

REDDING REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

October 2014



JOHN CHIANG
California State Controller

October 13, 2014

Kurt Starman, City Manager
Redding Redevelopment/Successor Agency
777 Cypress Avenue
Redding, CA 96001

Dear Mr. Starman:

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

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

Our review found that the RDA transferred \$69,027,149 in assets after January 1, 2011, including unallowable transfers to the City totaling \$876,800, or 1.27% of transferred assets.

However, the City turned over \$650,000 in cash to the Successor Agency, and the cash was subsequently remitted to the Shasta County Auditor-Controller for distribution to the taxing entities. Therefore, the remaining \$226,800 in unallowable transfers must be turned over to the Successor Agency.

If you have any questions, please contact Elizabeth González, Chief, Local Government Compliance Bureau, by telephone at (916) 324-0622.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/mh

Attachment

cc: Brian Muir, Shasta County Auditor-Controller
Shasta County
Sue Thompson, Chair,
Oversight Board
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizabeth González, Bureau Chief
Division of Audits, State Controller's Office
Betty Moya, Audit Manager
Division of Audits, State Controller's Office
Venus Sharifi, Auditor-in-Charge
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	3
Finding and Order of the Controller	4
Schedule 1—Unallowable RDA Asset Transfers to the City of Redding	6
Attachment—City’s Response to Draft Review Report	

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Redding 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 \$69,027,149 in assets after January 1, 2011, including unallowable transfers to the City of Redding (City) totaling \$876,800, or 1.27% of transferred assets.

However, the City turned over \$650,000 in cash to the Successor Agency, and the cash was subsequently remitted to the Shasta County Auditor-Controller for distribution to the taxing entities. Therefore, the remaining \$226,800 in unallowable transfers must be turned over to the Successor Agency.

Background

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

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

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

The SCO has identified asset transfers that occurred after January 1, 2011, between the RDA, the City, 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 action to ensure compliance with this order.

Objective, Scope, and Methodology

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

We performed the following procedures:

- Interviewed Successor Agency personnel to gain an understanding of the Successor Agency operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the City, the Successor Agency, and the RDA.
- 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 Redding Redevelopment Agency transferred \$69,027,149 in assets after January 1, 2011, including unallowable transfers to the City of Redding (City) totaling \$876,800, or 1.27% of transferred assets.

However, the City turned over \$650,000 in cash to the Successor Agency, and the cash was subsequently remitted to the Shasta County Auditor-Controller for distribution to the taxing entities. Therefore, the remaining \$226,800 in unallowable transfers must be turned over to the Successor Agency.

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

Views of Responsible Officials

We issued a draft review report on August 7, 2014. Kurt Starman, City Manager, responded by letter dated August 18, 2014, disagreeing with the review results. The City'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 City, the Successor Agency, the Oversight Board, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record when issued final.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

October 13, 2014

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Redding

The Redding Redevelopment Agency (RDA) made unallowable asset transfers in the amount of \$876,800 to the City of Redding (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On August 15, 2011, the RDA transferred \$650,000 in cash to the City pursuant to a 2009 reimbursement agreement between the RDA and City.

However, on April 29, 2013, the City reversed the transfer and the cash was returned to the Successor Agency. The cash was later remitted to the County Auditor-Controller for distribution to the taxing entities.

- On August 30, 2011, the RDA transferred \$226,800 in cash to the City for the Clover Creek Preservation Project pursuant to a 1999 repayment agreement made between the City of Redding, the Redding Redevelopment Agency, the Shasta County Redevelopment Agency, and the Anderson Redevelopment Agency.

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

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfer of the above assets in the amount of \$876,800, and turn over the assets to the Successor Agency. However, on April 29, 2013, the City turned over \$650,000 in cash to the Successor Agency. Therefore, the remaining \$226,800 in cash must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d).

City's Response to Draft

The City disagrees with the finding and states the assets in question were indeed contractually committed to the City pursuant to a repayment agreement executed in 1999. See attachment for the City's complete response.

SCO's Comment

Agreements between the RDA and the City that are enforceable obligations are not exempt from H&S Code section 34167.5.

The loan repayment is a transfer of assets between the RDA and the City. Unless the transferred assets are contractually committed to a third party, the assets are to be returned to the Successor Agency.

The Finding and Order of the Controller remain as stated.

**Schedule 1—
Unallowable RDA Asset Transfers to
the City of Redding
January 1, 2011, through January 31, 2012**

Transfer of cash	
August 15, 2011 – 2009 reimbursement agreement	\$ 650,000
August 30, 2011 – 1999 repayment agreement	<u>226,800</u>
Total unallowable transfers	876,800
Amount turned over to the Successor Agency and remitted to the County Auditor-Controller	<u>(650,000)</u>
Total asset transfers subject to H&S Code section 34167.5	<u><u>\$ 226,800</u></u>

**Attachment—
City's Response to
Draft Review Report**



CITY OF REDDING

OFFICE OF THE CITY MANAGER

777 Cypress Avenue, Redding, CA 96001

P.O. Box 496071, Redding, CA 96049-6071

530.225.4000 FAX 530.225.4325

Rurt Stauman, City Manager

Barry Hipple, Assistant City Manager

Greg Clark, Deputy City Manager

August 18, 2014

R-030-605

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

Via Facsimile & Certified Mail
(916) 322-4404

Subject: Redding Redevelopment Agency - Asset Transfer Review

Dear Ms. Gonzalez:

Please accept this letter as an official comment to the DRAFT Redding Redevelopment Agency Asset Transfer Review Report prepared by your Office for the period January 1, 2011, through January 31, 2012.

In that Draft, your Office has tentatively concluded that certain asset transfers in the amount of \$876,800 between the Redding Redevelopment Agency (RDA) and the City of Redding (City) are "unallowable transfers" pursuant to H&S Code section 34167.5.

The Draft Report transmitted to the City for review and comment contains the details of the "Findings" of the Controller explaining the basis for the determination. The Controller is relying upon law stated in H&S Code section 34167.5, which provides in relevant part:

34167.5. Commencing on the effective date of the act adding this part, the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency. If such an asset transfer did occur during that period *and the government agency that received the assets 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 Controller shall order the available assets to be returned to the redevelopment agency or, on or after October 1, 2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). **(Emphasis Added)**

2. The City Loan shall accrue interest at the same rate and frequency as the City's actual pooled cash account. Interest shall accrue on the unpaid principal balance beginning on the effective date of the City Loan and continuing until such time as the indebtedness is paid in full.
3. On an annual basis, the City shall apply all fees collected within its Clover Creek Benefit District to the unpaid principal balance of the City Loan beginning on the effective date of the City Loan and continuing until such time as the indebtedness is paid in full. Such principal reductions shall directly offset the SHASTEC repayment obligation.
4. Notwithstanding any principal reductions made pursuant to Paragraph 3 above, the City Loan shall be considered an indebtedness obligation of the SHASTEC Redevelopment Project only and no other redevelopment project area.
5. SHASTEC agrees to make annual payments to City of both principal and interest on the City Loan starting in the 2009-2010 fiscal year. The funding source for such payments shall be tax increment revenues generated by the SHASTEC Redevelopment Project, or bond proceeds secured by the SHASTEC Redevelopment Project and no other source. Annual payments shall be made no later than June 30 of any fiscal year.
6. No later than thirty (30) days prior to the annual payment due date, City shall provide a statement of the specific pooled cash interest rate to be applied to the City Loan. Exhibit A - Clover Creek Loan Amortization Schedule, attached hereto and made a part hereof, is for illustration purposes only and is not necessarily representative of the actual annual payment to be made in any year.
7. The principal and interest on the City Loan shall be due and payable in full by June 30, 2019. Each payment shall be credited first on interest then due and the remainder on principal. Immediately thereafter, interest shall cease on the principal so credited. Principal and interest are payable in lawful money of the United States.

Should default be made in payment of any installment when due, the whole sum of principal and interest shall become immediately due and payable at City's option. Failure by City to exercise this option does not constitute a waiver of the right to exercise it in the event of any subsequent default.

Whether or not suit is filed, SHASTEC agrees to pay all reasonable attorney's fees, costs of collection, costs, and expenses incurred by City in connection with the enforcement or collection of this Agreement. SHASTEC further agrees to pay all costs of suit and the sum adjudged as attorney's fees in any action to enforce payment of this Agreement or any part of it.
8. The effective date of the City Loan shall be the date that the City executes this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Repayment Agreement in the presence of their respective officers duly authorized in that behalf on the days and year set forth below.

REDDING REDEVELOPMENT AGENCY

Dated: May 18, 1999

By: David L. McGeorge
David L. McGeorge, Chairman

ATTEST:

Kurt Starman
Kurt Starman, Secretary

APPROVED AS TO FORM:

David E. Tranberg
David E. Tranberg, Assistant City Attorney

ANDERSON REDEVELOPMENT AGENCY

Dated: APRIL 20, 1999

By: Rodney Jones
Rodney Jones, Chairman

ATTEST:

Scott Morgan
Scott Morgan, Secretary

APPROVED AS TO FORM:

Michael Fitzpatrick
Michael Fitzpatrick, Legal Counsel

SHASTA COUNTY REDEVELOPMENT AGENCY

Dated: April 6, 1999

By: Glenn Hawes
Glenn Hawes, Chairman

ATTEST:

Carolyn Taylor
Carolyn Taylor, Clerk of the Shasta County
Redevelopment Agency

APPROVED AS TO FORM:

Michael Ralston
Mike Ralston, Counsel to the Shasta County
Redevelopment Agency

CITY OF REDDING

Dated: 5-18, 1999

By: Robert C. Anderson
Robert C. Anderson, Mayor

ATTEST:

Connie Strohmayer
Connie Strohmayer, City Clerk

APPROVED AS TO FORM:

W. Leonard Wingate
W. Leonard Wingate, City Attorney

Accordingly, the City provides the following responses to the findings as provided in your letter dated August 7, 2014, and received on August 11, 2014:

Finding: On August 15, 2011, the RDA transferred \$650,000 in cash to the City pursuant to a 2009 reimbursement agreement between the RDA and City.

Response: As evidenced by the City's reversal of the transfer and the returning of the funds to the Successor Agency on April 29, 2013, the City is not contesting this finding.

Finding: On August 30, 2011, the RDA transferred \$226,800 in cash to the City for the Clover Creek Preservation Project pursuant to a 1999 repayment agreement made between the City of Redding, the Redding Redevelopment Agency, the Shasta County Redevelopment Agency, and the Anderson Redevelopment Agency.

Response: The SHASTEK Redevelopment Project Area is different from most Project Areas in the State of California. It is comprised of multiple jurisdictions (three redevelopment agencies with the oversight of three legislative bodies):

- Redding Redevelopment Agency and the City of Redding;
- Anderson Redevelopment Agency and the City of Anderson; and
- Shasta County Redevelopment Agency and the Shasta County Board of Supervisors.

In 1999, the repayment agreement was considered, approved, and executed by all of the aforementioned redevelopment agencies. The repayment agreement provided for the SHASTEK Redevelopment Project Area borrowing funds in the amount of \$2,000,000 from the City for the construction of the Clover Creek Preservation Project and set forth the schedule in which the funds would be repaid to the City. (Attached)

Through its review process, the Department of Finance (DOF) has deemed the repayment agreement to be an enforceable obligation. Accordingly, the DOF has approved, and continues to approve, funding for associated payments on the Recognized Obligation Payment Schedules.

This is a very straightforward issue, legally and factually. The assets in question were indeed contractually committed to the City pursuant to a repayment agreement executed in 1999. The fact that two years after the transfer, in 2013, the City's Successor Agency "re-affirmed" and "re-entered" into the dissolved Agency's prior enforceable obligations is completely irrelevant to the analysis. The obligation was "created" in 1999.

The City respectfully requests the Controller to consider the City's comments and review the attached agreement that created the enforceable obligation in 1999. Please reverse your draft determination that an unauthorized transfer occurred in 2011. Nothing in the 2013 Successor Agency Agreement reversed or waived the prior enforceable obligation. The Controller's determination that the transfer in 2011 was unallowable is not supported by the letter of the law, the spirit of the law, or the facts in this situation.

If you have any questions regarding this matter or require further information, please feel free to contact Assistant City Manager Barry Tippin at (530) 225-4064 or btippin@ci.redding.ca.us.

Sincerely,



Kurt Starman
City Manager

KS.BF.TR's
C:\Documents and Settings\shank My Documents\CM2014\08-18-14\Gonzalez.wpd

Attachment

c: Rick Duvernay, City Attorney
Barry Tippin, Assistant City Manager
Dennice Maxwell, Finance Director
Teresa Rudolph, Assistant City Clerk
Cathy Bullock, Senior Accountant

REPAYMENT AGREEMENT

THIS REPAYMENT AGREEMENT is made and entered into by and between the **CITY OF REDDING**, a municipal corporation and general law city ("City"), and the **REDDING REDEVELOPMENT AGENCY**, an agency of the State of California, the **SHASTA COUNTY REDEVELOPMENT AGENCY**, an agency of the State of California, and the **ANDERSON REDEVELOPMENT AGENCY**, an agency of the State of California, (the latter three entities collectively referred to herein as "SHASTECS"):

RECITALS

- A. On July 2, 1996, the Cities of Redding and Anderson and the County of Shasta jointly adopted a Redevelopment Plan for the SHASTECS Redevelopment Project Area, the redevelopment of same to be undertaken jointly by SHASTECS.
- B. The California Constitution Article XVI, Section 16, provides that property tax revenues generated by increases in assessed value within a redevelopment project area shall be allocated to the redevelopment agency or agencies financing or refinancing, in whole or in part, the redevelopment project.
- C. The Redevelopment Plan for the SHASTECS Redevelopment Project Area provides for the use of tax increment funds generated within the Project Area for the payment of the principal of and interest on any specific advances, loans, and indebtedness appropriate in carrying out the Project.
- D. The SHASTECS Redevelopment Project is in need of \$2,000,000 for the redevelopment of the Project Area, specifically, for the construction of a long-term storm drainage detention facility in the Clover Creek floodplain.
- E. The City has identified funds available in the Risk Management Fund that it is willing to loan to the SHASTECS Redevelopment Project Area for the described Clover Creek facility on the terms and conditions set forth below.
- F. The City has determined that the Risk Management Fund does not need the identified funds for the immediate necessities of the Fund nor for the proposed term of the loan.
- G. The SHASTECS Redevelopment Project will have funds available to repay the loan from its tax increment proceeds starting in the 2009-2010 fiscal year.
- H. SHASTECS has determined that there are no other resources available to fully fund the development of the Clover Creek facility without SHASTECS assistance.

AGREEMENT

- 1. The City agrees to provide funds in an amount not to exceed \$2,000,000 from its Risk Management Fund to the SHASTECS Redevelopment Project in the form of a loan (City Loan) on the terms and conditions set forth below.

EXHIBIT A

SHASTEC
Clover Creek Loan Amortization Schedule
Principal & 1st Ten Years Interest - \$3,481,607.98
Based on a projected interest rate of 5.7%

	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22
	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Beginning Balance	171,055	560,540	527,803	531,563	573,006	653,362	773,900	935,931	1,140,813	1,389,947	1,684,782
Real Property Value @ 3.5%	144,456,252	149,512,221	154,745,149	160,161,229	165,766,872	171,568,713	177,573,618	183,788,694	190,221,298	196,879,044	203,769,810
Unsecured @ 2%	50,177,100	51,180,642	52,204,255	53,248,340	54,313,307	55,399,573	56,507,565	57,637,716	58,790,470	59,966,280	61,165,805
Plus: New Development Value	1,444,563	1,495,122	1,547,451	1,601,612	1,657,669	1,715,687	1,775,736	1,837,887	1,902,213	1,968,790	2,037,698
Less: Assessment Appeals											
Total Real Property Value	196,077,915	202,187,986	208,496,856	215,011,182	221,737,848	228,663,973	235,856,918	243,264,297	250,913,962	258,814,114	266,973,114
Incremental Value Over Base Value	67,329,023	73,439,094	79,747,964	86,262,290	92,986,956	99,935,081	107,108,026	114,515,405	122,165,090	130,065,222	138,224,222
Tax Incremental Revenue	673,290	734,391	797,480	862,623	929,890	999,351	1,071,060	1,145,154	1,221,651	1,300,652	1,382,242
Utility Revenue	0	0	0	0	0	0	0	0	0	0	0
Supplemental Revenue	0	0	0	0	0	0	0	0	0	0	0
Gross Tax Incremental Revenue	673,290	734,391	797,480	862,623	929,890	999,351	1,071,060	1,145,154	1,221,651	1,300,652	1,382,242
Less:											
Property Tax Collection Fee	18,529	20,210	21,947	23,739	25,591	27,502	29,476	31,515	33,620	35,794	38,039
Property Tax Delinquencies											
Assessment Appeal Refunds	134,658	146,878	159,496	172,525	185,978	199,870	214,216	229,031	244,330	260,130	276,448
Housing Set-Aside	96,954	105,752	114,837	124,218	133,904	143,907	154,236	164,902	175,918	187,294	199,043
Pass-Throughs											
Net Tax Incremental Revenue	423,149	461,550	501,200	542,141	584,417	628,072	673,153	719,706	767,783	817,434	868,712
Interest Income	0	0	0	0	0	0	0	0	0	0	0
TOTAL AVAILIBLE FUNDS	594,204	1,022,090	1,029,003	1,073,704	1,157,423	1,281,434	1,447,052	1,655,538	1,908,597	2,207,381	2,553,494
Less:											
Admin Expense	33,665	36,720	39,874	43,131	46,494	49,968	53,554	57,269	61,093	65,033	69,112
Clover Creek Loan - Principal	0	265,933	261,557	258,032	254,470	250,929	247,415	243,929	240,474	237,049	233,647
Clover Creek Loan - Interest	0	181,574	178,010	174,535	171,067	167,603	164,141	160,682	157,229	153,781	150,338
Total Debt & Admin Expense	33,665	484,286	497,441	500,668	504,051	507,534	511,121	514,924	518,649	522,389	526,079
Capital Projects											
Ending Balance	560,540	527,803	531,563	573,006	653,362	773,900	935,931	1,140,813	1,389,947	1,684,782	2,026,815

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

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