

REDEVELOPMENT AGENCY OF THE CITY OF SAN PABLO

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

March 2013



JOHN CHIANG
California State Controller

March 28, 2013

Matt Rodriguez, City Manager
San Pablo Redevelopment/Successor Agency
13831 San Pablo Avenue
San Pablo, CA 94806

Dear Mr. Rodriguez:

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

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

Our review found that the Redevelopment Agency of the City of San Pablo transferred \$61,510,845 in assets. These transfers included unallowable transfers of assets totaling \$6,590,371 that should have been turned over to the Successor Agency. However, on January 11, 2013, the Oversight Board of the San Pablo Local Successor Agency approved the transfer of \$3,934,782 worth of properties because the properties were constructed and used for a governmental purpose. The San Pablo Economic Development Corporation (EDC) was dissolved on June 26, 2012, and the EDC's remaining cash of \$2,441,983 was transferred to the Successor Agency. On February 6, 2013, the City of San Pablo accepted the SCO draft preliminary report and transferred \$213,606 cash to the Successor Agency. No further action is needed by the City of San Pablo.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: Bradley J. Ward, Finance Director
San Pablo Redevelopment/Successor Agency
City of San Pablo
John Gioia, Chairperson of the Oversight Board
San Pablo Redevelopment/Successor Agency
City of San Pablo
Steven Szalay, Local Government Consultant
California Department of Finance
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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Redevelopment Agency of the City of San Pablo 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 Redevelopment Agency of the City of San Pablo transferred \$61,510,845 in assets, which included unallowable transfers of assets totaling \$6,590,371 that should have been turned over to the Successor Agency. However, on January 11, 2013, the Oversight Board of the San Pablo Local Successor Agency approved the transfer of \$3,934,782 worth of properties because the properties were constructed and used for a governmental purpose. The San Pablo Economic Development Corporation (EDC) was dissolved on June 26, 2012, and the EDC's remaining cash of \$2,441,983 was transferred to the Successor Agency. On February 6, 2013, the City of San Pablo accepted the SCO draft preliminary report and transferred \$213,606 cash to the Successor Agency. No further action is needed by the City of San Pablo.

Background

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

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

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

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

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

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

Objectives, 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 San Pablo City Council, the RDA, and the San Pablo Economic Development Corporation.
- 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 Redevelopment Agency of the City of San Pablo transferred \$61,510,845 in assets, which included unallowable transfers of assets totaling \$6,590,371 that should have been turned over to the Successor Agency for disposition in accordance with ABX1 26.

However, on January 11, 2013, the Oversight Board of the San Pablo Local Successor Agency (Successor Agency) approved the transfer of \$3,934,782 worth of properties because the properties were constructed and used for a governmental purpose. The San Pablo Economic Development Corporation (EDC) was dissolved on June 26, 2012, and the EDC's remaining cash of \$2,441,983 was transferred to the Successor Agency. On February 6, 2013, the City of San Pablo accepted the SCO draft preliminary report and transferred \$213,606 cash to the Successor Agency. No further action is needed by the City of San Pablo.

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

**Views of
Responsible
Officials**

At the exit conference held on January 4, 2013, we discussed our review results with Matt Rodriguez, City Manager and Bradley J. Ward, Finance Director of the City of San Pablo. Mr. Ward agreed with the review result, and further agreed that a draft review report was not necessary and that we could issue the review report as final.

Restricted Use

This report is solely for the information and use of the City of San Pablo Successor Agency, the City of San Pablo Successor Agency Oversight Board, the San Pablo Economic Development Corporation, the Successor Housing 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

March 28, 2013

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the City of San Pablo

The Redevelopment Agency of the City of San Pablo (RDA) transferred \$11,280,351 in assets to the City of San Pablo (City), which included unallowable transfers of assets totaling \$3,934,782. The asset transfers to the City occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011. Those assets consisted of current and capital assets.

On March 1, 2011, the RDA transferred \$7,345,569 in cash to the City. To accomplish those transfers, the RDA and the City entered into an agreement under City Resolution R2011-22, which authorized the City to undertake certain RDAs' capital improvement projects (CIP) on behalf of the RDA. Subsequently, the City entered into various third-party agreements relating to the expenditures of CIP. These agreements were signed prior to June 28, 2011.

As of January 31, 2012, the City had expended \$2,354,666 for CIP and returned the remaining cash, in the amount of \$4,990,903, to the RDA. As the expenditure of CIP was in compliance with ABX 1 26 and the cash transfer was reversed, no further action is needed.

Order of the Controller

Based on H&S Code section 34167.5, the City of San Pablo would have been ordered to reverse the transfer of the above assets, described in Schedule 1 and Attachment 1, in the amount of \$3,934,782. However, on January 11, 2013, the Oversight Board of the San Pablo Local Successor Agency approved the transfer of those properties under Oversight Board Resolution OB2013-001 because the properties were constructed and used for a governmental purpose under H&S Code section 34181(a). Therefore, the City does not need to reverse the transfer of those assets.

**FINDING 2—
Unallowable asset
transfer to the
San Pablo Economic
Development
Corporation**

The RDA made unallowable asset transfers of \$2,655,589 to the San Pablo Economic Development Corporation (EDC). The asset transfers to the EDC occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011. Those assets consisted of current assets.

On March 4, 2011, the RDA transferred a total of \$3,334,554 in cash to the EDC to continue redevelopment activities in San Pablo on behalf of the RDA. To accomplish those transfers, the RDA and the City entered into RDA Resolution R2011-010.

As of January 31, 2012, the EDC's total expenditure of \$678,965 (\$528,965 and \$150,000 for operating costs and project costs, respectively) was in compliance with ABX1 26 and the Operating Agreement. Under the Operating Agreement, the RDA plan's only function was to pay debt service, while the EDC was to implement and carry out the RDA's plan. Between March of 2011 and January of 2012, the EDC expensed \$528,965 on operating costs for RDA-related activities. On June 6, 2011, the EDC entered into an agreement with Studio L'Image under EDC Resolution 2011-009, which authorized the expenditure of \$150,000 for the City Entry Monument and Signage Project (PW 576).

On January 9, 2012, the EDC adopted EDC Resolution 2012-001, which added additional expenditures of \$213,606 for PW 576.

Pursuant to H&S Code section 34163(c) (2), the RDA shall not have the authority to, and shall not "amend or modify existing agreements, obligations, or commitments with any entity, for any purpose, including...modifying terms and conditions of existing agreements, obligations, or commitments."

Pursuant to H&S Code section 34167.5, any asset transfers by the RDA to a city, county, city and county, or any other public agency after January 1, 2011 must be returned to the Successor Agency for disposition in accordance with H&S Code sections 34177(d) and (e).

Order of the Controller

Based on H&S Code sections 34167.5 and 34163(c) (2), the City of San Pablo would have been ordered to reverse the transfer of the above assets, described in Schedule 2, in the amount of \$2,655,589. However, the EDC was dissolved on June 26, 2012, and the EDC's remaining cash of \$2,441,983 was transferred to the Successor Agency. On February 6, 2013, the City of San Pablo accepted the SCO draft preliminary report and transferred \$213,606 in cash to the Successor Agency under Oversight Board Resolution OB2013-003. Therefore, no further action is needed by the City.

**Schedule 1—
RDA Assets Transferred to
the City of San Pablo
January 1, 2011, through January 31, 2012**

Unallowable Transfers to the City of San Pablo:

Current Assets

Cash Transfer to the City	\$ 7,345,569
Expenditure on RDA's CIP	(2,354,666)
Transfer of Cash to RDA as of January 31, 2012	(4,990,903)
Land Held for Resale ¹	911,727

Capital Assets

Land ¹	<u>3,023,055</u>
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Total Unallowable Transfers – City of San Pablo	<u>\$ 3,934,782 ²</u>
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¹ Detail listing of assets on Attachment 1.

² See the Findings and Orders of the Controller section.

**Schedule 2—
RDA Assets Transferred to
the San Pablo Economic Development Corporation
January 1, 2011, through January 31, 2012**

Unallowable Transfers to the Economic Development Corporation:

Current Assets

Cash Transfer to EDC	\$ 3,334,554
Expenditure on Operating Cost (RDA Related Activity)	(528,965)
Expenditure on PW 576 (Resolution 2011-009 on June 6, 2011)	<u>(150,000)</u>
Total Unallowable Transfers – San Pablo Economic Development Corporation	<u>\$ 2,655,589</u> ¹

¹ See the Findings and Orders of the Controller section.

**Attachment 1—
Properties Transferred to the City of San Pablo
on March 1, 2011**

Land Held for Resale

Description	APN	Amount
Bnsf Site - Rumrill/Chesley	409-313-009	\$ 496,358
2030 Broadway	412-201-008	26,003
1411 Rumrill Boulevard	410-021-026	389,366
Total		\$ 911,727

Land

Description	APN	Amount
Road 20	411-260-042	\$ 1,200
Road 20 @ 20 th Street	412-310-002	2,576
2450 University Avenue	411-313-002	1,958
V - University Avenue	411-313-004	621
21st St (Wanlass Park) (RDA)	413-292-005	3,250
15001 SPA, 21st, Wanlass	413-071-002	251,630
	420-052-001	
	420-052-002	
	420-052-003	
	420-052-004	
Brentz Lane 1746, 1768, 1790 (RDA)	420-052-005	15,856
2600 Moraga Road	416-140-050	2,334,659
SPA - Pd Sallyport	411-340-041	152,776
2875 17 th Street (RDA)	413-220-036	3,302
Land - 2527 SP Dam Rd. (casino sign)	417-290-014	1
Vacant - San Pablo Dam Road	420-040-009	76,875
3210 San Pablo Dam Road	420-040-013	178,351
Total		\$ 3,023,055

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