state and local implementing guidelines ("CEQA") pursuant to State CEQA Guidelines Section 15301 (as an action resulting in continuation of an existing facility); and

WHEREAS, the accompanying staff report provides supporting information upon which the action set forth in this Resolution is based.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board hereby finds, resolves, and determines that the foregoing recitals are true and correct, and, together with information provided by the Successor Agency staff and the public, form the basis for the approvals, findings, resolutions, and determinations set forth below.

BE IT FURTHER RESOLVED that the Successor Agency Executive Director or the Executive Director's designee is hereby authorized and directed to file a Notice of Exemption with respect to the Agreement in accordance with the applicable provisions of CEQA.

BE IT FURTHER RESOLVED that pursuant to Health and Safety Code Sections 34191.3, 34177(e), and 34181(a), the Oversight Board hereby ratifies the disposition of the Transferred Government Use Parcels to the County in consideration for the County's continued

use, operation, and maintenance of the Transferred Government Use Parcels for Governmental Use Purposes.

BE IT FURTHER RESOLVED that, to implement the above direction, the Oversight Board hereby approves and authorizes the Successor Agency Executive Director or the Executive Director's designee to take any action and execute any documents, in consultation with the County Counsel, acting in the capacity of counsel to the Successor Agency, as may be necessary to implement the ratification of the disposition of the Transferred Governmental Use Parcels pursuant to the terms approved in this Resolution.

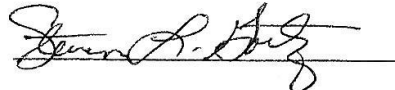
BE IT FURTHER RESOLVED that the Successor Agency is hereby directed to notify the California Department of Finance of the actions set forth in this Resolution in accordance with Health and Safety Code Section 34181(f).

BE IT FURTHER RESOLVED that this Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h) and Section 34181(f).

The above and foregoing Resolution was duly and regularly passed and adopted at a meeting by the Oversight Board for the Successor Agency to the Contra Costa County Redevelopment Agency at a regular meeting thereof held on September 25, 2013, by the following vote:

AYES:	BOARD MEMBERS: Evans, Glover, Lackey, and Lau
NOES:	BOARD MEMBERS: None
ABSTAIN:	BOARD MEMBERS: None
ABSENT:	BOARD MEMBERS: Clark and Mitchoff

ATTEST:



Oversight Board Secretary

**Attachment D—
Resolution 1203-7**

RESOLUTION NO. 2013-7

IN THE MATTER OF THE OVERSIGHT BOARD FOR THE COUNTY OF CONTRA COSTA SUCCESSOR AGENCY APPROVING THE TRANSFER OF HOUSING ASSETS TO THE HOUSING SUCCESSOR AGENCY

WHEREAS, on August 3, 2012, the County submitted the draft Housing Asset Transfer List (the "Draft Housing Asset List") to the California Department of Finance (the "Department"). The Draft Housing Asset List was a list of all "housing assets" of the Dissolved Agency, as defined in Health and Safety Code Section 34176(e), including: real and personal property interests acquired for low- and moderate-income housing purposes; encumbered funds; loan and grant receivables for assistance provided by the Low and Moderate Income Housing Fund ("Housing Fund"); rents and payments from housing operations; and amounts owed to the Housing Fund as a result of previously deferred or borrowed Housing Fund deposits; and

WHEREAS, the County received a letter from the Department dated February 6, 2013, approving all housing assets listed on the Draft Housing Asset List (except for Items 2 on Exhibit C-1 and Items 1-8 on Exhibit C-2 thereof) herein after referred to as the "Final Housing Asset List" (Attachment B to the Staff Report) which includes all of those housing assets approved by the Department; and

WHEREAS, the State Controller's Office (the "SCO") conducted a review of the Dissolved Agency's assets. The SCO has stated in other published audits that the transfer of housing assets from a successor agency to a housing successor Oversight Board action directing transfer of those assets; and

WHEREAS, the Successor Agency requests that the Oversight Board direct transfer of the housing assets contained in the Final Housing Asset List to the County of Contra Costa as the housing successor for the Dissolved Agency.

WHEREAS, the accompanying Final Housing Asset List and the Staff Report provide supporting information upon which the actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board hereby finds and determines that the foregoing recitals are true and correct, and together with the following documents and information form the basis for the approvals, authorizations, findings, and determinations set forth in this Resolution: (1) the Final Housing Asset List; (2) the Staff Report; and (3) the information provided by the Successor Agency and County staff and the public.

BE IT FURTHER RESOLVED that in accordance Health and Safety Code Section 34181(c), the Oversight Board does hereby authorizes and directs the transfer of the housing assets contained in the Final Housing Asset List to the County acting as the housing successor to the Dissolved Agency, and to do everything necessary and appropriate to effectuate said transfer.

BE IT FURTHER RESOLVED that the transfer of the interests shown in the Final Housing Asset List to the County of Contra Costa is exempt from the requirements of the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (as an action resulting in continuation of an existing facility).

BE IT FURTHER RESOLVED that the Successor Agency is hereby directed to notify the California Department of Finance of the actions set forth in this Resolution in accordance with Health and Safety Code Sections 34179(h) and Section 34181(f).

BE IT FURTHER RESOLVED that this Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

MARTINEZ, CALIFORNIA, September 25, 2013

ADOPTED BY THE FOLLOWING VOTE:

AYES:	BOARD MEMBERS: Evans, Glover, Lackey, and Lau
NOES:	BOARD MEMBERS: None
ABSTAIN:	BOARD MEMBERS: None
ABSENT:	BOARD MEMBERS: Clark and Mitchoff

ATTEST:


Oversight Board Secretary

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

<http://www.sco.ca.gov>