



**BETTY T. YEE**  
California State Controller

June 11, 2015

Greg L. Sparks, City Manager  
City of Eureka/Successor Agency  
531 K Street  
Eureka, CA 95501-1146

Dear Mr. Sparks:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Eureka Redevelopment Agency (RDA) to the City of Eureka (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 Eureka Redevelopment Agency transferred \$37,794,464 in assets after January 1, 2011, including unallowable transfers to the City of Eureka (City) totaling \$14,915,917, or 39.46% of transferred assets.

However, the City provided additional documentation in regard to the two single-family home properties with values of \$133,887 and \$83,374 respectively, which were turned over to the Housing Successor Agency. Therefore, the remaining \$14,698,656 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 or by email at [egonzalez@sco.ca.gov](mailto:egonzalez@sco.ca.gov).

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/sk

Attachment

cc: David Botelho, Program Budget Manager  
California Department of Finance  
Wenda Howard, CPA, Finance Director  
City of Eureka/Successor Agency  
Joseph Mellet, Auditor-Controller  
Humboldt County  
Melinda Ciarabellini, Chair  
Oversight Board to the Successor Agency  
Richard J. Chivaro, Chief Legal Counsel  
State Controller's Office  
Elizabeth González, Bureau Chief  
Division of Audits, State Controller's Office  
Scott Freesmeier, Audit Manager  
Division of Audits, State Controller's Office  
Daniela Stefan, Auditor-in-Charge  
Division of Audits, State Controller's Office

# **EUREKA REDEVELOPMENT AGENCY**

## **ASSET TRANSFER REVIEW**

### Review Report

*January 1, 2011, through January 31, 2012*



**BETTY T. YEE**  
California State Controller

June 2015

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# Asset Transfer Review Report

## Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Eureka 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 Eureka Redevelopment Agency transferred \$37,794,464 in assets after January 1, 2011, including unallowable transfers to the City of Eureka (City) totaling \$14,915,917, or 39.46% of transferred assets.

However, the City provided additional documentation in regard to the two single-family home properties with values of \$133,887 and \$83,374 respectively, which were turned over to the Housing Successor Agency. Therefore, the remaining \$14,698,656 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 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 Eureka Redevelopment Agency transferred \$37,794,464 in assets after January 1, 2011, including unallowable transfers to the City of Eureka (City) totaling \$14,915,917, or 39.46% of transferred assets.

However, the City provided additional documentation in regard to the two single-family home properties with values of \$133,887 and \$83,374 respectively, which were turned over to the Housing Successor Agency. Therefore, the remaining \$14,698,656 in unallowable transfers 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 report on October 30, 2014. Greg L. Sparks, City Manager; and Wendy Howard, CPA, Finance Director, responded by email dated November 17, 2014. The City's response provided additional information regarding properties with APN 002-191-031 valued at \$230,000, and APN 003-062-021 valued at \$337,000 (Exhibit A in their response), and cash transfers of \$410,607 to the Harbor Fund, and \$50,000 to the HOME Loan. After further review, the SCO subsequently removed these from its findings. The SCO's comment to the City's response only addresses the remaining unallowable transfers. 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

June 11, 2015

# Finding and Order of the Controller

## **FINDING— Unallowable asset transfers to the City of Eureka**

The Eureka Redevelopment Agency (RDA) made unallowable asset transfers of \$14,915,917 to the City of Eureka (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On March 9, 2011, the RDA transferred \$14,915,917 in capital assets to the City per the Property Conveyance Agreement.

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 in the amount of \$14,915,917 and turn over the assets to the Successor Agency.

However, on May 14, 2012, the Successor Agency effectuated the transfer of housing functions and assets of \$217,261 to the Housing Successor in accordance with H&S Code sections 34176(b)(2) and 34177(g), and via Resolution No. 2012-03OB. The Department of Finance (DOF) subsequently approved the housing asset transfer form on August 29, 2012. Therefore, no further action is necessary regarding the following properties:

- APN 006-061-001 – 1710 16<sup>th</sup> Street, housing asset valued at \$133,887
- APN 009-133-015 – 2315 Pine Street, housing asset valued at \$83,374

Therefore, the remaining \$14,698,656 in unallowable transfers must be turned over to the Successor Agency.

### City's Response

The City responded as follows:

The City and the Successor Agency dispute the finding that these transfers are unallowable.

### Real Property Transfers

The Controller's Draft Report lists 26 properties that were transferred to the City by the former RDA and orders the City to return these assets to the Successor Agency. The majority of these properties are the subject of a Long Range Property Management Plan that has been approved by the Oversight Board and submitted to the Department of



Finance. The Department of Finance has provided informal comments to the Successor Agency on the LRPMP and the Successor Agency is in the process of revising the LRPMP based on those comments. Exhibit A to this letter lists the properties included in the LRPMP and the proposed disposition of these properties as approved by the Oversight Board with the additional notation of the direction received from the DOF to date regarding the properties. . . .

The Controller's Draft Report also lists two single family homes located at 1710 16<sup>th</sup> Street and 2315 Pine Street. . . . These properties were transferred to the City as housing assets in accordance with the procedures set forth in the Dissolution Laws.

See Attachment for the City's complete response.

#### SCO's Comment

The SCO received additional information regarding two properties transferred to the City and will adjust the Order of the Controller for the two properties.

On May 14, 2012, the Successor Agency effectuated the transfer of housing functions and assets of \$217,261 to the Housing Successor in accordance with H&S Code sections 34176(b)(2) and 34177(g), and via Resolution No. 2012-03OB. The DOF subsequently approved the housing asset transfer form on August 29, 2012. Therefore, no further action is necessary regarding the following properties:

- APN 006-061-001 – 1710 16<sup>th</sup> Street, housing asset valued at \$133,887
- APN 009-133-015 – 2315 Pine Street, housing asset valued at \$83,374

In regard to the remaining 22 properties, because “the properties have not been transferred back to the Successor Agency and . . . upon approval of the LRPMP, the properties will be held by the City,” the Finding and Order of the Controller remain as stated for the remaining properties.

The remaining \$14,698,656 in unallowable transfers must be turned over to the Successor Agency.

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

**Development Parcels:**

001-011-021	NW corner of 1 <sup>st</sup> & C Streets	Old Town Carriage Co. ERTN
001-054-045	NW corner of 1 <sup>st</sup> & D Streets	Eureka Waterfront Partners DDA
001-261-020	7 <sup>th</sup> & Myrtle Streets	Vacant Land
001-261-022	8 <sup>th</sup> & Myrtle Streets	Vacant Land
002-241-007	Foot of S Street	Vacant Land
002-241-013	Carson Mill Site	Vacant Land
001-054-013	NE corner of 1 <sup>st</sup> & D Streets	Vacant Land
001-054-041	NE corner of 1 <sup>st</sup> & C Streets	Vacant Land
002-114-002	Myrtle Ave. at 6 <sup>th</sup> St.	Vacant Land

**Redeveloped Parcels:**

001-013-004	SW corner of 1 <sup>st</sup> & C Streets	Public Parking Lot
000-052-001	N side of 2 <sup>nd</sup> St between D & E Streets	Romano Gabriel Art Exhibit
001-092-010	NE corner of 3 <sup>rd</sup> & E Streets	Clarke Plaza
001-092-014	NE corner of 3 <sup>rd</sup> & E Streets	Clarke Plaza
001-096-003	SW corner of 3 <sup>rd</sup> & E Streets	Public Parking Lot/Police Annex
001-142-007	SE corner 4 <sup>th</sup> & G Streets	Public Parking Lot
001-161-008	E foot of K Street	Adorni Public Parking Lot
001-161-009	N side of 2 <sup>nd</sup> St. between K & L Streets	Adorni Public Parking Lot
001-214-002	E foot of L St.	Adorni Public Parking Lot
001-011-023	N of 1 <sup>st</sup> St. W of C St.	Fishermen's Work Area
001-011-025	Foot of C St W Side	Fisherman's Terminal
001-212-012	1401 3 <sup>rd</sup> Street	Clara Mae Berry Park
003-141-004	NE corner of Koster & 14 <sup>th</sup> Streets	City Schools Bus Yard
006-061-001	1710 16 <sup>th</sup> Street	Single-family Home
009-133-016	2315 Pine Street	Single-family Home

Transfers of capital assets on March 9, 2011 <sup>1</sup> \$ 14,915,917

Less: Properties transferred to the Housing Successor and approved by DOF

006-061-001	1710 16 <sup>th</sup> Street	Single-family Home	\$ (133,887)
009-133-016	2315 Pine Street	Single-family Home	<u>(83,374)</u>
Total transfers subject to H&S Code section 34167.5			<u><u>\$ 14,698,656</u></u>

<sup>1</sup> Individual values were not provided. The total value was based on the RDA's 2011 Audited Financial Statements, Note 7.

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**Attachment—  
City of Eureka’s Response to  
Draft Review Report**

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In addition to the attached letter, the city provided additional documents. Due to their size, they are not included as attachments to this report. Please contact the City of Eureka for copies of the following documents:

Exhibits

Exhibit “A” LRPMP Properties

Exhibit “B” CA Boating & Waterways Eureka Boat Basin Loan Documents

Exhibit “C” HCD HOME Repayment Letter



## CITY OF EUREKA

531 K Street

Eureka, California 95501-1146

CITY MANAGER

(707) 441-4144

fax (707) 441-4138

November 17, 2014

Jeffrey Brownfield  
California State Controller's Office  
P.O. Box 942850  
Sacramento, CA 94250-5874

Re: Eureka Redevelopment Agency, Asset Transfer Review

Dear Mr. Brownfield:

The City of Eureka ("City") and the Successor Agency to the Eureka Redevelopment Agency ("Successor Agency") appreciate and welcome the opportunity to comment on and provide corrections to the Draft Eureka Redevelopment Agency Asset Transfer Review Report (January 1, 2011 through January 31, 2012), dated October 2014. These comments are respectfully submitted to ensure that a proper review and report is prepared that complies with AB x1 26, AB 1484 and other applicable law.

This response does not waive the right of the Successor Agency or the City to later provide additional information or statements as part of the review process. The Successor Agency and the City retain the right to raise new materials or positions as required.

### GENERAL RESPONSE

1. The City's and the Successor Agency's review of the State Controller preliminary findings is ongoing. These responses and objections are made without prejudice to, and are not a waiver of, the City's and the Successor Agency's right to rely on other facts, documents, responses or information in the State Controller review process or at a later proceeding.
2. By making the accompanying responses and objections, the City and the Successor Agency do not waive, and hereby expressly reserve, their right to assert any and all objections as to the State Controller findings and statements in this review, or in any other proceedings, on any and all grounds including, but not limited to, jurisdiction, scope, competency, relevancy, and materiality. Further, the City and the Successor Agency make the responses herein without in any way implying that they consider all of the State Controller findings and statements to be legally valid, or within the scope of AB x1 26 and AB 1481, relevant or material to the subject matter of this Report.
3. The City and the Successor Agency reserve the right to supplement, clarify, revise, or correct any or all of the responses and statements herein, and to assert additional information, in one or more subsequent supplemental response(s).

## SPECIFIC RESPONSE

### 1. Finding 1- Unallowable asset transfers to the City of Eureka

The Report states that the Eureka Redevelopment Agency (“RDA”) made unallowable asset transfers totaling \$15,943,524. The transfers in question consist of real property and two cash transfers, one to the City Harbor Fund in the amount of \$410,607 and a repayment of HOME Investment Partnership Funds in the amount of \$50,000. The City and the Successor Agency dispute the finding that these transfers are unallowable. Each of the transfers is discussed below.

Real Property Transfers. The Controller’s Draft Report lists 26 properties that were transferred to the City by the former RDA and orders the City to return these assets to the Successor Agency. The majority of these properties are the subject of a Long Range Property Management Plan that has been approved by the Oversight Board and submitted to the Department of Finance. The Department of Finance has provided informal comments to the Successor Agency on the LRPMP and the Successor Agency is in the process of revising the LRPMP based on those comments. Exhibit A to this letter lists the properties included in the LRPMP and the proposed disposition of these properties as approved by the Oversight Board with additional notation of the direction received from the DOF to date regarding the properties. **The properties have not been transferred back to the Successor Agency because as noted on Exhibit “A” the proposed disposition for most of the properties is retention by the City for either governmental uses or for future development consistent with the Redevelopment Plan. Upon approval of the LRPMP, the properties will be held by the City.**

The Controller’s Draft Report list the property located on the NE side of Tydd Street, APN 002-191-031 as a property to be returned to the Successor Agency. This property was transferred to Open Door Community Health Centers pursuant to the terms of a Disposition and Development Agreement by and among the City, the RDA and Open Door Community Health Centers entered into in May 2011. Similarly, the property listed as Waterfront Drive West of Dock B, APN 003-062-021, has been transferred to David Schneider pursuant to a Disposition and Development Agreement authorized by the City in March of 2011.

The Controller’s Draft Report also lists two single family homes located at 1710 16<sup>th</sup> Street and 2315 Pine Street as part of the property transferred to the City. These properties were acquired by the RDA’s Low and Moderate Income Housing Funds and were listed on the Housing Asset Transfer List submitted by the Successor Agency to the DOF and approved by the DOF. These properties were transferred to the City as housing assets in accordance with the procedures set forth in the Dissolution Laws.

Transfer of Cash to Harbor Fund. The Controller’s Draft Report lists cash in the amount of \$410,607 that was transferred to the City in April 2011. These funds represent payments owed by the former RDA related to a California Boating and Waterways Loan. In 1996 the City and the RDA jointly received a loan from California Department of Boating and Waterways (“DBAW”) to be used to rehabilitate the City’s municipal harbor located within the Redevelopment Project Area. The DBAW loan was to be repaid primarily from harbor revenues, but Section 3 of the Loan Agreements provides that to the extent that the harbor revenues are insufficient to make the

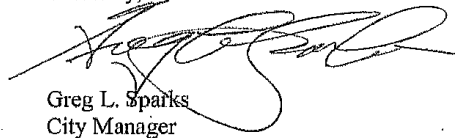
required payments, the Borrower (jointly defined as the City and the RDA) are to make the loan payments from other revenues. The harbor has not produced revenues sufficient to make the required debt service payments and for many years prior to the dissolution of the RDA, the RDA was making these debt service payments. The Successor Agency has continued to make the required debt service payments, listing those payments on its ROPS and DOF has approved the DBAW loan as an enforceable obligation. A portion of the transfer of \$410,607 from the former RDA to the City represents the RDA's payment of the debt service owed on the DBAW loan for the 2010-11 Fiscal Year. In addition to the debt service payment, the RDA also transferred to the City additional funds to be deposited into the harbor reserve funds. Section 5(g) of the DBAW loan agreement requires that a reserve fund of \$1,000,000 be maintained during the term of the DBAW loan and that annual deposits be made to the reserve fund from tax increment revenues until the reserve fund equals the required \$1,000,000. \$75,000 of the funds transferred in April were deposited into this Reserve Fund in accordance with the DBAW Loan Agreement. The DBAW Loan Agreement also requires annual deposits to a capital reserve fund in the amount of \$30,000 (Section 5(i)), and a dredging fund in the amount of \$20,000 (Section 5(h)). The DBAW Loan Agreement has been recognized by the DOF as an enforceable obligation, including the obligation to fund reserves. The funds transferred to the Harbor Fund in April 2011 cannot be returned to the Successor Agency because to the extent the funds were used for debt service payments to DBAW, the funds were committed to a third party and the City no longer has the funds, and to the extent that the funds were deposited in the reserves required by DBAW, the payments were made pursuant to an enforceable obligations and funds can only be withdrawn from the reserves with the consent of DBAW. (Exhibit "B")

Transfer of Cash for Repayment of HOME Loan.

The Controller's Draft Report also determines that a transfer of funds from the RDA's Low and Moderate Income Housing Fund to the City as repayment of a HOME loan from the State Department of Housing and Community Development is unallowable. This payment was made by the RDA pursuant to an agreement between the City of Eureka and HCD related to a \$1,000,000 HOME Investment Partnership Program loan from HCD to the City. The HOME loan was used by the City to fund the multiple assistance center ("MAC") developed and operated by Redwood Community Action Agency. HCD, as a condition to allowing the City to use the HOME funds for the MAC, required that the former RDA commit to make annual repayments of the HOME funds to the City in the amount of \$50,000. This requirement was put in place because the MAC was not projected to generate sufficient funds to make the HCD required repayments and the City was required to use the HOME Funds for loans and not for grants. The repayments have been included on each of the Successor Agency's ROPS (\$25,000 each ROPS period) since the dissolution of the RDA and have been approved by the DOF as an enforceable obligation. The transfer in April 2011 represents the 2010-2011 payment. The payment is an enforceable obligation of the former RDA imposed on the former RDA by the State. As part of that obligation, HCD also requires that the repayments made to the City must be treated as program income under the HOME rules which require that the funds be used for HOME eligible purposes. Thus the transfer of these funds does not represent an unallowable transfer and the funds cannot be returned to the Successor Agency because to do so would violate the requirements imposed by HCD and the HUD requirements regarding use of program income. (Exhibit "C")

If you need additional information regarding these transfers, please feel free to call Cindy Trobitz-Thomas, the City's Interim Economic Development Director at 707-441-7207.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg L. Sparks". The signature is fluid and cursive, with a large loop at the end.

Greg L. Sparks  
City Manager

Attachments: Exhibit "A" LRPMP Properties  
Exhibit "B" CA Boating & Waterways Eureka Boat Basin Loan Documents  
Exhibit "C" HCD HOME Repayment Letter

**State Controller's Office  
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