

OAKDALE REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

November 2014



JOHN CHIANG
California State Controller

November 10, 2014

Bryan Whitemyer, City Manager
City Of Oakdale/Successor Agency
280 North Third Avenue
Oakdale, CA 95361

Dear Mr. Whitemyer:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Oakdale Redevelopment Agency (RDA) to the City of Oakdale (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 \$12,541,931 in assets after January 1, 2011, including unallowable transfers totaling \$2,247,800, or 17.92% of transferred assets. The unallowable transfers included \$2,177,110 and 11 properties with no book value to the City and \$70,690 to the Oakdale Senior Housing Corporation.

However, on October 28, 2011, the Oakdale Senior Housing Corporation turned over \$70,690 in cash to the Successor Agency, and on June 5, 2012, the City turned over the 11 properties to the Successor Agency. Therefore, the remaining \$2,177,110 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/sk

cc: Albert Avila, Finance Director
City of Oakdale
Jack Alpers, Oversight Board Chairperson
City of Oakdale
Lauren Klein, CPA, Auditor-Controller
County of Stanislaus
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
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Nicole Baker, Auditor-in-Charge
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 Oakdale 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 \$12,541,931 in assets after January 1, 2011, including unallowable transfers totaling \$2,247,800, or 17.92% of transferred assets. The unallowable transfers included \$2,177,110 and 11 properties with no book value to the City of Oakdale (City) and \$70,690 to the Oakdale Senior Housing Corporation.

However, on October 28, 2011, the Oakdale Senior Housing Corporation turned over \$70,690 in cash to the Successor Agency, and on June 5, 2012, the City turned over the 11 properties to the Successor Agency. Therefore, the remaining \$2,177,110 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 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 Oakdale Redevelopment Agency transferred \$12,541,931 in assets after January 1, 2011, including unallowable transfers totaling \$2,247,800, or 17.92% of transferred assets. The unallowable transfers included \$2,177,110 and 11 properties with no book value to the City of Oakdale (City) and \$70,690 to the Oakdale Senior Housing Corporation.

However, on October 28, 2011, the Oakdale Senior Housing Corporation turned over \$70,690 in cash to the Successor Agency, and on June 5, 2012, the City turned over the 11 properties to the Successor Agency. Therefore, the \$2,177,110 in of unallowable transfers must be turned over to the Successor Agency.

Details of our findings are described in the Findings and Orders of the Controller section of this report.

Views of Responsible Officials

We issued a draft review report on September 4, 2014. Albert Avila, Finance Director, responded by letter dated September 12, 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 Oakdale Senior Housing Corporation, 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

November 10, 2014

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the City of Oakdale

The Oakdale Redevelopment Agency (RDA) made unallowable asset transfers of \$2,177,110 and 11 properties with no book value to the City of Oakdale (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 March 21, 2011, the RDA made an unallowable transfer of 11 properties to the City of Oakdale. These properties had no book value (see Schedule 1 for a list of the properties). On June 5, 2012, these 11 properties were turned over to the Successor Agency.
- On March 31, 2011, the RDA made an unallowable principal and interest loan repayment of \$42,806 in cash to the City.
- On March 31, 2011, the RDA made an unallowable principal and interest loan repayment of \$3,519 in cash to the City.
- On June 30, 2011, the RDA made an unallowable principal and interest loan repayment of \$42,806 in cash to the City.
- On June 30, 2011, the RDA made an unallowable principal and interest loan repayment of \$3,519 in cash to the City.
- On January 31, 2012, the RDA transferred controlling interest of the Senior Housing Corporation (\$2,084,460 in equity) to the City.

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). Some of the assets also may be subject to the provisions of H&S Code section 34181(a). H&S Code section 34181(a) states:

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

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

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers of assets in the amount of \$2,177,110 and the 11 properties. However, on June 5, 2012, the City turned over the 11 properties to the Successor Agency. The remaining \$2,177,110 in unallowable transfers must be turned over to the Successor Agency.

City's Response to the Draft

The City disagrees with the findings. It stated in its response:

The City of Oakdale received clearance from the Department of Finance to transfer 7 of the properties on August 23, 2013. The City has submitted the long range property management plan to the Department of Finance and is awaiting clearance to transfer the remaining 4 parcels.

The City also stated that the RDA was making quarterly principal and interest loan payments to the City following an amortization schedule. In January 2011, the Governor proposed statewide elimination of redevelopment agencies. ABX1 26 was passed by Legislature and signed into law by Governor on June 28, 2011. No payments have been made since June 2011.

The City stated that it has not taken formal action to effect transfer of controlling interest in the Senior Housing Corporation. The board of the Senior Housing Corporation is comprised of the Chair of the Successor Agency, a Board Member of the Successor Agency, the City Manager, and two community members. The City also stated that the report has brought to its attention the need to take formal action by the Successor Agency and Oversight Board to effect the oversight of the housing assets. The City of Oakdale wishes to be in compliance with the State and requests that the State include this information in the final report.

SCO Comment

The return of the 11 properties to the Successor Agency has been noted in the report; no further action is needed by the City.

In regards to the loan payments, pursuant to Health and Safety 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 finding and Order of the Controller remains as stated.

The SCO agrees that formal action should be taken by the Oversight Board with regards to the controlling interest of the Senior Housing Corporation. The finding and Order of the Controller remains as stated.

**FINDING 2—
Unallowable asset
transfers to the
Oakdale Senior
Housing
Corporation**

The RDA made unallowable asset transfers of \$70,690 to the Oakdale Senior Housing Corporation. The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On September 30, 2011, the RDA made a cash transfer in the amount of \$70,690 to the Oakdale Senior Housing Corporation.

Pursuant to 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).

Order of the Controller

Pursuant to H&S Code Section 34167.5, the Oakdale Senior Housing Corporation is ordered to reverse the transfer of assets in the amount of \$70,690 and turn over the assets to the Successor Agency. However, on October 28, 2011, the Oakdale Senior Housing Corporation turned over \$70,690 in cash to the Successor Agency. Therefore, no further action is necessary.

City's Response to the Draft

The City did not respond to Finding 2.

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

Capital assets transferred:

Number	APN	Description	Book Value
1	(APN: 063-024-018)	West Greger - Lot Comm Tower	\$ —
2	(APN: 064-044-048)	Wakefield Storm Basin	—
3	(APN: 064-062-028)	East Warnerville Rd. - TL Davis Park	—
4	(APN: 129-003-058)	120 South Sierra Ave. - parkland area	—
5	(APN: 129-003-060)	North Yosemite - parking lot	—
6	(APN: 129-004-061)	Yosemite Ave. - parking lot	—
7	(APN: 129-004-065)	Sierra Ave. - parking lot	—
8	(APN: 129-004-067)	South Sierra Ave. - parking lot	—
9	(APN: 129-005-018)	Sierra Ave. - drainage basin	—
10	(APN: 130-003-053)	3rd Ave. - parking lot	—
11	(APN: 130-009-004)	South Second Ave. - vacant 900 sq. ft.	—
Total capital assets transferred			—

Current assets transferred:

Loan repayment on March 31, 2011	42,806
Loan repayment on March 31, 2011	3,519
Loan repayment on June 30, 2011	42,806
Loan repayment on June 30, 2011	3,519
Interest in Senior Housing Corporation on January 31, 2012	2,084,460
Total unallowable transfers	<u>\$ 2,177,110</u>
On June 5, 2012, the 11 properties were turned over to the Successor Agency	<u>—</u>
Total transfers subject to H&S Code section 34167.5	<u>\$ 2,177,110</u>

**Attachment—
Auditee’s Response to
Draft Review Report**



**CITY OF OAKDALE
FINANCE DEPARTMENT**

280 North Third Avenue • Oakdale, CA 95361 • Ph: (209) 845-3571 • Fax: (209) 847-6834

**CITY
ADMINISTRATION**
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**Administration,
Engineering &
Maintenance
Divisions**
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**Building & Planning
Division**
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FIRE DEPARTMENT
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Station No. 2:
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Oakdale, CA 95361
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(209) 847-3790 Fax

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www.ci.oakdale.ca.us

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info@ci.oakdale.ca.us

September 12, 2014

Elizabeth Gonzalez
Chief, Local Government Compliance Bureau
California State Controller, Division of Audits
P.O. Box 94250
Sacramento, CA 94250-5874

RE: Oakdale Redevelopment Agency Asset Transfer Review Report

Dear Ms. Gonzalez;

Please regard this as the official response to the September 4, 2014 letter addressed to the City of Oakdale/Successor Agency, from Jeffrey V. Brownfield. The findings addressed in the Review Report need to be corrected as follows:

Finding 1 – Unallowable asset transfer to the City of Oakdale.

- a. "On March 21, 2011, the RDA made an unallowable transfer of 11 properties to the City of Oakdale. These properties had no book value. On June 5, 2012 these properties were turned over to the Successor Agency."

Response: The City of Oakdale received clearance from the Department of Finance to transfer 7 of the properties on August 23, 2013. The City has submitted the long range property management plan to the Department of Finance and is awaiting clearance to transfer the remaining 4 parcels.

- b. "On March 31, 2011, the RDA made an unallowable principal and interest loan repayment of \$42,806 in cash to the City."

"On March 31, 2011, the RDA made an unallowable principal and interest loan repayment of \$3,519 in cash to the City."

"On June 30, 2011, the RDA made an unallowable principal and interest loan repayment of \$42,806 in cash to the City."

"On June 30, 2011, the RDA made an unallowable principal and interest loan repayment of \$3,519 in cash to the City."

Response: The RDA was making quarterly principal and interest payments to the City on two loans following a long standing amortization schedule. In January 2011 the Governor proposed statewide elimination of redevelopment agencies (RDAs). The Governor's proposal was incorporated into Assembly Bill 26 (ABX1 26) which was passed by the Legislature and signed into law by the Governor on June 28, 2011. The California Supreme Court decision on December 28, 2011 upheld ABX1 26 and the legislature's constitutional Authority to dissolve the RDA.

We disagree that the loan payments are unallowable. The loans have been reflected on the balance sheet of the Redevelopment Agency (RDA) and the City since the loans were initiated. The quarterly loan payments of \$3,519 were made by the RDA since September 1998 and the \$42,806 quarterly payments were made since September 2003. No payments have been made since June 2011.

c. "On January 31, 2011, the RDA transferred controlling interest in the Senior Housing Corporation (\$2,084,460 in equity) to the City."

Response: The City Council has not taken formal action to effect transfer of controlling interest in the Senior Housing Corporation. The City Council adopted Resolution 2012-11 on January 17, 2012 electing to serve as the Successor Agency to the dissolved RDA and electing to have the Oakdale City Housing Authority retain assets and housing functions of the former RDA.

The board of the Senior Housing Corporation was appointed by the chair of the Successor Agency. The board is comprised of the Chair of the Successor Agency, a Board Member of the Successor Agency, the City Manager and two community members.

This report has brought to our attention the need to take formal action by the Successor Agency and the Oversight Board to effect the oversight of this housing asset.

The City of Oakdale wishes to be in compliance with the State and requests that the State include this information in the final report.

Sincerely,



Albert Avila
Finance Director



**DEPARTMENT OF
FINANCE**

EDMUND G. BROWN JR. ■ GOVERNOR

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

August 28, 2013

Mr. Albert Avila, Finance Director
City of Oakdale Successor Agency
280 North Third Avenue
Oakdale, CA 95361

Dear Mr. Avila:

Subject: Approval/Objection of Oversight Board Actions

The City of Oakdale Successor Agency (Agency) notified the California Department of Finance (Finance) of its April 18, 2013 Oversight Board (OB) Resolutions on May 16, 2013. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB actions.

Based on our review and application of the law, Finance is approving the following resolutions:

- OB Resolution No. 2013-07[✓] authorizing the transfer of a parking lot located on Yosemite Avenue. This parking lot provides parking for City of Oakdale (City) employees and public parking for the Clarence Wood Community Park. Therefore, this parking lot is considered governmental use.
- OB Resolution No. 2013-09[✓] authorizing the transfer of a public landscaped open space located at 120 South Sierra Avenue. This property surrounds the community development and services department building, which meets the definition of a park. Therefore, this property is considered used for governmental purposes, and may be transferred to the City.
- OB Resolution Nos. 2013-10[✓] and 2013-14[✓] authorizing the transfer of stormwater drainage properties located on Sierra Avenue and South Yosemite Avenue, respectively. These properties are used to help serve the public by controlling stormwater in the area, thus it is appropriate to transfer these properties to the City as governmental use.
- OB Resolution No. 2013-13[✓] authorizing the transfer of a small business center and public parking lot located on 142 South Second Avenue. This small business center, Oakdale Business Center, is used by the City and the federal government for governmental purposes and is allowed to be transferred.
- OB Resolution No. 2013-15[✓] authorizing the transfer of the public sports park located on 750 East Warnerville Road. The public sports park is considered governmental use, and may be transferred to the City.

Mr. Albert Avila
August 28, 2013
Page 2

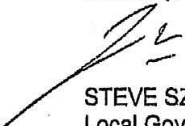
- OB Resolution No. 2013-16 relating to the public safety communication tower and vacant lot located on 640 West Greger Avenue. The communication tower is currently being used by the police and fire department for public emergency situations. This property was constructed and used for governmental purposes; therefore, it is allowed to be transferred to the City.

Based on our review and application of the law, the Agency's OB Resolution Nos. 2013-06, 2013-08, 2013-11 and 2013-12 are not approved. These resolutions authorize the transfers of public parking lots located throughout the City. These parcels do not appear to be used specifically for governmental purposes as they are not adjacent to parks or governmental buildings. HSC section 34191.3 suspended the requirements of HSC section 34181 (a) and the successor agency's ability to dispose of assets for non-governmental purposes, until Finance has issued a finding of completion and has approved a long range property management plan. Therefore, these properties will need to be included on the Long-Range Property Management Plan.

This is our determination with respect to the OB actions taken.

Please direct inquiries to Wendy Griffe, Supervisor, or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Bryan Whitemyer, City Manager, City of Oakdale
Ms. Lauren Klein, Auditor-Controller, County of Stanislaus
Mr. Steven Mar, Bureau Chief, Local Government Audit Bureau, California State
Controller's Office
California State Controller's Office



IN THE CITY COUNCIL
OF THE CITY OF OAKDALE
STATE OF CALIFORNIA
CITY COUNCIL RESOLUTION 2012-11

A RESOLUTION OF THE CITY OF OAKDALE CITY
COUNCIL ELECTING TO HAVE THE CITY OF OAKDALE
SERVE AS THE SUCCESSOR AGENCY TO THE OAKDALE
COMMUNITY REDEVELOPMENT AGENCY PURSUANT TO
CALIFORNIA HEALTH & SAFETY CODE SECTION 34173
AND ELECTING TO HAVE THE OAKDALE CITY HOUSING
AUTHORITY RETAIN THE HOUSING ASSETS AND
HOUSING FUNCTIONS PREVIOUSLY PERFORMED BY THE
OAKDALE COMMUNITY REDEVELOPMENT AGENCY
PURSUANT TO HEALTH & SAFETY CODE SECTION
34176

WHEREAS, the Oakdale Community Redevelopment Agency ("Agency") is a public body, corporate and politic, organized and existing under the California Community Redevelopment Law (Health & Safety Code §33000 *et seq.* ("CRL")); and

WHEREAS, the City of Oakdale is a municipal corporation and general law city under the Constitution of the State of California ("City"); and

WHEREAS, on December 29, 2011, in *California Redevelopment Association v. Matosantos*, Case No. S194861, the California Supreme Court upheld AB 26x1, which dissolves all of the redevelopment agencies in California, and struck down AB 27x1, which allowed redevelopment agencies to remain in existence if the opted in to the "Voluntary Alternative Redevelopment Program" ("VARP"); and

WHEREAS, the City had opted into the VARP by adopting Ordinance No. 1203; and

WHEREAS, because the Agency was going to remain in existence, the City was not required to decide whether it wished to be the Successor Agency to the Agency; and

WHEREAS, now that the VARP program has been stricken by the Court, the City has the option of deciding whether or not it wishes to serve as the Successor Agency to the Agency; and

WHEREAS, in footnote 25 of the Supreme Court's decision, the Court extended the deadline for making the election only to January 13, 2012; and

WHEREAS, the City Council has determined that it is in the best interest of the City of Oakdale for the City to serve as the Successor Agency; and



CITY OF OAKDALE
CITY COUNCIL RESOLUTION 2012-11

WHEREAS, pursuant to Health & Safety Code Section 34173(d) (1). the City would automatically became the Successor Agency unless it affirmatively elected not to serve as the Successor Agency by Resolution, but the City wishes to express its intention to serve as the Successor Agency to the Oakdale Community Redevelopment Agency; and

WHEREAS, pursuant to Health & Safety Code Section 34176, the City could either opt to retain the housing assets and functions previously performed by the Oakdale Community Redevelopment Agency or, by default, allow those assets and functions to be assigned to and assumed by the Oakdale Housing Authority;

WHEREAS, the City wishes to express its intention to have the Oakdale Housing Authority assume all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Oakdale Community Redevelopment Agency.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Oakdale, California, as follows:

SECTION 1. The above recitals are true and correct and are adopted as the findings of the City Council.

SECTION 2. The City Council hereby affirmatively elects pursuant to Health & Safety Code Section 34173(d)(1) to serve as the Successor Agency to the Oakdale Community Redevelopment Agency.

SECTION 3. The City Council hereby elects to have the City of Oakdale assume all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Oakdale Redevelopment Agency in accordance with Health & Safety Code Section 34176.

SECTION 4. The Interim City Manager and is hereby authorized and directed to take such other and further actions, and sign such other and further documents, as is necessary and proper in order to implement this Resolution on behalf of the City.

PASSED AND ADOPTED at a regular meeting of the Oakdale City Council held on January 17, 2012, by the following vote:

AYES:	COUNCIL MEMBERS:	Brennan, Dunlop, Howard, Paul
NOES:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	Morgan
ABSTAINED:	COUNCIL MEMBERS:	None

Pat Paul
Pat Paul, Mayor

ATTEST:

Nancy Lilly
Nancy Lilly, CMC, City Clerk

**State Controller's Office
Division of Audits
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<http://www.sco.ca.gov>