

PETALUMA COMMUNITY DEVELOPMENT COMMISSION

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

February 2015



BETTY T. YEE
California State Controller

February 20, 2015

John C. Brown, City Manager
Petaluma Community Development Commission
11 English Street
Petaluma, CA 94952

Dear Mr. Brown:

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

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

Our review found that the RDA transferred \$80,794,181 in assets after January 1, 2011, including unallowable transfers to the City totaling \$1,700,000, or 2.10% of transferred assets. The unallowable transfers to the City consisted of \$1,700,000 in cash and 16 properties.

However, the following corrective actions have been taken:

- On October 9, 2013, 11 of the 16 properties were turned over to the Successor Agency in accordance with the approved Long-Range Property Management Plan.
- On April 30, 2014, the Successor Agency effectuated the transfer of five Low- and Moderate-Income housing properties to the City, as the Housing Successor, pursuant to Resolution No. 2014-02.

Therefore, the remaining \$1,700,000 in cash 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, or by email at egonzalez@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: David E. Sundstrom, CPA, Auditor-Controller/Treasurer-Tax Collector
Sonoma County
Mike Healy, Oversight Board Chair
Petaluma Community Development Commission/Successor Agency
Sue Castellucci, Housing Coordinator
City of Petaluma
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizabeth González, Bureau Chief
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Tuan Tran, Auditor-in-Charge
Division of Audits, State Controller's Office
Nicole Baker, Auditor
Division of Audits, State Controller's Office

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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Petaluma Community Development Commission (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 \$80,794,181 in assets after January 1, 2011, including unallowable transfers to the City of Petaluma (City) totaling \$1,700,000, or 2.10% of transferred assets. The unallowable transfers to the City consisted of \$1,700,000 in cash and 16 properties.

However, the following corrective actions have been taken:

- On October 9, 2013, 11 of the 16 properties were turned over to the Successor Agency in accordance with the approved Long-Range Property Management Plan.
- On April 30, 2014, the Successor Agency effectuated the transfer of five Low- and Moderate-Income housing properties to the City, as the Housing Successor, pursuant to Resolution No. 2014-02.

Therefore, the remaining \$1,700,000 in cash must be turned over to the Successor Agency.

Background

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

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

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

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

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

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

Objective, Scope, and Methodology

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

We performed the following procedures:

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

Conclusion

Our review found that the Petaluma Community Development Commission transferred \$80,794,181 in assets after January 1, 2011, including unallowable transfers to the City of Petaluma (City) totaling \$1,700,000, or 2.10% of transferred assets. The unallowable transfers to the City consisted of \$1,700,000 in cash and 16 properties.

However, the following corrective actions have been taken:

- On October 9, 2013, 11 of the 16 properties were turned over to the Successor Agency in accordance with the approved Long-Range Property Management Plan.
- On April 30, 2014, the Successor Agency effectuated the transfer of five Low- and Moderate-Income housing properties to the City, as the Housing Successor, pursuant to Resolution No. 2014-02.

Therefore, the remaining \$1,700,000 in cash must be turned over to the Successor Agency.

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

**Views of
Responsible
Officials**

We issued a draft review report on October 2, 2014. John C. Brown, City Manager, responded by letter dated October 21, 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 of Petaluma, the Successor Agency, the Oversight Board, the Housing Successor Agency, 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

February 20, 2015

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Petaluma

The Petaluma Community Development Community (RDA) made unallowable asset transfers totaling \$1,700,000 in cash, and 16 properties with zero value to the City of Petaluma (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 May 2, 2011, the RDA transferred 16 properties with zero value to the City per Resolution Nos. 2011-07 and 2011-08.
- On various dates, the RDA transferred a total of \$1,700,000 in cash to the City. The transfers were for repayment of a loan from the City to the RDA per a 2009 Promissory Note.

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

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers totaling \$1,700,000 in cash, and 16 properties with zero value, to the Successor Agency. However, on October 9, 2013, 11 of the 16 properties were turned over to the Successor Agency pursuant to the Oversight Board-approved Long-Range Property Management Plan. Also, on April 30, 2014, the Successor Agency effectuated the transfer of five Low- and Moderate-Income housing properties to the City, as the Housing Successor, pursuant to Resolution No. 2014-02. Therefore, the remaining \$1,700,000 in cash must be turned over to the Successor Agency.

City's Response to Draft

The City disagrees with the findings of the SCO. See Attachment for the City's complete response.

SCO's Comment

The SCO asset transfer review is a different and separate review from the Department of Finance's (DOF) Due Diligence Reviews (DDR). As such, transfers not identified through the DDR process may be identified in the asset transfer review.

As stated on the Low- and Moderate-Income Housing Fund DDR Determination Letter, the California Department of Finance determination did not, in any way eliminate the California State Controller's authority pursuant to H&S Code section 34167.5.

After reviewing additional documentation, the SCO agrees that the City may retain the five low- and moderate-income housing properties transferred by the Successor Agency to the City as Housing Successor, pursuant to Resolution No. 2014-02 and H&S Code section 34176(a)(2).

With regard to the total transfers of \$1,700,000 (loan repayment), the SCO disagrees that the loan repayment is allowable pursuant to the Oversight Board-ratified approval under Resolution No. 2014-03 and H&S Code sections 34167(d) and 34167(f).

A recent Superior Court ruling (*Successor Agency to the Brea Redevelopment Agency, et al. v. Matosantos, et al.*) states:

The redevelopment dissolution laws established oversight boards to supervise the actions of successor agencies, but not to supervise or ratify (after the fact) the actions of former redevelopment agencies. Conversely, the Court has not located any provision of the redevelopment laws that requires or authorizes an oversight board retrospectively to review or ratify an action of a redevelopment agency taken before its dissolution. The Oversight Board thus appears to have no legal authority or mandate to review actions of the RDA.

As such, the Oversight Board did not have legal authority to retroactively approve the transfers.

The SCO's authority under H&S Code section 34167.5 extends to all assets transferred after January 1, 2011, by the RDA to the city or county, or city and county that created the RDA or any other public agency. This responsibility is not limited by the other provisions of the RDA dissolution legislation, including H&S Code section 34167(d) and 34167(f), which allow the RDA to continue to make payments under enforceable obligations.

The Successor Agency may place loan agreements between the RDA and the City on the Recognized Obligation Payment Schedule, as an enforceable obligation, provided that the Oversight Board finds that the loan was for legitimate redevelopment purposes.

The Order of the Controller and Schedule 1 have been modified to reflect the corrective action.

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

Current assets	
Cash transfers to the City (loan repayment)	\$ 1,700,000
Capital assets	
16 properties with zero value transferred to the City (May 2, 2011)	<u>—</u>
Total unallowable transfers to the City	1,700,000
Less:	
11 non-housing properties with zero value turned over to the Successor Agency (October 9, 2013)	—
5 housing properties with zero value transferred to the Housing Successor Agency (April 30, 2014)	<u>—</u>
Total transfers subject to H&S Code section 34167.5	<u>\$ 1,700,000</u>

Schedule 2— Detail of Capital Asset Transfers to the City of Petaluma

Type	Sonoma County APN	Street Address
Non-housing	006-051-080	0 Cedar Grove Park
Non-housing	006-051-083	Lakeville Street adjacent to Petaluma River
Non-housing	006-281-039	129 Petaluma Boulevard North
Non-housing	006-363-023	120 Western Avenue
Non-housing	006-230-037	0 Rocca Drive
Non-housing	007-019-032	5 Vallejo Street
Non-housing	007-042-017	10 Vallejo Street
Non-housing	007-071-007	0 Lakeville Street
Non-housing	007-412-060	Auto Center Drive adjacent to Benson
Non-housing	150-020-036	Industrial Avenue between Auto Center Drive and Corona Road
Non-housing	007-412-066	Auto Center Drive NW of Benson
Housing	005-530-007	951 Petaluma Boulevard South
Housing	006-432-027	4 Jess Avenue
Housing	006-423-033	3 Rocca Drive
Housing	007-019-002	6 Payran Street
Housing	149-250-018	1416 Serpilio Way

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



CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

David Glass
Mayor

Chris Albertson
Teresa Barrett
Mike Harris
Mike Healy
Gabe Kearney
Kathy Miller
Councilmembers

October 21, 2014

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

RE: Comments on Draft Petaluma Community Development Commission
Asset Transfer Review

Dear Ms. Gonzalez:

City Manager's Office
11 English Street
Petaluma, CA 94952

Phone (707) 778-4345
Fax (707) 778-4419
E-Mail:
citymgr@ci.petaluma.ca.us

Economic Development
Phone (707) 778-4549
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Housing Division
Phone (707) 778-4555
Fax (707) 778-4586

Human Resources Division
Phone (707) 778-4534
Fax (707) 778-4539

Information Technology Division
Phone (707) 778-4417
Fax (707) 776-3623

Risk Management Division
Phone (707) 776-3695
Fax (707) 776-3697

This letter is in response to Jeffrey V. Brownfield's letter dated October 2, 2014 in which he concludes that \$1,700,000 in cash (the "Affordable Housing Loan Repayment") and five low- and moderate-income housing properties (the "Affordable Housing Properties") "must be turned over to the Successor Agency" and invites the submittal of comments on the draft Asset Transfer Review (the "Draft Report") prepared by the State Controller's Office for the Petaluma Community Development Commission (the "Redevelopment Agency").

At the outset, we would like to state that all of the "transfers" described in the Draft Report were undertaken lawfully and in full compliance with all legal requirements in effect at the time the actions were taken. Furthermore, all of the actions taken by the Redevelopment Agency and by the City of Petaluma (the "City") were taken in full compliance with the statutes applicable to housing assisted with the Redevelopment Agency's Low- and Moderate-Income Housing Fund.

The conclusions reached in the Draft Report diverge from (i) the analysis conducted by the independent auditor who performed the Due Diligence Reviews for the Petaluma Community Development Successor Agency (the "Successor Agency"), (ii) the Department of Finance's determination with respect to the Due Diligence Reviews, and (iii) statutes and court decisions that address the transfer of housing assets.



A. Affordable Housing Properties

The following explains the chronology of actions relating to the Affordable Housing Properties and our conclusion that it should not be necessary to return these properties to the Successor Agency.

- The Affordable Housing Properties were purchased in the early 1990's using Redevelopment Agency Low and Moderate Income Housing Funds. Since that time they have been leased to the Committee on the Shelterless (COTS) for the provision of transitional housing. In May 2011, the Redevelopment Agency transferred the Affordable Housing Properties to the City pursuant to Resolutions No. 2011-07 and 2011-08. The Affordable Housing Properties were inadvertently omitted from the Housing Asset Inventory that was submitted to, and approved by, the Department of Finance in August 2012.
- On November 7, 2012, the Department of Finance issued a determination letter in connection with the Successor Agency's Low- and Moderate-Income Housing Due Diligence Review. Neither the independent auditor who conducted this review nor the Department of Finance raised any questions regarding the Affordable Housing Properties. See the enclosed letter from the Department of Finance approving the Housing Due Diligence Review.
- On April 30, 2014, in part as a response to a suggestion from the State Controller's audit team, the Successor Agency's Oversight Board (the "Oversight Board") adopted Resolution No. 2014-02 (copy enclosed) pursuant to which, in accordance with Health and Safety Code Section 34181(c), the Oversight Board acknowledged, approved and directed the transfer of the Affordable Housing Properties to the City in its capacity as the Housing Successor to the dissolved Redevelopment Agency. The Department of Finance raised no objection.
- Health and Safety Code Section 34176(a) provides that all housing assets (other than unencumbered funds on deposit in the Low and Moderate Income Housing Fund) "shall be transferred" to the entity that assumes the housing assets and obligations of a former redevelopment agency. By resolution adopted in January 2012, the City assumed this role. No further action is required to validate the transfer of the Affordable Housing Properties to the City. Section 34176(a)(2) provides that assets are to be returned to the successor agency only if the Department of Finance objects to their characterization as housing assets. No such objection has been made.
- In a ruling issued by the Sacramento Superior Court in *City of Fresno v. Matosantos* (Case No. 34-2013-80001450-CU-WM-GDS), the court confirms that "where a city elects to act as the housing successor...the law requires all housing assets to be transferred to the city." The court concludes that "[a]n order directing that asset transfers required by law be reversed so that the Oversight Board may simply order the assets transferred back to the City serves no legitimate purpose."

B. Affordable Housing Loan Repayment

The following explains the chronology of actions relating to the Affordable Housing Loan Repayment and our conclusion that it should not be necessary to return these funds to the Successor Agency.

- On September 15, 2008, by Resolution 2008-183 N.C.S., the City authorized the provision of \$2.5 million to assist in the acquisition of a site for development of an affordable senior housing project (the “Project”). The foregoing assistance was provided via an interfund loan from the City’s Housing In-Lieu Impact Fee Fund to the Redevelopment Agency’s Low and Moderate Income Housing Fund (the “Loan”). The City provided the Loan to the Redevelopment Agency because there were insufficient funds in the Low and Moderate Income Housing Fund to provide the full subsidy required for development of the Project. The Redevelopment Agency used the Loan proceeds together with additional funds from the Low and Moderate Income Housing Fund to provide a loan to the Project developer.
- Before it was dissolved on February 1, 2012, the Redevelopment Agency made three installment payments to the City toward repayment of the Loan and replenishment of the City’s Housing In-Lieu Impact Fee Fund totaling \$1,700,000 in the aggregate: \$400,000 on June 30, 2011, \$200,000 on December 31, 2011, and \$1,100,000 on January 31, 2012.
- Pursuant to Health and Safety Code Section 34167(d)(2), the Redevelopment Agency’s obligation to repay the Loan constituted an enforceable obligation that the Redevelopment Agency was obligated to honor pursuant to Section 34167(f). During the “freeze” period following enactment of AB 26 and continuing until dissolution of Redevelopment Agency on February 1, 2012, the term “enforceable obligation” included “[l]oans of moneys borrowed by the redevelopment agency for a lawful purpose, including, but not limited to, moneys borrowed from the Low and Moderate Income Housing Fund, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.”¹
- During the “freeze” period, redevelopment agencies were obligated to make payments due under enforceable obligations. The statute provides: “Nothing in this part shall be construed to interfere with a redevelopment agency’s authority, pursuant to enforceable obligations as defined in this chapter, to (1) make payments due, (2) enforce existing covenants and obligations, or (3) perform its obligations.”² It was not until the “dissolution phase” commenced on February 1, 2012 that city-redevelopment agency agreements were invalidated pursuant to Section 34171(d)(2) which provides the definition of “enforceable obligation” that applies to successor agencies. At the time that the Redevelopment Agency made the Loan repayments, Sections 34167(d) and 34167(f) were in effect, applied to the Redevelopment Agency, and not only authorized, but required the Redevelopment Agency to make the Loan repayments.
- As described above, the Department of Finance issued a determination letter in connection with the Successor Agency’s Low- and Moderate-Income Housing Due Diligence Review

¹ Health and Safety Code Section 34167(d)(2).


² Health and Safety Code Section 34167(f).

(copy enclosed). Neither the independent auditor who conducted this review nor the Department of Finance raised any questions regarding the Affordable Housing Loan Repayment.

- On April 30, 2014, in part as a response to a suggestion from the State Controller's audit team, the Oversight Board adopted Resolution No. 2014-03 (copy enclosed) pursuant to which the Oversight Board acknowledged, approved and directed the repayment of the Loan, including the prior repayments. The Department of Finance raised no objection.

The City respectfully requests modification of the Draft Report to recognize (i) that the Affordable Housing Properties may be retained by the City in its capacity as the housing successor, and that such assets need not be transferred back to the Successor Agency, and (ii) that the Affordable Housing Loan Repayments were validly made pursuant to an enforceable obligation and that these funds need not be returned to the Successor Agency. We welcome the opportunity to discuss this with you further.

Sincerely,

 FOR JOHN BROWN

John C. Brown
City Manager

cc: Eric Danly, City Attorney
Sue Castellucci, Housing Program Specialist
Ingrid Alverde, Economic Development Manager
Jeffrey V. Brownfield, Chief, Division of Audits
Richard J. Chivaro, Chief Legal Counsel
Betty Moya, Audit Manager
Tuan Tran, Auditor-in-Charge
Nicole Baker, Auditor

Enclosures:

1. Department of Finance November 7, 2012 letter approving the Housing Due Diligence Review
2. Oversight Board Resolution No. 2014-02 approving the transfer of the Affordable Housing Properties to the City
3. Oversight Board Resolution No. 2014-03 approving the Affordable Housing Loan Repayment



DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. - GOVERNOR

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

November 7, 2012

Ms. Ingrid Alverde, Redevelopment Manager
City of Petaluma
27 Howard Street
Petaluma, CA 94952

Dear Ms. Alverde:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Petaluma Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 11, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Pursuant to HSC section 34179.6 (d), Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

Based on our review, Finance made no adjustments to the Low and Moderate Income Housing Fund (LMIHF) balance available for allocation to the affected taxing entities. As a result, the Agency's LMIHF balance available for distribution to the affected taxing entities is \$672,528.

HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified above within five working days, plus any interest those sums accumulated while in the possession of the recipient.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, that taxing entity's failure to remit those funds may result in offsets to its sales and use tax allocation or to its property tax allocation.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the

Ms. Alverde
November 7, 2012
Page 2

Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter and Finance's Housing Assets Transfer letter dated August 29, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Robert Scott, Supervisor or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. John C. Brown, City Manager, City of Petaluma
Ms. Sue Castellucci, Housing Coordinator, City of Petaluma
Mr. Erick Roeser, Property Tax Manager, Sonoma County
California State Controller's Office

Resolution No. 2014-02
Petaluma Oversight Board to the
Petaluma Community Development Successor Agency

A RESOLUTION OF THE OVERSIGHT BOARD OF THE PETALUMA COMMUNITY DEVELOPMENT SUCCESSOR AGENCY, ACKNOWLEDGING STATE CONTROLLER'S OFFICE REVIEW AND FINDINGS REGARDING TRANSFER OF HOUSING PROPERTIES, AND RETROACTIVELY APPROVING THE TRANSFER OF FIVE HOUSING PROPERTIES TO THE CITY OF PETALUMA, ACTING AS THE HOUSING SUCCESSOR AGENCY, PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34181(c)

WHEREAS, the California state legislature enacted Assembly Bills x1 26 and 1484 to dissolve and unwind the affairs of redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and,

WHEREAS, the City Council of the City of Petaluma (the "City Council") declared that the City of Petaluma, acting in a separate legal capacity and as a separate public entity pursuant to Health and Safety Code Section 34173(g), will act as successor agency (the "Successor Agency") for the dissolved Petaluma Community Development Commission (the "Dissolved PCDC") effective January 9, 2012; and,

WHEREAS, an oversight board for the Successor Agency (the "Oversight Board") has been established and is functioning in accordance with Health and Safety Code Section 34179; and,

WHEREAS, pursuant to Health and Safety Code Section 34176(a)(1), the City Council elected that the City of Petaluma Housing Successor Agency (the "Housing Successor Agency") will retain the housing assets and functions previously performed by the Dissolved PCDC, and will serve as the successor housing agency of the Dissolved PCDC effective January 23, 2012; and,

WHEREAS, on May 2, 2011, pursuant to Resolutions No. 2011-07 and 2011-08, the Dissolved PCDC transferred 5 housing properties to the City of Petaluma, identified as:

- 3 Rocca Drive
- 4 Jess Avenue
- 6 Payran Street
- 951 Petaluma Blvd., So.
- 1416 Serpilio Way; and

WHEREAS, the State Controller's Office (the "SCO") is conducting reviews of the assets of all the dissolved redevelopment agencies throughout the State, including the Dissolved PCDC's assets, and has preliminarily indicated its view that the transfer of 5 housing properties to the City on May 2, 2011 require Oversight Board approval and action directing transfer of those housing properties; and,

WHEREAS, to comply with the SCO's view, the Oversight Board may pass a resolution retroactively directing transfer of the 5 housing properties to the City as the Housing Successor for the Dissolved PCDC, as authorized by Health and Safety Code Section 34181(c), including Oversight Board direction for the Successor Agency to enter into such documents and agreements as are appropriate to accomplish this transfer; and,

WHEREAS, the proposed actions of the Oversight Board set forth in this Resolution were duly noticed 10 days in advance of the Oversight Board action in accordance with Health and Safety Code Section 34181(f); and,

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board of the Successor Agency hereby finds, resolves, approves, determines, and directs as follows:

1. 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 Staff Report; and (4) the information provided by the Successor Agency and City staff and the public.
2. In accordance Health and Safety Code Section 34181(c), the Oversight Board hereby retroactively authorizes and directs the transfer of the housing properties

identified in this Resolution to the City of Petaluma, acting as the housing successor to the Dissolved PCDC.

3. The Successor Agency Executive Director, or the Executive Director's designee, is hereby authorized and directed to execute all documents and take all actions necessary and appropriate to effectuate the transfer of the 5 housing properties to the City of Petaluma, as approved in Resolutions No. 2011-07 and 2011-08.
4. The transfer of the housing properties is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15301 (as an action resulting in continuation of an existing facility) and Section 15061(b)(3) (as an action which it can be seen with certainty will not have a significant effect on the environment).
5. The Successor Agency is hereby directed to notify the 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).
6. This Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

REFERENCE: I hereby certify the foregoing Resolution was introduced and adopted by the Petaluma Oversight Board to the Petaluma Community Development Successor Agency at a Regular Meeting on the 30th of April, 2014, by the following vote:

AYES: Duiven, Chair Healy, Herrington, Vice Chair Rabbitt, Scharer

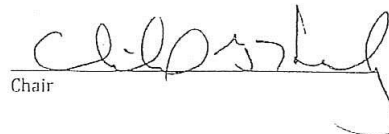
NOES: None

ABSENT: Davis, Jolley

ABSTAIN: None

ATTEST:


Recording Secretary


Chair

Resolution No. 2014-03
Petaluma Oversight Board to the
Petaluma Community Development Successor Agency

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE PETALUMA COMMUNITY
DEVELOPMENT SUCCESSOR AGENCY, ACKNOWLEDGING STATE CONTROLLER'S
OFFICE REVIEW AND FINDINGS REGARDING PETALUMA COMMUNITY DEVELOPMENT
COMMISSION ASSET TRANSFERS, AND RETROACTIVELY APPROVING AN
INTERFUND LOAN REPAYMENT FROM THE PETALUMA COMMUNITY DEVELOPMENT
SUCCESSOR AGENCY TO THE CITY OF PETALUMA**

WHEREAS, the California state legislature enacted Assembly Bills x1 26 and 1484 to dissolve and unwind the affairs of redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and,

WHEREAS, the City Council of the City of Petaluma (the "City Council") declared that the City of Petaluma, acting in a separate legal capacity and as a separate public entity pursuant to Health and Safety Code Section 34173(g), will act as successor agency (the "Petaluma Community Development Successor Agency, or PCDSA") for the dissolved Petaluma Community Development Commission of the City of Petaluma (the "Dissolved PCDC") effective August 6, 2012; and,

WHEREAS, an Oversight Board for the PCDSA (the "Oversight Board") has been established and is functioning in accordance with Health and Safety Code Section 34179; and,

WHEREAS, on June 30, 2009, the City of Petaluma and the Low and Moderate Housing Fund of the Dissolved PCDC entered into a promissory note for the loan of \$2.5 million dollars from the City of Petaluma to the Dissolved PCDC, subject to repayment of the interfund loan; and,

WHEREAS, the Dissolved PCDC made payments of \$400,000 on June 30, 2011; \$200,000 on December 31, 2011; and \$1,100,000 on January 31, 2012, with all payments pursuant to the 2009 Promissory Note; and,

WHEREAS, the State Controller's Office (the "SCO") is conducting reviews of the assets of all the dissolved redevelopment agencies throughout the State, including the

Dissolved PCDC's assets, and has preliminarily indicated its view that the loan repayments made pursuant to the 2009 Promissory Note requires Oversight Board action approving those loan repayments; and,

WHEREAS, the City of Petaluma received a Finding of Completion from the Department of Finance on May 29, 2013, pursuant to Health and Safety Code Section 34179.7; and,

WHEREAS, to comply with the SCO's view and direction, the Oversight Board may pass a resolution retroactively approving the Promissory Note repayments, as authorized by Health and Safety Code Section 34191(b)(3)(1), including Oversight Board direction for the PCDSA to enter into such documents and agreements as are appropriate to accomplish this approved action; and,

WHEREAS, the proposed actions of the Oversight Board set forth in this Resolution were duly noticed); and,

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board of the Petaluma Community Development Successor Agency hereby finds, resolves, approves, determines, and directs as follows:

1. 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) Resolution No. 2008-183 NCS, September 15, 2008; (2) the Promissory Note for Interfund Loan, June 30, 2009; (4) the Staff Report; and (4) the information provided by the PCDSA and City staff and the public.
2. In accordance with Health and Safety Code Section 34191(b)(3)(1), the Oversight Board hereby finds that the June 30, 2009, Interfund Loan was for legitimate redevelopment purposes, is determined to be an enforceable obligation, and retroactively authorizes and directs the repayment of funds loaned by the City to the Dissolved PCDC under the June 30, 2009, Interfund Loan Agreement, and such approval and finding of legitimate redevelopment purposes shall be retroactive to the dates of the repayments of the Interfund Loan transfer as referenced in this resolution.

Resolution No. 2008-183 N.C.S.
of the City of Petaluma, California

**MODIFYING THE FY 2008-09 HOUSING BUDGET FOR THE PURPOSE OF
FINANCING SITE ACQUISITION FOR A PROPOSED SENIOR HOUSING
COMMUNITY, VINTAGE CHATEAU, PHASE II**

WHEREAS, the City of Petaluma adopted the FY 2008-2009 Housing Budget on June 16, 2008 which included funding for a variety of housing projects and programs to address the needs of a wide spectrum of housing needs; and,

WHEREAS, following the adoption of that budget, a site acquisition opportunity was presented to the City which would produce 67 additional affordable units for low-income seniors; and,

WHEREAS, the senior population is one of the largest growing demographics in the County and a sizeable portion of those seniors will require subsidized and supportive housing; and,

WHEREAS, the City Council has a commitment to address the housing needs of our low-income senior and disabled community and has stated that goal in various City housing policy documents; and,

WHEREAS, USA Properties is a state-wide owner and manager of senior housing and has a long history of providing safe, decent, and affordable senior housing at Vintage Chateau I; and,

WHEREAS, the high cost of housing development has made it necessary for the City to assist the developer in the cost of acquisition of the housing site; and,

WHEREAS, the City's funding allocation will be in the form of a promissory note secured by a deed of trust and option agreement,

NOW, THEREFORE, BE IT RESOLVED that the FY 2008-2009 housing budget is modified to include the allocation of not-to-exceed \$2,500,000 for the site acquisition of the property to be known as Vintage Chateau II.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE: I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 15th day of September, 2008, by the following vote:

Approved as to form:

City Attorney

AYES: Barrett, Freitas, Hurriss, Nau, O'Brien, Vice Mayor Rabbitt, Mayor Torliatt

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST: Claire Cooper
City Clerk

Frank Torliatt
Mayor

CITY OF PETALUMA, CA
PROMISSORY NOTE FOR INTERFUND LOAN

This Promissory Note (Note) for an Interfund Loan is entered into as of June 30, 2009, by and between the City Treasurer of the City of Petaluma, acting as custodian of the funds of the City of Petaluma, and the City Manager of the City, acting for the City Council in implementation of the directives and authority of Resolution Number 2008-183 N.C.S., adopted on September 15, 2008.

1. The Treasurer shall transfer to the Low and Moderate Housing Fund, from the Housing In-Lieu Impact Fee Fund, such amounts as the City Manager shall direct from time to time, not to exceed the total sum of Two Million Five Hundred Thousand Dollars (\$2,500,000).
2. The Low and Moderate Income Housing Fund does not have current resources available to finance the site acquisition of the Vintage Chateau property for which it has secured a promissory note (see resolution number above).
3. The Low and Moderate Income Housing Fund has the ability to repay these borrowings over time and as such, agrees to repay \$800,000 per year until the total amount has been repaid to the Housing In-Lieu Impact Fee Fund.
4. The Treasurer, as custodian of the funds, agrees to promptly repay any sums advanced hereunder, ~~with interest at the rate of that earned by the City Treasurer's Investment Portfolio (variable%) per annum,~~ on any unpaid balance until paid, from funds that are hereafter available for such repayment. In any event, all such funds advanced by one fund to another fund shall be repaid, as funds become available.
5. This Note is subject to the terms of City of Petaluma Resolution Number 08-183, which is incorporated herein and made a part hereof by reference.

Executed as of the date first above written

CITY OF PETALUMA, CA

BY _____
City Treasurer

BY _____
City Manager

Approved as to form this _____ day of _____, 20____

City Attorney

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

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