

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Planning and Community Development Af

BOARD AGENDA # *D-1

Urgent Routine

AGENDA DATE January 15, 2013

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Authorize the Auditor-Controller to Increase Appropriations in the Successor Agency Housing Fund in the Amount of \$10,052,753 for the Transfer of Funds for Distribution to Affected Taxing Agencies

STAFF RECOMMENDATIONS:

Direct the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet to increase appropriations in the Successor Agency Housing Fund for the transfer of funds for distribution to affected taxing agencies.

FISCAL IMPACT:

As required by the Redevelopment Agency Dissolution Act (the "Dissolution Act") (ABx1 26), as amended by AB 1484, the Successor Agency for the former Stanislaus County Redevelopment Agency took action to transfer the entire asset balance of the Low and Moderate Income Housing Fund (LMIHF) of \$10,052,753 to the County-Auditor Controller on December 18, 2012. This request for approval to authorize the Auditor-Controller to increase appropriations in the Successor Housing Agency Fund for the transfer of funds for distribution to affected taxing entities is a technical "clean-up" for County Budget
(Continued on page 2)

BOARD ACTION AS FOLLOWS:

No. 2013-28

On motion of Supervisor Withrow, Seconded by Supervisor O'Brien
and approved by the following vote,

Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Authorize the Auditor-Controller to Increase Appropriations in the Successor Agency Housing Fund in the Amount of \$10,052,753 for the Transfer of Funds for Distribution to Affected Taxing Agencies

Page 2

FISCAL IMPACT: (Continued)

purposes. At the time of the Fiscal Year 2012-2013 budget approval, there were many unknowns regarding the LMIHF and, as such, the budget for the Successor Housing Agency Fund states that: "The Department [County Planning and Community Development] will return to the Board of Supervisors to make necessary adjustments either through a separate agenda item or through one of the quarterly financial reports, if necessary, as clarity regarding the implementation of ABx1 26 and pending State legislation develops."

The transfer of funds to the Auditor-Controller was required to occur by December 21, 2012 and to be distributed to the affected taxing agencies by the Auditor-Controller on January 2, 2013. The amount of \$10,052,753 was the available cash remaining in the Successor Housing Agency fund as determined by the LMIHF Due Diligence Review (DDR) performed by the accounting firm of Brown Armstrong and submitted to the State Department of Finance (DOF). The Successor Agency was required to transfer the funds determined by the DOF to be available for distribution to the taxing entities within five business days of receipt of the DOF's determination. The DOF's determination was received on December 15, 2012.

DISCUSSION:

The Redevelopment Agency Dissolution Act (the "Dissolution Act") (ABx1 26), as amended by AB 1484, requires successor agencies employ a licensed accountant to conduct a Due Diligence Review (DDR) to determine the unobligated balances available for distribution to taxing entities. Reviews of the Low and Moderate Income Housing Fund (LMIHF) and "All Other Funds" are required to be provided to the Oversight Board for review and approval and then transmitted to the State Department of Finance (DOF). The DOF may accept or adjust the amounts determined in the DDR's to be available for allocation to the taxing entities.

The LMIHF DDR prepared for the former Stanislaus County Redevelopment Agency reflected the entire LMIHF asset balance of \$10,052,753 as being legally restricted and unavailable for distribution to taxing entities. The LMIHF DDR was reviewed and approved, without adjustment, by the Oversight Board to the former Stanislaus County Redevelopment Agency on October 26, 2012. (See Attachment A)

Despite the LMIHF DDR's approval by the Oversight Board, the DOF determined on November 9, 2012, that the entire asset balance of the LMIHF was unrestricted and available for distribution to taxing entities. As allowed under the Dissolution Act, the Successor Agency requested and was granted a meet and confer with the DOF on October 4, 2012. In response to the meet and confer, the DOF on December 15, 2012, provided a final determination finding, again, that the entire asset balance of the LMIHF was unrestricted and available for allocation to taxing entities.

Approval to Authorize the Auditor-Controller to Increase Appropriations in the Successor Agency Housing Fund in the Amount of \$10,052,753 for the Transfer of Funds for Distribution to Affected Taxing Agencies

Page 3

Successor agencies are required to transmit the funds determined to be available for allocation to the taxing entities within five business days of receipt of the notification of the amount determined by the DOF (or within five business days of the meet and confer determination, if one is requested). If a successor agency failed to transmit the funds determined to be available for distribution to the taxing entities, penalties for noncompliance may be imposed on the sponsoring community. Those penalties include, but are not limited to, the offset of sales and use tax by the Board of Equalization and/or offset of property tax by the County Auditor-Controller. Other Departments and programs receive sales and use tax and property tax and staff would not want to put those programs and services at risk.

As mandated under the Dissolution Act, the Successor Agency for the former Stanislaus County Redevelopment Agency took action to transfer the entire asset balance of the LMIHF of \$10,052,753 to the County Auditor-Controller on December 18, 2012. The transfer was approved by the Oversight Board's October 26, 2012, approval of the LMIHF DDR which directed staff to take all actions required under law. The transfer of funds to the County Auditor-Controller and the ultimate distribution of funds to taxing entities have been objected to by the California Rural Legal Assistance, Inc. (See Attachment B)

POLICY ISSUES:

The State Department of Finance issued their final determination letter on December 15, 2012 which required the Successor Agency to transfer the funds to the Auditor-Controller within five days in order to avoid penalties.

STAFFING IMPACT:

There is no staffing impact associated with this item.

CONTACT PERSON:

Angela Freitas, Planning and Community Development Director. Telephone: (209) 525-6330

ATTACHMENTS:

- A. October 26, 2012, Oversight Board to the Successor Agency to the Stanislaus County Redevelopment Agency Item No. VII-IA Staff Report – Review and Approval of the LMIHF DDR
- B. December 21, 2012, letter from the California Rural Legal Assistance, Inc.

Database
Balance Type
Data Access Set

FMSDBPRD.CO.STANISLAUS.CA.US.PROD
Budget
County of Stanislaus

DO NOT CHANGE
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Ledger
Budget
Category
Source
Currency
Period
Batch Name
Journal Name
Journal Description
Journal Reference
Organization
Chart Of Accounts

* List - Text County of Stanislaus
List - Text LEGAL BUDGET
* List - Text Budget - Upload
* List - Text
* List - Text USD
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List - Text Stanislaus Budget Org
Accounting Flexfield

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DO NOT CHANGE
ENTER AS MMM-YY (ALL CAPS FOR MMM) EX: NOV-11

DO NOT CHANGE
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Upl	Fund (4 char)	Org (7 char)	Account (5 char)	GL Project (7 char)	Location (6 char)	Misc. (6 char)	Other (5 char)	Debit incr appropriations decr est revenue * Number	Credit decr appropriations incr est revenue * Number	Line Description Text
*	1250	0013401	65660	0000000	000000	000000	00000	10,052,753.00		Inc. Approp.

Totals: 10052753 0
Tip: This is not the end of the Template. Unprotect the sheet and insert as many rows as needed.

Explanation: Increase appropriations to allow for the transfer of all Successor Housing Agency funds to the Auditor-Controller for distribution to all affected taxing agencies.			
Requesting Department ANGELA FREITAS <i>AF</i>		CEO <i>M. Lopez</i>	Data Entry
Prepared by Date <i>1-11-2013</i>		Supervisor's Approval Date <i>1/10/12</i>	Auditors Office Only
		Keyed by	Prepared By Date <i>1/6/13</i>
		Date	Approved By Date

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE
STANISLAUS COUNTY REDEVELOPMENT AGENCY**

STAFF REPORT

SUBJECT:

Review and Approval of the Low and Moderate Income Housing Fund Due Diligence Review

RECOMMENDATIONS:

- 1) Review the Low and Moderate Income Housing Fund Due Diligence Review.
- 2) Approve the attached Draft Resolution to approve the Low and Moderate Income Housing Fund Due Diligence Review.
- 3) Direct the Successor Agency staff to take all actions required under law including, but not limited to, transmitting the approved Low and Moderate Income Housing Fund to the State Department of Finance (DOF) and the County Auditor-Controller.

DISCUSSION:

This item was originally scheduled to be considered by the Oversight Board on October 19, 2012; however, due to the lack of a quorum, the meeting was canceled and the item rescheduled to October 26, 2012.

The Redevelopment Agency Dissolution Act (the "Dissolution Act") (ABx1 26), as amended by AB 1484, requires successor agencies employ a licensed accountant, approved by the County Auditor-Controller, to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities. Reviews of the Low and Moderate Income Housing Fund (LMIHF) and all other funds are required to be provided to the Oversight Board for review and approval and then transmitted to the State Department of Finance (DOF) and the County Auditor-Controller.

By statute the review of the LMIHF is required to be provided to the Oversight Board by October 1, 2012; and reviewed, approved, and transmitted to the DOF by October 15, 2012. The inability for some successor agencies to meet these deadlines due to time limitations has been recognized by the DOF and notice that the Successor Agency would be unable to meet these deadlines was provided to the DOF on September 28, 2012. A review of other funds is required to be provided to the Oversight Board by December 15, 2012.

The LMIHF review was provided to the Oversight Board (along with the County Auditor-Controller, State Controller, and DOF) on October 8, 2012. (See Attachment 1) The Oversight Board convened the required public comment session on October 11, 2012. No public comment was received during the public comment session. Prior to approval, the Oversight Board may adjust any amount provided in the review to reflect additional information and analysis.

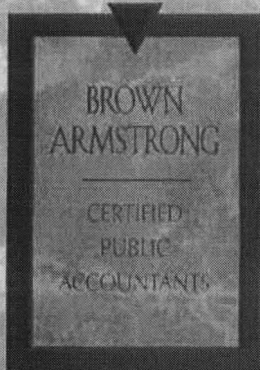
The LMIHF review reflects the entire asset balance of \$10,052,753 as being legally restricted for uses specified in the 1991 California Rural Legal Assistance Agreement. (See Attachment 2) As such, there is no amount of the LMIHF available to be remitted to the County for disbursement to taxing entities.

The DOF may adjust the amounts determined to be available for allocation to the taxing entities in the review based on its analysis and information provided by the Successor Agency and others. The DOF is to complete its review no later than November 9, 2012. The DOF must provide the Oversight Board and the Successor Agency an explanation of its basis for overturning or modifying any findings, determinations, or authorizations of the Oversight Board. The Successor Agency may request a meet and confer with the DOF within five business days of receipt of the DOF's determination. The DOF is required to meet and confer and either confirm or modify its determinations and decisions within 30 days of the request to meet and confer.

The Successor Agency is required to transmit the funds determined to be available for allocation to the taxing entities within five business days of receipt of the notification of the amount determined by the DOF (within five business days of the meet and confer determination, if one is requested). If the Successor Agency fails to transmit the funds determined to be available for allocation to the taxing entities, there are penalties for noncompliance that may be imposed on the Sponsoring Community (in this case Stanislaus County). Those penalties include, but are not limited to, offset of sales and use tax by the Board of Equalization and offset of property tax by the County Auditor-Controller.

ATTACHMENTS:

1. October 8, 2012, Low and Moderate Income Housing Fund Due Diligence Report Prepared by Brown Armstrong
2. November 5, 1991, California Rural Legal Assistance Agreement
3. Draft Resolution No. 2012-08



BROWN ARMSTRONG
Certified Public Accountants

**INDEPENDENT ACCOUNTANT'S REPORT ON
APPLYING AGREED-UPON PROCEDURES
LOW AND MODERATE INCOME HOUSING FUND**

Oversight Board of the Successor Agency
Stanislaus County Redevelopment Agency
Modesto, California

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EMAIL: info@bacpas.com

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FAX 916.746.1218

8050 N. PALM AVENUE

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STOCKTON, CA 95207
TEL 209.451.8331

We have performed the required agreed-upon procedures (AUP) enumerated in Attachment A, which were agreed to by the California State Controller's Office and the Department of Finance solely to assist you in ensuring that the Successor Agency of Stanislaus County Redevelopment Agency (the Agency) is complying with its statutory requirements with respect to Assembly Bill (AB) 1484. Management of the Agency is responsible for the accounting records pertaining to statutory compliance pursuant to Health and Safety Code. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The scope of this engagement was limited to performing the required agreed-upon procedures as set forth in Attachment A. The results of the procedures performed are listed under each related testing step in Attachment A.

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion as to the appropriateness of the results summarized in Attachment A. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the management of the Agency and applicable State agencies, and 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.

BROWN ARMSTRONG
ACCOUNTANCY CORPORATION

Brown Armstrong
Accountancy Corporation

Bakersfield, California
October 8, 2012



REGISTERED with the Public Company
Accounting Oversight Board and
SICPA of the American Institute of
Certified Public Accountants

ATTACHMENT A

List of Procedures for Due Diligence Review

General information regarding these procedures:

1. The procedures associated with Sections 34179.5(c)(1) through 34179.5(c)(3) and Sections 34179.5(c)(5) through 34179.5(c)(6) are to be applied separately to (a) the Low and Moderate Income Housing Fund of the Successor Agency and to (b) all other funds of the Successor Agency combined (excluding the Low and Moderate Income Housing Fund).
2. The due date for the report associated with the Low and Moderate Income Housing Fund is October 1, 2012.
3. The due date for the report associated with all other funds of the Successor Agency combined (excluding the Low and Moderate Income Housing Fund) is December 15, 2012.
4. Because the procedures required by Section 34179.5(c)(4) pertain to the Successor Agency as a whole, these procedures should be addressed in the report that is due on December 15, 2012.

Fiscal year references below refer to fiscal years ending on June 30. This language should be modified for those agencies that have a different fiscal year-end.

For purposes of the procedures below and the related exhibits, the amount of the assets presented should be based upon accounting principles generally accepted in the United States of America (GAAP), unless otherwise noted.

To the extent the procedures listed below are duplicative to the agreed-upon procedures that were performed pursuant to Health and Safety Code (HSC) 34182 (a)(1), it is acceptable to obtain and use information from the HSC 34182 (a)(1) procedures for purposes of this due diligence review without having to re-perform the procedures. When this is done, the due diligence report should refer to the report that was issued for the agreed-upon procedures performed under HSC 34182 (a)(1).

Certain assets may qualify as a deduction under more than one category of deduction. In such cases, care should be taken to ensure that such assets have been included as a deduction in the summary schedule only once.

Citation:

Section 34179.5(c)(1) The dollar value of assets transferred from the former redevelopment agency to the successor agency on or about February 1, 2012.

Suggested Procedure(s):

1. Obtain from the Successor Agency a listing of all assets that were transferred from the former redevelopment agency to the Successor Agency on February 1, 2012. Agree the amounts on this listing to account balances established in the accounting records of the Successor Agency. Identify in the Agreed-Upon Procedures (AUP) report the amount of the assets transferred to the Successor Agency as of that date.

Result:

We found no exceptions as a result of the procedures performed. The amount transferred was \$9,914,239. See Attachment B.

Purpose: To review the dollar value of assets and cash and cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to the city, county, or city and county that formed the redevelopment agency and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer (Section 34179.5(c)(2)).

Suggested Procedure(s):

2. If the State Controller's Office has completed its review of transfers required under both Sections 34167.5 and 34178.8 and issued its report regarding such review, attach a copy of that report as an exhibit to the AUP report. If this has not yet occurred, perform the following procedures:
 - A) Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the former redevelopment agency to the city, county, or city and county that formed the redevelopment agency for the period from January 1, 2011, through January 31, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.
 - B) Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the Successor Agency to the city, county, or city and county that formed the redevelopment agency for the period from February 1, 2012, through June 30, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.
 - C) For each transfer, obtain the legal document that formed the basis for the enforceable obligation that required any transfer. Note in the AUP report the absence of any such legal document or the absence of language in the document that required the transfer.

Result:

We found no exceptions as a result of the procedures performed. See Attachment E for letter from the Department of Finance.

Purpose: To review the dollar value of any cash or cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to any other public agency or private party and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer (Section 34179.5(c)(3)).

Suggested Procedure(s):

3. If the State Controller's Office has completed its review of transfers required under both Sections 34167.5 and 34178.8 and issued its report regarding such review, attach a copy of that report as an exhibit to the AUP report. If this has not yet occurred, perform the following procedures:
 - A) Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the former redevelopment agency to any other public agency or to private parties for the period from January 1, 2011, through January 31, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.
 - B) Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the Successor Agency to any other public agency or private parties for the period from February 1, 2012, through June 30, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.

- C) For each transfer, obtain the legal document that formed the basis for the enforceable obligation that required any transfer. Note in the AUP report the absence of any such legal document or the absence of language in the document that required the transfer.

Result:

We found no exceptions as a result of the procedures performed. See Attachment E for letter from the Department of Finance.

Purpose: The review the expenditure and revenue accounting information and identify transfers and funding sources for the 2010–11 and 2011–12 fiscal years that reconciles balances, assets, and liabilities of the successor agency on June 30, 2012, to those reported to the State Controller for the 2009–10 fiscal year (Section 34179.5(c)(4)).

Suggested Procedure(s):

4. Perform the following procedures:
- A) Obtain from the Successor Agency a summary of the financial transactions of the Redevelopment Agency and the Successor Agency in the format set forth in the attached schedule for the fiscal periods indicated in the schedule. For purposes of this summary, the financial transactions should be presented using the modified accrual basis of accounting. End of year balances for capital assets (in total) and long-term debt (in total) should be presented at the bottom of this summary schedule for information purposes.
 - B) Ascertain that for each period presented, the total of revenues, expenditures, and transfers accounts fully for the changes in equity from the previous fiscal period.
 - C) Compare amounts in the schedule relevant to the fiscal year ending June 30, 2010, to the state controller's report filed for the Redevelopment Agency for that period.
 - D) Compare amounts in the schedule for the other fiscal periods presented to account balances in the accounting records or other supporting schedules. Describe in the report the type of support provided for each fiscal period.

Result:

We found no exceptions as a result of the procedures performed. See Attachment C.

Section 34179.5(c)(5) A separate accounting for the balance for the Low and Moderate Income Housing Fund for all other funds and accounts combined shall be made as follows:

- (A) *A statement of the total value of each fund as of June 30, 2012.*

Suggested Procedure(s):

5. Obtain from the Successor Agency a listing of all assets of the Low and Moderate Income Housing Fund as of June 30, 2012, for the report that is due October 1, 2012, and a listing of the assets of all other funds of the Successor Agency as of June 30, 2012 (excluding the previously reported assets of the Low and Moderate Income Housing Fund), for the report that is due December 15, 2012. When this procedure is applied to the Low and Moderate Income Housing Fund, the schedule attached as an exhibit will include only those assets of the Low and Moderate Income Housing Fund that were held by the Successor Agency as of June 30, 2012, and will exclude all assets held by the entity that assumed the housing function previously performed by the former redevelopment agency. Agree the assets so listed to recorded balances reflected in the accounting records of the Successor Agency. The listings should be attached as an exhibit to the appropriate AUP report.

Result:

We found no exceptions as a result of the procedures performed for the Low and Moderate Income Housing Fund. Please see Attachment C for detail.

Section 34179.5(c)(5)(B) An itemized statement listing any amounts that are legally restricted as to purpose and cannot be provided to taxing entities. This could include the proceeds of any bonds, grant funds, or funds provided by other governmental entities that place conditions on their use.

Suggested Procedure(s):

6. Obtain from the Successor Agency a listing of asset balances held on June 30, 2012, that are restricted for the following purposes:

A) Unspent bond proceeds:

1. Obtain the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures, amounts set aside for debt service payments, etc.).
2. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).
3. Obtain from the Successor Agency a copy of the legal document that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by the Successor Agency as restricted.

B) Grant proceeds and program income that are restricted by third parties:

1. Obtain Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures).
2. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).
3. Obtain from the Successor Agency a copy of the grant agreement that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by the Successor Agency as restricted.

C) Other assets considered to be legally restricted:

1. Obtain Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures).
2. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).
3. Obtain from the Successor Agency a copy of the legal document that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by Successor the Agency as restricted.

D) Attach the above mentioned Successor Agency prepared schedule(s) as an exhibit to the AUP report.

Result:

Please see attachment C for detail of asset balances held on June 30, 2012, that are restricted for Step 6(C) above. Also see Attachment D for detail regarding the breakout of the Step 6 balances.

Section 34179.5(c)(5)(C) An itemized statement of the values of any assets that are not cash or cash equivalents. This may include physical assets, land, records, and equipment. For the purpose of this accounting, physical assets may be valued at purchase cost or at any recently estimated market value. The statement shall list separately housing-related assets.

Suggested Procedure(s):

7. Perform the following procedures:

- A) Obtain from the Successor Agency a listing of assets as of June 30, 2012, that are not liquid or otherwise available for distribution (such as capital assets, land held for resale, long-term receivables, etc.) and ascertain if the values are listed at either purchase cost (based on book value reflected in the accounting records of the Successor Agency) or market value as recently estimated by the Successor Agency.
- B) If the assets listed at 7(A) are listed at purchase cost, trace the amounts to a previously audited financial statement (or to the accounting records of the Successor Agency) and note any differences.
- C) For any differences noted in 7(B), inspect evidence of disposal of the asset and ascertain that the proceeds were deposited into the Successor Agency trust fund. If the differences are due to additions (this generally is not expected to occur), inspect the supporting documentation and note the circumstances.
- D) If the assets listed at 7(A) are listed at recently estimated market value, inspect the evidence (if any) supporting the value and note the methodology used. If no evidence is available to support the value and/or methodology, note the lack of evidence.

Result:

These procedures are not applicable for the Successor Agency's Low and Moderate Income Housing Fund since there are no assets that are not liquid for the Successor Agency's Low and Moderate Income Housing Fund on June 30, 2012. The only assets in the Successor Agency's Low and Moderate Income Housing Fund on June 30, 2012, were cash and interest receivable. Please see Attachment C for detail.

Section 34179.5(c)(5)(D) An itemized listing of any current balances that are legally or contractually dedicated or restricted for the funding of an enforceable obligation that identifies the nature of the dedication or restriction and the specific enforceable obligation. In addition, the successor agency shall provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements. If a review finds that future revenues together with dedicated or restricted balances are insufficient to fund future obligations and thus retention of current balances is required, it shall identify the amount of current balances necessary for retention. The review shall also detail the projected property tax revenues and other general purpose revenues to be received by the successor agency, together with both the amount and timing of the bond debt service payments of the successor agency, for the period in which the oversight board anticipates the successor agency will have insufficient property tax revenue to pay the specified obligations.

Suggested Procedure(s):

8. Perform the following procedures:

- A) If the Successor Agency believes that asset balances need to be retained to satisfy enforceable obligations, obtain from the Successor Agency an itemized schedule of asset balances (resources) as of June 30, 2012, that are dedicated or restricted for the funding of enforceable obligations and perform the following procedures. The schedule should identify the amount dedicated or restricted, the nature of the dedication or restriction, the specific enforceable obligation to which the dedication or restriction relates, and the language in the legal document that is associated with the enforceable obligation that specifies the dedication of existing asset balances toward payment of that obligation.
 - a. Compare all information on the schedule to the legal documents that form the basis for the dedication or restriction of the resource balance in question.

- b. Compare all current balances to the amounts reported in the accounting records of the Successor Agency or to an alternative computation.
 - c. Compare the specified enforceable obligations to those that were included in the final Recognized Obligation Payment Schedule approved by the California Department of Finance.
 - d. Attach as an exhibit to the report the listing obtained from the Successor Agency. Identify in the report any listed balances for which the Successor Agency was unable to provide appropriate restricting language in the legal document associated with the enforceable obligation.
- B) If the Successor Agency believes that future revenues together with balances dedicated or restricted to an enforceable obligation are insufficient to fund future obligation payments and thus retention of current balances is required, obtain from the Successor Agency a schedule of approved enforceable obligations that includes a projection of the annual spending requirements to satisfy each obligation and a projection of the annual revenues available to fund those requirements and perform the following procedures:
- a. Compare the enforceable obligations to those that were approved by the California Department of Finance. Procedures to accomplish this may include reviewing the letter from the California Department of Finance approving the Recognized Enforceable Obligation Payment Schedules for the six month period from January 1, 2012, through June 30, 2012, and for the six month period July 1, 2012, through December 31, 2012.
 - b. Compare the forecasted annual spending requirements to the legal document supporting each enforceable obligation.
 - i. Obtain from the Successor Agency its assumptions relating to the forecasted annual spending requirements and disclose in the report major assumptions associated with the projections.
 - c. For the forecasted annual revenues:
 - i. Obtain the assumptions for the forecasted annual revenues and disclose in the report major assumptions associated with the projections.
- C) If the Successor Agency believes that projected property tax revenues and other general purpose revenues to be received by the Successor Agency are insufficient to pay bond debt service payments (considering both the timing and amount of the related cash flows), obtain from the Successor Agency a schedule demonstrating this insufficiency and apply the following procedures to the information reflected in that schedule.
- a. Compare the timing and amounts of bond debt service payments to the related bond debt service schedules in the bond agreement.
 - b. Obtain the assumptions for the forecasted property tax revenues and disclose major assumptions associated with the projections.
 - c. Obtain the assumptions for the forecasted other general purpose revenues and disclose major assumptions associated with the projections.
- D) If procedures, A, B, or C were performed, calculate the amount of current unrestricted balances necessary for retention in order to meet the enforceable obligations by performing the following procedures.
- a. Combine the amount of identified current dedicated or restricted balances and the amount of forecasted annual revenues to arrive at the amount of total resources available to fund enforceable obligations.

- b. Reduce the amount of total resources available by the amount forecasted for the annual spending requirements. A negative result indicates the amount of current unrestricted balances that needs to be retained.
- c. Include the calculation in the AUP report

Result:

These procedures are not applicable for the Successor Agency's Low and Moderate Income Housing Fund. Please see Attachment C for detail.

Section 34179.5(c)(5)(E) An itemized list and analysis of any amounts of current balances that are needed to satisfy obligations that will be placed on the Recognized Obligation Payment Schedules for the current fiscal year.

Suggested Procedure(s):

9. If the Successor Agency believes that cash balances as of June 30, 2012, need to be retained to satisfy obligations on the Recognized Obligation Payment Schedule (ROPS) for the period of July 1, 2012, through June 30, 2013, obtain a copy of the final ROPS for the period of July 1, 2012, through December 31, 2012, and a copy of the final ROPS for the period January 1, 2013, through June 30, 2013. For each obligation listed on the ROPS, the Successor Agency should add columns identifying (1) any dollar amounts of existing cash that are needed to satisfy that obligation and (2) the Successor Agency's explanation as to why the Successor Agency believes that such balances are needed to satisfy the obligation. Include this schedule as an attachment to the AUP report.

Result:

These procedures are not applicable for the Successor Agency's Low and Moderate Income Housing Fund. Please see Attachment C for detail.

Purpose: The review shall total the net balances available after deducting the total amounts described in subparagraphs (B) to (E), inclusive, of paragraph (5). The review shall add any amounts that were transferred as identified in paragraphs (2) and (3) of subdivision (c) if an enforceable obligation to make that transfer did not exist. The resulting sum shall be available for allocation to affected taxing entities pursuant to Section 34179.6. It shall be a rebuttable presumption that cash and cash equivalent balances available to the successor agency are available and sufficient to disburse the amount determined in this paragraph to taxing entities. If the review finds that there are insufficient cash balances to transfer or that cash or cash equivalents are specifically obligated to the purposes described in subparagraphs (B), (D), and (E) of paragraph (5) in such amounts that there is insufficient cash to provide the full amount determined pursuant to this paragraph, that amount shall be demonstrated in an additional itemized schedule (Section 34179.5(c)(6)).

Suggested Procedure(s):

10. Obtain a schedule detailing the computation of the Balance Available for Allocation to Affected Taxing Entities. Amounts included in the calculation should agree to the results of the procedures performed in each section above. The schedule should also include a deduction to recognize amounts already paid to the County Auditor-Controller on July 12, 2012, as directed by the California Department of Finance. The amount of this deduction presented should be agreed to evidence of payment. The attached summary schedule (Attachment B) to be considered for this purpose. Separate schedules should be completed for the Low and Moderate Income Housing Fund and for all other funds combined (excluding the Low and Moderate Income Housing Fund).

Result:

Please see Attachment C for detail regarding the summary of balances available for allocation to affected taxing entities of the Agency's Low and Moderate Income Housing Fund.

Suggested Procedure(s):

11. Obtain a representation letter from Successor Agency management acknowledging their responsibility for the data provided to the practitioner and the data presented in the report or in any attachments to the report. Included in the representations should be an acknowledgment that management is not aware of any transfers (as defined by Section 34179.5) from either the former redevelopment agency or the Successor Agency to other parties for the period from January 1, 2011, through June 30, 2012, that have not been properly identified in the AUP report and its related exhibits. Management's refusal to sign the representation letter should be noted in the AUP report as required by attestation standards.

Result:

We obtained the Successor Agency management's representation letter dated October 8, 2012.

Attachment B—Summary of Financial Transactions

**Successor Agency to the Stanislaus County
Redevelopment Agency**

	Low and Moderate Income Housing Fund 12 Months Ended 6/30/2010	Low and Moderate Income Housing Fund 12 Months Ended 6/30/2011	Low and Moderate Income Housing Fund 7 Months Ended 1/31/2012	Low and Moderate Income Housing Fund 5 Months Ended 6/30/2012
Assets (modified accrual basis)				
Cash and cash equivalents	\$ 8,304,539	\$ 10,014,414	\$ 9,885,808	\$ 10,014,258
Interest Receivable	25,507	28,430	28,431	38,495
Interfund receivable	158,446	-	-	-
Due from other funds	-	155,285	-	-
Total Assets	8,488,492	10,198,129	9,914,239	10,052,753
Liabilities (modified accrual basis)				
Accounts payable	7,271	1,060	19,424	8,165
Total Liabilities	7,271	1,060	19,424	8,165
Equity	8,481,221	10,197,069	9,894,815	10,044,588
Total Liabilities and Equity	8,488,492	10,198,129	9,914,239	10,052,753
Total Revenues	486,561	168,794	(31,881)	158,588
Total Expenditures	418,063	542,117	270,373	8,815
Total Transfers	1,827,258	2,089,171	-	-
Net change in equity	1,895,756	1,715,848	(302,254)	149,773
Beginning Equity	6,585,465	8,481,221	10,197,069	9,894,815
Ending Equity	\$ 8,481,221	\$ 10,197,069	\$ 9,894,815	\$ 10,044,588
Other Information (show year end balances for all three years presented):				
Capital assets as of end of year	N/A	N/A	N/A	N/A
Long-term debt as of end of year	N/A	N/A	N/A	N/A

Attachment C—List of Assets

**Successor Agency to the Stanislaus County Redevelopment Agency
Low and Moderate Income Housing Fund**

SUMMARY OF BALANCES AVAILABLE FOR ALLOCATION TO AFFECTED TAXING ENTITIES

Total amount of assets held by the successor agency as of June 30, 2012 (procedure 5)	\$ 10,052,753
Add the amount of any assets transferred to the city or other parties for which an enforceable obligation with a third party requiring such transfer and obligating the use of the transferred assets did not exist (procedures 2 and 3)	-
Less assets legally restricted for uses specified by debt covenants, grant restrictions, or restrictions imposed by other governments (procedure 6)	10,052,753
Less assets that are not cash or cash equivalents (e.g., physical assets) - (procedure 7)	-
Less balances that are legally restricted for the funding of an enforceable obligation (net of projected annual revenues available to fund those obligations) - (procedure 8)	-
Less balances needed to satisfy ROPS for the 2012-13 fiscal year (procedure 9)	-
Less the amount of payments made on July 12, 2012, to the County Auditor-Controller as directed by the California Department of Finance	-
Amount to be remitted to county for disbursement to taxing entities	\$ -

Note that separate computations are required for the Low and Moderate Income Housing Fund held by the Successor Agency and for all other funds held by the Successor Agency.

Attachment D—Summary of Step 6 balances

	<u>Low and Moderate Income Housing Fund</u>
Step 6 A Unspent Bond Proceeds	\$ -
Step 6 B Grant proceeds and program income that are restricted by third parties	-
Step 6 C Other Housing Fund Assets restricted per the California Rural Legal Assistance (CRLA) agreement dated November 5, 1991	<u>10,052,753</u>
Total	<u>\$ 10,052,753</u>



Attachment E - Housing Assets Transfer Form

DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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

August 31, 2012

Ms. Angela Freitas, Interim Executive Director
Stanislaus County
1010 10th Street, Suite 3400
Modesto, CA 95354

Dear Ms. Freitas:

Subject: Housing Assets Transfer Form

Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the Stanislaus County submitted a Housing Assets Transfer Form (Form) to the California Department of Finance (Finance) on August 1, 2012 for the period February 1, 2012 through July 31, 2012.

HSC section 34176 (e) defines a housing asset. Assets transferred deemed not to be a housing asset shall be returned to the successor agency. Finance has completed its review of your Form, which included obtaining clarification for various items. Based on a sample of line items reviewed and the application of law, Finance is objecting to Exhibit A, Item 1 – Vacant Lot. It is our understanding the vacant lot will be used to build a water well and not for low and moderate income housing purposes.

Except for the item disallowed as noted above, Finance is not objecting to the remaining items, if any, listed on your Form. If you disagree with our determination with respect to any items on the Form, you may request a Meet and Confer within five business days of receiving this letter.

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

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Aaron Farnon, Community Development Manager, Stanislaus County
Ms. Lauren Klein, CPA, Auditor-Controller, Stanislaus County
California State Controller's Office

THE BOARD SUPERVISORS OF THE COUNTY OF SANISLAUS
ACTION AGENDA SUMMARY

23

DEPT: Planning/Redevelopment
Urgent _____ Routine X

BOARD AGENDA # 9:30 a.m.-*VI-A
AGENDA DATE November 5, 1991
4/5 Vote Required YES _____ NO _____

CAO Concur with Recommendation YES _____ NO _____
(Information Attached)

SUBJECT: AGREEMENT BETWEEN AGENCY AND CALIFORNIA RURAL LEGAL ASSISTANCE

STAFF
RECOMMEN-
DATIONS:

1. APPROVE AGREEMENT AND DIRECT AGENCY CHAIR TO SIGN SAME.

FISCAL
IMPACT: None.

BOARD ACTION

No. 91-1517

On motion of Supervisor Paul, Seconded by Supervisor Caruso

and approved by the following vote,

Ayes: Supervisors: Paul, Starn, Blom, Caruso and Chairman Simon

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

Motion:

ATTEST: CLAUDIA KRAUSNICK, Clerk By: Patricia A. Minton Assistant Clerk

File No. M-54-C-23
1010-08

PAGE 2

SUBJECT: AGREEMENT BETWEEN AGENCY AND CALIFORNIA RURAL LEGAL ASSISTANCE

DISCUSSION: Prior to the adoption of the Stanislaus County Redevelopment Plan, the California Rural Legal Assistance (CRLA) became active in the redevelopment process as representatives of residents within the Project Area. The CRLA is concerned about the impact of the Plan upon the availability and supply of low and moderate income housing within the Plan's boundary. Therefore, this agreement (Exhibit A) has been prepared to mitigate the concerns of the CRLA. Below are the main points of the Agreement.

1. The Agency shall prepare a Community Plan for:
 - a) Airport
 - b) Shackelford
 - c) South 7th Street
 - d) Butte-Glenn-Imperial
2. Replacement Housing and Relocation
3. Agency shall set aside and expend twenty-five percent (25%) of the gross tax increment revenue
4. Reports required by law shall be made available to CRLA
5. Affordability and Occupancy Restrictions

POLICY ISSUES: None.

STAFFING IMPACT: None.

AGREEMENT

This Agreement is entered into this 5th day of November 1991 by and among the Stanislaus County Redevelopment Agency, a public body, corporate and politic (the "Agency"), and Roberta Northcutt, Alice Kay Ussery, Maria Pulido, Diane Moyer, Andrew Barrington, June M. Mendes, Richard A. Furr, Sr., Sylvia E. Cowan (the "Residents") (collectively, the Agency and the Residents shall be referred to as the "Parties").

WHEREAS, the Agency has adopted the Stanislaus County Redevelopment Plan No. 1 on July 9, 1991 ("Plan");

WHEREAS, redevelopment of the Project Area pursuant to the Plan may affect the availability and supply of low and moderate income housing within its boundaries;

WHEREAS, the Residents are low income residents within the Plan's boundaries;

WHEREAS, the Parties enter into this Agreement in consideration of the mutual promises and covenants contained herein and for good and valuable consideration, receipt of which is hereby acknowledged.

NOW, THEREFORE, the Parties agree as follows:

1. Purposes of Agreement

The purposes of this Agreement are: (i) to protect against, and to compensate for, displacement of Very Low Income, Low Income, and Moderate Income Households by Public Development Activity and Private Development Activity within the Two Subareas; (ii) to prevent homelessness due to displacement of Very Low Income Households and Low Income Households; (iii) to expand the supply of housing available within the Project Area at Affordable Housing Cost to Very Low Income, Low Income and Moderate Income Households. The Parties agree to work cooperatively to complete plans, programs and studies to effectuate the purposes of this Agreement and to jointly develop methods, in addition to those set forth in this Agreement, to effectuate the purposes of this Agreement.

2. Definitions. Capitalized terms in this Agreement shall have the meanings set forth in Sections 2.1 to 2.22, inclusive.

2.1 "Affordable Housing Cost" shall mean Affordable Rent for a rental unit and Affordable Ownership Cost for an ownership unit.

2.2 "Affordable Rent" shall mean a monthly rent, including Utilities, equal to: (i) for a Very Low Income Household, one twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of County Median Income; (ii) for a Lower Income Household, one twelfth (1/12) of thirty percent (30%) of sixty percent (60%) of County Median Income; and (iii) for a Moderate Income Household, one twelfth (1/12) of thirty percent (30%) of ninety percent (90%) of County Median Income.

2.3 "Affordable Ownership Cost" shall mean a monthly cost of the items listed in 25 California Code of Regulations Section 6920 equal to: (i) for a Very Low Income Household, one twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of County Median Income; (ii) for a Lower Income Household, the greater of (A) one twelfth (1/12) of thirty percent (30%) of seventy percent (70%) of County Median Income or (B) one twelfth (1/12) of thirty percent (30%) of Annual Gross Income; and (iii) for a Moderate Income Household, one twelfth (1/12) of thirty percent (30%) of ninety percent (90%) of County Median Income. For the purpose of determining whether an housing unit is available for purchase at Affordable Ownership Cost, the downpayment shall not exceed ten percent (10%) of the total purchase price.

2.4. "County Median Income" shall mean the median annual gross income, adjusted for household size, for Stanislaus County, California, as periodically published by the California Department of Housing and Community Development, and currently found at 25 California Code of Regulations Section 6932. In the event that such income determinations are no longer published by HCD, the Agency shall determine the Median Income using standards and methods reasonably similar to those standards and methods used by HCD which it last published a Median Income calculation.

2.5 "Development Activity" shall include, but is not limited to, acquisition, demolition, rehabilitation (including substantial rehabilitation) new construction, or other improvements to or clearance of real property located in any of the Two Subareas.

2.6 "Four Subareas" shall mean Subarea 5 (South Seventh Street), Subarea 6 (Shackleford Neighborhood), Subarea 9 (Airport Industrial District), and Subarea 14 (Butte/Glenn/Imperial Neighborhood), as such Subareas are described in the Report to the Board of Supervisors on the Redevelopment Plan for the Stanislaus County Redevelopment Project Area No. 1, prepared by Claire Associates, June, 1991.

2.7 "Gross Annual Income" shall mean "Gross Income" as defined in 25 California Code of Regulations Section 6914.

2.8 "Housing Unit" shall mean any housing unit, whether occupied or unoccupied, located in any of the Two Subareas, including, but not limited to, a rental unit, an ownership unit, or a Mobilehome.

2.9 "Low Income Household" shall mean a household with a Gross Annual Income which exceeds fifty percent (50%) but does not exceed eighty percent (80%) percent of County Median Income;

2.10 "Low Income Housing Unit" shall mean a rental or ownership unit which is occupied by a Low Income Household, or which is available or occupied at Affordable Housing Cost for Low Income Households.

2.11 "Mobilehome" shall have the meaning set forth in Civil Code Section 798 et seq., but also includes recreational vehicles, as defined in Civil Code Section 799.24 and Health and Safety Code Section 18010, commercial coaches as defined in Health and Safety Code Section 18001.8, or manufactured housing as defined in Health and Safety Code Section 18007, as they currently exist or are amended in the future.

2.12 "Moderate Income Household" shall mean a household with a Gross Annual Income which exceeds eighty percent (80%) does not exceed ninety percent (90%) of County Median Income.

2.13 "Moderate Income Housing Unit" shall mean a rental or ownership unit which is occupied by a Moderate Income Household, or which is available or occupied at Affordable Housing Cost for Moderate Income Households.

2.14 "Plan" shall mean the Redevelopment Plan for Stanislaus County Redevelopment Project Area No. 1.

2.15 "Project Area" shall mean the Redevelopment Project Area covered by the Redevelopment Plan for the Stanislaus County Redevelopment Project No. 1.

2.16 "Private Development Activity" shall mean any Development Activity, as defined in Section 2.5, carried out without assistance or involvement of a Public Entity. The involvement of a Public Entity in Development Activity in its capacity as a permitting authority only shall not constitute assistance or involvement within the meaning of this Section 2.16.

2.17 "Public Development Activity" is defined as any Development Activity carried out or financially assisted by any Public Entity within the Project Area. The involvement of a Public Entity in Development Activity in its capacity as a permitting authority only shall not constitute Public Development

undertaken pursuant to an agreement with the Agency shall constitute Public Development Activity.

2.18 "Public Entity" is defined as set forth in Health and Safety Code Section 50079, but also includes any agency of the United States.

2.19 "Replacement Dwelling Unit" shall mean a housing unit which is: (i) decent, safe, sanitary, with a quality of construction conforming to current building codes, and containing at least as many rooms and as much living space as the unit being replaced; (ii) is located in an area not subjected to unreasonably adverse environmental conditions from either natural or personmade sources; (iii) not generally less desirable than the unit being replaced with respect to public utilities, public and commercial facilities and neighborhood conditions, including schools and municipal services; (iv) reasonably accessible to the present or potential places of employment of the members of the displaced household; and (v) available for occupancy at Affordable Housing Cost.

2.20 "Two Subareas" shall mean Subarea 5 (South Seventh Street) and Subarea 9 (Airport Industrial District) as such Subareas are described in the Report to the Board of Supervisors on the Redevelopment Plan for the Stanislaus County Redevelopment Project Area No. 1, prepared by Claire Associates, June, 1991.

2.21 "Very Low Income Household" shall mean shall mean a household with a Gross Annual Income which does not exceed fifty percent (50%) of County Median Income.

2.22 "Very Low Income Housing Unit" shall mean a rental or ownership unit occupied by a Very Low Income Household, or which is available or occupied at Affordable Housing Cost for Very Low Income Households.

3. Specific Community Plans for the Four Subareas.

3.1 No later than eighteen (18) months from the date that this Agreement is executed, the Agency shall prepare a Community Plan for each of the Four Subareas. The Community Plan shall include at least the following items:

(a) a descriptive list of activities to be undertaken by the Agency during the term of the Plan, including an estimate of the cost of such activity and an identification of the source of funds for such activity;

(b) a list of the priority for expenditure of Agency funds on each activity;

(c) a projected timetable for commencement and completion of each activity; and

(d) an analysis of the housing needs for Very Low Income Households and Low Income Households, including, but not limited to, the following:

(1) the number of Very Low Income and Low Income Households currently residing within each subarea; and

(2) the number of ownership and rental housing units available at Affordable Rent and Affordable Ownership Cost to Very Low Income Households and Low Income Households.

3.2 The Agency shall notify CRLA in writing of the Agency meetings for the formation and development of the Community Plans of the Four Subareas at least sixty (60) days prior to each meeting ("Notice");

3.3 Agency shall provide CRLA with a draft Community Plan as soon as such Plan is available for public review, but in any event no later than sixty (60) days prior to adoption of the Community Plan. Agency shall also make copies of the draft Community Plan available for public review and shall provide a copy of the draft Community Plan to any person who requests a copy in writing for a fee which is limited to the cost of photocopying.

3.4 CRLA may make written comments, objections, and recommendations to the Agency on the draft Community Plan within fifteen (15) days of CRLA's receipt of the draft Community Plan.

3.5 Agency shall respond in writing to each of CRLA's written comments, objections, and recommendations within fifteen (15) days of their receipt by Agency; and

3.6 Agency shall prepare in English accurate and detailed summaries of the draft Community Plans for each of the Four Subareas. In addition, Agency shall prepare and make available these summaries translated into Spanish, Cambodian, Laotian, Hmong and any other language necessary to adequately give a majority of the property owner and residents a reasonable opportunity to review the specific community plan affecting their sub-area. The English versions of the summaries shall each contain a statement in Spanish, Cambodian, Laotian, Hmong and any other language necessary to adequately give a majority of the property owner and residents of the Subarea notice that a summary in that language is available for review at the office of the Agency. No later than sixty (60) days prior to adopting such Community Plan, Agency shall mail such a copy of the English version of the summaries to all property owners and residents within the Subarea for which the Community Plan is prepared.

3.7 Agency shall not adopt any Community Plan unless the Agency has complied with all the provisions of Sections 3.1 through 3.5, inclusive, of this Agreement. Prior to adoption of the Community Plans for the Two Subareas, Agency and County shall not grant a land use plan amendment, zoning change, or permit for any Development Activity which would likely result in the displacement of Very Low Income Households or Low Income Households from either of the Two Subareas. Prior to the adoption of the Community Plans, Agency shall not undertake any redevelopment activities in the Four Subareas except for the following activities: construction, installation and hook-up of sewer lines in the Butte/Glen/Imperial subarea.

4. Modification of Plan. The Agency may not initiate and pursue to completion an amendment or otherwise modification of the Plan without first giving notice to CRLA of the proposed changes. Such notice must include, but not be limited to, a description of the proposed changes, an evaluation of the effects such changes will have upon the availability of Very Low Income, Low Income and Moderate Income Housing Units, and an assessment of the effects such changes will have upon the displacement of all persons or families within the Project Area. Such notice shall be provided to CRLA no later than ninety (90) days prior to adoption of such amendment, or at an earlier time if mandated by any provision of law.

5. Replacement Housing and Relocation.

5.1 For each Low Income Housing Unit or Very Low Income Housing Unit which is destroyed or removed within the Two Subareas by either Public or Private Development Activity, Agency agrees to provide, or cause to be provided, a Replacement Dwelling Unit. Such Replacement Dwelling Unit shall be made available no later than thirty (30) days prior to the displacement for occupancy by the household displaced at Affordable Housing Cost, or, in the event that the household displaced either chooses to occupy other housing, or is not a Low Income Household or a Very Low Income Household, by another Low Income Household or a Very Low Income Household at Affordable Housing Cost.

5.2 For every household displaced by Public Development Activity or Private Development Activity within the two Subareas, the Agency agrees to provide, or cause to be provided, relocation assistance payments in the amount stated in Government Code Section 7260 et seq. and the regulations implementing those provisions. Eligibility for relocation assistance shall be determined according to the provisions of Government Code Sections 7260 et seq., and the regulations implementing those provisions, except that the definition of "Displaced Person" contained in 25 Code of California Regulations section 6008, or any successor provision, shall be modified to

include Low Income Households and Very Low Income Households displaced as a result of Private Development Activity. The Low Income Households and Very Low Income Households which are owners of mobilehomes and rent space in mobilehome parks, and who are displaced as a result of Private Development Activity or Public Development Activity, shall be eligible for the relocation assistance specified under both Government Code Section 7263 and Government Code Section 7264.

5.3 Whenever an application is filed with Agency or Stanislaus County (the "County") for approval of Development Activity within the Two Subareas subject to a public hearing which would cause any Low Income Housing Unit or Very Low Income Housing Unit to be destroyed, rendered uninhabitable, or otherwise removed from the housing supply, the applicant shall be required at the time of filing such application to provide a list of names and addresses of the occupants of such housing units. At the time notice is given of the public hearing, the Agency, shall inform CRLA and the occupants in writing, of the proposed project and the time, date, and place of the hearing. The notice shall summarize the relocation rights of the occupants and shall provide the name, address and telephone number of the person to contact to answer questions or provide assistance regarding relocation eligibility requirements and procedures. Notices shall be in English, Spanish, Cambodian, Laotian, Hmong and in any other language determined necessary to adequately give notice to a majority of the occupants.

5.4 Whenever an application is filed with Agency or the County for approval of Development Activity within the Two Subareas not subject to a public hearing which would cause any Low Income Housing Unit or Very Low Income Housing Unit to be destroyed, rendered uninhabitable or otherwise removed from the housing supply, the applicant shall be required at the time of filing such application to provide a list of names and addresses of the occupants of such housing. No such Development Activity shall be approved unless the permitting authority, has given the notice required in Section 5.3 above (excluding the information concerning the date, time and place of a public hearing) no later than sixty (60) days prior to the date of approval.

6. Housing Set Aside

6.1 The Agency shall set aside, deposit into the Agency's Low and Moderate Income Housing Fund, and expend to increase, improve and expand the supply of housing available at Affordable Housing Cost to persons and families of very low, low and moderate income, and in conformity with this Agreement, at least twenty-five percent (25%) of the Gross Tax Increment Revenue generated from property within the Project Area (the "Housing Set-Aside"). For the purpose of calculating the Housing Set-Aside pursuant to this Section 6.1, Gross Tax Increment

Revenue shall mean all revenue allocated to the Agency pursuant to Health and Safety Code Section 33670 and shall include any such revenue paid to any taxing agency pursuant to Health and Safety Code Section 33401, whether paid by the Agency or by another public entity.

6.2 In the aggregate, the Housing Set-Aside shall be spent to improve and expand the supply of housing available at Affordable Rent or Affordable Ownership Cost for each of the following income groups in the following proportions: No less than 40% for units to be occupied by Low Income Households at Affordable Rent or Affordable Ownership Cost; and no less than 40% for units to be occupied by Very Low Income Households at Affordable Rent or Affordable Ownership Cost; provided, however, that if the targeting of Housing Set-Aside expenditure required by Health and Safety Code Section 33334.4 requires a greater percentage for Very Low Income Housing Units, or for Low Income Housing Units, such greater percentage shall apply.

6.3 The Agency shall use seventy-five percent (75%) of the Housing Set Aside to increase the net supply of housing units available at Affordable Rent or Affordable Housing Cost to Low Income Households and Very Low Income Households. The Agency shall not use the Housing Set-Aside to provide Replacement Dwelling Units or Relocation Assistance. The Agency shall use no more than ten percent (10%) of the Housing Set-Aside for expenditures authorized by Health and Safety Code Section 33334.2(e)(8). The Agency shall not use the Housing Set-Aside to pay for administrative or development fees to the County associated with the development of housing by any person or entity.

7. Reports.

7.1 Beginning on April 15, 1992, and continuing on every April 15 thereafter during the term of the Plan, Agency shall provide to CRLA a copy of all reports required by law for the preceding Agency fiscal year, including, but not limited to, the reports required by Health and Safety Code Section 33080.4 and 33418, and a statement of the estimated amount of funds to be placed in the Housing Set-Aside analyzed by the projected amount of expenditures to benefit Very Low Income Households, to benefit Low Income Households and to benefit Moderate Income Households during the five year period to be covered by the County Housing Element.

7.2 The report required of Agency by Health and Safety Code Section 33080.4 pertaining to a description of Agency's activities affecting housing and displacement, shall include the same information specified in Section 33080.4 for the housing and displacement activities resulting from Private Development Activity within all subareas.

8. Affordability and Occupancy Restrictions

8.1 Where Agency is required under Health and Safety code Section 33413 or Section 33334.3(e), this Agreement, or any other provision of law to restrict occupancy of housing to persons or families of very low, low or moderate income, as those terms are defined pursuant to Health and Safety Code section 50093, Agency shall ensure by deed, deed of trust, contract, declaration of restrictive covenants, condition of approval, or other appropriate restrictions that all such housing units will remain available for occupancy by persons or families within these respective income groups at the applicable affordable housing cost level for the longest feasible time, but in any event not less than forty (40) years. Agency shall verify compliance with these restrictions as required by Health and Safety Code Section 33418.

9. Effect of Agreement.

9.1 This Agreement is intended to impose upon the Agency obligations which exceed the minimum currently required by law. This Agreement shall not exempt the Agency from complying with any requirements of federal or California laws with respect to housing for persons and families with very low, low and moderate incomes that are imposed by existing law or any law hereafter enacted. This Agreement shall not exempt the Agency from complying with any requirements of federal or California laws with respect to mobilehome, mobilehome parks, recreational vehicles, commercial coaches or manufactured homes that are imposed by existing law or any law hereinafter enacted.

10. Mobilehomes.

10.1 Except as otherwise provided in this Agreement, any and all provisions, including, but not limited to those provisions providing for replacement housing and relocation, relating to rental or owner-occupied dwellings within the Project Area shall also appertain to rental or owner-occupied mobilehomes.

11. Annexation or Incorporation.

11.1 In the event that any portion of the Project Area is annexed to a city or a county other than the County, or is separately incorporated, the obligations of the Agency pursuant to this Agreement shall continue in full force and effect unless (i) the annexing or incorporating entity agrees to assume and assumes in writing all obligations of the Agency pursuant to this Agreement for the area being incorporated and annexed, and (ii) the Agency and the annexing or incorporating entity demonstrates, to the reasonable satisfaction of CRLA or other counsel for any of the Residents, that the annexing or incorporating entity is

capable, both financially and administratively, of meeting the obligations to be assumed.

12. Miscellaneous.

12.1 Enforceability. This Agreement may be enforced by any property owner or resident of any of the Four Subareas.

12.2 Consideration. The consideration for the obligations and covenants of Agency contained in this Agreement is the agreement by the Residents to release their claims against the Agency contesting the validity of the adoption of the Plan and the adequacy of the Environmental Impact Report on the Plan. The Agency acknowledges that this is good and sufficient consideration for each and every obligation and covenant of the Agency contained in this Agreement.

12.3 Benefit and Burden. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, agents, employees, servants, successors and assign.

12.4 Waiver and Amendment. No breach of any provision of this Agreement can be waived unless in writing. Waiver of one breach shall not be deemed to be a waiver of any other breach of the same or any other provision hereof. This Agreement may be amended only by a written agreement executed by the Parties in interest at the time of the modification.

12.5 Counterparts. This Agreement may be executed in counterparts by the Parties and will become effective and binding upon the Parties at such time as all of the signatories have signed a counterpart of this Agreement. All counterparts so executed shall constitute one agreement binding on all Parties notwithstanding that all Parties are not signatory to the original or the same counterpart. Each of the Parties shall sign a sufficient number of counterparts so that each Party will receive a fully executed original of this Agreement.

12.6 Caption and Interpretation. Paragraph titles or captions are inserted as a matter of convenience and for references, and in no way define, limit, extend or describe the scope of this Agreement or any provision hereof. No provision in this agreement is to be interpreted for or against any Part because that Party or his legal representative drafted such provision. This Agreement shall be deemed mutually drafted by the Parties.

12.7 Entire Agreement. This Agreement constitutes the entire Agreement between the Parties pertaining to the subject matter hereof, and may be modified only by written agreement by


all Parties. This Agreement supersedes and replaces all prior negotiations and agreements, written or oral, proposed or final.

12.8 Further Assurances. The Parties hereby agree to execute such other documents or to take such other action as may reasonably be necessary to effectuate the purposes of this Agreement.

12.9 Voluntary Agreement. Each Party represents and declares that they have carefully read this Agreement and know the contents thereof and they signed the same freely and voluntarily. No party has relied upon any statement, representation or promise or any other party or of any of the attorneys or any other representative of the other Parties in executing this Agreement or making this settlement provided for herein, except for such representations as are expressing set forth in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

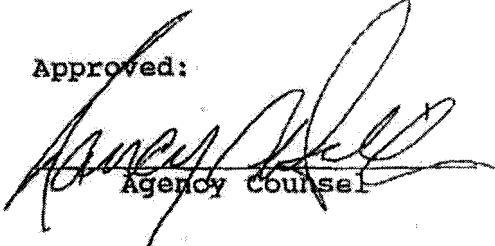
THE STANISLAUS COUNTY
REDEVELOPMENT AGENCY, a
public body, corporate and
political

By: 
Agency Chairperson

Attest:

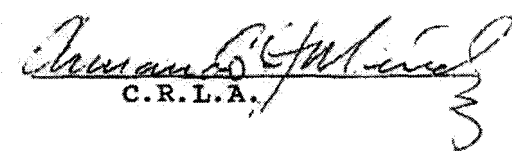

Patricia Armenta
Agency Secretary


Approved:

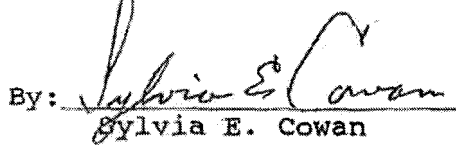

Agency Counsel

By: 
Diane Moyer

Approved:


C.R.L.A.

By: 
Roberta Northcutt

By: 
Sylvia E. Cowan

By: 
June M. Mendes

By: 
Andrew Barrington

By: Maria G. Pulido
Maria Pulido

By: Alice Kay Ussery
Alice Kay Ussery

By: Richard A. Furr, Sr.
Richard A. Furr, Sr.

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE
STANISLAUS COUNTY REDEVELOPMENT AGENCY**

RESOLUTION NO. 2012-08

DATE: October 26, 2012

SUBJECT: Review and Approval of the Low and Moderate Income Housing Fund Due Diligence Review

On the motion of Board Member _____, seconded by Board Member _____, and approved by the following vote:

Ayes:

Noes:

Absent:

Abstained:

THE FOLLOWING RESOLUTION WAS ADOPTED:

WHEREAS, the Redevelopment Agency Dissolution Act (ABx1 26), requires that the Successor Agency transfer all unobligated redevelopment agency funds, including the unencumbered balance of the former Redevelopment Agency's Low and Moderate Income Housing Fund ("LMIHF"), to the County Auditor-Controller for distribution to the taxing entities; and

WHEREAS, the Redevelopment Agency Dissolution Act, as amended by AB 1484, requires successor agencies to employ a licensed accountant, approved by the County Auditor-Controller, to conduct a "Due Diligence" review to determine the unobligated balance available for transfer to the taxing entities; and

WHEREAS, on October 8, 2012, the required Due Diligence review was completed by the independent licensed accountant and provided to the Oversight Board, County Auditor-Controller, the State Controller, and the Department of Finance; and

WHEREAS, on October 11, 2012, following its receipt of the Due Diligence review, the Oversight Board convened a public comment session at which no public comment was received; and

WHEREAS, the Due Diligence review reflects that the entire balance of the LMIHF, totaling \$10,052,753, is legally restricted for uses specified in the 1991 settlement agreement between the former Redevelopment Agency of Stanislaus County and the California Rural Legal Assistance ("1991 CRLA Settlement Agreement"), and no unobligated balance is to be returned for distribution to the taxing entities; and

WHEREAS, the Oversight Board has considered the Due Diligence review during public session.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board to the Successor Agency to the Stanislaus County Redevelopment Agency:

1. Has convened the required public comment session on the Due Diligence review, held on October 11, 2012.
2. Has reviewed, and hereby approves the Due Diligence review prepared by the independent licensed accountant approved by the County Auditor-Controller.
3. Has determined, consistent with the findings in the Due Diligence review, that there are no funds available for disbursement to taxing entities.
4. Has identified \$10,052,753, consistent with the findings in the Due Diligence review, to be retained by the Successor Agency, to be used to increase, improve, and expand the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income, consistent with the 1991 CRLA Settlement Agreement.
5. Has determined that the \$10,052,753 balance to be retained includes funds deposited pursuant to the 1991 CRLA Settlement Agreement, which required that not less than twenty-five percent (25%) of all tax increment collected by the former Redevelopment Agency be deposited in the former Redevelopment Agency's LMIHF.

BE IT FURTHER RESOLVED that this Oversight Board directs Successor Agency staff to take all actions required by the Redevelopment Agency Dissolution Act (ABx1 26), as amended by AB 1484, including but not limited to, transmitting the approved Due Diligence review to the Stanislaus County Auditor-Controller and the California Department of Finance, for certification and approval.

BE IT FURTHER RESOLVED that, in the event that Department of Finance overturns this Oversight Board's authorization to retain the funds identified, Successor Agency staff is directed to request an opportunity to meet and confer with the Department to resolve any disputes regarding the amounts or sources of funds identified.

ATTEST:

APPROVED AS TO FORM:

Brenda McCormick
Oversight Board Clerk

Thomas Boze
Deputy County Counsel



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

December 21, 2012

[By Electronic Mail and Regular Mail]

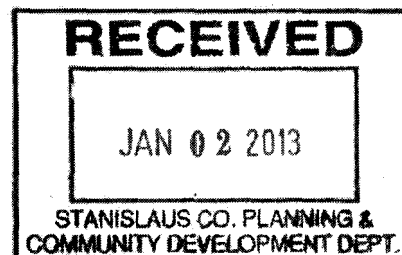
Ana J. Matosantos
Director, California Department of Finance
Redevelopment Administration
915 L Street
Sacramento, CA 95814-3706
Sent via email at redvelopment_administration@dof.ca.gov

Angela Freitas
Director, Planning and Community Development and
Staff, Successor Agency to the Stanislaus County Redevelopment Agency
Secretary, Oversight Board of the Successor Agency
the Stanislaus County Redevelopment Agency
1010 Tenth Street, Suite 3400
Modesto, CA 95354
Sent via e-mail at ANGELA@stancounty.com

Members of the Board of Supervisors as Successor Agency
to the Stanislaus County Redevelopment Agency
c/o Christine Ferraro Tallman, Clerk
Stanislaus County Board of Supervisors
1010 Tenth Street, Suite 3400
Modesto, CA 95354
Sent via e-mail at ctallman@mail.co.stanislaus.ca.us

Members of the Oversight Board of the Successor Agency
to the Stanislaus County Redevelopment Agency
c/o Brenda McCormick, Clerk, Oversight Board
1010 Tenth Street, Suite 3400
Modesto, CA 95354
Sent via e-mail at bmccormick@mail.co.stanislaus.ca.us

Lauren Klein
Auditor-Controller of Stanislaus County
1010 Tenth Street, Suite 5100
Modesto, CA 95354
Sent via e-mail at lklein@mail.co.stanislaus.ca.us



Re: Department of Finance Determination Letter regarding Stanislaus County's DDR pertaining to the Low and Moderate Income Housing Fund

Dear Ms. Matosantos, Ms. Freitas, Members of the Board of Supervisors, Members of the Oversight Board, and Ms. Klein:

California Rural Legal Assistance (CRLA) represents rural low-income Californians, farmworkers, and families, including Stanislaus County residents who are affected by the 1991 Settlement Agreement which is the subject of the Department of Finance's determination dated December 15, 2012 as to the Due Diligence Review (DDR) regarding Low and Moderate Income Housing Funds. We are writing to object to the Department's determination that over \$10 million in Low and Moderate Income Housing Funds are not encumbered by a 1991 agreement between the former redevelopment agency and lower income residents of Stanislaus County.

We were verbally informed on December 19, 2012 by Angela Freitas and Jennifer Gore, Counsel for the County, that over \$10 million of Low and Moderate Income Housing Funds were transferred to the Real Property Tax Trust Fund (RPTTF) administered by the County Auditor for distribution to other taxing entities pursuant to the Department's letter of December 15, 2012. An independent licensed accountant approved by the County Auditor-Controller determined as you know that the \$10,052,753 at issue is required to be used to increase, improve, and expand the supply of low and moderate income housing in the County pursuant to the former redevelopment agency's agreement in 1991 with CRLA's clients. The independent accountant consequently determined, pursuant to Health & Saf. C. §§34179.5 and 34179.6, that these funds are *not* available for disbursement to other taxing entities. Likewise, the Oversight Board for the Successor Agency approved the DDR, authorized the Successor Agency to *retain* the \$10+ million fund, instructed Successor Agency staff to submit the approved DDR to the Department and County Auditor-Controller, and instructed staff to request an opportunity to meet and confer with the Department to resolve any disputes regarding the amounts and sources of funds identified in the DDR. *See* Oversight Board Resolution No. 2012-08 dated October 26, 2012 (enclosed). Notably, the Oversight Board did *not* authorize Successor Agency staff to transfer these funds to the County Auditor for distribution to other taxing entities. Nonetheless, staff of the Successor Agency transferred over \$10 million of contractually restricted affordable housing funds to the County Auditor in response to the Department's letter of December 15th.

The Department's position and the Successor Agency's transfer of these funds to the County Auditor violate the provisions of AB X1 26 and AB 1484 and amount to a breach and impairment of our clients' agreement. Our letter to the Department dated December 5, 2012 (a copy of which is enclosed and incorporated herein) explained that the Dissolution Act includes as an express enforceable obligation any "legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy." Health & Saf. C. § 34171(d)(1)(E). The 1991 CRLA Agreement constitutes just such an enforceable obligation. The funds deposited into the former agency's Low/Mod Fund pursuant to the 1991 agreement were properly transferred by the former agency to the Successor Agency as a "housing asset" pursuant to Health & Saf. C. § 34176(e). The balance of the housing fund is "legally [and] contractually dedicated or restricted for the funding of an enforceable obligation that identifies the nature of the dedication or restriction and the specific enforceable obligation." *Id.* at § 34179.5(c)(5)(D). The code expressly provides that only the net balance of a housing fund after deducting the restricted amounts shall be available for allocation to affected taxing entities. *Id.* at § 34179.5(c)(6).

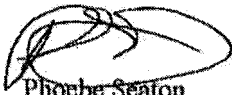
The Department acknowledges in its December 15th letter that Health & Saf. C. § 34177(d) requires only that *unencumbered* balances in the Low and Moderate Income Housing Fund are to

be remitted to the county auditor-controller for distribution to other taxing entities. The Department erroneously concluded that the balance of the Low/Mod Fund in Stanislaus County is not encumbered because the funds are associated with the former RDA's previous "statutory" housing obligations. The Department is wrong. The funds accumulated in the Low/Mod Fund stem from the former agency's *contractual* obligation to our clients – pursuant to a "third party" contract that preceded the enactment of ABx1 26 by 20 years. That contract was no more repudiated by ABx1 26 and AB 1484 than were contracts involving the issuance of bonds. The Department's determination to the contrary violates the law and substantially impairs the legal rights of our clients and other low-income families that stand to benefit from the Agreement. The Successor Agency's transfer of the funds to the County-Auditor similarly constitutes a breach of its agreement with our clients.

We demand that the Department of Finance rescind its letter of December 15, 2012 and issue a letter certifying and approving the DDR for Low and Moderate Income Housing Funds approved by the Oversight Board and submitted to the Department on October 26, 2012. We further demand that the County Auditor cease any steps to distribute the \$10,052,753 to other taxing entities and that it immediately transfer \$10,052,753 from the RPTTF to the Low and Moderate Income Housing Asset Fund administered by the Successor Agency. Finally, we urge the Oversight Board to direct the Successor Agency to use the \$10,052,753 exclusively pursuant to the terms of the 1991 Agreement with our clients.

Our clients appreciate all of the prior efforts of the Successor Agency, the Oversight Board and County staff to resolve this dispute with the Department of Finance, however, the Department, the Successor Agency, the Oversight Board and the County very well might leave our clients with no choice but to seek judicial relief against all responsible parties should the funds that they secured long ago be disbursed for any purpose other than to increase, improve, and expand affordable housing in Stanislaus County.

Sincerely,



Phoebe Seaton
California Rural Legal Assistance

Cc:

Kamala D. Harris, Attorney General of the State of California
Deborah Collins and Lauren Hansen, the Public Interest Law Project
Ilene J. Jacobs and Juan Carlos Cancino, California Rural Legal Assistance, Inc.
Jennifer Gore, Miller, Owen & Trost

Encl.

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE
STANISLAUS COUNTY REDEVELOPMENT AGENCY**

RESOLUTION NO. 2012-08

DATE: October 26, 2012

SUBJECT: Review and Approval of the Low and Moderate Income Housing Fund Due Diligence Review

On the motion of Board Member Stephen Mayotte; seconded by Board Member James Duval; and approved by the following vote:

Ayes:	Stephen Mayotte; James Duval; Terry Withrow; Duane Wolterstorff
Noes:	None
Absent:	Dave Cogdill Jr.; Linda Flores; Brad Hawn
Abstained:	None

THE FOLLOWING RESOLUTION WAS ADOPTED:

WHEREAS, the Redevelopment Agency Dissolution Act (ABx1 26), requires that the Successor Agency transfer all unobligated redevelopment agency funds, including the unencumbered balance of the former Redevelopment Agency's Low and Moderate Income Housing Fund ("LMIHF"), to the County Auditor-Controller for distribution to the taxing entities; and

WHEREAS, the Redevelopment Agency Dissolution Act, as amended by AB 1484, requires successor agencies to employ a licensed accountant, approved by the County Auditor-Controller, to conduct a "Due Diligence" review to determine the unobligated balance available for transfer to the taxing entities; and

WHEREAS, on October 8, 2012, the required Due Diligence review was completed by the independent licensed accountant and provided to the Oversight Board, County Auditor-Controller, the State Controller, and the Department of Finance; and

WHEREAS, on October 11, 2012, following its receipt of the Due Diligence review, the Oversight Board convened a public comment session at which no public comment was received; and

WHEREAS, the Due Diligence review reflects that the entire balance of the LMIHF, totaling \$10,052,753, is legally restricted for uses specified in the 1991 settlement agreement between the former Redevelopment Agency of Stanislaus County and the California Rural Legal Assistance ("1991 CRLA Settlement Agreement"), and no unobligated balance is to be returned for distribution to the taxing entities; and

WHEREAS, the Oversight Board has considered the Due Diligence review during public session.


NOW, THEREFORE, BE IT RESOLVED that the Oversight Board to the Successor Agency to the Stanislaus County Redevelopment Agency:

1. Has convened the required public comment session on the Due Diligence review, held on October 11, 2012.
2. Has reviewed, and hereby approves the Due Diligence review prepared by the independent licensed accountant approved by the County Auditor-Controller.
3. Has determined, consistent with the findings in the Due Diligence review, that there are no funds available for disbursement to taxing entities.
4. Has identified \$10,052,753, consistent with the findings in the Due Diligence review, to be retained by the Successor Agency, to be used to increase, improve, and expand the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income, consistent with the 1991 CRLA Settlement Agreement.
5. Has determined that the \$10,052,753 balance to be retained includes funds deposited pursuant to the 1991 CRLA Settlement Agreement, which required that not less than twenty-five percent (25%) of all tax increment collected by the former Redevelopment Agency be deposited in the former Redevelopment Agency's LMIHF.

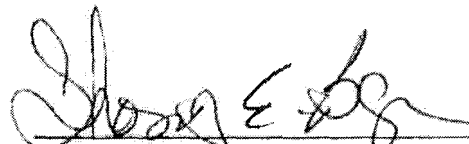
BE IT FURTHER RESOLVED that this Oversight Board directs Successor Agency staff to take all actions required by the Redevelopment Agency Dissolution Act (ABx1 26), as amended by AB 1484, including but not limited to, transmitting the approved Due Diligence review to the Stanislaus County Auditor-Controller and the California Department of Finance, for certification and approval.

BE IT FURTHER RESOLVED that, in the event that Department of Finance overturns this Oversight Board's authorization to retain the funds identified, Successor Agency staff is directed to request an opportunity to meet and confer with the Department to resolve any disputes regarding the amounts or sources of funds identified.

ATTEST:


Brenda McCormick
Oversight Board Clerk

APPROVED AS TO FORM:


Thomas Boze
Deputy County Counsel



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

December 5, 2012

[By Electronic Mail and Regular Mail]

Steve Szalay
Local Government Consultant
Department of Finance of the State
of California
Redevelopment Administration
915 L Street
Sacramento, CA 95814-3706

Re: Department of Finance's Adjustment of Due Diligence Review of Low and Moderate Income Housing Fund of the Successor Agency for Stanislaus County Redevelopment Agency

Dear Mr. Szalay and Department of Finance:

We are writing to support the Successor Agency of the Stanislaus County Redevelopment Agency's meet and confer request in response to the Department's August 9, 2012 demand that the County transmit housing asset funds for allocation to other taxing entities. California Rural Legal Assistance represents thousands of rural low-income Californians, farmworkers and families, and predominantly Latino Californians. We also represent Stanislaus County residents who are parties to the 1991 settlement agreement with the former redevelopment agency. CRLA strongly disputes the Department's adjustment of the Due Diligence Review submitted on October 26, 2012 and its demand that the Successor Agency turn over more than \$10 million of funds that are legally restricted for affordable housing purposes. For the reasons discussed below, the Department's position violates the provisions of the California Redevelopment Law as amended by ABx1 26 and AB 1484; it also interferes with our clients' Settlement Agreement with the former Stanislaus County Redevelopment Agency and deprives them of the benefit of that agreement. We respectfully request that the Department reconsider its determination to avoid further administrative action or litigation.

Summary of Argument

The CRLA Settlement Agreement requires the former Redevelopment Agency to deposit 25% of tax increment revenue into its Low and Moderate Income Housing Fund (Housing Fund) over the life of the project area governed by the agreement and to use those funds to increase, improve, and expand housing for very low, low, and moderate income households. The agreement was entered into in 1991 between the former agency and third parties, long before the enactment of

ABx1 26 and AB 1484. The balance in the Housing Fund as of June 30, 2012 was \$10,052,753 and is legally restricted as confirmed by an independent accountant in the Due Diligence Review (DDR) and approved by the Oversight Board.

The Department's determination that the 1991 Settlement Agreement does not constitute an enforceable obligation that requires the funds to be used for their intended purpose is wrong as a matter of law. Indeed, The Department's reasoning, that an obligation to "set aside tax increment" for the Low and Moderate Income Housing Fund no longer exists, is fundamentally flawed. Regardless of any *future* obligation to deposit tax increment into the Housing Fund, any balance of the *existing Housing Fund* that is legally restricted for other purposes may *not* be allocated to other taxing entities. Health & Saf. C. §34179.5. Our letter to the Department dated August 30, 2012 (enclosed and incorporated with this letter) explains that the 1991 Settlement Agreement creates both current and future obligations for the purpose of the Department's determinations on the ROPS. .

Legal Analysis

The 1991 Settlement Agreement is an enforceable obligation as a "legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy." Health & Saf. C. §34171(d)(1)(E). The funds that were contributed to the Housing Fund as required under the terms of the 1991 Agreement constitute a "housing asset" under Health & Saf. C. §34176(e). These are funds that are expressly "encumbered by an enforceable obligation to build or acquire low- and moderate-income housing, as defined by the Community Redevelopment Law. . . ." *Id.* at subd. (e)(2). Accordingly, the balance of the Housing Fund is "legally [and] contractually dedicated or restricted for the funding of an enforceable obligation that identifies the nature of the dedication or restriction and the specific enforceable obligation." *Id.* at §34179.5(c)(5)(D). Only the net balance of a Housing Fund – *after* deducting the restricted amounts – "shall be available for allocation to affected taxing entities." *Id.* at §34179.5(c)(6). The Housing Fund of the former Stanislaus County Redevelopment Agency is legally restricted by the terms of the 1991 Agreement, thus there is no balance available for distribution to other taxing entities as a matter of law. The DDR properly concluded there is no balance available for distribution, and the Oversight Board approved the DDR. The balance of the Housing Fund therefore must be deposited into a Housing Asset Fund administered by the entity that assumes the housing assets and functions of the former agency (here the Successor Agency) and must be used "in accordance with applicable housing-related provisions of the Community Redevelopment Law. . . ." *Id.* at §34176. Those uses are entirely consistent with the terms of the Settlement Agreement.

The Department's position is untenable. Its rejection of a lawful, valid 21-year-old Settlement Agreement between the former agency and third parties violates the law, and substantially impairs the legal rights of our clients and other low-income families that stand to benefit from the Agreement. The Department's determination also threatens the matching contributions and other commitments made by the agency for State CalHOME and federal HOME funds. The Department's threats of imposing claw-back provisions, such as withholding of the County's sales tax, also are unwarranted under the circumstances; and, if carried out, they would likely be held unconstitutional.

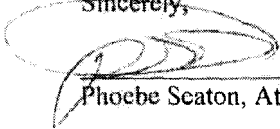
Ongoing dispute with respect to ROPS

We continue to oppose the Department's determination with respect to the prior ROPS submitted by the Successor Agency.¹ The Department's interpretation that there is no more "tax increment"

for purposes of meeting enforceable obligations related to affordable housing cannot be reconciled with its interpretation that property tax revenue (formerly referred to as tax increment) remains available to pay off bonds that were secured with "future" tax increment. We continue to urge the Department to honor the pledges of the former Agency and the decisions of the Successor Agency to carry out its obligations with approval of its Oversight Board.

Thank you for your attention to this matter, and please contact me directly if you have any questions or would like any further information.

Sincerely,



Phoebe Seaton, Attorney, California Rural Legal Assistance

Cc:

Angela Freitas, Deputy Director, Stanislaus County Planning Department
Deborah Collins and Lauren Hansen, The Public Interest Law Project
Ilene J. Jacobs, Director of Litigation, Advocacy & Training, California Rural Legal Assistance, Inc.

Encl:

¹ CRLA opposes the Department of Finance's determination regarding both the 1991 CRLA Settlement Agreement and the Public Works Infrastructure Agreement which includes enforceable obligations of 36.5 million dollars. (See CRLA Letter to the Department dated August 30, 2012, attached hereto and incorporated herein)



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

** D-1
received
1/15/12
7:00 PM*

Hand Delivered

January 15, 2013

Stanislaus County Board of Supervisors
1010 10th Street, Suite 6700
Modesto, CA 95354

Re: Proposed Increase in Appropriations in the Successor Agency Housing Fund for the Transfer of Funds for Distribution to Affected Taxing Agencies

To the Stanislaus County Board of Supervisors:

CRLA provides legal counsel to rural low-income Californians, farmworkers, and families, including Stanislaus County residents affected by the 1991 Settlement Agreement (the "1991 Agreement") referenced at Agenda Item IV.D.1.

The 1991 Agreement resulted in the accrual of over \$10 million of Low and Moderate Income Housing Funds (LMIHF). The state Department of Finance now threatens to unlawfully "sweep" these funds to other taxing entities. LMIHF cannot be lawfully "swept" because they are restricted pursuant to a valid settlement agreement between our clients and the former redevelopment agency. The settlement agreement requires that these funds be used in these communities exclusively for affordable housing purposes.

We understand that the Dissolution Act (dissolving redevelopment agencies) calls for the unwinding of redevelopment activities. However, it also expressly calls for successor agencies to the former redevelopment agencies (here, the County) to honor all legitimate obligations previously entered into by the former agency. The 1991 Agreement is one such obligation.

As discussed in our letter dated December 21, 2013, included in your board packets for today's meeting and attached hereto, the 1991 agreement is quite plainly an 'enforceable obligation' within the meaning of the Dissolution Act. See Health & Safety Code section 34171(d). An independent auditor, charged with reviewing the low and moderate income housing fund agreed with that assessment. The auditor

Stanislaus County Board of Supervisors
January 15, 2013

correctly determined pursuant to its authority under the Dissolution Act that the more than \$10 million discussed here is **restricted for affordable housing uses**. The Successor Agency **correctly** recommended that its Oversight Board approve the independent auditor's findings. And, the Oversight Board properly **approved** the auditor's determination in the Housing DDR. It is **only** the Department of Finance that has determined otherwise, but the Department of Finance is simply **wrong**. The Departments incorrect assessments are not confined to Stanislaus County; DOF has acted similarly in numerous jurisdictions around the State.

We recognize that DOF has threatened to 'claw back' other funds from the County unless the County acquiesces to its unlawful demands, and that it has even threatened (without any legal authority) to impose criminal sanctions should the County refuse. Unfortunately, and despite its fiscal problems, the state has forced dozens of jurisdictions to bring litigation to challenge DOFs often legally incorrect decisions.

Many jurisdictions are **in fact standing up** to DOF with positive results for their communities. Forty-seven cases have been filed in Sacramento challenging the Department's unlawful decisions, many of them successful in so far as courts have granted orders restraining the state's conduct or, in other cases, the state has promptly settled. Affordable housing advocates, in particular, are winning these cases. In six cases, judges granted TROs on issues relating to the ROPS and true-up payments. In one case, a developer challenged DOF's determination that a \$14 million affordable housing project was not an enforceable obligation. The judge granted a TRO. In another case, with \$56 million at stake for affordable housing, the judge also granted petitioners a TRO. Other jurisdictions have contacted their legislators for help. In Riverside County, for example, when DOF tried to stop the development of a nearly complete affordable mobile home park, a local legislator responded by seeking to ensure that the agreement would be honored.

We ask you to carefully consider your options. If the County acquiesces to the state's demands, it will be forced into unlawfully violating an agreement with our clients and will unfairly deprive its constituents of the benefits of that agreement. It is far more appropriate for the County challenge DOF based on the County's meritorious claims than to unlawfully violate its agreement with our clients. Other parties to enforceable obligations can intervene or file their own related litigation in support of such challenges, and as such, is an option available to our clients.

At the risk of repetition, we remind you that authorizing the County Auditor to transfer \$10,052,753 of Low and Moderate Income Housing funds to other taxing

Stanislaus County Board of Supervisors
January 15, 2013

entities can place the County at risk of liability for violating the 1991 Agreement and ask that you consider your options carefully before doing so.

Sincerely,

 1/15/2013

Juan Carlos Cancino, Attorney, CRLA, Inc.